

As Introduced

130th General Assembly
Regular Session
2013-2014

H. B. No. 59

Representative Amstutz

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A BILL

To amend sections 9.03, 9.231, 9.239, 9.24, 9.823, 1
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Revised Code; to amend Sections 201.80 and 509.40 515
of Sub. H.B. 482 of the 129th General Assembly; to 516
amend Section 4 of Sub. S.B. 171 of the 129th 517
General Assembly, as subsequently amended; to 518
amend Section 105.05 of Am. Sub. H.B. 2 of the 519

128th General Assembly; to repeal Section 125.10 520
of Am. Sub. H.B. 1 of the 128th General Assembly 521
as subsequently amended; to repeal Section 153 of 522
Am. Sub. H.B. 117 of the 121st General Assembly as 523
subsequently amended; to amend the versions of 524
sections 109.57, 2151.011, 2923.126, 5104.012, 525
5104.013, 5104.03, 5104.08, and 5104.32 of the 526
Revised Code that are scheduled to take effect 527
January 1, 2014, to continue the provisions of 528
this act on and after that effective date; to 529
amend section 3313.88 of the Revised Code as it 530
results from Section 101.01 of this act for the 531
purpose of adopting new section number 3313.482 on 532
July 1, 2014; to make operating appropriations for 533
the biennium beginning July 1, 2013, and ending 534
June 30, 2015; to provide authorization and 535
conditions for the operation of state programs; to 536
repeal sections 5168.20, 5168.21, 5168.22, 537
5168.23, 5168.24, 5168.25, 5168.26, 5168.27, and 538
5168.28 of the Revised Code on October 1, 2015, to 539
terminate the operation of those sections on that 540
date; and to repeal sections 5168.01, 5168.02, 541
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5168.13, 5168.99, and 5168.991 of the Revised Code 544
on October 16, 2015, to terminate the operation of 545
those sections on that date. 546

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

Section 101.01. That sections 9.03, 9.231, 9.239, 9.24, 547
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(5119.23), 5119.621 (5119.24), 5119.622 (5119.25), 5119.63 874
(5119.42), 5119.631 (5119.421), 5119.69 (5119.41), and 5119.691 875
(5119.411) be amended for the purpose of adopting new section 876
numbers as indicated in parentheses; that new sections 3313.481, 877
3317.014, 3317.02, 3317.022, 3317.0217, 3317.16, 3326.34, 3326.39, 878
3333.90, 3345.81, 3365.01, 3365.07, and 3737.883 and sections 879
122.681, 123.19, 125.27, 173.51, 173.522, 173.523, 173.543, 880
173.545, 173.546, 173.56, 173.60, 191.061, 321.49, 340.08, 903.30, 881
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3311.051, 3314.042, 3314.082, 3314.085, 3314.092, 3317.016, 883
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5166.01, 5166.16, 5167.01, 5167.02, 5167.032, 5168.41, 5703.021, 911
5703.75, 5703.76, 5703.90, 5703.91, 5703.92, 5703.93, 5705.52, 912
5739.0211, 5749.031, 5910.08, 5919.342, and 6111.32 of the Revised 913
Code be enacted to read as follows: 914

Sec. 9.03. (A) As used in this section: 915

(1) "Political subdivision" means any body corporate and 916
politic, except a municipal corporation that has adopted a charter 917
under Section 7 of Article XVIII, Ohio Constitution, and except a 918
county that has adopted a charter under Sections 3 and 4 of 919
Article X, Ohio Constitution, to which both of the following 920
apply: 921

(a) It is responsible for governmental activities only in a 922
geographic area smaller than the state. 923

(b) It is subject to the sovereign immunity of the state. 924

(2) "Cigarettes" and "tobacco product" have the same meanings 925
as in section 5743.01 of the Revised Code. 926

(3) "Transaction" has the same meaning as in section 1315.51 927
of the Revised Code. 928

(4) "Campaign committee," "campaign fund," "candidate," 929
"legislative campaign fund," "political action committee," 930
"political committee," "political party," and "separate segregated 931

fund" have the same meanings as in section 3517.01 of the Revised Code. 932
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(B) Except as otherwise provided in division (C) of this section, the governing body of a political subdivision may use public funds to publish and distribute newsletters, or to use any other means, to communicate information about the plans, policies, and operations of the political subdivision to members of the public within the political subdivision and to other persons who may be affected by the political subdivision. 934
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(C) Except as otherwise provided in division (A)(7) of section 340.03 ~~or division (A)(12) of section 340.033~~ of the Revised Code, no governing body of a political subdivision shall use public funds to do any of the following: 941
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(1) Publish, distribute, or otherwise communicate information that does any of the following: 945
946

(a) Contains defamatory, libelous, or obscene matter; 947

(b) Promotes alcoholic beverages, cigarettes or other tobacco products, or any illegal product, service, or activity; 948
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(c) Promotes illegal discrimination on the basis of race, color, religion, national origin, handicap, age, or ancestry; 950
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(d) Supports or opposes any labor organization or any action by, on behalf of, or against any labor organization; 952
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(e) Supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue. 954
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(2) Compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described in division (C)(1)(e) of this section. Division (C)(2) of this section does not prohibit the use 958
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of public funds to compensate an employee of a political 962
subdivision for attending a public meeting to present information 963
about the political subdivision's finances, activities, and 964
governmental actions in a manner that is not designed to influence 965
the outcome of an election or the passage of a levy or bond issue, 966
even though the election, levy, or bond issue is discussed or 967
debated at the meeting. 968

(D) Except as otherwise provided in division (A)(7) of 969
section 340.03 ~~or division (A)(12) of section 340.033~~ of the 970
Revised Code or in division (E) of this section, no person shall 971
knowingly conduct a direct or indirect transaction of public funds 972
to the benefit of any of the following: 973

- (1) A campaign committee; 974
- (2) A political action committee; 975
- (3) A legislative campaign fund; 976
- (4) A political party; 977
- (5) A campaign fund; 978
- (6) A political committee; 979
- (7) A separate segregated fund; 980
- (8) A candidate. 981

(E) Division (D) of this section does not prohibit the 982
utilization of any person's own time to speak in support of or in 983
opposition to any candidate, recall, referendum, levy, or bond 984
issue unless prohibited by any other section of the Revised Code. 985

(F) Nothing in this section prohibits or restricts any 986
political subdivision from sponsoring, participating in, or doing 987
any of the following: 988

- (1) Charitable or public service advertising that is not 989
commercial in nature; 990

(2) Advertising of exhibitions, performances, programs, 991
products, or services that are provided by employees of a 992
political subdivision or are provided at or through premises owned 993
or operated by a political subdivision; 994

(3) Licensing an interest in a name or mark that is owned or 995
controlled by the political subdivision. 996

(G) Whoever violates division (D) of this section shall be 997
punished as provided in section 3599.40 of the Revised Code. 998

Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of 999
this section, a governmental entity shall not disburse money 1000
totaling twenty-five thousand dollars or more to any person for 1001
the provision of services for the primary benefit of individuals 1002
or the public and not for the primary benefit of a governmental 1003
entity or the employees of a governmental entity, unless the 1004
contracting authority of the governmental entity first enters into 1005
a written contract with the person that is signed by the person or 1006
by an officer or agent of the person authorized to legally bind 1007
the person and that embodies all of the requirements and 1008
conditions set forth in sections 9.23 to 9.236 of the Revised 1009
Code. If the disbursement of money occurs over the course of a 1010
governmental entity's fiscal year, rather than in a lump sum, the 1011
contracting authority of the governmental entity shall enter into 1012
the written contract with the person at the point during the 1013
governmental entity's fiscal year that at least seventy-five 1014
thousand dollars has been disbursed by the governmental entity to 1015
the person. Thereafter, the contracting authority of the 1016
governmental entity shall enter into the written contract with the 1017
person at the beginning of the governmental entity's fiscal year, 1018
if, during the immediately preceding fiscal year, the governmental 1019
entity disbursed to that person an aggregate amount totaling at 1020
least seventy-five thousand dollars. 1021

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

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

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

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

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

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

terms of the contract. 1053

(b) Contracts under which the services are reimbursed through 1054
or in a manner consistent with a federal program that meets all of 1055
the following requirements: 1056

(i) The program calculates the reimbursement rate on the 1057
basis of the previous year's experience or in accordance with an 1058
alternative method set forth in rules adopted by the Ohio 1059
department of job and family services. 1060

(ii) The reimbursement rate is derived from a breakdown of 1061
direct and indirect costs. 1062

(iii) The program's guidelines describe types of expenditures 1063
that are allowable and not allowable under the program and 1064
delineate which costs are acceptable as direct costs for purposes 1065
of calculating the reimbursement rate. 1066

(iv) The program includes a uniform cost reporting system 1067
with specific audit requirements. 1068

(c) Contracts under which the services are reimbursed through 1069
or in a manner consistent with a federal program that calculates 1070
the reimbursement rate on a fee for service basis in compliance 1071
with United States office of management and budget Circular A-87, 1072
as revised May 10, 2004. 1073

(d) Contracts for services that are paid pursuant to the 1074
earmarking of an appropriation made by the general assembly for 1075
that purpose. 1076

(B) Division (A) of this section does not apply if the money 1077
is disbursed to a person pursuant to a contract with the United 1078
States or a governmental entity under any of the following 1079
circumstances: 1080

(1) The person receives the money directly or indirectly from 1081
the United States, and no governmental entity exercises any 1082

oversight or control over the use of the money. 1083

(2) The person receives the money solely in return for the 1084
performance of one or more of the following types of services: 1085

(a) Medical, therapeutic, or other health-related services 1086
provided by a person if the amount received is a set fee for each 1087
time the person provides the services, is determined in accordance 1088
with a fixed rate per unit of time, or is a capitated rate, and 1089
the fee or rate is reasonable and customary in the person's trade 1090
or profession; 1091

(b) Medicaid-funded services, including administrative and 1092
management services, provided pursuant to a contract or medicaid 1093
provider agreement that meets the requirements of the medicaid 1094
~~program established under Chapter 5111. of the Revised Code.~~ 1095

(c) Services, other than administrative or management 1096
services or any of the services described in division (B)(2)(a) or 1097
(b) of this section, that are commonly purchased by the public at 1098
an hourly rate or at a set fee for each time the services are 1099
provided, unless the services are performed for the benefit of 1100
children, persons who are eligible for the services by reason of 1101
advanced age, medical condition, or financial need, or persons who 1102
are confined in a detention facility as defined in section 2921.01 1103
of the Revised Code, and the services are intended to help promote 1104
the health, safety, or welfare of those children or persons; 1105

(d) Educational services provided by a school to children 1106
eligible to attend that school. For purposes of division (B)(2)(d) 1107
of this section, "school" means any school operated by a school 1108
district board of education, any community school established 1109
under Chapter 3314. of the Revised Code, or any nonpublic school 1110
for which the state board of education prescribes minimum 1111
education standards under section 3301.07 of the Revised Code. 1112

(e) Services provided by a foster home as defined in section 1113

5103.02 of the Revised Code; 1114

(f) "Routine business services other than administrative or 1115
management services," as that term is defined by the attorney 1116
general by rule adopted in accordance with Chapter 119. of the 1117
Revised Code; 1118

(g) Services to protect the environment or promote 1119
environmental education that are provided by a nonprofit entity or 1120
services to protect the environment that are funded with federal 1121
grants or revolving loan funds and administered in accordance with 1122
federal law. 1123

(3) The person receives the money solely in return for the 1124
performance of services intended to help preserve public health or 1125
safety under circumstances requiring immediate action as a result 1126
of a natural or man-made emergency. 1127

(C) With respect to an unincorporated nonprofit association, 1128
corporation, or organization established for the purpose of 1129
providing educational, technical, consulting, training, financial, 1130
or other services to its members in exchange for membership dues 1131
and other fees, any of the services provided to a member that is a 1132
governmental entity shall, for purposes of this section, be 1133
considered services "for the primary benefit of a governmental 1134
entity or the employees of a governmental entity." 1135

Sec. 9.239. (A) There is hereby created the government 1136
contracting advisory council. The attorney general and auditor of 1137
state shall consult with the council on the performance of their 1138
rule-making functions under sections 9.237 and 9.238 of the 1139
Revised Code and shall consider any recommendations of the 1140
council. The medicaid director ~~of job and family services~~ shall 1141
annually report to the council the cost methodology of the 1142
medicaid-funded services described in division (A)(3)(d) of 1143
section 9.231 of the Revised Code. The council shall consist of 1144

the following members or their designees:	1145
(1) The attorney general;	1146
(2) The auditor of state;	1147
(3) The director of administrative services;	1148
(4) The director of aging;	1149
(5) The director of alcohol and drug addiction services <u>The</u>	1150
<u>medicaid director</u> ;	1151
(6) The director of budget and management;	1152
(7) The director of development <u>services</u> ;	1153
(8) The director of job and family services;	1154
(9) The director of mental health <u>mental health and addiction</u>	1155
<u>services</u> ;	1156
(10) The director of developmental disabilities;	1157
(11) The director of rehabilitation and correction;	1158
(12) The administrator of workers' compensation;	1159
(13) The executive director of the county commissioners'	1160
association of Ohio;	1161
(14) The president of the Ohio grantmakers forum;	1162
(15) The president of the Ohio chamber of commerce;	1163
(16) The president of the Ohio state bar association;	1164
(17) The president of the Ohio society of certified public	1165
accountants;	1166
(18) The executive director of the Ohio association of	1167
nonprofit organizations;	1168
(19) The president of the Ohio united way;	1169
(20) One additional member appointed by the attorney general;	1170
(21) One additional member appointed by the auditor of state.	1171

(B) If an agency or organization represented on the council 1172
ceases to exist in the form it has on September 29, 2005, the 1173
successor agency or organization shall be represented in its 1174
place. If there is no successor agency or organization, or if it 1175
is not clear what agency or organization is the successor, the 1176
attorney general shall designate an agency or organization to be 1177
represented in place of the agency or organization originally 1178
represented on the council. 1179

(C) The two members appointed to the council shall serve 1180
three-year terms. Original appointments shall be made not later 1181
than sixty days after September 29, 2005. Vacancies on the council 1182
shall be filled in the same manner as the original appointment. 1183

(D) The attorney general or the attorney general's designee 1184
shall be the chairperson of the council. The council shall meet at 1185
least once every two years to review the rules adopted under 1186
sections 9.237 and 9.238 of the Revised Code and to make 1187
recommendations to the attorney general and auditor of state 1188
regarding the adoption, amendment, or repeal of those rules. The 1189
council shall also meet at other times as requested by the 1190
attorney general or auditor of state. 1191

(E) Members of the council shall serve without compensation 1192
or reimbursement. 1193

(F) The office of the attorney general shall provide 1194
necessary staff, facilities, supplies, and services to the 1195
council. 1196

(G) Sections 101.82 to 101.87 of the Revised Code do not 1197
apply to the council. 1198

Sec. 9.24. (A) Except as may be allowed under division (F) of 1199
this section, no state agency and no political subdivision shall 1200
award a contract as described in division (G)(1) of this section 1201

for goods, services, or construction, paid for in whole or in part 1202
with state funds, to a person against whom a finding for recovery 1203
has been issued by the auditor of state on and after January 1, 1204
2001, if the finding for recovery is unresolved. 1205

A contract is considered to be awarded when it is entered 1206
into or executed, irrespective of whether the parties to the 1207
contract have exchanged any money. 1208

(B) For purposes of this section, a finding for recovery is 1209
unresolved unless one of the following criteria applies: 1210

(1) The money identified in the finding for recovery is paid 1211
in full to the state agency or political subdivision to whom the 1212
money was owed; 1213

(2) The debtor has entered into a repayment plan that is 1214
approved by the attorney general and the state agency or political 1215
subdivision to whom the money identified in the finding for 1216
recovery is owed. A repayment plan may include a provision 1217
permitting a state agency or political subdivision to withhold 1218
payment to a debtor for goods, services, or construction provided 1219
to or for the state agency or political subdivision pursuant to a 1220
contract that is entered into with the debtor after the date the 1221
finding for recovery was issued. 1222

(3) The attorney general waives a repayment plan described in 1223
division (B)(2) of this section for good cause; 1224

(4) The debtor and state agency or political subdivision to 1225
whom the money identified in the finding for recovery is owed have 1226
agreed to a payment plan established through an enforceable 1227
settlement agreement. 1228

(5) The state agency or political subdivision desiring to 1229
enter into a contract with a debtor certifies, and the attorney 1230
general concurs, that all of the following are true: 1231

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

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

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

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

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

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

Beginning January 15, 2004, the auditor of state shall update 1263
the database by the fifteenth day of every January, April, July, 1264
and October to reflect resolved findings for recovery that are 1265
reported to the auditor of state by the attorney general on the 1266
first day of the same month pursuant to division (C) of this 1267
section. 1268

(E) Before awarding a contract as described in division 1269
(G)(1) of this section for goods, services, or construction, paid 1270
for in whole or in part with state funds, a state agency or 1271
political subdivision shall verify that the person to whom the 1272
state agency or political subdivision plans to award the contract 1273
has no unresolved finding for recovery issued against the person. 1274
A state agency or political subdivision shall verify that the 1275
person does not appear in the database described in division (D) 1276
of this section or shall obtain other proof that the person has no 1277
unresolved finding for recovery issued against the person. 1278

(F) The prohibition of division (A) of this section and the 1279
requirement of division (E) of this section do not apply with 1280
respect to the companies, payments, or agreements described in 1281
divisions (F)(1) and (2) of this section, or in the circumstance 1282
described in division (F)(3) of this section. 1283

(1) A bonding company or a company authorized to transact the 1284
business of insurance in this state, a self-insurance pool, joint 1285
self-insurance pool, risk management program, or joint risk 1286
management program, unless a court has entered a final judgment 1287
against the company and the company has not yet satisfied the 1288
final judgment. 1289

(2) To medicaid provider agreements under ~~Chapter 5111.~~ of 1290
the ~~Revised Code~~ medicaid program. 1291

(3) When federal law dictates that a specified entity provide 1292
the goods, services, or construction for which a contract is being 1293

awarded, regardless of whether that entity would otherwise be 1294
prohibited from entering into the contract pursuant to this 1295
section. 1296

(G)(1) This section applies only to contracts for goods, 1297
services, or construction that satisfy the criteria in either 1298
division (G)(1)(a) or (b) of this section. This section may apply 1299
to contracts for goods, services, or construction that satisfy the 1300
criteria in division (G)(1)(c) of this section, provided that the 1301
contracts also satisfy the criteria in either division (G)(1)(a) 1302
or (b) of this section. 1303

(a) The cost for the goods, services, or construction 1304
provided under the contract is estimated to exceed twenty-five 1305
thousand dollars. 1306

(b) The aggregate cost for the goods, services, or 1307
construction provided under multiple contracts entered into by the 1308
particular state agency and a single person or the particular 1309
political subdivision and a single person within the fiscal year 1310
preceding the fiscal year within which a contract is being entered 1311
into by that same state agency and the same single person or the 1312
same political subdivision and the same single person, exceeded 1313
fifty thousand dollars. 1314

(c) The contract is a renewal of a contract previously 1315
entered into and renewed pursuant to that preceding contract. 1316

(2) This section does not apply to employment contracts. 1317

(H) As used in this section: 1318

(1) "State agency" has the same meaning as in section 9.66 of 1319
the Revised Code. 1320

(2) "Political subdivision" means a political subdivision as 1321
defined in section 9.82 of the Revised Code that has received more 1322
than fifty thousand dollars of state money in the current fiscal 1323

year or the preceding fiscal year. 1324

(3) "Finding for recovery" means a determination issued by 1325
the auditor of state, contained in a report the auditor of state 1326
gives to the attorney general pursuant to section 117.28 of the 1327
Revised Code, that public money has been illegally expended, 1328
public money has been collected but not been accounted for, public 1329
money is due but has not been collected, or public property has 1330
been converted or misappropriated. 1331

(4) "Debtor" means a person against whom a finding for 1332
recovery has been issued. 1333

(5) "Person" means the person named in the finding for 1334
recovery. 1335

(6) "State money" does not include funds the state receives 1336
from another source and passes through to a political subdivision. 1337

Sec. 9.823. (A) All contributions collected by the director 1338
of administrative services under division (E) of this section 1339
shall be deposited into the state treasury to the credit of the 1340
risk management reserve fund, which is hereby created. The fund 1341
shall be used to provide insurance and self-insurance for the 1342
state under sections 9.822 and 9.83 of the Revised Code. All 1343
investment earnings of the fund shall be credited to it. 1344

(B) The director, through the office of risk management, 1345
shall operate the risk management reserve fund on an actuarially 1346
sound basis. 1347

(C) Reserves shall be maintained in the risk management 1348
reserve fund in any amount that is necessary and adequate, in the 1349
exercise of sound and prudent actuarial judgment, to cover 1350
potential liability claims, expenses, fees, or damages. Money in 1351
the fund may be applied to the payment of liability claims that 1352
are filed against the state. The director may procure the services 1353

of a qualified actuarial firm for the purpose of recommending the 1354
specific amount of money that would be required to maintain 1355
adequate reserves for a given period of time. 1356

~~(D) A report of the amounts reserved and disbursements made 1357
from the reserves, together with a written report of a competent 1358
property and casualty actuary, shall be submitted, on or before 1359
the last day of March for the preceding calendar year, to the 1360
speaker of the house of representatives and the president of the 1361
senate. The actuary shall certify the adequacy of the rates of 1362
contributions, the sufficiency of excess insurance, and whether 1363
the amounts reserved conform to the requirements of this section, 1364
are computed in accordance with accepted loss reserving standards, 1365
and are fairly stated in accordance with sound loss reserving 1366
principles. The report shall include disbursements made for the 1367
administration of the fund, including claims paid, cost of legal 1368
representation of state agencies and employees, and fees paid to 1369
consultants. 1370~~

~~(E) The director shall collect from each state agency or any 1371
participating state body its contribution to the risk management 1372
reserve fund for the purpose of purchasing insurance or 1373
administering self-insurance programs for coverages authorized 1374
under sections 9.822 and 9.83 of the Revised Code. The 1375
contribution shall be determined by the director, with the 1376
approval of the director of budget and management, and shall be 1377
based upon actuarial assumptions and the relative risk and loss 1378
experience of each state agency or participating state body. The 1379
contribution shall further include a reasonable sum to cover the 1380
department's administrative costs. 1381~~

Sec. 9.833. (A) As used in this section, "political 1382
subdivision" has the meaning defined in sections 2744.01 and 1383
3905.36 of the Revised Code. For purposes of this section, 1384

"political subdivision" includes municipal corporations as defined 1385
in section 5705.01 of the Revised Code. 1386

(B) Political subdivisions that provide health care benefits 1387
for their officers or employees may do any of the following: 1388

(1) Establish and maintain an individual self-insurance 1389
program with public moneys to provide authorized health care 1390
benefits, including but not limited to, health care, prescription 1391
drugs, dental care, and vision care, in accordance with division 1392
(C) of this section; 1393

(2) Establish and maintain a health savings account program 1394
whereby employees or officers may establish and maintain health 1395
savings accounts in accordance with section 223 of the Internal 1396
Revenue Code. Public moneys may be used to pay for or fund 1397
federally qualified high deductible health plans that are linked 1398
to health savings accounts or to make contributions to health 1399
savings accounts. A health savings account program may be a part 1400
of a self-insurance program. 1401

(3) After establishing an individual self-insurance program, 1402
agree with other political subdivisions that have established 1403
individual self-insurance programs for health care benefits, that 1404
their programs will be jointly administered in a manner specified 1405
in the agreement; 1406

(4) Pursuant to a written agreement and in accordance with 1407
division (C) of this section, join in any combination with other 1408
political subdivisions to establish and maintain a joint 1409
self-insurance program to provide health care benefits; 1410

(5) Pursuant to a written agreement, join in any combination 1411
with other political subdivisions to procure or contract for 1412
policies, contracts, or plans of insurance to provide health care 1413
benefits, which may include a health savings account program for 1414
their officers and employees subject to the agreement; 1415

(6) Use in any combination any of the policies, contracts, 1416
plans, or programs authorized under this division. 1417

(7) Any agreement made under division (B)(3), (4), (5), or 1418
(6) of this section shall be in writing, comply with division (C) 1419
of this section, and contain best practices established in 1420
consultation with and approved by the department of administrative 1421
services. The best practices may be reviewed and amended at the 1422
discretion of the political subdivisions in consultation with the 1423
department. Detailed information regarding the best practices 1424
shall be made available to any employee upon that employee's 1425
request. 1426

(8) Purchase plans ~~approved~~ containing best practices 1427
established by the department of administrative services under 1428
section 9.901 of the Revised Code. 1429

(C) Except as otherwise provided in division (E) of this 1430
section, the following apply to individual or joint self-insurance 1431
programs established pursuant to this section: 1432

(1) Such funds shall be reserved as are necessary, in the 1433
exercise of sound and prudent actuarial judgment, to cover 1434
potential cost of health care benefits for the officers and 1435
employees of the political subdivision. A certified audited 1436
financial statement and a report of amounts so reserved and 1437
disbursements made from such funds, together with a written report 1438
of a member of the American academy of actuaries certifying 1439
whether the amounts reserved conform to the requirements of this 1440
division, are computed in accordance with accepted loss reserving 1441
standards, and are fairly stated in accordance with sound loss 1442
reserving principles, shall be prepared and maintained, within 1443
ninety days after the last day of the fiscal year of the entity 1444
for which the report is provided for that fiscal year, in the 1445
office of the program administrator described in division (C)(3) 1446
of this section. 1447

The report required by division (C)(1) of this section shall 1448
include, but not be limited to, disbursements made for the 1449
administration of the program, including claims paid, costs of the 1450
legal representation of political subdivisions and employees, and 1451
fees paid to consultants. 1452

The program administrator described in division (C)(3) of 1453
this section shall make the report required by this division 1454
available for inspection by any person at all reasonable times 1455
during regular business hours, and, upon the request of such 1456
person, shall make copies of the report available at cost within a 1457
reasonable period of time. The program administrator shall further 1458
provide the report to the auditor of state under Chapter 117. of 1459
the Revised Code. 1460

(2) Each political subdivision shall reserve funds necessary 1461
for an individual or joint self-insurance program in a special 1462
fund that may be established for political subdivisions other than 1463
an agency or instrumentality pursuant to an ordinance or 1464
resolution of the political subdivision and not subject to section 1465
5705.12 of the Revised Code. An agency or instrumentality shall 1466
reserve the funds necessary for an individual or joint 1467
self-insurance program in a special fund established pursuant to a 1468
resolution duly adopted by the agency's or instrumentality's 1469
governing board. The political subdivision may allocate the costs 1470
of insurance or any self-insurance program, or both, among the 1471
funds or accounts established under this division on the basis of 1472
relative exposure and loss experience. 1473

(3) A contract may be awarded, without the necessity of 1474
competitive bidding, to any person, political subdivision, 1475
nonprofit corporation organized under Chapter 1702. of the Revised 1476
Code, or regional council of governments created under Chapter 1477
167. of the Revised Code for purposes of administration of an 1478
individual or joint self-insurance program. No such contract shall 1479

be entered into without full, prior, public disclosure of all 1480
terms and conditions. The disclosure shall include, at a minimum, 1481
a statement listing all representations made in connection with 1482
any possible savings and losses resulting from the contract, and 1483
potential liability of any political subdivision or employee. The 1484
proposed contract and statement shall be disclosed and presented 1485
at a meeting of the political subdivision not less than one week 1486
prior to the meeting at which the political subdivision authorizes 1487
the contract. 1488

A contract awarded to a nonprofit corporation or a regional 1489
council of governments under this division may provide that all 1490
employees of the nonprofit corporation or regional council of 1491
governments, the employees of all entities related to the 1492
nonprofit corporation or regional council of governments, and the 1493
employees of other nonprofit corporations that have fifty or fewer 1494
employees and have been organized for the primary purpose of 1495
representing the interests of political subdivisions, may be 1496
covered by the individual or joint self-insurance program under 1497
the terms and conditions set forth in the contract. 1498

(4) The individual or joint self-insurance program shall 1499
include a contract with a certified public accountant and a member 1500
of the American academy of actuaries for the preparation of the 1501
written evaluations required under division (C)(1) of this 1502
section. 1503

(5) A joint self-insurance program may allocate the costs of 1504
funding the program among the funds or accounts established under 1505
this division to the participating political subdivisions on the 1506
basis of their relative exposure and loss experience. 1507

(6) An individual self-insurance program may allocate the 1508
costs of funding the program among the funds or accounts 1509
established under this division to the political subdivision that 1510
established the program. 1511

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

(8) A political subdivision is not liable under a joint self-insurance program for any amount in excess of amounts payable pursuant to the written agreement for the participation of the political subdivision in the joint self-insurance program. Under a joint self-insurance program agreement, a political subdivision may, to the extent permitted under the written agreement, assume the risks of any other political subdivision. A joint self-insurance program established under this section is deemed a separate legal entity for the public purpose of enabling the members of the joint self-insurance program to obtain insurance or to provide for a formalized, jointly administered self-insurance fund for its members. An entity created pursuant to this section is exempt from all state and local taxes.

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

In its ordinance or resolution authorizing bonds or notes 1544
under this section, a political subdivision may elect to issue 1545
such bonds or notes under the procedures set forth in Chapter 133. 1546
of the Revised Code. In the event of such an election, 1547
notwithstanding Chapter 133. of the Revised Code, the maturity of 1548
the bonds may be for any period authorized in the ordinance or 1549
resolution not exceeding twenty years, which period shall be the 1550
maximum maturity of the bonds for purposes of section 133.22 of 1551
the Revised Code. 1552

Bonds and notes issued under this section shall not be 1553
considered in calculating the net indebtedness of the political 1554
subdivision under sections 133.04, 133.05, 133.06, and 133.07 of 1555
the Revised Code. Sections 9.98 to 9.983 of the Revised Code are 1556
hereby made applicable to bonds or notes authorized under this 1557
section. 1558

(10) A joint self-insurance program is not an insurance 1559
company. Its operation does not constitute doing an insurance 1560
business and is not subject to the insurance laws of this state. 1561

(D) A political subdivision may procure group life insurance 1562
for its employees in conjunction with an individual or joint 1563
self-insurance program authorized by this section, provided that 1564
the policy of group life insurance is not self-insured. 1565

(E) This section does not apply to individual self-insurance 1566
programs created solely by municipal corporations as defined in 1567
section 5705.01 of the Revised Code. 1568

(F) A public official or employee of a political subdivision 1569
who is or becomes a member of the governing body of the program 1570
administrator of a joint self-insurance program in which the 1571
political subdivision participates is not in violation of division 1572
(D) or (E) of section 102.03, division (C) of section 102.04, or 1573
section 2921.42 of the Revised Code as a result of either of the 1574

following: 1575

(1) The political subdivision's entering under this section 1576
into the written agreement to participate in the joint 1577
self-insurance program; 1578

(2) The political subdivision's entering under this section 1579
into any other contract with the joint self-insurance program. 1580

Sec. 9.90. (A) ~~The following applies until the department of 1581
administrative services implements healthcare plans designed under 1582
section 9.901 of the Revised Code. If those plans do not include 1583
or address any benefits listed in this section, or if the board of 1584
trustees or other governing body of a state institution of higher 1585
education, as defined in section 3345.011 of the Revised Code, 1586
board of education of a school district, or governing board of an 1587
educational service center do not elect to be covered under a plan 1588
offered by the department of administrative services under section 1589
9.901 of the Revised Code, the following provisions continue in 1590
effect for those benefits. The board of trustees or other 1591
governing body of a state institution of higher education, as 1592
defined in section 3345.011 of the Revised Code, board of 1593
education of a school district, or governing board of an 1594
educational service center may, in addition to all other powers 1595
provided in the Revised Code: 1596~~

(1) Contract for, purchase, or otherwise procure from an 1597
insurer or insurers licensed to do business by the state of Ohio 1598
for or on behalf of such of its employees as it may determine, 1599
life insurance, or sickness, accident, annuity, endowment, health, 1600
medical, hospital, dental, or surgical coverage and benefits, or 1601
any combination thereof, by means of insurance plans or other 1602
types of coverage, family, group or otherwise, and may pay from 1603
funds under its control and available for such purpose all or any 1604
portion of the cost, premium, or charge for such insurance, 1605

coverage, or benefits. However, the governing board, in addition 1606
to or as an alternative to the authority otherwise granted by 1607
division (A)(1) of this section, may elect to procure coverage for 1608
health care services, for or on behalf of such of its employees as 1609
it may determine, by means of policies, contracts, certificates, 1610
or agreements issued by at least two health insuring corporations 1611
holding a certificate of authority under Chapter 1751. of the 1612
Revised Code and may pay from funds under the governing board's 1613
control and available for such purpose all or any portion of the 1614
cost of such coverage. 1615

(2) Make payments to a custodial account for investment in 1616
regulated investment company stock for the purpose of providing 1617
retirement benefits as described in section 403(b)(7) of the 1618
Internal Revenue Code of 1954, as amended. Such stock shall be 1619
purchased only from persons authorized to sell such stock in this 1620
state. 1621

Any income of an employee deferred under divisions (A)(1) and 1622
(2) of this section in a deferred compensation program eligible 1623
for favorable tax treatment under the Internal Revenue Code of 1624
1954, as amended, shall continue to be included as regular 1625
compensation for the purpose of computing the contributions to and 1626
benefits from the retirement system of such employee. Any sum so 1627
deferred shall not be included in the computation of any federal 1628
and state income taxes withheld on behalf of any such employee. 1629

(B) All or any portion of the cost, premium, or charge 1630
therefor may be paid in such other manner or combination of 1631
manner as the board or governing body may determine, including 1632
direct payment by the employee in cases under division (A)(1) of 1633
this section, and, if authorized in writing by the employee in 1634
cases under division (A)(1) or (2) of this section, by the board 1635
or governing body with moneys made available by deduction from or 1636
reduction in salary or wages or by the foregoing of a salary or 1637

wage increase. Nothing in section 3917.01 or section 3917.06 of 1638
the Revised Code shall prohibit the issuance or purchase of group 1639
life insurance authorized by this section by reason of payment of 1640
premiums therefor by the board or governing body from its funds, 1641
and such group life insurance may be so issued and purchased if 1642
otherwise consistent with the provisions of sections 3917.01 to 1643
3917.07 of the Revised Code. 1644

(C) The board of education of any school district may 1645
exercise any of the powers granted to the governing boards of 1646
public institutions of higher education under divisions (A) and 1647
(B) of this section. All health care benefits provided to persons 1648
employed by the public schools of this state shall be through 1649
health care plans that contain best practices established by the 1650
department of administrative services pursuant to section 9.901 of 1651
the Revised Code. 1652

~~(D) Once the department of administrative services releases 1653
in final form health care plans designed under section 9.901 of 1654
the Revised Code, all health care benefits provided to persons 1655
employed by state institutions of higher education, school 1656
districts, or educational service centers may be through those 1657
plans. 1658~~

Sec. 9.901. (A)(1) All health care benefits provided to 1659
persons employed by ~~the political subdivisions and public school 1660
districts of~~ employers as defined by this state section shall be 1661
provided by health care plans that contain best practices 1662
established ~~pursuant to this section~~ by the former school 1663
employees health care board or the department of administrative 1664
services. ~~Twelve months after the release of best practices by the 1665
board all~~ All policies or contracts for health care benefits 1666
~~provided to public school district employees~~ that are issued or 1667
renewed after the expiration of any applicable collective 1668

bargaining agreement must contain all best practices established 1669
pursuant to this section ~~by the board at the time of renewal~~. Any 1670
~~or all of the health~~ Health care plans that contain the best 1671
practices ~~specified by the board~~ may be self-insured. 1672

(2) ~~Upon completion of the consultant's report under division~~ 1673
~~(E) of this section and once the plans are released in final form~~ 1674
~~by the department, all health care benefits provided to persons~~ 1675
~~employed by political subdivisions, public school districts, and~~ 1676
~~state institutions of higher education may be provided by health~~ 1677
~~care plans designed under this section by the department. The~~ 1678
~~department, in consultation with the superintendent of insurance,~~ 1679
~~may negotiate with and, in accordance with the competitive~~ 1680
~~selection procedures of Chapter 125. of the Revised Code, contract~~ 1681
~~with one or more insurance companies authorized to do business in~~ 1682
~~this state for the issuance of the plans. Any or all of the health~~ 1683
~~care plans designed by the department may be self insured. All~~ 1684
~~self-insured plans adopted shall be administered by the department~~ 1685
~~in accordance with this section. The plans shall incorporate the~~ 1686
~~best practices adopted by the department under division (C)(3) of~~ 1687
~~this section consulting with the department of administrative~~ 1688
~~services, a political subdivision may adopt a delivery system of~~ 1689
~~benefits that is not in accordance with the department's adopted~~ 1690
~~best practices if it is considered by the department to be most~~ 1691
~~financially advantageous to the political subdivision.~~ 1692

(3) ~~Before soliciting proposals from insurance companies for~~ 1693
~~the issuance of health care plans, the department, in consultation~~ 1694
~~with the superintendent of insurance, shall determine what~~ 1695
~~geographic regions exist in the state based on the availability of~~ 1696
~~providers, networks, costs, and other factors relating to~~ 1697
~~providing health care benefits. The department shall then~~ 1698
~~determine what health care plans offered by political~~ 1699
~~subdivisions, public school districts, state institutions, and~~ 1700

~~existing consortiums in the region offer the most cost effective
plan.~~ 1701
1702

~~(4) The department, in consultation with the superintendent
of insurance, shall develop a request for proposals and solicit
bids for health care plans for political subdivisions, public
school districts, and state institutions in a region similar to
the existing plans. The department shall also determine the
benefits offered by existing health care plans, the employees'
costs, and the cost sharing arrangements used by political
subdivisions, schools, and institutions participating in a
consortium. The department shall determine what strategies are
used by the existing plans to manage health care costs and shall
study the potential benefits of state or regional consortiums
offering multiple health care plans. When options exist in a
defined regional service area that meet the benchmarks or best
practices prescribed by the department, public employees shall be
given the option of selecting from two or more health plans.~~ 1703
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~~(5) No political subdivision, public school district, or
state institution may be required to offer the health care plans
designed under this section until action is taken under division
(E) of this section.~~ 1718
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~~In addition, political subdivisions, public school districts,
or state institutions offering employee health care benefits
through a plan offered by a consortium of two or more political
subdivisions, districts, or state institutions, or a consortium of
one or more political subdivisions, districts, or state
institutions and one or more other political subdivisions may
continue offering consortium plans to the political subdivisions',
districts', or institutions' employees if plans contain best
practices required under this section.~~ 1722
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~~(6) As used in this section:~~ 1731

(a) "Public employer" means political subdivisions, public school districts, or state institutions of higher education. 1732
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(b) "Public school district" means a city, local, exempted village, or joint vocational school district; a STEM school established under Chapter 3326. of the Revised Code; or an educational service center. "Public school district" does not mean a community school established under Chapter 3314. of the Revised Code. 1734
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~~(b)~~(c) "State institution of higher education" or "state institution" means a state institution of higher education as defined in section 3345.011 of the Revised Code. 1740
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~~(e)~~(d) "Political subdivision" has the same meaning as defined in section 9.833 of the Revised Code. 1743
1744

~~(d)~~(e) A "health care plan" includes group policies, contracts, and agreements that provide hospital, surgical, or medical expense coverage, including self-insured plans. A "health care plan" does not include an individual plan offered to the employees of a political subdivision, public school district, or state institution, or a plan that provides coverage only for specific disease or accidents, or a hospital indemnity, medicare supplement, or other plan that provides only supplemental benefits, paid for by the employees of a political subdivision, public school district, or state institution. 1745
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~~(e)~~(f) A "health plan sponsor" means a political subdivision, public school district, a state institution of higher education, a consortium of political subdivisions, public school districts, or state institutions, or a council of governments. 1755
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~~(B)~~(4) The ~~political subdivisions and~~ public employees health care fund is hereby created in the state treasury. The department shall use all funds in the ~~political subdivisions and~~ public employees health care fund solely to carry out the provisions of 1759
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this section and related administrative costs. 1763

~~(C)(B)~~ The department of administrative services shall do all 1764
of the following: 1765

~~(1) Include disease management and consumer education 1766
programs, which programs shall include, but are not limited to, 1767
wellness programs and other measures designed to encourage the 1768
wise use of medical plan coverage. These programs are not services 1769
or treatments for purposes of section 3901.71 of the Revised Code. 1770~~

~~(2) After action is taken under division (E) of this section, 1771
design health care plans for political subdivisions, public school 1772
districts, and state institutions of higher education in 1773
accordance with division (A) of this section separate from the 1774
plans for state agencies; 1775~~

~~(3) Adopt and release a set of standards that shall be 1776
considered the best practices for health care plans offered to 1777
employees of political subdivisions, public school districts, and 1778
state institutions. 1779~~

~~(4) Require that the plans the health plan sponsors 1780
administer make readily available to the public all cost and 1781
design elements of the plan; 1782~~

~~(5) Set employee and employer health care plan premiums for 1783
the plans designed under division (C)(2) of this section; 1784~~

~~(6) Promote cooperation among all organizations affected by 1785
this section in identifying the elements for the successful 1786
implementation of this section; 1787~~

~~(7) Promote cost containment measures aligned with patient, 1788
plan, and provider management strategies in developing and 1789
managing health care plans; 1790~~

~~(8) Prepare and disseminate to the public an annual report on 1791
the status of health plan sponsors' effectiveness in making 1792~~

~~progress to reduce the rate of increase in insurance premiums and 1793
employee out of pocket expenses, as well as progress in improving 1794
the health status of political subdivision, public school 1795
district, and state institution employees and their families. 1796~~

~~(D) The sections in Chapter 3923. of the Revised Code 1797
regulating public employee benefit plans are not applicable to the 1798
health care plans designed pursuant to this section. 1799~~

~~(E) Before the department's release of the initial health 1800
care plans, the department shall contract with an independent 1801
consultant to analyze costs related to employee health care 1802
benefits provided by existing political subdivision, public school 1803
district, and state institution plans. All political subdivisions 1804
shall provide information requested by the department that the 1805
department determines is needed to complete this study. The 1806
information requested shall be held confidentially by the 1807
department and shall not be considered a public record under 1808
Chapter 149. of the Revised Code. The department may release the 1809
information after redacting all personally identifiable 1810
information. The consultant shall determine the benefits offered 1811
by existing plans, the employees' costs, and the cost sharing 1812
arrangements used by political subdivisions, schools, and 1813
institutions participating in a consortium. The consultant shall 1814
determine what strategies are used by the existing plans to manage 1815
health care costs and shall study the potential benefits of state 1816
or regional consortiums of political subdivisions, public schools, 1817
and institutions offering multiple health care plans. Based on the 1818
findings of the analysis, the consultant shall submit written 1819
recommendations to the department for the development and 1820
implementation of a successful program for pooling purchasing 1821
power for the acquisition of employee health care plans. The 1822
consultant's recommendations shall address, at a minimum, all of 1823
the following issues: 1824~~

(1) The development of a plan for regional coordination of the health care plans;	1825
	1826
(2) The establishment of regions for the provision of health care plans, based on the availability of providers and plans in the state at the time;	1827
	1828
	1829
(3) The viability of voluntary and mandatory participation by political subdivisions, public schools, and institutions of higher education;	1830
	1831
	1832
(4) The use of regional preferred provider and closed panel plans, health savings accounts, and alternative health care plans, to stabilize both costs and the premiums charged to political subdivisions, public school districts, and state institutions and their employees;	1833
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	1836
	1837
(5) The use of the competitive bidding process for regional health care plans;	1838
	1839
(6) The use of information on claims and costs and of information reported by political subdivisions, public school districts, and state institutions pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) 100 Stat. 227, 29 U.S.C. 1161, as amended in analyzing administrative and premium costs;	1840
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(7) The experience of states that have statewide health care plans for political subdivision, public school district, and state institution employees, including the implementation strategies used by those states;	1845
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	1848
(8) Recommended strategies for the use of first-year roll-in premiums in the transition from political subdivision, district, and state institution health care plans to department plans;	1849
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	1851
(9) The option of allowing political subdivisions, public school districts, and state institutions to join an existing regional consortium as an alternative to department plans;	1852
	1853
	1854

(10) Mandatory and optional coverages to be offered by the department's plans;	1855
	1856
(11) Potential risks to the state from the use of plans developed under this section;	1857
	1858
(12) Any legislation needed to ensure the long term financial solvency and stability of a health care purchasing system;	1859
	1860
(13) The potential impacts of any changes to the existing purchasing structure on all of the following:	1861
	1862
(a) Existing health care pooling and consortiums;	1863
(b) Political subdivision, school district, and state institution employees;	1864
	1865
(c) Individual political subdivisions, school districts, and state institutions.	1866
	1867
(14) Issues that could arise when political subdivisions, school districts, and state institutions transition from the existing purchasing structure to a new purchasing structure;	1868
	1869
	1870
(15) Strategies available to the department in the creation of fund reserves and the need for stop loss insurance coverage for catastrophic losses;	1871
	1872
	1873
(16) Impact on eliminating the premium tax or excise currently received on behalf of a public employer under division (A) of section 5725.18 and division (A) of 5729.03 of the Revised Code;	1874
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	1876
	1877
(17) How development of the federal health exchange in Ohio may impact public employees;	1878
	1879
(18) Impact of joint health insurance regional program on insurance carriers and agents;	1880
	1881
(19) The benefits, including any cost savings to the state of establishing a benchmark for public employers to meet in lieu of	1882
	1883

establishing new plans administered by the department.	1884
(F) The <u>Identify strategies to manage health care costs;</u>	1885
<u>(2) Study the potential benefits of state or regional</u>	1886
<u>consortiums of public employers' health care plans;</u>	1887
<u>(3) Publish information regarding the health care plans</u>	1888
<u>offered by political subdivisions, public school districts, state</u>	1889
<u>institutions, and existing consortiums;</u>	1890
<u>(4) Assist in the design of health care plans for political</u>	1891
<u>subdivisions, public school districts, and state institutions of</u>	1892
<u>higher education in accordance with division (A) of this section</u>	1893
<u>separate from the plans for state agencies;</u>	1894
<u>(5) Adopt and release a set of standards that shall be</u>	1895
<u>considered the best practices for health care plans offered to</u>	1896
<u>employees of political subdivisions, public school districts, and</u>	1897
<u>state institutions;</u>	1898
<u>(6) Require that plans the health plan sponsors administer</u>	1899
<u>make readily available to the public all cost and design elements</u>	1900
<u>of the plan;</u>	1901
<u>(7) Promote cooperation among all organizations affected by</u>	1902
<u>this section in identifying the elements for successful</u>	1903
<u>implementation of this section;</u>	1904
<u>(8) Promote cost containment measures aligned with patient,</u>	1905
<u>plan, and provider management strategies in developing and</u>	1906
<u>managing health care plans; and</u>	1907
<u>(9) Prepare and disseminate to the public an annual report on</u>	1908
<u>the status of health plan sponsors' effectiveness in complying</u>	1909
<u>with best practices and making progress to reduce the rate of</u>	1910
<u>increase in insurance premiums and employee out-of-pocket</u>	1911
<u>expenses, as well as progress in improving the health status of</u>	1912
<u>employees and their families.</u>	1913

(C) The director of administrative services may convene a public health care advisory committee ~~is hereby created under the department of administrative services.~~ The committee shall make recommendations to the director of administrative services or the director's designee on the development and adoption of best practices under this section. The committee shall consist of fifteen members: five members appointed by the speaker of the house of representatives; five members appointed by the president of the senate; and five members appointed by the governor ~~and shall include representatives from state and local government employers, state and local government employees, insurance agents, health insurance companies, and joint purchasing arrangements currently in existence. Nothing in this section prohibits a political subdivision from adopting a delivery system of benefits that is not in accordance with the department's adopted best practices if it is considered to be most financially advantageous to the political subdivision. Members shall serve without compensation.~~

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

~~(H)~~(E) Any health care plan providing coverage for the employees of political subdivisions, public school districts, or state institutions of higher education, or that have provided coverage within two years before the effective date of this amendment, shall provide nonidentifiable aggregate claims and administrative data for the coverage provided as required by the department, without charge, within thirty days after receiving a written request from the department. The claims data shall include data relating to employee group benefit sets, demographics, and claims experience.

~~(I)~~(1)(F) The department may ~~contract~~ work with other state

agencies ~~for~~ to obtain services as the department deems necessary 1946
for the implementation and operation of this section, based on 1947
demonstrated experience and expertise in administration, 1948
management, data handling, actuarial studies, quality assurance, 1949
or for other needed services. 1950

~~(2)(G)~~ (G) The department shall hire staff as necessary to 1951
provide administrative support to the department and the public 1952
employee health care plan program established by this section. 1953

~~(J)~~ Not more than ninety days before coverage begins for 1954
~~political subdivision, public school district, and state~~ 1955
~~institution employees under health care plans designed by the~~ 1956
~~department, a political subdivision's governing body, public~~ 1957
~~school district's board of education, and a state institution's~~ 1958
~~board of trustees or managing authority shall provide detailed~~ 1959
~~information about the health care plans to the employees.~~ 1960

~~(K)~~ (H) Nothing in this section shall be construed as 1961
prohibiting political subdivisions, public school districts, or 1962
state institutions from consulting with and compensating insurance 1963
agents and brokers for professional services or from establishing 1964
a self-insurance program. 1965

~~(L)~~ (I) Pursuant to Chapter 117. of the Revised Code, the 1966
auditor of state shall conduct all necessary and required audits 1967
of the department. The auditor of state, upon request, also shall 1968
furnish to the department copies of audits of political 1969
subdivisions, public school districts, or consortia performed by 1970
the auditor of state. 1971

Sec. 101.39. (A) There is hereby created the joint 1972
legislative committee on health care oversight. The committee may 1973
review or study any matter related to the provision of health care 1974
services that it considers of significance to the citizens of this 1975
state, including the availability of health care, the quality of 1976

health care, the effectiveness and efficiency of managed care 1977
systems, and the operation of the ~~medical assistance~~ medicaid 1978
program ~~established under Chapter 5111. of the Revised Code~~ or 1979
other government health programs. 1980

The department of ~~job and family services~~ medicaid, 1981
department of health, department of aging, department of ~~mental~~ 1982
~~health~~ mental health and addiction services, department of 1983
developmental disabilities, ~~department of alcohol and drug~~ 1984
~~addiction services~~, and other state agencies shall cooperate with 1985
the committee in its study and review of health care issues. On 1986
request, the departments shall provide the committee with reports 1987
and other information sufficient for the committee to fulfill its 1988
duties. 1989

The committee may issue recommendations as it determines 1990
appropriate. The recommendations may be made to the general 1991
assembly, state agencies, private industry, or any other entity. 1992

(B) The committee shall consist of the following members of 1993
the general assembly: the chairperson of the senate's standing 1994
committee with primary responsibility for health legislation, the 1995
chairperson of the house of representatives' standing committee 1996
with primary responsibility for health legislation, four members 1997
of the house of representatives appointed by the speaker of the 1998
house of representatives, and four members of the senate appointed 1999
by the president of the senate. Not more than two members 2000
appointed by the speaker of the house of representatives and not 2001
more than two members appointed by the president of the senate may 2002
be of the same political party. Except in 1995, appointments shall 2003
be made not later than fifteen days after the commencement of the 2004
first regular session of each general assembly. The chairpersons 2005
of the standing committees with primary responsibility for health 2006
legislation shall serve as co-chairpersons of the committee. 2007

Each member of the committee shall hold office during the 2008

general assembly in which the member is appointed and until a
successor has been appointed, notwithstanding the adjournment sine
die of the general assembly in which the member was appointed or
the expiration of the member's term as a member of the general
assembly. Any vacancies occurring among the members of the
committee shall be filled in the manner of the original
appointment.

The committee shall meet at least quarterly and at the call
of the co-chairpersons. The co-chairpersons shall determine the
time, place, and agenda for each meeting of the committee.

The committee has the same powers as other standing or select
committees of the general assembly. The committee may request
assistance from the legislative service commission.

Sec. 101.391. (A) There is hereby created the joint
legislative committee on medicaid technology and reform. The
committee may review or study any matter that it considers
relevant to the operation of the medicaid program ~~established~~
~~under Chapter 5111. of the Revised Code~~, with priority given to
the study or review of mechanisms to enhance the program's
effectiveness through improved technology systems and program
reform.

(B) The committee shall consist of five members of the house
of representatives appointed by the speaker of the house of
representatives and five members of the senate appointed by the
president of the senate. Not more than three members appointed by
the speaker of the house of representatives and not more than
three members appointed by the president of the senate may be of
the same political party.

Each member of the committee shall hold office during the
general assembly in which the member is appointed and until a
successor has been appointed, notwithstanding the adjournment sine

die of the general assembly in which the member was appointed or 2040
the expiration of the member's term as a member of the general 2041
assembly. Any vacancies occurring among the members of the 2042
committee shall be filled in the manner of the original 2043
appointment. 2044

(C) The committee has the same powers as other standing or 2045
select committees of the general assembly. The committee may 2046
employ an executive director. 2047

Sec. 103.144. As used in sections 103.144 to 103.146 of the 2048
Revised Code: 2049

(A) "Mandated benefit" means the following, when considered 2050
in the context of a sickness and accident insurance policy or a 2051
health insuring corporation policy, contract, or agreement: 2052

(1) Any required coverage for a specific medical or 2053
health-related service, treatment, medication, or practice; 2054

(2) Any required coverage for the services of specific health 2055
care providers; 2056

(3) Any requirement that an insurer or health insuring 2057
corporation offer coverage to specific individuals or groups; 2058

(4) Any requirement that an insurer or health insuring 2059
corporation offer specific medical or health-related services, 2060
treatments, medications, or practices to existing insureds or 2061
enrollees; 2062

(5) Any required expansion of, or addition to, existing 2063
coverage; 2064

(6) Any mandated reimbursement amount to specific health care 2065
providers. 2066

(B) "Mandated benefit" does not include any required coverage 2067
or offer of coverage, any required expansion of, or addition to, 2068

existing coverage, or any mandated reimbursement amount to 2069
specific providers, as described in division (A) of this section, 2070
within the context of any public health benefits arrangement, 2071
including but not limited to, the coverage of beneficiaries 2072
enrolled in ~~Title XVIII of the "Social Security Act," 49 Stat. 620~~ 2073
~~(1935), 42 U.S.C.A. 301, as amended, medicare~~ pursuant to a 2074
medicare risk contract or medicare cost contract, or to the 2075
coverage of beneficiaries enrolled in ~~Title XIX of the "Social~~ 2076
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ 2077
~~known as the medical assistance program or medicaid, provided by~~ 2078
~~the Ohio department of job and family services under Chapter 5111.~~ 2079
~~of the Revised Code.~~ 2080

Sec. 105.41. (A) There is hereby created in the legislative 2081
branch of government the capitol square review and advisory board, 2082
consisting of twelve members as follows: 2083

(1) Two members of the senate, appointed by the president of 2084
the senate, both of whom shall not be members of the same 2085
political party; 2086

(2) Two members of the house of representatives, appointed by 2087
the speaker of the house of representatives, both of whom shall 2088
not be members of the same political party; 2089

(3) Four members appointed by the governor, with the advice 2090
and consent of the senate, not more than three of whom shall be 2091
members of the same political party, one of whom shall be the 2092
chief of staff of the governor's office, one of whom shall 2093
represent the Ohio arts council, one of whom shall represent the 2094
Ohio historical society, and one of whom shall represent the 2095
public at large; 2096

(4) One member, who shall be a former president of the 2097
senate, appointed by the current president of the senate. If the 2098
current president of the senate, in the current president's 2099

discretion, decides for any reason not to make the appointment or 2100
if no person is eligible or available to serve, the seat shall 2101
remain vacant. 2102

(5) One member, who shall be a former speaker of the house of 2103
representatives, appointed by the current speaker of the house of 2104
representatives. If the current speaker of the house of 2105
representatives, in the current speaker's discretion, decides for 2106
any reason not to make the appointment or if no person is eligible 2107
or available to serve, the seat shall remain vacant. 2108

(6) The clerk of the senate and the clerk of the house of 2109
representatives. 2110

(B) Terms of office of each appointed member of the board 2111
shall be for three years, except that members of the general 2112
assembly appointed to the board shall be members of the board only 2113
so long as they are members of the general assembly and the chief 2114
of staff of the governor's office shall be a member of the board 2115
only so long as the appointing governor remains in office. Each 2116
member shall hold office from the date of the member's appointment 2117
until the end of the term for which the member was appointed. In 2118
case of a vacancy occurring on the board, the president of the 2119
senate, the speaker of the house of representatives, or the 2120
governor, as the case may be, shall in the same manner prescribed 2121
for the regular appointment to the commission, fill the vacancy by 2122
appointing a member. Any member appointed to fill a vacancy 2123
occurring prior to the expiration of the term for which the 2124
member's predecessor was appointed shall hold office for the 2125
remainder of the term. Any appointed member shall continue in 2126
office subsequent to the expiration date of the member's term 2127
until the member's successor takes office, or until a period of 2128
sixty days has elapsed, whichever occurs first. 2129

(C) The board shall hold meetings in a manner and at times 2130
prescribed by the rules adopted by the board. A majority of the 2131

board constitutes a quorum, and no action shall be taken by the 2132
board unless approved by at least six members or by at least seven 2133
members if a person is appointed under division (A)(4) or (5) of 2134
this section. At its first meeting, the board shall adopt rules 2135
for the conduct of its business and the election of its officers, 2136
and shall organize by selecting a chairperson and other officers 2137
as it considers necessary. Board members shall serve without 2138
compensation but shall be reimbursed for actual and necessary 2139
expenses incurred in the performance of their duties. 2140

(D) The board may do any of the following: 2141

(1) Employ or hire on a consulting basis professional, 2142
technical, and clerical employees as are necessary for the 2143
performance of its duties. All employees of the board are in the 2144
unclassified service and serve at the pleasure of the board. For 2145
purposes of section 4117.01 of the Revised Code, employees of the 2146
board shall be considered employees of the general assembly, 2147
except that employees who are covered by a collective bargaining 2148
agreement on September 29, 2011, shall remain subject to the 2149
agreement until the agreement expires on its terms, and the 2150
agreement shall not be extended or renewed. Upon expiration of the 2151
agreement, the employees are considered employees of the general 2152
assembly for purposes of section 4117.01 of the Revised Code and 2153
are in the unclassified service and serve at the pleasure of the 2154
board. 2155

(2) Hold public hearings at times and places as determined by 2156
the board; 2157

(3) Adopt, amend, or rescind rules necessary to accomplish 2158
the duties of the board as set forth in this section; 2159

(4) Sponsor, conduct, and support such social events as the 2160
board may authorize and consider appropriate for the employees of 2161
the board, employees and members of the general assembly, 2162

employees of persons under contract with the board or otherwise 2163
engaged to perform services on the premises of capitol square, or 2164
other persons as the board may consider appropriate. Subject to 2165
the requirements of Chapter 4303. of the Revised Code, the board 2166
may provide beer, wine, and intoxicating liquor, with or without 2167
charge, for those events and may use funds only from the sale of 2168
goods and services fund to purchase the beer, wine, and 2169
intoxicating liquor the board provides; 2170

(5) Purchase a warehouse in which to store items of the 2171
capitol collection trust and, whenever necessary, equipment or 2172
other property of the board. 2173

(E) The board shall do all of the following: 2174

(1) Have sole authority to coordinate and approve any 2175
improvements, additions, and renovations that are made to the 2176
capitol square. The improvements shall include, but not be limited 2177
to, the placement of monuments and sculpture on the capitol 2178
grounds. 2179

(2) Subject to section ~~3353.07~~ 3333.93 of the Revised Code, 2180
operate the capitol square, and have sole authority to regulate 2181
all uses of the capitol square. The uses shall include, but not be 2182
limited to, the casual and recreational use of the capitol square. 2183

(3) Employ, fix the compensation of, and prescribe the duties 2184
of the executive director of the board and other employees the 2185
board considers necessary for the performance of its powers and 2186
duties; 2187

(4) Establish and maintain the capitol collection trust. The 2188
capitol collection trust shall consist of furniture, antiques, and 2189
other items of personal property that the board shall store in 2190
suitable facilities until they are ready to be displayed in the 2191
capitol square. 2192

(5) Perform repair, construction, contracting, purchasing, 2193

maintenance, supervisory, and operating activities the board 2194
determines are necessary for the operation and maintenance of the 2195
capitol square; 2196

(6) Maintain and preserve the capitol square, in accordance 2197
with guidelines issued by the United States secretary of the 2198
interior for application of the secretary's standards for 2199
rehabilitation adopted in 36 C.F.R. part 67; 2200

(7) Plan and develop a center at the capitol building for the 2201
purpose of educating visitors about the history of Ohio, including 2202
its political, economic, and social development and the design and 2203
erection of the capitol building and its grounds. 2204

(F)(1) The board shall lease capital facilities improved or 2205
financed by the Ohio building authority pursuant to Chapter 152. 2206
of the Revised Code for the use of the board, and may enter into 2207
any other agreements with the authority ancillary to improvement, 2208
financing, or leasing of those capital facilities, including, but 2209
not limited to, any agreement required by the applicable bond 2210
proceedings authorized by Chapter 152. of the Revised Code. Any 2211
lease of capital facilities authorized by this section shall be 2212
governed by division (D) of section 152.24 of the Revised Code. 2213

(2) Fees, receipts, and revenues received by the board from 2214
the state underground parking garage constitute available receipts 2215
as defined in section 152.09 of the Revised Code, and may be 2216
pledged to the payment of bond service charges on obligations 2217
issued by the Ohio building authority pursuant to Chapter 152. of 2218
the Revised Code to improve, finance, or purchase capital 2219
facilities useful to the board. The authority may, with the 2220
consent of the board, provide in the bond proceedings for a pledge 2221
of all or a portion of those fees, receipts, and revenues as the 2222
authority determines. The authority may provide in the bond 2223
proceedings or by separate agreement with the board for the 2224
transfer of those fees, receipts, and revenues to the appropriate 2225

bond service fund or bond service reserve fund as required to pay 2226
the bond service charges when due, and any such provision for the 2227
transfer of those fees, receipts, and revenues shall be 2228
controlling notwithstanding any other provision of law pertaining 2229
to those fees, receipts, and revenues. 2230

(3) All moneys received by the treasurer of state on account 2231
of the board and required by the applicable bond proceedings or by 2232
separate agreement with the board to be deposited, transferred, or 2233
credited to the bond service fund or bond service reserve fund 2234
established by the bond proceedings shall be transferred by the 2235
treasurer of state to such fund, whether or not it is in the 2236
custody of the treasurer of state, without necessity for further 2237
appropriation, upon receipt of notice from the Ohio building 2238
authority as prescribed in the bond proceedings. 2239

(G)(1) Except as otherwise provided in division (G)(2) of 2240
this section, all fees, receipts, and revenues received by the 2241
board from the state underground parking garage shall be deposited 2242
into the state treasury to the credit of the underground parking 2243
garage operating fund, which is hereby created, to be used for the 2244
purposes specified in division (F) of this section and for the 2245
operation and maintenance of the garage. All investment earnings 2246
of the fund shall be credited to the fund. 2247

(2) There is hereby created the parking garage automated 2248
equipment fund, which shall be in the custody of the treasurer of 2249
state but shall not be part of the state treasury. Money in the 2250
fund shall be used to purchase the automated teller machine 2251
quality dollar bills needed for operation of the parking garage 2252
automated equipment. The fund shall consist of fees, receipts, or 2253
revenues received by the board from the state underground parking 2254
garage; provided, however, that the total amount deposited into 2255
the fund at any one time shall not exceed ten thousand dollars. 2256
All investment earnings of the fund shall be credited to the fund. 2257

(H) All donations received by the board shall be deposited 2258
into the state treasury to the credit of the capitol square 2259
renovation gift fund, which is hereby created. The fund shall be 2260
used by the board as follows: 2261

(1) To provide part or all of the funding related to 2262
construction, goods, or services for the renovation of the capitol 2263
square; 2264

(2) To purchase art, antiques, and artifacts for display at 2265
the capitol square; 2266

(3) To award contracts or make grants to organizations for 2267
educating the public regarding the historical background and 2268
governmental functions of the capitol square. Chapters 125., 127., 2269
and 153. and section 3517.13 of the Revised Code do not apply to 2270
purchases made exclusively from the fund, notwithstanding anything 2271
to the contrary in those chapters or that section. All investment 2272
earnings of the fund shall be credited to the fund. 2273

(I) Except as provided in divisions (G), (H), and (J) of this 2274
section, all fees, receipts, and revenues received by the board 2275
shall be deposited into the state treasury to the credit of the 2276
sale of goods and services fund, which is hereby created. Money 2277
credited to the fund shall be used solely to pay costs of the 2278
board other than those specified in divisions (F) and (G) of this 2279
section. All investment earnings of the fund shall be credited to 2280
the fund. 2281

(J) There is hereby created in the state treasury the capitol 2282
square improvement fund, to be used by the board to pay 2283
construction, renovation, and other costs related to the capitol 2284
square for which money is not otherwise available to the board. 2285
Whenever the board determines that there is a need to incur those 2286
costs and that the unencumbered, unobligated balance to the credit 2287
of the underground parking garage operating fund exceeds the 2288

amount needed for the purposes specified in division (F) of this 2289
section and for the operation and maintenance of the garage, the 2290
board may request the director of budget and management to 2291
transfer from the underground parking garage operating fund to the 2292
capitol square improvement fund the amount needed to pay such 2293
construction, renovation, or other costs. The director then shall 2294
transfer the amount needed from the excess balance of the 2295
underground parking garage operating fund. 2296

(K) As the operation and maintenance of the capitol square 2297
constitute essential government functions of a public purpose, the 2298
board shall not be required to pay taxes or assessments upon the 2299
square, upon any property acquired or used by the board under this 2300
section, or upon any income generated by the operation of the 2301
square. 2302

(L) As used in this section, "capitol square" means the 2303
capitol building, senate building, capitol atrium, capitol 2304
grounds, the state underground parking garage, and the warehouse 2305
owned by the board. 2306

(M) The capitol annex shall be known as the senate building. 2307

(N) Any person may possess a firearm in a motor vehicle in 2308
the state underground parking garage at the state capitol 2309
building, if the person's possession of the firearm in the motor 2310
vehicle is not in violation of section 2923.16 of the Revised Code 2311
or any other provision of the Revised Code. Any person may store 2312
or leave a firearm in a locked motor vehicle that is parked in the 2313
state underground parking garage at the state capitol building, if 2314
the person's transportation and possession of the firearm in the 2315
motor vehicle while traveling to the garage was not in violation 2316
of section 2923.16 of the Revised Code or any other provision of 2317
the Revised Code. 2318

Sec. 107.033. As part of the state budget the governor 2319

submits to the general assembly under section 107.03 of the Revised Code, the governor shall include the state appropriation limitations the general assembly shall not exceed when making aggregate general revenue fund appropriations for each respective fiscal year of the biennium covered by that budget. The aggregate general revenue fund appropriations the governor proposes in the state budget also shall not exceed those limitations for each respective fiscal year of the biennium covered by that budget.

(A) For fiscal year 2008, the state appropriation limitation is the sum of the following:

(1) The aggregate general revenue fund appropriations for fiscal year 2007; plus

(2) The aggregate general revenue fund appropriations for fiscal year 2007 multiplied by either three and one-half per cent, or the sum of the rate of inflation plus the rate of population change, whichever is greater.

(B) For each fiscal year thereafter that is not a recast fiscal year, the state appropriation limitation is the sum of the following:

(1) The state appropriation limitation for the previous fiscal year; plus

(2) The state appropriation limitation for the previous fiscal year multiplied by either three and one-half per cent, or the sum of the rate of inflation plus the rate of population change, whichever is greater.

(C) For each recast fiscal year, the state appropriation limitation is the sum of the following:

(1) The aggregate general revenue fund appropriations for the previous fiscal year; plus

(2) The aggregate general revenue fund appropriations for the

previous fiscal year multiplied by either three and one-half per cent, or the sum of the rate of inflation plus the rate of population change, whichever is greater.

(D) The state appropriation limitation for a fiscal year shall be increased by the amount of a nongeneral revenue fund appropriation made in the immediately preceding fiscal year, if all of the following apply to the nongeneral revenue fund appropriation:

(1) It was made on or after July 1, 2013.

(2) It is included in the aggregate general revenue fund appropriations proposed for that fiscal year.

(3) It is being made for the first time from the general revenue fund.

Sec. 107.12. (A) As used in this section, "organization" means a faith-based or other organization that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, and provides charitable services to needy residents of this state.

(B) There is hereby established within the office of the governor the governor's office of faith-based and community initiatives. The office shall:

(1) Serve as a clearinghouse of information on federal, state, and local funding for charitable services performed by organizations;

(2) Encourage organizations to seek public funding for their charitable services;

(3) Assist local, state, and federal agencies in coordinating their activities to secure maximum use of funds and efforts that benefit people receiving charitable services from organizations;

(4) Advise the governor, general assembly, and the advisory board of the governor's office of faith-based and community initiatives on the barriers that exist to collaboration between organizations and governmental entities and on ways to remove the barriers.

(C) The governor shall appoint an executive director and such other staff as may be necessary to manage the office and perform or oversee the performance of the duties of the office. Within sixty days after being appointed, and every twelve months thereafter, the executive director shall distribute to the advisory board and review with the board a strategic plan. The executive director shall report to the board at least quarterly on proposed initiatives and policies. A report shall include the condition of the budget and the finances of the office.

(D)(1) There is hereby created the advisory board of the governor's office of faith-based and community initiatives. The board shall consist of the following members:

(a) The directors of aging, ~~alcohol and drug addiction services~~, rehabilitation and correction, health, job and family services, developmental disabilities, ~~mental health~~ mental health and addiction services, and youth services, or their designees;

(b) The speaker of the house of representatives shall appoint to the board two members of the house of representatives, not more than one of whom shall be from the same political party and at least one of whom shall be from the legislative black caucus. The president of the senate shall appoint to the board two members of the senate, not more than one of whom shall be from the same political party.

(c) The governor, the speaker of the house of representatives, and the president of the senate shall each appoint to the board three representatives of the nonprofit,

faith-based and other nonprofit community. 2410

(2) Terms of the office shall be one year. Any vacancy that 2411
occurs on the board shall be filled in the same manner as the 2412
original appointment. 2413

(3) Members of the board are not entitled to compensation, 2414
but the members appointed by the governor, the speaker of the 2415
house of representatives, and the president of the senate who are 2416
representatives of the nonprofit, faith-based and other nonprofit 2417
community shall be reimbursed for their actual and necessary 2418
expenses that are incurred in relation to board meetings. 2419

(4) The board shall be presided over by a chairperson and a 2420
vice-chairperson, who shall be the members of the board who are 2421
also members of the house of representatives or the senate. 2422
Annually on the first day of January, the chairpersonship and 2423
vice-chairpersonship shall alternate between the members of the 2424
house of representatives and the senate. 2425

(E) The board shall have the following duties: 2426

(1) Provide direction, guidance, and oversight to the office; 2427

(2) Assist in the dissemination of information about, and in 2428
the stimulation of public awareness of, the service programs 2429
supported by the office; 2430

(3) Review the budget and finances of the office, proposed 2431
initiatives and policies, and the executive director's annual 2432
strategic plan at board meetings; 2433

(4) Provide feedback for and proposed modifications of the 2434
executive director's strategic plan. Within forty-five days after 2435
submitting a strategic plan, the executive director shall contact 2436
each advisory board member to obtain feedback. With the approval 2437
of the advisory board chairperson, the executive director shall 2438
lead a strategic plan discussion at the first board meeting 2439

following the distribution of the strategic plan. 2440

(5) Publish a report of its activities and accomplishments on 2441
or before the first day of August of each year, and deliver copies 2442
of the report to the governor, the speaker and minority leader of 2443
the house of representatives, and the president and minority 2444
leader of the senate. 2445

(F) No member of the board or organization that the member is 2446
affiliated or involved with is eligible to receive any grant that 2447
the office administers or assists in administering. 2448

Sec. 109.06. Before entering upon the discharge of the duties 2449
of ~~his~~ office, the attorney general shall give a bond to the state 2450
in the sum of five thousand dollars, with ~~two or more sureties~~ 2451
~~approved by the governor~~ a surety authorized to do business in the 2452
state, conditioned for the faithful discharge of the duties of ~~his~~ 2453
the office of attorney general. Such bond, ~~with the approval of~~ 2454
~~the governor~~ and the oath of office ~~indorsed thereon~~, shall be 2455
deposited with and kept by the secretary of state ~~and kept~~ in ~~his~~ 2456
the secretary of state's office. 2457

The first assistant attorney general shall give a bond to the 2458
state in the sum of five thousand dollars, and such other 2459
employees as are designated by the attorney general shall give a 2460
bond to the state in such amounts as the attorney general 2461
determines. Such bonds shall be approved by the attorney general, 2462
conditioned for the faithful discharge of the duties of their 2463
offices, and shall be deposited with and kept by the secretary of 2464
state ~~and kept~~ in ~~his~~ the secretary of state's office. 2465

Sec. 109.36. As used in this section and sections 109.361 to 2466
109.366 of the Revised Code: 2467

(A)(1) "Officer or employee" means any of the following: 2468

(a) A person who, at the time a cause of action against the 2469

person arises, is serving in an elected or appointed office or 2470
position with the state or is employed by the state. 2471

(b) A person that, at the time a cause of action against the 2472
person, partnership, or corporation arises, is rendering medical, 2473
nursing, dental, podiatric, optometric, physical therapeutic, 2474
psychiatric, or psychological services pursuant to a personal 2475
services contract or purchased service contract with a department, 2476
agency, or institution of the state. 2477

(c) A person that, at the time a cause of action against the 2478
person, partnership, or corporation arises, is rendering peer 2479
review, utilization review, or drug utilization review services in 2480
relation to medical, nursing, dental, podiatric, optometric, 2481
physical therapeutic, psychiatric, or psychological services 2482
pursuant to a personal services contract or purchased service 2483
contract with a department, agency, or institution of the state. 2484

(d) A person who, at the time a cause of action against the 2485
person arises, is rendering medical, nursing, dental, podiatric, 2486
optometric, physical therapeutic, psychiatric, or psychological 2487
services to patients in a state institution operated by the 2488
department of ~~mental health~~ mental health and addiction services 2489
pursuant to an agreement with the department. 2490

(2) "Officer or employee" does not include any person 2491
elected, appointed, or employed by any political subdivision of 2492
the state. 2493

(B) "State" means the state of Ohio, including but not 2494
limited to, the general assembly, the supreme court, courts of 2495
appeals, the offices of all elected state officers, and all 2496
departments, boards, offices, commissions, agencies, institutions, 2497
and other instrumentalities of the state of Ohio. "State" does not 2498
include political subdivisions. 2499

(C) "Political subdivisions" of the state means municipal 2500

corporations, townships, counties, school districts, and all other 2501
bodies corporate and politic responsible for governmental 2502
activities only in geographical areas smaller than that of the 2503
state. 2504

(D) "Employer" means the general assembly, the supreme court, 2505
courts of appeals, any office of an elected state officer, or any 2506
department, board, office, commission, agency, institution, or 2507
other instrumentality of the state of Ohio that employs or 2508
contracts with an officer or employee or to which an officer or 2509
employee is elected or appointed. 2510

Sec. 109.57. (A)(1) The superintendent of the bureau of 2511
criminal identification and investigation shall procure from 2512
wherever procurable and file for record photographs, pictures, 2513
descriptions, fingerprints, measurements, and other information 2514
that may be pertinent of all persons who have been convicted of 2515
committing within this state a felony, any crime constituting a 2516
misdemeanor on the first offense and a felony on subsequent 2517
offenses, or any misdemeanor described in division (A)(1)(a), 2518
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 2519
all children under eighteen years of age who have been adjudicated 2520
delinquent children for committing within this state an act that 2521
would be a felony or an offense of violence if committed by an 2522
adult or who have been convicted of or pleaded guilty to 2523
committing within this state a felony or an offense of violence, 2524
and of all well-known and habitual criminals. The person in charge 2525
of any county, multicounty, municipal, municipal-county, or 2526
multicounty-municipal jail or workhouse, community-based 2527
correctional facility, halfway house, alternative residential 2528
facility, or state correctional institution and the person in 2529
charge of any state institution having custody of a person 2530
suspected of having committed a felony, any crime constituting a 2531
misdemeanor on the first offense and a felony on subsequent 2532

offenses, or any misdemeanor described in division (A)(1)(a), 2533
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 2534
having custody of a child under eighteen years of age with respect 2535
to whom there is probable cause to believe that the child may have 2536
committed an act that would be a felony or an offense of violence 2537
if committed by an adult shall furnish such material to the 2538
superintendent of the bureau. Fingerprints, photographs, or other 2539
descriptive information of a child who is under eighteen years of 2540
age, has not been arrested or otherwise taken into custody for 2541
committing an act that would be a felony or an offense of violence 2542
who is not in any other category of child specified in this 2543
division, if committed by an adult, has not been adjudicated a 2544
delinquent child for committing an act that would be a felony or 2545
an offense of violence if committed by an adult, has not been 2546
convicted of or pleaded guilty to committing a felony or an 2547
offense of violence, and is not a child with respect to whom there 2548
is probable cause to believe that the child may have committed an 2549
act that would be a felony or an offense of violence if committed 2550
by an adult shall not be procured by the superintendent or 2551
furnished by any person in charge of any county, multicounty, 2552
municipal, municipal-county, or multicounty-municipal jail or 2553
workhouse, community-based correctional facility, halfway house, 2554
alternative residential facility, or state correctional 2555
institution, except as authorized in section 2151.313 of the 2556
Revised Code. 2557

(2) Every clerk of a court of record in this state, other 2558
than the supreme court or a court of appeals, shall send to the 2559
superintendent of the bureau a weekly report containing a summary 2560
of each case involving a felony, involving any crime constituting 2561
a misdemeanor on the first offense and a felony on subsequent 2562
offenses, involving a misdemeanor described in division (A)(1)(a), 2563
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 2564
involving an adjudication in a case in which a child under 2565

eighteen years of age was alleged to be a delinquent child for 2566
committing an act that would be a felony or an offense of violence 2567
if committed by an adult. The clerk of the court of common pleas 2568
shall include in the report and summary the clerk sends under this 2569
division all information described in divisions (A)(2)(a) to (f) 2570
of this section regarding a case before the court of appeals that 2571
is served by that clerk. The summary shall be written on the 2572
standard forms furnished by the superintendent pursuant to 2573
division (B) of this section and shall include the following 2574
information: 2575

(a) The incident tracking number contained on the standard 2576
forms furnished by the superintendent pursuant to division (B) of 2577
this section; 2578

(b) The style and number of the case; 2579

(c) The date of arrest, offense, summons, or arraignment; 2580

(d) The date that the person was convicted of or pleaded 2581
guilty to the offense, adjudicated a delinquent child for 2582
committing the act that would be a felony or an offense of 2583
violence if committed by an adult, found not guilty of the 2584
offense, or found not to be a delinquent child for committing an 2585
act that would be a felony or an offense of violence if committed 2586
by an adult, the date of an entry dismissing the charge, an entry 2587
declaring a mistrial of the offense in which the person is 2588
discharged, an entry finding that the person or child is not 2589
competent to stand trial, or an entry of a nolle prosequi, or the 2590
date of any other determination that constitutes final resolution 2591
of the case; 2592

(e) A statement of the original charge with the section of 2593
the Revised Code that was alleged to be violated; 2594

(f) If the person or child was convicted, pleaded guilty, or 2595
was adjudicated a delinquent child, the sentence or terms of 2596

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

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

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

state and its political subdivisions. 2629

(4) The superintendent shall carry out Chapter 2950. of the 2630
Revised Code with respect to the registration of persons who are 2631
convicted of or plead guilty to a sexually oriented offense or a 2632
child-victim oriented offense and with respect to all other duties 2633
imposed on the bureau under that chapter. 2634

(5) The bureau shall perform centralized recordkeeping 2635
functions for criminal history records and services in this state 2636
for purposes of the national crime prevention and privacy compact 2637
set forth in section 109.571 of the Revised Code and is the 2638
criminal history record repository as defined in that section for 2639
purposes of that compact. The superintendent or the 2640
superintendent's designee is the compact officer for purposes of 2641
that compact and shall carry out the responsibilities of the 2642
compact officer specified in that compact. 2643

(B) The superintendent shall prepare and furnish to every 2644
county, multicounty, municipal, municipal-county, or 2645
multicounty-municipal jail or workhouse, community-based 2646
correctional facility, halfway house, alternative residential 2647
facility, or state correctional institution and to every clerk of 2648
a court in this state specified in division (A)(2) of this section 2649
standard forms for reporting the information required under 2650
division (A) of this section. The standard forms that the 2651
superintendent prepares pursuant to this division may be in a 2652
tangible format, in an electronic format, or in both tangible 2653
formats and electronic formats. 2654

(C)(1) The superintendent may operate a center for 2655
electronic, automated, or other data processing for the storage 2656
and retrieval of information, data, and statistics pertaining to 2657
criminals and to children under eighteen years of age who are 2658
adjudicated delinquent children for committing an act that would 2659
be a felony or an offense of violence if committed by an adult, 2660

criminal activity, crime prevention, law enforcement, and criminal 2661
justice, and may establish and operate a statewide communications 2662
network to be known as the Ohio law enforcement gateway to gather 2663
and disseminate information, data, and statistics for the use of 2664
law enforcement agencies and for other uses specified in this 2665
division. The superintendent may gather, store, retrieve, and 2666
disseminate information, data, and statistics that pertain to 2667
children who are under eighteen years of age and that are gathered 2668
pursuant to sections 109.57 to 109.61 of the Revised Code together 2669
with information, data, and statistics that pertain to adults and 2670
that are gathered pursuant to those sections. 2671

(2) The superintendent or the superintendent's designee shall 2672
gather information of the nature described in division (C)(1) of 2673
this section that pertains to the offense and delinquency history 2674
of a person who has been convicted of, pleaded guilty to, or been 2675
adjudicated a delinquent child for committing a sexually oriented 2676
offense or a child-victim oriented offense for inclusion in the 2677
state registry of sex offenders and child-victim offenders 2678
maintained pursuant to division (A)(1) of section 2950.13 of the 2679
Revised Code and in the internet database operated pursuant to 2680
division (A)(13) of that section and for possible inclusion in the 2681
internet database operated pursuant to division (A)(11) of that 2682
section. 2683

(3) In addition to any other authorized use of information, 2684
data, and statistics of the nature described in division (C)(1) of 2685
this section, the superintendent or the superintendent's designee 2686
may provide and exchange the information, data, and statistics 2687
pursuant to the national crime prevention and privacy compact as 2688
described in division (A)(5) of this section. 2689

(4) The attorney general may adopt rules under Chapter 119. 2690
of the Revised Code establishing guidelines for the operation of 2691
and participation in the Ohio law enforcement gateway. The rules 2692

may include criteria for granting and restricting access to 2693
information gathered and disseminated through the Ohio law 2694
enforcement gateway. The attorney general shall permit the state 2695
medical board and board of nursing to access and view, but not 2696
alter, information gathered and disseminated through the Ohio law 2697
enforcement gateway. 2698

The attorney general may appoint a steering committee to 2699
advise the attorney general in the operation of the Ohio law 2700
enforcement gateway that is comprised of persons who are 2701
representatives of the criminal justice agencies in this state 2702
that use the Ohio law enforcement gateway and is chaired by the 2703
superintendent or the superintendent's designee. 2704

(D)(1) The following are not public records under section 2705
149.43 of the Revised Code: 2706

(a) Information and materials furnished to the superintendent 2707
pursuant to division (A) of this section; 2708

(b) Information, data, and statistics gathered or 2709
disseminated through the Ohio law enforcement gateway pursuant to 2710
division (C)(1) of this section; 2711

(c) Information and materials furnished to any board or 2712
person under division (F) or (G) of this section. 2713

(2) The superintendent or the superintendent's designee shall 2714
gather and retain information so furnished under division (A) of 2715
this section that pertains to the offense and delinquency history 2716
of a person who has been convicted of, pleaded guilty to, or been 2717
adjudicated a delinquent child for committing a sexually oriented 2718
offense or a child-victim oriented offense for the purposes 2719
described in division (C)(2) of this section. 2720

(E)(1) The attorney general shall adopt rules, in accordance 2721
with Chapter 119. of the Revised Code and subject to division 2722
(E)(2) of this section, setting forth the procedure by which a 2723

person may receive or release information gathered by the 2724
superintendent pursuant to division (A) of this section. A 2725
reasonable fee may be charged for this service. If a temporary 2726
employment service submits a request for a determination of 2727
whether a person the service plans to refer to an employment 2728
position has been convicted of or pleaded guilty to an offense 2729
listed or described in division (A)(1), (2), or (3) of section 2730
109.572 of the Revised Code, the request shall be treated as a 2731
single request and only one fee shall be charged. 2732

(2) Except as otherwise provided in this division, a rule 2733
adopted under division (E)(1) of this section may provide only for 2734
the release of information gathered pursuant to division (A) of 2735
this section that relates to the conviction of a person, or a 2736
person's plea of guilty to, a criminal offense. The superintendent 2737
shall not release, and the attorney general shall not adopt any 2738
rule under division (E)(1) of this section that permits the 2739
release of, any information gathered pursuant to division (A) of 2740
this section that relates to an adjudication of a child as a 2741
delinquent child, or that relates to a criminal conviction of a 2742
person under eighteen years of age if the person's case was 2743
transferred back to a juvenile court under division (B)(2) or (3) 2744
of section 2152.121 of the Revised Code and the juvenile court 2745
imposed a disposition or serious youthful offender disposition 2746
upon the person under either division, unless either of the 2747
following applies with respect to the adjudication or conviction: 2748

(a) The adjudication or conviction was for a violation of 2749
section 2903.01 or 2903.02 of the Revised Code. 2750

(b) The adjudication or conviction was for a sexually 2751
oriented offense, the juvenile court was required to classify the 2752
child a juvenile offender registrant for that offense under 2753
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 2754
classification has not been removed. 2755

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

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

education may request, with regard to the individual, whether the 2789
bureau has any information gathered under division (A) of this 2790
section that pertains to that individual. On receipt of the 2791
request, subject to division (E)(2) of this section, the 2792
superintendent shall determine whether that information exists 2793
and, upon request of the person, board, or entity requesting 2794
information, also shall request from the federal bureau of 2795
investigation any criminal records it has pertaining to that 2796
individual. The superintendent or the superintendent's designee 2797
also may request criminal history records from other states or the 2798
federal government pursuant to the national crime prevention and 2799
privacy compact set forth in section 109.571 of the Revised Code. 2800
Within thirty days of the date that the superintendent receives a 2801
request, subject to division (E)(2) of this section, the 2802
superintendent shall send to the board, entity, or person a report 2803
of any information that the superintendent determines exists, 2804
including information contained in records that have been sealed 2805
under section 2953.32 of the Revised Code, and, within thirty days 2806
of its receipt, subject to division (E)(2) of this section, shall 2807
send the board, entity, or person a report of any information 2808
received from the federal bureau of investigation, other than 2809
information the dissemination of which is prohibited by federal 2810
law. 2811

(b) When a board of education or a registered private 2812
provider is required to receive information under this section as 2813
a prerequisite to employment of an individual pursuant to division 2814
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 2815
may accept a certified copy of records that were issued by the 2816
bureau of criminal identification and investigation and that are 2817
presented by an individual applying for employment with the 2818
district in lieu of requesting that information itself. In such a 2819
case, the board shall accept the certified copy issued by the 2820
bureau in order to make a photocopy of it for that individual's 2821

employment application documents and shall return the certified 2822
copy to the individual. In a case of that nature, a district or 2823
provider only shall accept a certified copy of records of that 2824
nature within one year after the date of their issuance by the 2825
bureau. 2826

(c) Notwithstanding division (F)(2)(a) of this section, in 2827
the case of a request under section 3319.39, 3319.391, or 3327.10 2828
of the Revised Code only for criminal records maintained by the 2829
federal bureau of investigation, the superintendent shall not 2830
determine whether any information gathered under division (A) of 2831
this section exists on the person for whom the request is made. 2832

(3) The state board of education may request, with respect to 2833
any individual who has applied for employment after October 2, 2834
1989, in any position with the state board or the department of 2835
education, any information that a school district board of 2836
education is authorized to request under division (F)(2) of this 2837
section, and the superintendent of the bureau shall proceed as if 2838
the request has been received from a school district board of 2839
education under division (F)(2) of this section. 2840

(4) When the superintendent of the bureau receives a request 2841
for information under section 3319.291 of the Revised Code, the 2842
superintendent shall proceed as if the request has been received 2843
from a school district board of education and shall comply with 2844
divisions (F)(2)(a) and (c) of this section. 2845

(5) When a recipient of a classroom reading improvement grant 2846
paid under section 3301.86 of the Revised Code requests, with 2847
respect to any individual who applies to participate in providing 2848
any program or service funded in whole or in part by the grant, 2849
the information that a school district board of education is 2850
authorized to request under division (F)(2)(a) of this section, 2851
the superintendent of the bureau shall proceed as if the request 2852
has been received from a school district board of education under 2853

division (F)(2)(a) of this section. 2854

(G) In addition to or in conjunction with any request that is 2855
required to be made under section 3701.881, 3712.09, or 3721.121 2856
of the Revised Code with respect to an individual who has applied 2857
for employment in a position that involves providing direct care 2858
to an older adult or adult resident, the chief administrator of a 2859
home health agency, hospice care program, home licensed under 2860
Chapter 3721. of the Revised Code, or adult day-care program 2861
operated pursuant to rules adopted under section 3721.04 of the 2862
Revised Code may request that the superintendent of the bureau 2863
investigate and determine, with respect to any individual who has 2864
applied after January 27, 1997, for employment in a position that 2865
does not involve providing direct care to an older adult or adult 2866
resident, whether the bureau has any information gathered under 2867
division (A) of this section that pertains to that individual. 2868

In addition to or in conjunction with any request that is 2869
required to be made under section 173.27 of the Revised Code with 2870
respect to an individual who has applied for employment in a 2871
position that involves providing ombudsperson services to 2872
residents of long-term care facilities or recipients of 2873
community-based long-term care services, the state long-term care 2874
ombudsperson, ~~ombudsperson's designee, or the~~ director of health 2875
aging, a regional long-term care ombudsperson, or the designee of 2876
the ombudsperson, director, or program may request that the 2877
superintendent investigate and determine, with respect to any 2878
individual who has applied for employment in a position that does 2879
not involve providing such ombudsperson services, whether the 2880
bureau has any information gathered under division (A) of this 2881
section that pertains to that applicant. 2882

In addition to or in conjunction with any request that is 2883
required to be made under section ~~173.394~~ 173.38 of the Revised 2884
Code with respect to an individual who has applied for employment 2885

in a direct-care position ~~that involves providing direct care to~~ 2886
~~an individual~~, the chief administrator of a ~~community based~~ 2887
~~long-term care agency provider, as defined in section 173.39 of~~ 2888
the Revised Code, may request that the superintendent investigate 2889
and determine, with respect to any individual who has applied for 2890
employment in a position that ~~does is not involve providing direct~~ 2891
~~care~~ a direct-care position, whether the bureau has any 2892
information gathered under division (A) of this section that 2893
pertains to that applicant. 2894

In addition to or in conjunction with any request that is 2895
required to be made under section 3712.09 of the Revised Code with 2896
respect to an individual who has applied for employment in a 2897
position that involves providing direct care to a pediatric 2898
respite care patient, the chief administrator of a pediatric 2899
respite care program may request that the superintendent of the 2900
bureau investigate and determine, with respect to any individual 2901
who has applied for employment in a position that does not involve 2902
providing direct care to a pediatric respite care patient, whether 2903
the bureau has any information gathered under division (A) of this 2904
section that pertains to that individual. 2905

On receipt of a request under this division, the 2906
superintendent shall determine whether that information exists 2907
and, on request of the individual requesting information, shall 2908
also request from the federal bureau of investigation any criminal 2909
records it has pertaining to the applicant. The superintendent or 2910
the superintendent's designee also may request criminal history 2911
records from other states or the federal government pursuant to 2912
the national crime prevention and privacy compact set forth in 2913
section 109.571 of the Revised Code. Within thirty days of the 2914
date a request is received, subject to division (E)(2) of this 2915
section, the superintendent shall send to the requester a report 2916
of any information determined to exist, including information 2917

contained in records that have been sealed under section 2953.32 2918
of the Revised Code, and, within thirty days of its receipt, shall 2919
send the requester a report of any information received from the 2920
federal bureau of investigation, other than information the 2921
dissemination of which is prohibited by federal law. 2922

(H) Information obtained by a government entity or person 2923
under this section is confidential and shall not be released or 2924
disseminated. 2925

(I) The superintendent may charge a reasonable fee for 2926
providing information or criminal records under division (F)(2) or 2927
(G) of this section. 2928

(J) As used in this section: 2929

(1) "Pediatric respite care program" and "pediatric respite 2930
care patient" have the same meanings as in section 3712.01 of the 2931
Revised Code. 2932

(2) "Sexually oriented offense" and "child-victim oriented 2933
offense" have the same meanings as in section 2950.01 of the 2934
Revised Code. 2935

(3) "Registered private provider" means a nonpublic school or 2936
entity registered with the superintendent of public instruction 2937
under section 3310.41 of the Revised Code to participate in the 2938
autism scholarship program or section 3310.58 of the Revised Code 2939
to participate in the Jon Peterson special needs scholarship 2940
program. 2941

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 2942
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 2943
a completed form prescribed pursuant to division (C)(1) of this 2944
section, and a set of fingerprint impressions obtained in the 2945
manner described in division (C)(2) of this section, the 2946
superintendent of the bureau of criminal identification and 2947

investigation shall conduct a criminal records check in the manner 2948
described in division (B) of this section to determine whether any 2949
information exists that indicates that the person who is the 2950
subject of the request previously has been convicted of or pleaded 2951
guilty to any of the following: 2952

(a) A violation of section 2903.01, 2903.02, 2903.03, 2953
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2954
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2955
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2956
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2957
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2958
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2959
2925.06, or 3716.11 of the Revised Code, felonious sexual 2960
penetration in violation of former section 2907.12 of the Revised 2961
Code, a violation of section 2905.04 of the Revised Code as it 2962
existed prior to July 1, 1996, a violation of section 2919.23 of 2963
the Revised Code that would have been a violation of section 2964
2905.04 of the Revised Code as it existed prior to July 1, 1996, 2965
had the violation been committed prior to that date, or a 2966
violation of section 2925.11 of the Revised Code that is not a 2967
minor drug possession offense; 2968

(b) A violation of an existing or former law of this state, 2969
any other state, or the United States that is substantially 2970
equivalent to any of the offenses listed in division (A)(1)(a) of 2971
this section; 2972

(c) If the request is made pursuant to section 3319.39 of the 2973
Revised Code for an applicant who is a teacher, any offense 2974
specified in section 3319.31 of the Revised Code. 2975

(2) On receipt of a request pursuant to section 3712.09 or 2976
3721.121 of the Revised Code, a completed form prescribed pursuant 2977
to division (C)(1) of this section, and a set of fingerprint 2978
impressions obtained in the manner described in division (C)(2) of 2979

this section, the superintendent of the bureau of criminal 2980
identification and investigation shall conduct a criminal records 2981
check with respect to any person who has applied for employment in 2982
a position for which a criminal records check is required by those 2983
sections. The superintendent shall conduct the criminal records 2984
check in the manner described in division (B) of this section to 2985
determine whether any information exists that indicates that the 2986
person who is the subject of the request previously has been 2987
convicted of or pleaded guilty to any of the following: 2988

(a) A violation of section 2903.01, 2903.02, 2903.03, 2989
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2990
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2991
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2992
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2993
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2994
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2995
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2996
2925.22, 2925.23, or 3716.11 of the Revised Code; 2997

(b) An existing or former law of this state, any other state, 2998
or the United States that is substantially equivalent to any of 2999
the offenses listed in division (A)(2)(a) of this section. 3000

(3) On receipt of a request pursuant to section 173.27, 3001
~~173.394~~ 173.38, 3701.881, ~~5111.032~~ 5164.34, ~~5111.033~~ 5164.341, 3002
~~5111.034~~ 5164.342, 5123.081, or 5123.169 of the Revised Code, a 3003
completed form prescribed pursuant to division (C)(1) of this 3004
section, and a set of fingerprint impressions obtained in the 3005
manner described in division (C)(2) of this section, the 3006
superintendent of the bureau of criminal identification and 3007
investigation shall conduct a criminal records check of the person 3008
for whom the request is made. The superintendent shall conduct the 3009
criminal records check in the manner described in division (B) of 3010
this section to determine whether any information exists that 3011

indicates that the person who is the subject of the request 3012
previously has been convicted of, has pleaded guilty to, or 3013
(except in the case of a request pursuant to section 5164.34, 3014
5164.341, or 5164.342 of the Revised Code) has been found eligible 3015
for intervention in lieu of conviction for any of the following, 3016
regardless of the date of the conviction, the date of entry of the 3017
guilty plea, or (except in the case of a request pursuant to 3018
section 5164.34, 5164.341, or 5164.342 of the Revised Code) the 3019
date the person was found eligible for intervention in lieu of 3020
conviction: 3021

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 3022
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 3023
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 3024
2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 3025
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 3026
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 3027
2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 3028
2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 3029
2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 3030
2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 3031
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 3032
2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 3033
2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 3034
2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 3035
2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 3036
2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 3037
2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 3038
2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 3039
2927.12, or 3716.11 of the Revised Code; 3040

(b) Felonious sexual penetration in violation of former 3041
section 2907.12 of the Revised Code; 3042

(c) A violation of section 2905.04 of the Revised Code as it 3043

existed prior to July 1, 1996; 3044

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 3045
the Revised Code when the underlying offense that is the object of 3046
the conspiracy, attempt, or complicity is one of the offenses 3047
listed in divisions (A)(3)(a) to (c) of this section; 3048

(e) A violation of an existing or former municipal ordinance 3049
or law of this state, any other state, or the United States that 3050
is substantially equivalent to any of the offenses listed in 3051
divisions (A)(3)(a) to (d) of this section. 3052

(4) On receipt of a request pursuant to section 2151.86 of 3053
the Revised Code, a completed form prescribed pursuant to division 3054
(C)(1) of this section, and a set of fingerprint impressions 3055
obtained in the manner described in division (C)(2) of this 3056
section, the superintendent of the bureau of criminal 3057
identification and investigation shall conduct a criminal records 3058
check in the manner described in division (B) of this section to 3059
determine whether any information exists that indicates that the 3060
person who is the subject of the request previously has been 3061
convicted of or pleaded guilty to any of the following: 3062

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 3063
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 3064
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 3065
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 3066
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 3067
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 3068
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 3069
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 3070
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 3071
of the Revised Code, a violation of section 2905.04 of the Revised 3072
Code as it existed prior to July 1, 1996, a violation of section 3073
2919.23 of the Revised Code that would have been a violation of 3074
section 2905.04 of the Revised Code as it existed prior to July 1, 3075

1996, had the violation been committed prior to that date, a 3076
violation of section 2925.11 of the Revised Code that is not a 3077
minor drug possession offense, two or more OVI or OVUAC violations 3078
committed within the three years immediately preceding the 3079
submission of the application or petition that is the basis of the 3080
request, or felonious sexual penetration in violation of former 3081
section 2907.12 of the Revised Code; 3082

(b) A violation of an existing or former law of this state, 3083
any other state, or the United States that is substantially 3084
equivalent to any of the offenses listed in division (A)(4)(a) of 3085
this section. 3086

(5) Upon receipt of a request pursuant to section 5104.012 or 3087
5104.013 of the Revised Code, a completed form prescribed pursuant 3088
to division (C)(1) of this section, and a set of fingerprint 3089
impressions obtained in the manner described in division (C)(2) of 3090
this section, the superintendent of the bureau of criminal 3091
identification and investigation shall conduct a criminal records 3092
check in the manner described in division (B) of this section to 3093
determine whether any information exists that indicates that the 3094
person who is the subject of the request has been convicted of or 3095
pleaded guilty to any of the following: 3096

(a) A violation of section 2903.01, 2903.02, 2903.03, 3097
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 3098
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 3099
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 3100
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 3101
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 3102
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 3103
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 3104
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 3105
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 3106
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3107

3716.11 of the Revised Code, felonious sexual penetration in 3108
violation of former section 2907.12 of the Revised Code, a 3109
violation of section 2905.04 of the Revised Code as it existed 3110
prior to July 1, 1996, a violation of section 2919.23 of the 3111
Revised Code that would have been a violation of section 2905.04 3112
of the Revised Code as it existed prior to July 1, 1996, had the 3113
violation been committed prior to that date, a violation of 3114
section 2925.11 of the Revised Code that is not a minor drug 3115
possession offense, a violation of section 2923.02 or 2923.03 of 3116
the Revised Code that relates to a crime specified in this 3117
division, or a second violation of section 4511.19 of the Revised 3118
Code within five years of the date of application for licensure or 3119
certification. 3120

(b) A violation of an existing or former law of this state, 3121
any other state, or the United States that is substantially 3122
equivalent to any of the offenses or violations described in 3123
division (A)(5)(a) of this section. 3124

(6) Upon receipt of a request pursuant to section 5153.111 of 3125
the Revised Code, a completed form prescribed pursuant to division 3126
(C)(1) of this section, and a set of fingerprint impressions 3127
obtained in the manner described in division (C)(2) of this 3128
section, the superintendent of the bureau of criminal 3129
identification and investigation shall conduct a criminal records 3130
check in the manner described in division (B) of this section to 3131
determine whether any information exists that indicates that the 3132
person who is the subject of the request previously has been 3133
convicted of or pleaded guilty to any of the following: 3134

(a) A violation of section 2903.01, 2903.02, 2903.03, 3135
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3136
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 3137
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 3138
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 3139

2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 3140
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 3141
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 3142
felonious sexual penetration in violation of former section 3143
2907.12 of the Revised Code, a violation of section 2905.04 of the 3144
Revised Code as it existed prior to July 1, 1996, a violation of 3145
section 2919.23 of the Revised Code that would have been a 3146
violation of section 2905.04 of the Revised Code as it existed 3147
prior to July 1, 1996, had the violation been committed prior to 3148
that date, or a violation of section 2925.11 of the Revised Code 3149
that is not a minor drug possession offense; 3150

(b) A violation of an existing or former law of this state, 3151
any other state, or the United States that is substantially 3152
equivalent to any of the offenses listed in division (A)(6)(a) of 3153
this section. 3154

(7) On receipt of a request for a criminal records check from 3155
an individual pursuant to section 4749.03 or 4749.06 of the 3156
Revised Code, accompanied by a completed copy of the form 3157
prescribed in division (C)(1) of this section and a set of 3158
fingerprint impressions obtained in a manner described in division 3159
(C)(2) of this section, the superintendent of the bureau of 3160
criminal identification and investigation shall conduct a criminal 3161
records check in the manner described in division (B) of this 3162
section to determine whether any information exists indicating 3163
that the person who is the subject of the request has been 3164
convicted of or pleaded guilty to a felony in this state or in any 3165
other state. If the individual indicates that a firearm will be 3166
carried in the course of business, the superintendent shall 3167
require information from the federal bureau of investigation as 3168
described in division (B)(2) of this section. Subject to division 3169
(F) of this section, the superintendent shall report the findings 3170
of the criminal records check and any information the federal 3171

bureau of investigation provides to the director of public safety. 3172

(8) On receipt of a request pursuant to section 169.16, 3173
1321.37, 1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the 3174
Revised Code, a completed form prescribed pursuant to division 3175
(C)(1) of this section, and a set of fingerprint impressions 3176
obtained in the manner described in division (C)(2) of this 3177
section, the superintendent of the bureau of criminal 3178
identification and investigation shall conduct a criminal records 3179
check with respect to any person who has applied for a license, 3180
permit, or certification from the department of commerce or a 3181
division in the department. The superintendent shall conduct the 3182
criminal records check in the manner described in division (B) of 3183
this section to determine whether any information exists that 3184
indicates that the person who is the subject of the request 3185
previously has been convicted of or pleaded guilty to any of the 3186
following: a violation of section 2913.02, 2913.11, 2913.31, 3187
2913.51, or 2925.03 of the Revised Code; any other criminal 3188
offense involving theft, receiving stolen property, embezzlement, 3189
forgery, fraud, passing bad checks, money laundering, or drug 3190
trafficking, or any criminal offense involving money or 3191
securities, as set forth in Chapters 2909., 2911., 2913., 2915., 3192
2921., 2923., and 2925. of the Revised Code; or any existing or 3193
former law of this state, any other state, or the United States 3194
that is substantially equivalent to those offenses. 3195

(9) On receipt of a request for a criminal records check from 3196
the treasurer of state under section 113.041 of the Revised Code 3197
or from an individual under section 4701.08, 4715.101, 4717.061, 3198
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 3199
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 3200
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 3201
4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 3202
4762.06, 4776.021, or 4779.091 of the Revised Code, accompanied by 3203

a completed form prescribed under division (C)(1) of this section 3204
and a set of fingerprint impressions obtained in the manner 3205
described in division (C)(2) of this section, the superintendent 3206
of the bureau of criminal identification and investigation shall 3207
conduct a criminal records check in the manner described in 3208
division (B) of this section to determine whether any information 3209
exists that indicates that the person who is the subject of the 3210
request has been convicted of or pleaded guilty to any criminal 3211
offense in this state or any other state. Subject to division (F) 3212
of this section, the superintendent shall send the results of a 3213
check requested under section 113.041 of the Revised Code to the 3214
treasurer of state and shall send the results of a check requested 3215
under any of the other listed sections to the licensing board 3216
specified by the individual in the request. 3217

(10) On receipt of a request pursuant to section 1121.23, 3218
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 3219
Code, a completed form prescribed pursuant to division (C)(1) of 3220
this section, and a set of fingerprint impressions obtained in the 3221
manner described in division (C)(2) of this section, the 3222
superintendent of the bureau of criminal identification and 3223
investigation shall conduct a criminal records check in the manner 3224
described in division (B) of this section to determine whether any 3225
information exists that indicates that the person who is the 3226
subject of the request previously has been convicted of or pleaded 3227
guilty to any criminal offense under any existing or former law of 3228
this state, any other state, or the United States. 3229

(11) On receipt of a request for a criminal records check 3230
from an appointing or licensing authority under section 3772.07 of 3231
the Revised Code, a completed form prescribed under division 3232
(C)(1) of this section, and a set of fingerprint impressions 3233
obtained in the manner prescribed in division (C)(2) of this 3234
section, the superintendent of the bureau of criminal 3235

identification and investigation shall conduct a criminal records 3236
check in the manner described in division (B) of this section to 3237
determine whether any information exists that indicates that the 3238
person who is the subject of the request previously has been 3239
convicted of or pleaded guilty or no contest to any offense under 3240
any existing or former law of this state, any other state, or the 3241
United States that is a disqualifying offense as defined in 3242
section 3772.07 of the Revised Code or substantially equivalent to 3243
such an offense. 3244

(12) On receipt of a request pursuant to section 2151.33 or 3245
2151.412 of the Revised Code, a completed form prescribed pursuant 3246
to division (C)(1) of this section, and a set of fingerprint 3247
impressions obtained in the manner described in division (C)(2) of 3248
this section, the superintendent of the bureau of criminal 3249
identification and investigation shall conduct a criminal records 3250
check with respect to any person for whom a criminal records check 3251
is required by that section. The superintendent shall conduct the 3252
criminal records check in the manner described in division (B) of 3253
this section to determine whether any information exists that 3254
indicates that the person who is the subject of the request 3255
previously has been convicted of or pleaded guilty to any of the 3256
following: 3257

(a) A violation of section 2903.01, 2903.02, 2903.03, 3258
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 3259
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 3260
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 3261
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 3262
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 3263
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 3264
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 3265
2925.22, 2925.23, or 3716.11 of the Revised Code; 3266

(b) An existing or former law of this state, any other state, 3267

or the United States that is substantially equivalent to any of 3268
the offenses listed in division (A)(12)(a) of this section. 3269

(B) Subject to division (F) of this section, the 3270
superintendent shall conduct any criminal records check to be 3271
conducted under this section as follows: 3272

(1) The superintendent shall review or cause to be reviewed 3273
any relevant information gathered and compiled by the bureau under 3274
division (A) of section 109.57 of the Revised Code that relates to 3275
the person who is the subject of the criminal records check, 3276
including, if the criminal records check was requested under 3277
section 113.041, 121.08, 169.16, 173.27, ~~173.394~~ 173.38, 1121.23, 3278
1155.03, 1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 3279
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3280
3701.881, 3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 3281
5104.012, 5104.013, ~~5111.032~~ 5164.34, ~~5111.033~~ 5164.341, ~~5111.034~~ 3282
5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, any 3283
relevant information contained in records that have been sealed 3284
under section 2953.32 of the Revised Code; 3285

(2) If the request received by the superintendent asks for 3286
information from the federal bureau of investigation, the 3287
superintendent shall request from the federal bureau of 3288
investigation any information it has with respect to the person 3289
who is the subject of the criminal records check, including 3290
fingerprint-based checks of national crime information databases 3291
as described in 42 U.S.C. 671 if the request is made pursuant to 3292
section 2151.86, 5104.012, or 5104.013 of the Revised Code or if 3293
any other Revised Code section requires fingerprint-based checks 3294
of that nature, and shall review or cause to be reviewed any 3295
information the superintendent receives from that bureau. If a 3296
request under section 3319.39 of the Revised Code asks only for 3297
information from the federal bureau of investigation, the 3298
superintendent shall not conduct the review prescribed by division 3299

(B)(1) of this section. 3300

(3) The superintendent or the superintendent's designee may 3301
request criminal history records from other states or the federal 3302
government pursuant to the national crime prevention and privacy 3303
compact set forth in section 109.571 of the Revised Code. 3304

(4) The superintendent shall include in the results of the 3305
criminal records check a list or description of the offenses 3306
listed or described in division (A)(1), (2), (3), (4), (5), (6), 3307
(7), (8), (9), (10), (11), or (12) of this section, whichever 3308
division requires the superintendent to conduct the criminal 3309
records check. The superintendent shall exclude from the results 3310
any information the dissemination of which is prohibited by 3311
federal law. 3312

(5) The superintendent shall send the results of the criminal 3313
records check to the person to whom it is to be sent not later 3314
than the following number of days after the date the 3315
superintendent receives the request for the criminal records 3316
check, the completed form prescribed under division (C)(1) of this 3317
section, and the set of fingerprint impressions obtained in the 3318
manner described in division (C)(2) of this section: 3319

(a) If the superintendent is required by division (A) of this 3320
section (other than division (A)(3) of this section) to conduct 3321
the criminal records check, thirty; 3322

(b) If the superintendent is required by division (A)(3) of 3323
this section to conduct the criminal records check, sixty. 3324

(C)(1) The superintendent shall prescribe a form to obtain 3325
the information necessary to conduct a criminal records check from 3326
any person for whom a criminal records check is to be conducted 3327
under this section. The form that the superintendent prescribes 3328
pursuant to this division may be in a tangible format, in an 3329
electronic format, or in both tangible and electronic formats. 3330

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is to be conducted under this section. Any person for whom a records check is to be conducted under this section shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check under this section. The person requesting the criminal records check shall pay the fee prescribed pursuant to this division. In the case of a request under section 169.16, 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2151.412, or ~~5111.032~~ 5164.34 of the Revised Code, the fee shall be paid in the manner specified in that section.

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

(D) The results of a criminal records check conducted under this section, other than a criminal records check specified in division (A)(7) of this section, are valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent completes the criminal records check. If during that period the superintendent receives

another request for a criminal records check to be conducted under 3363
this section for that person, the superintendent shall provide the 3364
results from the previous criminal records check of the person at 3365
a lower fee than the fee prescribed for the initial criminal 3366
records check. 3367

(E) When the superintendent receives a request for 3368
information from a registered private provider, the superintendent 3369
shall proceed as if the request was received from a school 3370
district board of education under section 3319.39 of the Revised 3371
Code. The superintendent shall apply division (A)(1)(c) of this 3372
section to any such request for an applicant who is a teacher. 3373

(F)(1) All information regarding the results of a criminal 3374
records check conducted under this section that the superintendent 3375
reports or sends under division (A)(7) or (9) of this section to 3376
the director of public safety, the treasurer of state, or the 3377
person, board, or entity that made the request for the criminal 3378
records check shall relate to the conviction of the subject 3379
person, or the subject person's plea of guilty to, a criminal 3380
offense. 3381

(2) Division (F)(1) of this section does not limit, restrict, 3382
or preclude the superintendent's release of information that 3383
relates to an adjudication of a child as a delinquent child, or 3384
that relates to a criminal conviction of a person under eighteen 3385
years of age if the person's case was transferred back to a 3386
juvenile court under division (B)(2) or (3) of section 2152.121 of 3387
the Revised Code and the juvenile court imposed a disposition or 3388
serious youthful offender disposition upon the person under either 3389
division, if either of the following applies with respect to the 3390
adjudication or conviction: 3391

(a) The adjudication or conviction was for a violation of 3392
section 2903.01 or 2903.02 of the Revised Code. 3393

(b) The adjudication or conviction was for a sexually 3394
oriented offense, as defined in section 2950.01 of the Revised 3395
Code, the juvenile court was required to classify the child a 3396
juvenile offender registrant for that offense under section 3397
2152.82, 2152.83, or 2152.86 of the Revised Code, and that 3398
classification has not been removed. 3399

(G) As used in this section: 3400

(1) "Criminal records check" means any criminal records check 3401
conducted by the superintendent of the bureau of criminal 3402
identification and investigation in accordance with division (B) 3403
of this section. 3404

(2) "Minor drug possession offense" has the same meaning as 3405
in section 2925.01 of the Revised Code. 3406

(3) "OVI or OVUAC violation" means a violation of section 3407
4511.19 of the Revised Code or a violation of an existing or 3408
former law of this state, any other state, or the United States 3409
that is substantially equivalent to section 4511.19 of the Revised 3410
Code. 3411

(4) "Registered private provider" means a nonpublic school or 3412
entity registered with the superintendent of public instruction 3413
under section 3310.41 of the Revised Code to participate in the 3414
autism scholarship program or section 3310.58 of the Revised Code 3415
to participate in the Jon Peterson special needs scholarship 3416
program. 3417

Sec. 109.71. There is hereby created in the office of the 3418
attorney general the Ohio peace officer training commission. The 3419
commission shall consist of nine members appointed by the governor 3420
with the advice and consent of the senate and selected as follows: 3421
one member representing the public; two members who are incumbent 3422
sheriffs; two members who are incumbent chiefs of police; one 3423

member from the bureau of criminal identification and 3424
investigation; one member from the state highway patrol; one 3425
member who is the special agent in charge of a field office of the 3426
federal bureau of investigation in this state; and one member from 3427
the department of education, trade and industrial education 3428
services, law enforcement training. 3429

This section does not confer any arrest authority or any 3430
ability or authority to detain a person, write or issue any 3431
citation, or provide any disposition alternative, as granted under 3432
Chapter 2935. of the Revised Code. 3433

As used in sections 109.71 to 109.801 of the Revised Code: 3434

(A) "Peace officer" means: 3435

(1) A deputy sheriff, marshal, deputy marshal, member of the 3436
organized police department of a township or municipal 3437
corporation, member of a township police district or joint police 3438
district police force, member of a police force employed by a 3439
metropolitan housing authority under division (D) of section 3440
3735.31 of the Revised Code, or township constable, who is 3441
commissioned and employed as a peace officer by a political 3442
subdivision of this state or by a metropolitan housing authority, 3443
and whose primary duties are to preserve the peace, to protect 3444
life and property, and to enforce the laws of this state, 3445
ordinances of a municipal corporation, resolutions of a township, 3446
or regulations of a board of county commissioners or board of 3447
township trustees, or any of those laws, ordinances, resolutions, 3448
or regulations; 3449

(2) A police officer who is employed by a railroad company 3450
and appointed and commissioned by the secretary of state pursuant 3451
to sections 4973.17 to 4973.22 of the Revised Code; 3452

(3) Employees of the department of taxation engaged in the 3453
enforcement of Chapter 5743. of the Revised Code and designated by 3454

the tax commissioner for peace officer training for purposes of	3455
the delegation of investigation powers under section 5743.45 of	3456
the Revised Code;	3457
(4) An undercover drug agent;	3458
(5) Enforcement agents of the department of public safety	3459
whom the director of public safety designates under section	3460
5502.14 of the Revised Code;	3461
(6) An employee of the department of natural resources who is	3462
a natural resources law enforcement staff officer designated	3463
pursuant to section 1501.013, a park officer designated pursuant	3464
to section 1541.10, a forest officer designated pursuant to	3465
section 1503.29, a preserve officer designated pursuant to section	3466
1517.10, a wildlife officer designated pursuant to section	3467
1531.13, or a state watercraft officer designated pursuant to	3468
section 1547.521 of the Revised Code;	3469
(7) An employee of a park district who is designated pursuant	3470
to section 511.232 or 1545.13 of the Revised Code;	3471
(8) An employee of a conservancy district who is designated	3472
pursuant to section 6101.75 of the Revised Code;	3473
(9) A police officer who is employed by a hospital that	3474
employs and maintains its own proprietary police department or	3475
security department, and who is appointed and commissioned by the	3476
secretary of state pursuant to sections 4973.17 to 4973.22 of the	3477
Revised Code;	3478
(10) Veterans' homes police officers designated under section	3479
5907.02 of the Revised Code;	3480
(11) A police officer who is employed by a qualified	3481
nonprofit corporation police department pursuant to section	3482
1702.80 of the Revised Code;	3483
(12) A state university law enforcement officer appointed	3484

under section 3345.04 of the Revised Code or a person serving as a 3485
state university law enforcement officer on a permanent basis on 3486
June 19, 1978, who has been awarded a certificate by the executive 3487
director of the Ohio peace officer training commission attesting 3488
to the person's satisfactory completion of an approved state, 3489
county, municipal, or department of natural resources peace 3490
officer basic training program; 3491

(13) A special police officer employed by the department of 3492
~~mental health~~ mental health and addiction services pursuant to 3493
section ~~5119.14~~ 5119.08 of the Revised Code or the department of 3494
developmental disabilities pursuant to section 5123.13 of the 3495
Revised Code; 3496

(14) A member of a campus police department appointed under 3497
section 1713.50 of the Revised Code; 3498

(15) A member of a police force employed by a regional 3499
transit authority under division (Y) of section 306.35 of the 3500
Revised Code; 3501

(16) Investigators appointed by the auditor of state pursuant 3502
to section 117.091 of the Revised Code and engaged in the 3503
enforcement of Chapter 117. of the Revised Code; 3504

(17) A special police officer designated by the 3505
superintendent of the state highway patrol pursuant to section 3506
5503.09 of the Revised Code or a person who was serving as a 3507
special police officer pursuant to that section on a permanent 3508
basis on October 21, 1997, and who has been awarded a certificate 3509
by the executive director of the Ohio peace officer training 3510
commission attesting to the person's satisfactory completion of an 3511
approved state, county, municipal, or department of natural 3512
resources peace officer basic training program; 3513

(18) A special police officer employed by a port authority 3514
under section 4582.04 or 4582.28 of the Revised Code or a person 3515

serving as a special police officer employed by a port authority 3516
on a permanent basis on May 17, 2000, who has been awarded a 3517
certificate by the executive director of the Ohio peace officer 3518
training commission attesting to the person's satisfactory 3519
completion of an approved state, county, municipal, or department 3520
of natural resources peace officer basic training program; 3521

(19) A special police officer employed by a municipal 3522
corporation who has been awarded a certificate by the executive 3523
director of the Ohio peace officer training commission for 3524
satisfactory completion of an approved peace officer basic 3525
training program and who is employed on a permanent basis on or 3526
after March 19, 2003, at a municipal airport, or other municipal 3527
air navigation facility, that has scheduled operations, as defined 3528
in section 119.3 of Title 14 of the Code of Federal Regulations, 3529
14 C.F.R. 119.3, as amended, and that is required to be under a 3530
security program and is governed by aviation security rules of the 3531
transportation security administration of the United States 3532
department of transportation as provided in Parts 1542. and 1544. 3533
of Title 49 of the Code of Federal Regulations, as amended; 3534

(20) A police officer who is employed by an owner or operator 3535
of an amusement park that has an average yearly attendance in 3536
excess of six hundred thousand guests and that employs and 3537
maintains its own proprietary police department or security 3538
department, and who is appointed and commissioned by a judge of 3539
the appropriate municipal court or county court pursuant to 3540
section 4973.17 of the Revised Code; 3541

(21) A police officer who is employed by a bank, savings and 3542
loan association, savings bank, credit union, or association of 3543
banks, savings and loan associations, savings banks, or credit 3544
unions, who has been appointed and commissioned by the secretary 3545
of state pursuant to sections 4973.17 to 4973.22 of the Revised 3546
Code, and who has been awarded a certificate by the executive 3547

director of the Ohio peace officer training commission attesting 3548
to the person's satisfactory completion of a state, county, 3549
municipal, or department of natural resources peace officer basic 3550
training program; 3551

(22) An investigator, as defined in section 109.541 of the 3552
Revised Code, of the bureau of criminal identification and 3553
investigation who is commissioned by the superintendent of the 3554
bureau as a special agent for the purpose of assisting law 3555
enforcement officers or providing emergency assistance to peace 3556
officers pursuant to authority granted under that section; 3557

(23) A state fire marshal law enforcement officer appointed 3558
under section 3737.22 of the Revised Code or a person serving as a 3559
state fire marshal law enforcement officer on a permanent basis on 3560
or after July 1, 1982, who has been awarded a certificate by the 3561
executive director of the Ohio peace officer training commission 3562
attesting to the person's satisfactory completion of an approved 3563
state, county, municipal, or department of natural resources peace 3564
officer basic training program; 3565

(24) A gaming agent employed under section 3772.03 of the 3566
Revised Code. 3567

(B) "Undercover drug agent" has the same meaning as in 3568
division (B)(2) of section 109.79 of the Revised Code. 3569

(C) "Crisis intervention training" means training in the use 3570
of interpersonal and communication skills to most effectively and 3571
sensitively interview victims of rape. 3572

(D) "Missing children" has the same meaning as in section 3573
2901.30 of the Revised Code. 3574

Sec. 109.746. (A) The attorney general may prepare public 3575
awareness programs that are designed to educate potential victims 3576
of violations of section 2905.32 of the Revised Code and their 3577

families of the risks of becoming a victim of a violation of that 3578
section. The attorney general may prepare these programs with 3579
assistance from the department of health, the department of ~~mental~~ 3580
~~health~~ mental health and addiction services, the department of job 3581
and family services, ~~the department of alcohol and drug addiction~~ 3582
~~services~~, and the department of education. 3583

(B) Any organization, person, or other governmental agency 3584
with an interest and expertise in trafficking in persons may 3585
submit information or materials to the attorney general regarding 3586
the preparation of the programs and materials permitted under this 3587
section. The attorney general, in developing the programs and 3588
materials permitted by this section, shall consider any 3589
information submitted pursuant to this division. 3590

Sec. 109.77. (A) As used in this section, "felony" has the 3591
same meaning as in section 109.511 of the Revised Code. 3592

(B)(1) Notwithstanding any general, special, or local law or 3593
charter to the contrary, and except as otherwise provided in this 3594
section, no person shall receive an original appointment on a 3595
permanent basis as any of the following unless the person 3596
previously has been awarded a certificate by the executive 3597
director of the Ohio peace officer training commission attesting 3598
to the person's satisfactory completion of an approved state, 3599
county, municipal, or department of natural resources peace 3600
officer basic training program: 3601

(a) A peace officer of any county, township, municipal 3602
corporation, regional transit authority, or metropolitan housing 3603
authority; 3604

(b) A natural resources law enforcement staff officer, park 3605
officer, forest officer, preserve officer, wildlife officer, or 3606
state watercraft officer of the department of natural resources; 3607

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code; 3608
3609

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code; 3610
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(e) A state university law enforcement officer; 3612

(f) A special police officer employed by the department of ~~mental health~~ mental health and addiction services pursuant to section ~~5119.14~~ 5119.08 of the Revised Code or the department of developmental disabilities pursuant to section 5123.13 of the Revised Code; 3613
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(g) An enforcement agent of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code; 3618
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(h) A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code; 3621
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(i) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in Parts 1542. and 1544. of Title 49 of the Code of Federal Regulations, as amended; 3623
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(j) A gaming agent employed under section 3772.03 of the Revised Code. 3632
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(2) Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as any of the following shall forfeit the appointed position unless the person previously has completed satisfactorily or, within the time 3634
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3637

prescribed by rules adopted by the attorney general pursuant to 3638
section 109.74 of the Revised Code, satisfactorily completes a 3639
state, county, municipal, or department of natural resources peace 3640
officer basic training program for temporary or probationary 3641
officers and is awarded a certificate by the director attesting to 3642
the satisfactory completion of the program: 3643

(a) A peace officer of any county, township, municipal 3644
corporation, regional transit authority, or metropolitan housing 3645
authority; 3646

(b) A natural resources law enforcement staff officer, park 3647
officer, forest officer, preserve officer, wildlife officer, or 3648
state watercraft officer of the department of natural resources; 3649

(c) An employee of a park district under section 511.232 or 3650
1545.13 of the Revised Code; 3651

(d) An employee of a conservancy district who is designated 3652
pursuant to section 6101.75 of the Revised Code; 3653

(e) A special police officer employed by the department of 3654
~~mental health~~ mental health and addiction services pursuant to 3655
section ~~5119.14~~ 5119.08 of the Revised Code or the department of 3656
developmental disabilities pursuant to section 5123.13 of the 3657
Revised Code; 3658

(f) An enforcement agent of the department of public safety 3659
whom the director of public safety designates under section 3660
5502.14 of the Revised Code; 3661

(g) A special police officer employed by a port authority 3662
under section 4582.04 or 4582.28 of the Revised Code; 3663

(h) A special police officer employed by a municipal 3664
corporation at a municipal airport, or other municipal air 3665
navigation facility, that has scheduled operations, as defined in 3666
section 119.3 of Title 14 of the Code of Federal Regulations, 14 3667

C.F.R. 119.3, as amended, and that is required to be under a 3668
security program and is governed by aviation security rules of the 3669
transportation security administration of the United States 3670
department of transportation as provided in Parts 1542. and 1544. 3671
of Title 49 of the Code of Federal Regulations, as amended. 3672

(3) For purposes of division (B) of this section, a state, 3673
county, municipal, or department of natural resources peace 3674
officer basic training program, regardless of whether the program 3675
is to be completed by peace officers appointed on a permanent or 3676
temporary, probationary, or other nonpermanent basis, shall 3677
include training in the handling of the offense of domestic 3678
violence, other types of domestic violence-related offenses and 3679
incidents, and protection orders and consent agreements issued or 3680
approved under section 2919.26 or 3113.31 of the Revised Code and 3681
crisis intervention training. The requirement to complete training 3682
in the handling of the offense of domestic violence, other types 3683
of domestic violence-related offenses and incidents, and 3684
protection orders and consent agreements issued or approved under 3685
section 2919.26 or 3113.31 of the Revised Code does not apply to 3686
any person serving as a peace officer on March 27, 1979, and the 3687
requirement to complete training in crisis intervention does not 3688
apply to any person serving as a peace officer on April 4, 1985. 3689
Any person who is serving as a peace officer on April 4, 1985, who 3690
terminates that employment after that date, and who subsequently 3691
is hired as a peace officer by the same or another law enforcement 3692
agency shall complete training in crisis intervention as 3693
prescribed by rules adopted by the attorney general pursuant to 3694
section 109.742 of the Revised Code. No peace officer shall have 3695
employment as a peace officer terminated and then be reinstated 3696
with intent to circumvent this section. 3697

(4) Division (B) of this section does not apply to any person 3698
serving on a permanent basis on March 28, 1985, as a park officer, 3699

forest officer, preserve officer, wildlife officer, or state 3700
watercraft officer of the department of natural resources or as an 3701
employee of a park district under section 511.232 or 1545.13 of 3702
the Revised Code, to any person serving on a permanent basis on 3703
March 6, 1986, as an employee of a conservancy district designated 3704
pursuant to section 6101.75 of the Revised Code, to any person 3705
serving on a permanent basis on January 10, 1991, as a preserve 3706
officer of the department of natural resources, to any person 3707
employed on a permanent basis on July 2, 1992, as a special police 3708
officer by the department of ~~mental health~~ mental health and 3709
addiction services pursuant to section ~~5119.14~~ 5119.08 of the 3710
Revised Code or by the department of developmental disabilities 3711
pursuant to section 5123.13 of the Revised Code, to any person 3712
serving on a permanent basis on May 17, 2000, as a special police 3713
officer employed by a port authority under section 4582.04 or 3714
4582.28 of the Revised Code, to any person serving on a permanent 3715
basis on March 19, 2003, as a special police officer employed by a 3716
municipal corporation at a municipal airport or other municipal 3717
air navigation facility described in division (A)(19) of section 3718
109.71 of the Revised Code, to any person serving on a permanent 3719
basis on June 19, 1978, as a state university law enforcement 3720
officer pursuant to section 3345.04 of the Revised Code and who, 3721
immediately prior to June 19, 1978, was serving as a special 3722
police officer designated under authority of that section, or to 3723
any person serving on a permanent basis on September 20, 1984, as 3724
a liquor control investigator, known after June 30, 1999, as an 3725
enforcement agent of the department of public safety, engaged in 3726
the enforcement of Chapters 4301. and 4303. of the Revised Code. 3727

(5) Division (B) of this section does not apply to any person 3728
who is appointed as a regional transit authority police officer 3729
pursuant to division (Y) of section 306.35 of the Revised Code if, 3730
on or before July 1, 1996, the person has completed satisfactorily 3731
an approved state, county, municipal, or department of natural 3732

resources peace officer basic training program and has been 3733
awarded a certificate by the executive director of the Ohio peace 3734
officer training commission attesting to the person's satisfactory 3735
completion of such an approved program and if, on July 1, 1996, 3736
the person is performing peace officer functions for a regional 3737
transit authority. 3738

(C) No person, after September 20, 1984, shall receive an 3739
original appointment on a permanent basis as a veterans' home 3740
police officer designated under section 5907.02 of the Revised 3741
Code unless the person previously has been awarded a certificate 3742
by the executive director of the Ohio peace officer training 3743
commission attesting to the person's satisfactory completion of an 3744
approved police officer basic training program. Every person who 3745
is appointed on a temporary basis or for a probationary term or on 3746
other than a permanent basis as a veterans' home police officer 3747
designated under section 5907.02 of the Revised Code shall forfeit 3748
that position unless the person previously has completed 3749
satisfactorily or, within one year from the time of appointment, 3750
satisfactorily completes an approved police officer basic training 3751
program. 3752

(D) No bailiff or deputy bailiff of a court of record of this 3753
state and no criminal investigator who is employed by the state 3754
public defender shall carry a firearm, as defined in section 3755
2923.11 of the Revised Code, while on duty unless the bailiff, 3756
deputy bailiff, or criminal investigator has done or received one 3757
of the following: 3758

(1) Has been awarded a certificate by the executive director 3759
of the Ohio peace officer training commission, which certificate 3760
attests to satisfactory completion of an approved state, county, 3761
or municipal basic training program for bailiffs and deputy 3762
bailiffs of courts of record and for criminal investigators 3763
employed by the state public defender that has been recommended by 3764

the Ohio peace officer training commission; 3765

(2) Has successfully completed a firearms training program 3766
approved by the Ohio peace officer training commission prior to 3767
employment as a bailiff, deputy bailiff, or criminal investigator; 3768

(3) Prior to June 6, 1986, was authorized to carry a firearm 3769
by the court that employed the bailiff or deputy bailiff or, in 3770
the case of a criminal investigator, by the state public defender 3771
and has received training in the use of firearms that the Ohio 3772
peace officer training commission determines is equivalent to the 3773
training that otherwise is required by division (D) of this 3774
section. 3775

(E)(1) Before a person seeking a certificate completes an 3776
approved peace officer basic training program, the executive 3777
director of the Ohio peace officer training commission shall 3778
request the person to disclose, and the person shall disclose, any 3779
previous criminal conviction of or plea of guilty of that person 3780
to a felony. 3781

(2) Before a person seeking a certificate completes an 3782
approved peace officer basic training program, the executive 3783
director shall request a criminal history records check on the 3784
person. The executive director shall submit the person's 3785
fingerprints to the bureau of criminal identification and 3786
investigation, which shall submit the fingerprints to the federal 3787
bureau of investigation for a national criminal history records 3788
check. 3789

Upon receipt of the executive director's request, the bureau 3790
of criminal identification and investigation and the federal 3791
bureau of investigation shall conduct a criminal history records 3792
check on the person and, upon completion of the check, shall 3793
provide a copy of the criminal history records check to the 3794
executive director. The executive director shall not award any 3795

certificate prescribed in this section unless the executive 3796
director has received a copy of the criminal history records check 3797
on the person to whom the certificate is to be awarded. 3798

(3) The executive director of the commission shall not award 3799
a certificate prescribed in this section to a person who has been 3800
convicted of or has pleaded guilty to a felony or who fails to 3801
disclose any previous criminal conviction of or plea of guilty to 3802
a felony as required under division (E)(1) of this section. 3803

(4) The executive director of the commission shall revoke the 3804
certificate awarded to a person as prescribed in this section, and 3805
that person shall forfeit all of the benefits derived from being 3806
certified as a peace officer under this section, if the person, 3807
before completion of an approved peace officer basic training 3808
program, failed to disclose any previous criminal conviction of or 3809
plea of guilty to a felony as required under division (E)(1) of 3810
this section. 3811

(F)(1) Regardless of whether the person has been awarded the 3812
certificate or has been classified as a peace officer prior to, 3813
on, or after October 16, 1996, the executive director of the Ohio 3814
peace officer training commission shall revoke any certificate 3815
that has been awarded to a person as prescribed in this section if 3816
the person does either of the following: 3817

(a) Pleads guilty to a felony committed on or after January 3818
1, 1997; 3819

(b) Pleads guilty to a misdemeanor committed on or after 3820
January 1, 1997, pursuant to a negotiated plea agreement as 3821
provided in division (D) of section 2929.43 of the Revised Code in 3822
which the person agrees to surrender the certificate awarded to 3823
the person under this section. 3824

(2) The executive director of the commission shall suspend 3825
any certificate that has been awarded to a person as prescribed in 3826

this section if the person is convicted, after trial, of a felony 3827
committed on or after January 1, 1997. The executive director 3828
shall suspend the certificate pursuant to division (F)(2) of this 3829
section pending the outcome of an appeal by the person from that 3830
conviction to the highest court to which the appeal is taken or 3831
until the expiration of the period in which an appeal is required 3832
to be filed. If the person files an appeal that results in that 3833
person's acquittal of the felony or conviction of a misdemeanor, 3834
or in the dismissal of the felony charge against that person, the 3835
executive director shall reinstate the certificate awarded to the 3836
person under this section. If the person files an appeal from that 3837
person's conviction of the felony and the conviction is upheld by 3838
the highest court to which the appeal is taken or if the person 3839
does not file a timely appeal, the executive director shall revoke 3840
the certificate awarded to the person under this section. 3841

(G)(1) If a person is awarded a certificate under this 3842
section and the certificate is revoked pursuant to division (E)(4) 3843
or (F) of this section, the person shall not be eligible to 3844
receive, at any time, a certificate attesting to the person's 3845
satisfactory completion of a peace officer basic training program. 3846

(2) The revocation or suspension of a certificate under 3847
division (E)(4) or (F) of this section shall be in accordance with 3848
Chapter 119. of the Revised Code. 3849

(H)(1) A person who was employed as a peace officer of a 3850
county, township, or municipal corporation of the state on January 3851
1, 1966, and who has completed at least sixteen years of full-time 3852
active service as such a peace officer, or equivalent service as 3853
determined by the executive director of the Ohio peace officer 3854
training commission, may receive an original appointment on a 3855
permanent basis and serve as a peace officer of a county, 3856
township, or municipal corporation, or as a state university law 3857
enforcement officer, without complying with the requirements of 3858

division (B) of this section. 3859

(2) Any person who held an appointment as a state highway 3860
trooper on January 1, 1966, may receive an original appointment on 3861
a permanent basis and serve as a peace officer of a county, 3862
township, or municipal corporation, or as a state university law 3863
enforcement officer, without complying with the requirements of 3864
division (B) of this section. 3865

(I) No person who is appointed as a peace officer of a 3866
county, township, or municipal corporation on or after April 9, 3867
1985, shall serve as a peace officer of that county, township, or 3868
municipal corporation unless the person has received training in 3869
the handling of missing children and child abuse and neglect cases 3870
from an approved state, county, township, or municipal police 3871
officer basic training program or receives the training within the 3872
time prescribed by rules adopted by the attorney general pursuant 3873
to section 109.741 of the Revised Code. 3874

(J) No part of any approved state, county, or municipal basic 3875
training program for bailiffs and deputy bailiffs of courts of 3876
record and no part of any approved state, county, or municipal 3877
basic training program for criminal investigators employed by the 3878
state public defender shall be used as credit toward the 3879
completion by a peace officer of any part of the approved state, 3880
county, or municipal peace officer basic training program that the 3881
peace officer is required by this section to complete 3882
satisfactorily. 3883

(K) This section does not apply to any member of the police 3884
department of a municipal corporation in an adjoining state 3885
serving in this state under a contract pursuant to section 737.04 3886
of the Revised Code. 3887

Sec. 109.85. (A) Upon the written request of the governor, 3888
the general assembly, the auditor of state, the medicaid director 3889

~~of job and family services~~, the director of health, or the 3890
director of budget and management, or upon the attorney general's 3891
becoming aware of criminal or improper activity related to Chapter 3892
3721. and the ~~medical assistance~~ medicaid program ~~established~~ 3893
~~under section 5111.01 of the Revised Code~~, the attorney general 3894
shall investigate any criminal or civil violation of law related 3895
to Chapter 3721. of the Revised Code or the ~~medical assistance~~ 3896
medicaid program. 3897

(B) When it appears to the attorney general, as a result of 3898
an investigation under division (A) of this section, that there is 3899
cause to prosecute for the commission of a crime or to pursue a 3900
civil remedy, the attorney general may refer the evidence to the 3901
prosecuting attorney having jurisdiction of the matter, or to a 3902
regular grand jury drawn and impaneled pursuant to sections 3903
2939.01 to 2939.24 of the Revised Code, or to a special grand jury 3904
drawn and impaneled pursuant to section 2939.17 of the Revised 3905
Code, or the attorney general may initiate and prosecute any 3906
necessary criminal or civil actions in any court or tribunal of 3907
competent jurisdiction in this state. When proceeding under this 3908
section, the attorney general, and any assistant or special 3909
counsel designated by the attorney general for that purpose, have 3910
all rights, privileges, and powers of prosecuting attorneys. The 3911
attorney general shall have exclusive supervision and control of 3912
all investigations and prosecutions initiated by the attorney 3913
general under this section. The forfeiture provisions of Chapter 3914
2981. of the Revised Code apply in relation to any such criminal 3915
action initiated and prosecuted by the attorney general. 3916

(C) Nothing in this section shall prevent a county 3917
prosecuting attorney from investigating and prosecuting criminal 3918
activity related to Chapter 3721. of the Revised Code and the 3919
~~medical assistance~~ medicaid program ~~established under section~~ 3920
~~5111.01 of the Revised Code~~. The forfeiture provisions of Chapter 3921

2981. of the Revised Code apply in relation to any prosecution of 3922
criminal activity related to the ~~medical assistance~~ medicaid 3923
program undertaken by the prosecuting attorney. 3924

Sec. 109.86. (A) The attorney general shall investigate any 3925
activity the attorney general has reasonable cause to believe is 3926
in violation of section 2903.34 of the Revised Code. Upon written 3927
request of the governor, the general assembly, the auditor of 3928
state, or the director of health, job and family services, aging, 3929
~~mental health~~ mental health and addiction services, or 3930
developmental disabilities, the attorney general shall investigate 3931
any activity these persons believe is in violation of section 3932
2903.34 of the Revised Code. If after an investigation the 3933
attorney general has probable cause to prosecute for the 3934
commission of a crime, the attorney general shall refer the 3935
evidence to the prosecuting attorney, director of law, or other 3936
similar chief legal officer having jurisdiction over the matter. 3937
If the prosecuting attorney decides to present the evidence to a 3938
grand jury, the prosecuting attorney shall notify the attorney 3939
general in writing of the decision within thirty days after 3940
referral of the matter and shall present the evidence prior to the 3941
discharge of the next regular grand jury. If the director of law 3942
or other chief legal officer decides to prosecute the case, the 3943
director or officer shall notify the attorney general in writing 3944
of the decision within thirty days and shall initiate prosecution 3945
within sixty days after the matter was referred to the director or 3946
officer. 3947

(B) If the prosecuting attorney, director of law, or other 3948
chief legal officer fails to notify the attorney general or to 3949
present evidence or initiate prosecution in accordance with 3950
division (A) of this section, the attorney general may present the 3951
evidence to a regular grand jury drawn and impaneled pursuant to 3952
sections 2939.01 to 2939.24 of the Revised Code, or to a special 3953

grand jury drawn and impaneled pursuant to section 2939.17 of the Revised Code, or the attorney general may initiate and prosecute any action in any court or tribunal of competent jurisdiction in this state. The attorney general, and any assistant or special counsel designated by the attorney general, have all the powers of a prosecuting attorney, director of law, or other chief legal officer when proceeding under this section. Nothing in this section shall limit or prevent a prosecuting attorney, director of law, or other chief legal officer from investigating and prosecuting criminal activity committed against a resident or patient of a care facility.

Sec. 109.90. (A) The attorney general shall collaborate with the state board of pharmacy and director of ~~alcohol and drug addiction services~~ mental health and addiction services in the establishment and administration of a drug take-back program, as provided under section 4729.69 of the Revised Code. The office of the attorney general is solely responsible for the costs incurred in the establishment and administration of the program.

(B) The attorney general may accept grants, gifts, or donations for purposes of the program. Money received under this division or section ~~3793.22~~ 5119.49 or 4729.69 of the Revised Code shall be deposited into the state treasury to the credit of the drug take-back program fund, which is hereby created. Money credited to the fund shall be used solely for purposes of the program.

Sec. 111.02. Before entering upon the discharge of the duties of ~~his~~ office, the secretary of state shall give a bond to the state in the sum of one hundred thousand dollars, with ~~two or more sureties approved by the governor, auditor of state, and attorney general~~ a surety authorized to do business in the state, conditioned for the faithful discharge of the duties of ~~his~~ the

office of secretary of state. The bond, ~~with the approval of the~~ 3985
~~proper officials~~ and the oath of office ~~indorsed thereon~~, shall be 3986
deposited with and kept by the director of administrative services 3987
~~and kept~~ in ~~his~~ the director's office. 3988

Sec. 111.15. (A) As used in this section: 3989

(1) "Rule" includes any rule, regulation, bylaw, or standard 3990
having a general and uniform operation adopted by an agency under 3991
the authority of the laws governing the agency; any appendix to a 3992
rule; and any internal management rule. "Rule" does not include 3993
any guideline adopted pursuant to section 3301.0714 of the Revised 3994
Code, any order respecting the duties of employees, any finding, 3995
any determination of a question of law or fact in a matter 3996
presented to an agency, or any rule promulgated pursuant to 3997
Chapter 119., section 4141.14, division (C)(1) or (2) of section 3998
5117.02, or section 5703.14 of the Revised Code. "Rule" includes 3999
any amendment or rescission of a rule. 4000

(2) "Agency" means any governmental entity of the state and 4001
includes, but is not limited to, any board, department, division, 4002
commission, bureau, society, council, institution, state college 4003
or university, community college district, technical college 4004
district, or state community college. "Agency" does not include 4005
the general assembly, the controlling board, the adjutant 4006
general's department, or any court. 4007

(3) "Internal management rule" means any rule, regulation, 4008
bylaw, or standard governing the day-to-day staff procedures and 4009
operations within an agency. 4010

(4) "Substantive revision" has the same meaning as in 4011
division (J) of section 119.01 of the Revised Code. 4012

(B)(1) Any rule, other than a rule of an emergency nature, 4013
adopted by any agency pursuant to this section shall be effective 4014

on the tenth day after the day on which the rule in final form and 4015
in compliance with division (B)(3) of this section is filed as 4016
follows: 4017

(a) The rule shall be filed in electronic form with both the 4018
secretary of state and the director of the legislative service 4019
commission; 4020

(b) The rule shall be filed in electronic form with the joint 4021
committee on agency rule review. Division (B)(1)(b) of this 4022
section does not apply to any rule to which division (D) of this 4023
section does not apply. 4024

An agency that adopts or amends a rule that is subject to 4025
division (D) of this section shall assign a review date to the 4026
rule that is not later than five years after its effective date. 4027
If no review date is assigned to a rule, or if a review date 4028
assigned to a rule exceeds the five-year maximum, the review date 4029
for the rule is five years after its effective date. A rule with a 4030
review date is subject to review under section 119.032 of the 4031
Revised Code. This paragraph does not apply to a rule of a state 4032
college or university, community college district, technical 4033
college district, or state community college. 4034

If all filings are not completed on the same day, the rule 4035
shall be effective on the tenth day after the day on which the 4036
latest filing is completed. If an agency in adopting a rule 4037
designates an effective date that is later than the effective date 4038
provided for by division (B)(1) of this section, the rule if filed 4039
as required by such division shall become effective on the later 4040
date designated by the agency. 4041

Any rule that is required to be filed under division (B)(1) 4042
of this section is also subject to division (D) of this section if 4043
not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or 4044
(8) of this section. 4045

If a rule incorporates a text or other material by reference, 4046
the agency shall comply with sections 121.71 to 121.76 of the 4047
Revised Code. 4048

(2) A rule of an emergency nature necessary for the immediate 4049
preservation of the public peace, health, or safety shall state 4050
the reasons for the necessity. The emergency rule, in final form 4051
and in compliance with division (B)(3) of this section, shall be 4052
filed in electronic form with the secretary of state, the director 4053
of the legislative service commission, and the joint committee on 4054
agency rule review. The emergency rule is effective immediately 4055
upon completion of the latest filing, except that if the agency in 4056
adopting the emergency rule designates an effective date, or date 4057
and time of day, that is later than the effective date and time 4058
provided for by division (B)(2) of this section, the emergency 4059
rule if filed as required by such division shall become effective 4060
at the later date, or later date and time of day, designated by 4061
the agency. 4062

An emergency rule becomes invalid at the end of the ninetieth 4063
day it is in effect. Prior to that date, the agency may file the 4064
emergency rule as a nonemergency rule in compliance with division 4065
(B)(1) of this section. The agency may not refile the emergency 4066
rule in compliance with division (B)(2) of this section so that, 4067
upon the emergency rule becoming invalid under such division, the 4068
emergency rule will continue in effect without interruption for 4069
another ninety-day period. 4070

(3) An agency shall file a rule under division (B)(1) or (2) 4071
of this section in compliance with the following standards and 4072
procedures: 4073

(a) The rule shall be numbered in accordance with the 4074
numbering system devised by the director for the Ohio 4075
administrative code. 4076

(b) The rule shall be prepared and submitted in compliance 4077
with the rules of the legislative service commission. 4078

(c) The rule shall clearly state the date on which it is to 4079
be effective and the date on which it will expire, if known. 4080

(d) Each rule that amends or rescinds another rule shall 4081
clearly refer to the rule that is amended or rescinded. Each 4082
amendment shall fully restate the rule as amended. 4083

If the director of the legislative service commission or the 4084
director's designee gives an agency notice pursuant to section 4085
103.05 of the Revised Code that a rule filed by the agency is not 4086
in compliance with the rules of the legislative service 4087
commission, the agency shall within thirty days after receipt of 4088
the notice conform the rule to the rules of the commission as 4089
directed in the notice. 4090

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) 4091
of this section shall be recorded by the secretary of state and 4092
the director under the title of the agency adopting the rule and 4093
shall be numbered according to the numbering system devised by the 4094
director. The secretary of state and the director shall preserve 4095
the rules in an accessible manner. Each such rule shall be a 4096
public record open to public inspection and may be transmitted to 4097
any law publishing company that wishes to reproduce it. 4098

(D) At least sixty-five days before a board, commission, 4099
department, division, or bureau of the government of the state 4100
files a rule under division (B)(1) of this section, it shall file 4101
the full text of the proposed rule in electronic form with the 4102
joint committee on agency rule review, and the proposed rule is 4103
subject to legislative review and invalidation under division (I) 4104
of section 119.03 of the Revised Code. If a state board, 4105
commission, department, division, or bureau makes a substantive 4106
revision in a proposed rule after it is filed with the joint 4107

committee, the state board, commission, department, division, or 4108
bureau shall promptly file the full text of the proposed rule in 4109
its revised form in electronic form with the joint committee. The 4110
latest version of a proposed rule as filed with the joint 4111
committee supersedes each earlier version of the text of the same 4112
proposed rule. ~~Except as provided in division (F) of this section,~~ 4113
a A state board, commission, department, division, or bureau shall 4114
also file the rule summary and fiscal analysis prepared under 4115
section 127.18 of the Revised Code in electronic form along with a 4116
proposed rule, and along with a proposed rule in revised form, 4117
that is filed under this division. If a proposed rule has an 4118
adverse impact on businesses, the state board, commission, 4119
department, division, or bureau also shall file the business 4120
impact analysis, any recommendations received from the common 4121
sense initiative office, and the associated memorandum of 4122
response, if any, in electronic form along with the proposed rule, 4123
or the proposed rule in revised form, that is filed under this 4124
division. 4125

As used in this division, "commission" includes the public 4126
utilities commission when adopting rules under a federal or state 4127
statute. 4128

This division does not apply to any of the following: 4129

(1) A proposed rule of an emergency nature; 4130

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 4131
1163.22, 1349.33, 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4132
4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised 4133
Code; 4134

(3) A rule proposed by an agency other than a board, 4135
commission, department, division, or bureau of the government of 4136
the state; 4137

(4) A proposed internal management rule of a board, 4138

commission, department, division, or bureau of the government of 4139
the state; 4140

(5) Any proposed rule that must be adopted verbatim by an 4141
agency pursuant to federal law or rule, to become effective within 4142
sixty days of adoption, in order to continue the operation of a 4143
federally reimbursed program in this state, so long as the 4144
proposed rule contains both of the following: 4145

(a) A statement that it is proposed for the purpose of 4146
complying with a federal law or rule; 4147

(b) A citation to the federal law or rule that requires 4148
verbatim compliance. 4149

(6) An initial rule proposed by the director of health to 4150
impose safety standards and quality-of-care standards with respect 4151
to a health service specified in section 3702.11 of the Revised 4152
Code, or an initial rule proposed by the director to impose 4153
quality standards on a facility listed in division (A)(4) of 4154
section 3702.30 of the Revised Code, if section 3702.12 of the 4155
Revised Code requires that the rule be adopted under this section; 4156

(7) A rule of the state lottery commission pertaining to 4157
instant game rules. 4158

If a rule is exempt from legislative review under division 4159
(D)(5) of this section, and if the federal law or rule pursuant to 4160
which the rule was adopted expires, is repealed or rescinded, or 4161
otherwise terminates, the rule is thereafter subject to 4162
legislative review under division (D) of this section. 4163

(E) Whenever a state board, commission, department, division, 4164
or bureau files a proposed rule or a proposed rule in revised form 4165
under division (D) of this section, it shall also file the full 4166
text of the same proposed rule or proposed rule in revised form in 4167
electronic form with the secretary of state and the director of 4168
the legislative service commission. ~~Except as provided in division~~ 4169

~~(F) of this section, a~~ A state board, commission, department, 4170
division, or bureau shall file the rule summary and fiscal 4171
analysis prepared under section 127.18 of the Revised Code in 4172
electronic form along with a proposed rule or proposed rule in 4173
revised form that is filed with the secretary of state or the 4174
director of the legislative service commission. 4175

~~(F) Except as otherwise provided in this division, the 4176
auditor of state or the auditor of state's designee is not 4177
required to file a rule summary and fiscal analysis along with a 4178
proposed rule, or proposed rule in revised form, that the auditor 4179
of state proposes under section 117.12, 117.19, 117.38, or 117.43 4180
of the Revised Code and files under division (D) or (E) of this 4181
section. 4182~~

Sec. 111.28. (A) There is hereby created in the state 4183
treasury the help America vote act (HAVA) fund. All moneys 4184
received by the secretary of state from the United States election 4185
assistance commission shall be credited to the fund. The secretary 4186
of state shall use the moneys credited to the fund for activities 4187
conducted pursuant to the "Help America Vote Act of 2002," Pub. L. 4188
No. 107-252, 116 Stat. 1666. All investment earnings of the fund 4189
shall be credited to the fund. 4190

(B) There is hereby created in the state treasury the 4191
election reform/health and human services fund. All moneys 4192
received by the secretary of state from the United States 4193
department of health and human services shall be credited to the 4194
fund. The secretary of state shall use the moneys credited to the 4195
fund for activities conducted pursuant to grants awarded to the 4196
state under Title II, Subtitle D, Sections 261 to 265 of the Help 4197
America Vote Act of 2002 to assure access for individuals with 4198
disabilities. All investment earnings of the fund shall be 4199
credited to the fund. 4200

(C) There is hereby created in the state treasury the 4201
miscellaneous federal grants fund. All moneys the secretary of 4202
state receives as grants from federal sources that are not 4203
otherwise designated shall be credited to the fund. The secretary 4204
of state shall use the moneys credited to the fund for the 4205
purposes and activities required by the applicable federal grant 4206
agreements. All investment earnings of the fund shall be credited 4207
to the fund. 4208

Sec. 113.02. Before entering upon the discharge of the duties 4209
of ~~his~~ office, the treasurer of state shall give a bond to the 4210
state in the sum of one million dollars, with ~~sureties approved by~~ 4211
~~the governor~~ a surety authorized to do business in the state, 4212
conditioned for the faithful discharge of the duties of ~~his~~ the 4213
office of treasurer of state. The bond, ~~with the approval of the~~ 4214
~~governor~~ and the oath of office ~~endorsed thereon,~~ shall be 4215
deposited with and kept by the secretary of state ~~and kept~~ in ~~his~~ 4216
the secretary of state's office. 4217

Sec. 113.061. The treasurer of state shall adopt rules in 4218
accordance with Chapter 119. of the Revised Code governing the 4219
remittance of taxes by electronic funds transfer as required under 4220
sections 5726.03, 5727.311, 5727.83, 5733.022, 5735.062, 5739.032, 4221
5745.04, ~~and~~ 5747.072, 5749.06, and 5751.07 of the Revised Code 4222
and any other section of the Revised Code under which a person is 4223
required to remit taxes by electronic funds transfer. The rules 4224
shall govern the modes of electronic funds transfer acceptable to 4225
the treasurer of state and under what circumstances each mode is 4226
acceptable, the content and format of electronic funds transfers, 4227
the coordination of payment by electronic funds transfer and 4228
filing of associated tax reports and returns, the remittance of 4229
taxes by means other than electronic funds transfer by persons 4230
otherwise required to do so but relieved of the requirement by the 4231

treasurer of state, and any other matter that in the opinion of 4232
the treasurer of state facilitates payment by electronic funds 4233
transfer in a manner consistent with those sections. 4234

Upon failure by a person, if so required, to remit taxes by 4235
electronic funds transfer in the manner prescribed under section 4236
5726.03, 5727.83, 5733.022, 5735.062, 5739.032, 5745.04, ~~or~~ 4237
5747.072, 5749.06, or 5751.07 of the Revised Code and rules 4238
adopted under this section, the treasurer of state shall notify 4239
the tax commissioner of such failure if the treasurer of state 4240
determines that such failure was not due to reasonable cause or 4241
was due to willful neglect, and shall provide the tax commissioner 4242
with any information used in making that determination. The tax 4243
commissioner may assess an additional charge as specified in the 4244
respective section of the Revised Code governing the requirement 4245
to remit taxes by electronic funds transfer. 4246

The treasurer of state may implement means of acknowledging, 4247
upon the request of a taxpayer, receipt of tax remittances made by 4248
electronic funds transfer, and may adopt rules governing 4249
acknowledgments. The cost of acknowledging receipt of electronic 4250
remittances shall be paid by the person requesting acknowledgment. 4251

The treasurer of state, not the tax commissioner, is 4252
responsible for resolving any problems involving electronic funds 4253
transfer transmissions. 4254

Sec. 117.03. Before entering upon the discharge of the duties 4255
of ~~his~~ office, the auditor of state shall give a bond to the state 4256
in the sum of twenty thousand dollars, with a surety ~~approved by~~ 4257
~~the governor~~ authorized to do business in the state, conditioned 4258
for the faithful discharge of the duties of ~~his~~ the office of 4259
auditor of state. The bond, ~~with the approval of the governor~~ and 4260
the oath of office ~~endorsed thereon~~, shall be deposited with and 4261
kept by the secretary of state and kept in ~~his~~ the secretary of 4262

state's office. 4263

Sec. 117.10. The auditor of state shall audit all public 4264
offices as provided in this chapter. The auditor of state also may 4265
audit the accounts of private institutions, associations, boards, 4266
and corporations receiving public money for their use and may 4267
require of them annual reports in such form as the auditor of 4268
state prescribes. 4269

If the auditor of state performs or contracts for the 4270
performance of an audit, including a special audit, of the public 4271
employees retirement system, school employees retirement system, 4272
state teachers retirement system, state highway patrol retirement 4273
system, or Ohio police and fire pension fund, the auditor of state 4274
shall make a timely report of the results of the audit to the Ohio 4275
retirement study council. 4276

The auditor of state may audit the accounts of any medicaid 4277
provider, as defined in section ~~5111.06~~ 5164.01 of the Revised 4278
Code. 4279

If a public office has been audited by an agency of the 4280
United States government, the auditor of state may, if satisfied 4281
that the federal audit has been conducted according to principles 4282
and procedures not contrary to those of the auditor of state, use 4283
and adopt the federal audit and report in lieu of an audit by the 4284
auditor of state's own office. 4285

Within thirty days after the creation or dissolution or the 4286
winding up of the affairs of any public office, that public office 4287
shall notify the auditor of state in writing that this action has 4288
occurred. 4289

Sec. 117.20. (A) In adopting rules pursuant to Chapter 117. 4290
of the Revised Code, the auditor of state or the auditor of 4291
state's designee shall do both of the following: 4292

(1) Before adopting any such rule, except a rule of an emergency nature, do each of the following:

(a) At least thirty-five days before any public hearing on the proposed rule-making action, mail or send by electronic mail notice of the hearing to each public office and to each statewide organization that the auditor of state or designee determines will be affected or represents persons who will be affected by the proposed rule-making action;

(b) Mail or send by electronic mail a copy of the proposed rule to any person or organization that requests a copy within five days after receipt of the request;

(c) Consult with appropriate state and local government agencies, or with persons representative of their interests, including statewide organizations of local government officials, and consult with accounting professionals and other interested persons;

(d) Conduct, on the date and at the time and place designated in the notice, a public hearing at which any person affected by the proposed rule, including statewide organizations of local government officials, may appear and be heard in person, by attorney, or both, and may present the person's or organization's position or contentions orally or in writing.

~~(2) Except as otherwise provided in division (A)(2) of this section, comply with divisions (B) to (E) of section 111.15 of the Revised Code. The auditor of state is not required to file a rule summary and fiscal analysis along with any copy of a proposed rule, or proposed rule in revised form, that is filed with the joint committee on agency rule review, the secretary of state, or the director of the legislative service commission under division (D) or (E) of section 111.15 of the Revised Code.~~

(B) The auditor of state shall diligently discharge the

duties imposed by divisions (A)(1)(a), (b), and (c) of this 4324
section, but failure to mail or send by electronic mail any notice 4325
or copy of a proposed rule, or to consult with any person or 4326
organization, shall not invalidate any rule. 4327

(C) Notwithstanding any contrary provision of the Revised 4328
Code, the auditor of state may prepare and disseminate, to public 4329
offices and other interested persons and organizations, advisory 4330
bulletins, directives, and instructions relating to accounting and 4331
financial reporting systems, budgeting procedures, fiscal 4332
controls, and the constructions by the auditor of state of 4333
constitutional and statutory provisions, court decisions, and 4334
opinions of the attorney general. The bulletins, directives, and 4335
instructions shall be of an advisory nature only. 4336

(D) As used in this section, "rule" includes the adoption, 4337
amendment, or rescission of a rule. 4338

Sec. 119.01. As used in sections 119.01 to 119.13 of the 4339
Revised Code: 4340

(A)(1) "Agency" means, except as limited by this division, 4341
any official, board, or commission having authority to promulgate 4342
rules or make adjudications in the civil service commission, the 4343
division of liquor control, the department of taxation, the 4344
industrial commission, the bureau of workers' compensation, the 4345
functions of any administrative or executive officer, department, 4346
division, bureau, board, or commission of the government of the 4347
state specifically made subject to sections 119.01 to 119.13 of 4348
the Revised Code, and the licensing functions of any 4349
administrative or executive officer, department, division, bureau, 4350
board, or commission of the government of the state having the 4351
authority or responsibility of issuing, suspending, revoking, or 4352
canceling licenses. 4353

Except as otherwise provided in division (I) of this section, 4354

sections 119.01 to 119.13 of the Revised Code do not apply to the 4355
public utilities commission. Sections 119.01 to 119.13 of the 4356
Revised Code do not apply to the utility radiological safety 4357
board; to the controlling board; to actions of the superintendent 4358
of financial institutions and the superintendent of insurance in 4359
the taking possession of, and rehabilitation or liquidation of, 4360
the business and property of banks, savings and loan associations, 4361
savings banks, credit unions, insurance companies, associations, 4362
reciprocal fraternal benefit societies, and bond investment 4363
companies; to any action taken by the division of securities under 4364
section 1707.201 of the Revised Code; or to any action that may be 4365
taken by the superintendent of financial institutions under 4366
section 1113.03, 1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 4367
1157.09, 1157.12, 1157.18, 1165.09, 1165.12, 1165.18, 1349.33, 4368
1733.35, 1733.361, 1733.37, or 1761.03 of the Revised Code. 4369

Sections 119.01 to 119.13 of the Revised Code do not apply to 4370
actions of the industrial commission or the bureau of workers' 4371
compensation under sections 4123.01 to 4123.94 of the Revised Code 4372
with respect to all matters of adjudication, or to the actions of 4373
the industrial commission, bureau of workers' compensation board 4374
of directors, and bureau of workers' compensation under division 4375
(D) of section 4121.32, sections 4123.29, 4123.34, 4123.341, 4376
4123.342, 4123.40, 4123.411, 4123.44, 4123.442, 4127.07, divisions 4377
(B), (C), and (E) of section 4131.04, and divisions (B), (C), and 4378
(E) of section 4131.14 of the Revised Code with respect to all 4379
matters concerning the establishment of premium, contribution, and 4380
assessment rates. 4381

(2) "Agency" also means any official or work unit having 4382
authority to promulgate rules or make adjudications in the 4383
department of job and family services, but only with respect to 4384
both of the following: 4385

(a) The adoption, amendment, or rescission of rules that 4386

section 5101.09 of the Revised Code requires be adopted in 4387
accordance with this chapter; 4388

(b) The issuance, suspension, revocation, or cancellation of 4389
licenses. 4390

(B) "License" means any license, permit, certificate, 4391
commission, or charter issued by any agency. "License" does not 4392
include any arrangement whereby a person, ~~institution,~~ or 4393
government entity furnishes medicaid services under a provider 4394
agreement with the department of ~~job and family services pursuant~~ 4395
~~to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 4396
~~U.S.C. 301, as amended~~ medicaid. 4397

(C) "Rule" means any rule, regulation, or standard, having a 4398
general and uniform operation, adopted, promulgated, and enforced 4399
by any agency under the authority of the laws governing such 4400
agency, and includes any appendix to a rule. "Rule" does not 4401
include any internal management rule of an agency unless the 4402
internal management rule affects private rights and does not 4403
include any guideline adopted pursuant to section 3301.0714 of the 4404
Revised Code. 4405

(D) "Adjudication" means the determination by the highest or 4406
ultimate authority of an agency of the rights, duties, privileges, 4407
benefits, or legal relationships of a specified person, but does 4408
not include the issuance of a license in response to an 4409
application with respect to which no question is raised, nor other 4410
acts of a ministerial nature. 4411

(E) "Hearing" means a public hearing by any agency in 4412
compliance with procedural safeguards afforded by sections 119.01 4413
to 119.13 of the Revised Code. 4414

(F) "Person" means a person, firm, corporation, association, 4415
or partnership. 4416

(G) "Party" means the person whose interests are the subject 4417

of an adjudication by an agency. 4418

(H) "Appeal" means the procedure by which a person, aggrieved 4419
by a finding, decision, order, or adjudication of any agency, 4420
invokes the jurisdiction of a court. 4421

(I) "Rule-making agency" means any board, commission, 4422
department, division, or bureau of the government of the state 4423
that is required to file proposed rules, amendments, or 4424
rescissions under division (D) of section 111.15 of the Revised 4425
Code and any agency that is required to file proposed rules, 4426
amendments, or rescissions under divisions (B) and (H) of section 4427
119.03 of the Revised Code. "Rule-making agency" includes the 4428
public utilities commission. "Rule-making agency" does not include 4429
any state-supported college or university. 4430

(J) "Substantive revision" means any addition to, elimination 4431
from, or other change in a rule, an amendment of a rule, or a 4432
rescission of a rule, whether of a substantive or procedural 4433
nature, that changes any of the following: 4434

(1) That which the rule, amendment, or rescission permits, 4435
authorizes, regulates, requires, prohibits, penalizes, rewards, or 4436
otherwise affects; 4437

(2) The scope or application of the rule, amendment, or 4438
rescission. 4439

(K) "Internal management rule" means any rule, regulation, or 4440
standard governing the day-to-day staff procedures and operations 4441
within an agency. 4442

Sec. 120.06. (A)(1) The state public defender, when 4443
designated by the court or requested by a county public defender 4444
or joint county public defender, may provide legal representation 4445
in all courts throughout the state to indigent adults and 4446
juveniles who are charged with the commission of an offense or act 4447

for which the penalty or any possible adjudication includes the 4448
potential loss of liberty. 4449

(2) The state public defender may provide legal 4450
representation to any indigent person who, while incarcerated in 4451
any state correctional institution, is charged with a felony 4452
offense, for which the penalty or any possible adjudication that 4453
may be imposed by a court upon conviction includes the potential 4454
loss of liberty. 4455

(3) The state public defender may provide legal 4456
representation to any person incarcerated in any correctional 4457
institution of the state, in any matter in which the person 4458
asserts the person is unlawfully imprisoned or detained. 4459

(4) The state public defender, in any case in which the state 4460
public defender has provided legal representation or is requested 4461
to do so by a county public defender or joint county public 4462
defender, may provide legal representation on appeal. 4463

(5) The state public defender, when designated by the court 4464
or requested by a county public defender, joint county public 4465
defender, or the director of rehabilitation and correction, shall 4466
provide legal representation in parole and probation revocation 4467
matters or matters relating to the revocation of community control 4468
or post-release control under a community control sanction or 4469
post-release control sanction, unless the state public defender 4470
finds that the alleged parole or probation violator or alleged 4471
violator of a community control sanction or post-release control 4472
sanction has the financial capacity to retain the alleged 4473
violator's own counsel. 4474

(6) If the state public defender contracts with a county 4475
public defender commission, a joint county public defender 4476
commission, or a board of county commissioners for the provision 4477
of services, under authority of division (C)(7) of section 120.04 4478

of the Revised Code, the state public defender shall provide legal representation in accordance with the contract.

(B) The state public defender shall not be required to prosecute any appeal, postconviction remedy, or other proceeding pursuant to division (A)(3), (4), or (5) of this section, unless the state public defender first is satisfied that there is arguable merit to the proceeding.

(C) A court may appoint counsel or allow an indigent person to select the indigent's own personal counsel to assist the state public defender as co-counsel when the interests of justice so require. When co-counsel is appointed to assist the state public defender, the co-counsel shall receive any compensation that the court may approve, not to exceed the amounts provided for in section 2941.51 of the Revised Code.

(D)(1) When the state public defender is designated by the court or requested by a county public defender or joint county public defender to provide legal representation for an indigent person in any case, other than pursuant to a contract entered into under authority of division (C)(7) of section 120.04 of the Revised Code, the state public defender shall send to the county in which the case is filed a bill detailing the actual cost of the representation that separately itemizes legal fees and expenses. The county, upon receipt of an itemized bill from the state public defender pursuant to this division, shall pay the state public defender each of the following amounts:

(a) For the amount identified as legal fees in the itemized bill, one hundred per cent of the amount identified as legal fees less the state reimbursement rate as calculated by the state public defender pursuant to section 120.34 of the Revised Code for the month the case terminated, as set forth in the itemized bill;

(b) For the amount identified as expenses in the itemized

bill, one hundred per cent. 4510

(2) Upon payment of the itemized bill under division (D)(1) 4511
of this section, the county may submit the cost of the expenses, 4512
excluding legal fees, to the state public defender for 4513
reimbursement pursuant to section 120.33 of the Revised Code. 4514

(3) When the state public defender provides investigation or 4515
mitigation services to private appointed counsel or to a county or 4516
joint county public defender as approved by the appointing court, 4517
other than pursuant to a contract entered into under authority of 4518
division (C)(7) of section 120.04 of the Revised Code, the state 4519
public defender shall send to the county in which the case is 4520
filed a bill itemizing the actual cost of the services provided. 4521
The county, upon receipt of an itemized bill from the state public 4522
defender pursuant to this division, shall pay one hundred per cent 4523
of the amount as set forth in the itemized bill. Upon payment of 4524
the itemized bill received pursuant to this division, the county 4525
may submit the cost of the investigation and mitigation services 4526
to the state public defender for reimbursement pursuant to section 4527
120.33 of the Revised Code. 4528

(4) There is hereby created in the state treasury the county 4529
representation fund for the deposit of moneys received from 4530
counties under this division. All moneys credited to the fund 4531
shall be used by the state public defender to provide legal 4532
representation for indigent persons when designated by the court 4533
or requested by a county or joint county public defender or to 4534
provide investigation or mitigation services, including 4535
investigation or mitigation services to private appointed counsel 4536
or a county or joint county public defender, as approved by the 4537
court. 4538

(E)(1) Notwithstanding any contrary provision of sections 4539
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 4540
that pertains to representation by the attorney general, an 4541

assistant attorney general, or special counsel of an officer or 4542
employee, as defined in section 109.36 of the Revised Code, or of 4543
an entity of state government, the state public defender may elect 4544
to contract with, and to have the state pay pursuant to division 4545
(E)(2) of this section for the services of, private legal counsel 4546
to represent the Ohio public defender commission, the state public 4547
defender, assistant state public defenders, other employees of the 4548
commission or the state public defender, and attorneys described 4549
in division (C) of section 120.41 of the Revised Code in a 4550
malpractice or other civil action or proceeding that arises from 4551
alleged actions or omissions related to responsibilities derived 4552
pursuant to this chapter, or in a civil action that is based upon 4553
alleged violations of the constitution or statutes of the United 4554
States, including section 1983 of Title 42 of the United States 4555
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 4556
arises from alleged actions or omissions related to 4557
responsibilities derived pursuant to this chapter, if the state 4558
public defender determines, in good faith, that the defendant in 4559
the civil action or proceeding did not act manifestly outside the 4560
scope of the defendant's employment or official responsibilities, 4561
with malicious purpose, in bad faith, or in a wanton or reckless 4562
manner. If the state public defender elects not to contract 4563
pursuant to this division for private legal counsel in a civil 4564
action or proceeding, then, in accordance with sections 109.02, 4565
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 4566
attorney general shall represent or provide for the representation 4567
of the Ohio public defender commission, the state public defender, 4568
assistant state public defenders, other employees of the 4569
commission or the state public defender, or attorneys described in 4570
division (C) of section 120.41 of the Revised Code in the civil 4571
action or proceeding. 4572

(2)(a) Subject to division (E)(2)(b) of this section, payment 4573
from the state treasury for the services of private legal counsel 4574

with whom the state public defender has contracted pursuant to 4575
division (E)(1) of this section shall be accomplished only through 4576
the following procedure: 4577

(i) The private legal counsel shall file with the attorney 4578
general a copy of the contract; a request for an award of legal 4579
fees, court costs, and expenses earned or incurred in connection 4580
with the defense of the Ohio public defender commission, the state 4581
public defender, an assistant state public defender, an employee, 4582
or an attorney in a specified civil action or proceeding; a 4583
written itemization of those fees, costs, and expenses, including 4584
the signature of the state public defender and the state public 4585
defender's attestation that the fees, costs, and expenses were 4586
earned or incurred pursuant to division (E)(1) of this section to 4587
the best of the state public defender's knowledge and information; 4588
a written statement whether the fees, costs, and expenses are for 4589
all legal services to be rendered in connection with that defense, 4590
are only for legal services rendered to the date of the request 4591
and additional legal services likely will have to be provided in 4592
connection with that defense, or are for the final legal services 4593
rendered in connection with that defense; a written statement 4594
indicating whether the private legal counsel previously submitted 4595
a request for an award under division (E)(2) of this section in 4596
connection with that defense and, if so, the date and the amount 4597
of each award granted; and, if the fees, costs, and expenses are 4598
for all legal services to be rendered in connection with that 4599
defense or are for the final legal services rendered in connection 4600
with that defense, a certified copy of any judgment entry in the 4601
civil action or proceeding or a signed copy of any settlement 4602
agreement entered into between the parties to the civil action or 4603
proceeding. 4604

(ii) Upon receipt of a request for an award of legal fees, 4605
court costs, and expenses and the requisite supportive 4606

documentation described in division (E)(2)(a)(i) of this section, 4607
the attorney general shall review the request and documentation; 4608
determine whether any of the limitations specified in division 4609
(E)(2)(b) of this section apply to the request; and, if an award 4610
of legal fees, court costs, or expenses is permissible after 4611
applying the limitations, prepare a document awarding legal fees, 4612
court costs, or expenses to the private legal counsel. The 4613
document shall name the private legal counsel as the recipient of 4614
the award; specify the total amount of the award as determined by 4615
the attorney general; itemize the portions of the award that 4616
represent legal fees, court costs, and expenses; specify any 4617
limitation applied pursuant to division (E)(2)(b) of this section 4618
to reduce the amount of the award sought by the private legal 4619
counsel; state that the award is payable from the state treasury 4620
pursuant to division (E)(2)(a)(iii) of this section; and be 4621
approved by the inclusion of the signatures of the attorney 4622
general, the state public defender, and the private legal counsel. 4623

(iii) The attorney general shall forward a copy of the 4624
document prepared pursuant to division (E)(2)(a)(ii) of this 4625
section to the director of budget and management. The award of 4626
legal fees, court costs, or expenses shall be paid out of the 4627
state public defender's appropriations, to the extent there is a 4628
sufficient available balance in those appropriations. If the state 4629
public defender does not have a sufficient available balance in 4630
the state public defender's appropriations to pay the entire award 4631
of legal fees, court costs, or expenses, the director shall make 4632
application for a transfer of appropriations out of the emergency 4633
purposes account or any other appropriation for emergencies or 4634
contingencies in an amount equal to the portion of the award that 4635
exceeds the sufficient available balance in the state public 4636
defender's appropriations. A transfer of appropriations out of the 4637
emergency purposes account or any other appropriation for 4638
emergencies or contingencies shall be authorized if there are 4639

sufficient moneys greater than the sum total of then pending 4640
emergency purposes account requests, or requests for releases from 4641
the other appropriation. If a transfer of appropriations out of 4642
the emergency purposes account or other appropriation for 4643
emergencies or contingencies is made to pay an amount equal to the 4644
portion of the award that exceeds the sufficient available balance 4645
in the state public defender's appropriations, the director shall 4646
cause the payment to be made to the private legal counsel. If 4647
sufficient moneys do not exist in the emergency purposes account 4648
or other appropriation for emergencies or contingencies to pay an 4649
amount equal to the portion of the award that exceeds the 4650
sufficient available balance in the state public defender's 4651
appropriations, the private legal counsel shall request the 4652
general assembly to make an appropriation sufficient to pay an 4653
amount equal to the portion of the award that exceeds the 4654
sufficient available balance in the state public defender's 4655
appropriations, and no payment in that amount shall be made until 4656
the appropriation has been made. The private legal counsel shall 4657
make the request during the current biennium and during each 4658
succeeding biennium until a sufficient appropriation is made. 4659

(b) An award of legal fees, court costs, and expenses 4660
pursuant to division (E) of this section is subject to the 4661
following limitations: 4662

(i) The maximum award or maximum aggregate of a series of 4663
awards of legal fees, court costs, and expenses to the private 4664
legal counsel in connection with the defense of the Ohio public 4665
defender commission, the state public defender, an assistant state 4666
public defender, an employee, or an attorney in a specified civil 4667
action or proceeding shall not exceed fifty thousand dollars. 4668

(ii) The private legal counsel shall not be awarded legal 4669
fees, court costs, or expenses to the extent the fees, costs, or 4670
expenses are covered by a policy of malpractice or other 4671

insurance. 4672

(iii) The private legal counsel shall be awarded legal fees 4673
and expenses only to the extent that the fees and expenses are 4674
reasonable in light of the legal services rendered by the private 4675
legal counsel in connection with the defense of the Ohio public 4676
defender commission, the state public defender, an assistant state 4677
public defender, an employee, or an attorney in a specified civil 4678
action or proceeding. 4679

(c) If, pursuant to division (E)(2)(a) of this section, the 4680
attorney general denies a request for an award of legal fees, 4681
court costs, or expenses to private legal counsel because of the 4682
application of a limitation specified in division (E)(2)(b) of 4683
this section, the attorney general shall notify the private legal 4684
counsel in writing of the denial and of the limitation applied. 4685

(d) If, pursuant to division (E)(2)(c) of this section, a 4686
private legal counsel receives a denial of an award notification 4687
or if a private legal counsel refuses to approve a document under 4688
division (E)(2)(a)(ii) of this section because of the proposed 4689
application of a limitation specified in division (E)(2)(b) of 4690
this section, the private legal counsel may commence a civil 4691
action against the attorney general in the court of claims to 4692
prove the private legal counsel's entitlement to the award sought, 4693
to prove that division (E)(2)(b) of this section does not prohibit 4694
or otherwise limit the award sought, and to recover a judgment for 4695
the amount of the award sought. A civil action under division 4696
(E)(2)(d) of this section shall be commenced no later than two 4697
years after receipt of a denial of award notification or, if the 4698
private legal counsel refused to approve a document under division 4699
(E)(2)(a)(ii) of this section because of the proposed application 4700
of a limitation specified in division (E)(2)(b) of this section, 4701
no later than two years after the refusal. Any judgment of the 4702
court of claims in favor of the private legal counsel shall be 4703

paid from the state treasury in accordance with division (E)(2)(a) 4704
of this section. 4705

(F) If a court appoints the office of the state public 4706
defender to represent a petitioner in a postconviction relief 4707
proceeding under section 2953.21 of the Revised Code, the 4708
petitioner has received a sentence of death, and the proceeding 4709
relates to that sentence, all of the attorneys who represent the 4710
petitioner in the proceeding pursuant to the appointment, whether 4711
an assistant state public defender, the state public defender, or 4712
another attorney, shall be certified under Rule 20 of the Rules of 4713
Superintendence for the Courts of Ohio to represent indigent 4714
defendants charged with or convicted of an offense for which the 4715
death penalty can be or has been imposed. 4716

(G)(1) The state public defender may provide legal 4717
representation and services to a child committed to the department 4718
of youth services relative to either of the following: 4719

(a) The fact or duration of the child's confinement, 4720
including, but not limited to, appeals, post-conviction relief, 4721
petitions for habeas corpus, and administrative issues that may 4722
extend the period of confinement; 4723

(b) Conditions of the child's confinement. 4724

(2) Division (G)(1) of this section does not authorize the 4725
state public defender to represent a child committed to the 4726
department of youth services in general civil matters arising 4727
solely out of state law. 4728

(H) A child's right to representation or services under this 4729
section is not affected by the child, or another person on behalf 4730
of the child, previously having paid for similar representation or 4731
services or having waived legal representation. 4732

(I) The state public defender shall have access to any child 4733
committed to the department of youth services, department of youth 4734

services institution, and department of youth services record as 4735
needed to implement this section. 4736

(J) As used in this section: 4737

(1) "Community control sanction" has the same meaning as in 4738
section 2929.01 of the Revised Code. 4739

(2) "Conditions of confinement" means any issue involving a 4740
constitutional right or other civil right related to a child's 4741
incarceration, including, but not limited to, actions cognizable 4742
under 42 U.S.C. 1983. 4743

(3) "Post-release control sanction" has the same meaning as 4744
in section 2967.01 of the Revised Code. 4745

Sec. 121.02. The following administrative departments and 4746
their respective directors are hereby created: 4747

(A) The office of budget and management, which shall be 4748
administered by the director of budget and management; 4749

(B) The department of commerce, which shall be administered 4750
by the director of commerce; 4751

(C) The department of administrative services, which shall be 4752
administered by the director of administrative services; 4753

(D) The department of transportation, which shall be 4754
administered by the director of transportation; 4755

(E) The department of agriculture, which shall be 4756
administered by the director of agriculture; 4757

(F) The department of natural resources, which shall be 4758
administered by the director of natural resources; 4759

(G) The department of health, which shall be administered by 4760
the director of health; 4761

(H) The department of job and family services, which shall be 4762

administered by the director of job and family services; 4763

(I) Until July 1, 1997, the department of liquor control, 4764
which shall be administered by the director of liquor control; 4765

(J) The department of public safety, which shall be 4766
administered by the director of public safety; 4767

(K) The department of ~~mental health~~ mental health and 4768
addiction services, which shall be administered by the director of 4769
~~mental health~~ mental health and addiction services; 4770

(L) The department of developmental disabilities, which shall 4771
be administered by the director of developmental disabilities; 4772

(M) The department of insurance, which shall be administered 4773
by the superintendent of insurance as director thereof; 4774

(N) The development services agency, which shall be 4775
administered by the director of development services; 4776

(O) The department of youth services, which shall be 4777
administered by the director of youth services; 4778

(P) The department of rehabilitation and correction, which 4779
shall be administered by the director of rehabilitation and 4780
correction; 4781

(Q) The environmental protection agency, which shall be 4782
administered by the director of environmental protection; 4783

(R) The department of aging, which shall be administered by 4784
the director of aging; 4785

(S) ~~The department of alcohol and drug addiction services,~~ 4786
~~which shall be administered by the director of alcohol and drug~~ 4787
~~addiction services;~~ 4788

~~(T)~~ The department of veterans services, which shall be 4789
administered by the director of veterans services; 4790

(T) The department of medicaid, which shall be administered 4791

by the medicaid director. 4792

The director of each department shall exercise the powers and 4793
perform the duties vested by law in such department. 4794

Sec. 121.03. The following administrative department heads 4795
shall be appointed by the governor, with the advice and consent of 4796
the senate, and shall hold their offices during the term of the 4797
appointing governor, and are subject to removal at the pleasure of 4798
the governor. 4799

(A) The director of budget and management; 4800

(B) The director of commerce; 4801

(C) The director of transportation; 4802

(D) The director of agriculture; 4803

(E) The director of job and family services; 4804

(F) Until July 1, 1997, the director of liquor control; 4805

(G) The director of public safety; 4806

(H) The superintendent of insurance; 4807

(I) The director of development services; 4808

(J) The tax commissioner; 4809

(K) The director of administrative services; 4810

(L) The director of natural resources; 4811

(M) The director of ~~mental health~~ mental health and addiction
services; 4812
4813

(N) The director of developmental disabilities; 4814

(O) The director of health; 4815

(P) The director of youth services; 4816

(Q) The director of rehabilitation and correction; 4817

(R) The director of environmental protection;	4818
(S) The director of aging;	4819
(T) The director of alcohol and drug addiction services;	4820
(U) The administrator of workers' compensation who meets the qualifications required under division (A) of section 4121.121 of the Revised Code;	4821 4822 4823
(V) <u>(U)</u> The director of veterans services who meets the qualifications required under section 5902.01 of the Revised Code;	4824 4825
(W) <u>(V)</u> The chancellor of the Ohio board of regents;	4826
<u>(W) The medicaid director.</u>	4827
 Sec. 121.11. (A) Each officer whose office is created by sections 121.02, 121.04, and 121.05 of the Revised Code, before entering upon the duties of office, shall take and subscribe an oath of office as provided by law and give bond, conditioned according to law, with security to be approved by the governor in the penal sum, not less than ten thousand dollars, fixed by the governor . The department of administrative services may procure from any duly authorized corporate surety <u>authorized to do business in the state</u> a <u>schedule or blanket</u> bond covering the officers described in those sections and any other officers the governor designates. The bond and oath of the officers described in those sections shall be filed in the office of the secretary of state.	4828 4829 4830 4831 4832 4833 4834 4835 4836 4837 4838 4839 4840
(B) The director of each department, with the approval of the governor, may require any chief of a division, or any officer or employee in the director's department, to give bond in the amount the governor prescribes. The bond or bonds may, in the discretion of the director, be individual, schedule, or blanket bonds.	4841 4842 4843 4844 4845
(C) The premium on any bond required or authorized by this section may be paid from the state treasury.	4846 4847

Sec. 121.22. (A) This section shall be liberally construed to 4848
require public officials to take official action and to conduct 4849
all deliberations upon official business only in open meetings 4850
unless the subject matter is specifically excepted by law. 4851

(B) As used in this section: 4852

(1) "Public body" means any of the following: 4853

(a) Any board, commission, committee, council, or similar 4854
decision-making body of a state agency, institution, or authority, 4855
and any legislative authority or board, commission, committee, 4856
council, agency, authority, or similar decision-making body of any 4857
county, township, municipal corporation, school district, or other 4858
political subdivision or local public institution; 4859

(b) Any committee or subcommittee of a body described in 4860
division (B)(1)(a) of this section; 4861

(c) A court of jurisdiction of a sanitary district organized 4862
wholly for the purpose of providing a water supply for domestic, 4863
municipal, and public use when meeting for the purpose of the 4864
appointment, removal, or reappointment of a member of the board of 4865
directors of such a district pursuant to section 6115.10 of the 4866
Revised Code, if applicable, or for any other matter related to 4867
such a district other than litigation involving the district. As 4868
used in division (B)(1)(c) of this section, "court of 4869
jurisdiction" has the same meaning as "court" in section 6115.01 4870
of the Revised Code. 4871

(2) "Meeting" means any prearranged discussion of the public 4872
business of the public body by a majority of its members. 4873

(3) "Regulated individual" means either of the following: 4874

(a) A student in a state or local public educational 4875
institution; 4876

(b) A person who is, voluntarily or involuntarily, an inmate, 4877

patient, or resident of a state or local institution because of 4878
criminal behavior, mental illness or retardation, disease, 4879
disability, age, or other condition requiring custodial care. 4880

(4) "Public office" has the same meaning as in section 4881
149.011 of the Revised Code. 4882

(C) All meetings of any public body are declared to be public 4883
meetings open to the public at all times. A member of a public 4884
body shall be present in person at a meeting open to the public to 4885
be considered present or to vote at the meeting and for purposes 4886
of determining whether a quorum is present at the meeting. 4887

The minutes of a regular or special meeting of any public 4888
body shall be promptly prepared, filed, and maintained and shall 4889
be open to public inspection. The minutes need only reflect the 4890
general subject matter of discussions in executive sessions 4891
authorized under division (G) or (J) of this section. 4892

(D) This section does not apply to any of the following: 4893

(1) A grand jury; 4894

(2) An audit conference conducted by the auditor of state or 4895
independent certified public accountants with officials of the 4896
public office that is the subject of the audit; 4897

(3) The adult parole authority when its hearings are 4898
conducted at a correctional institution for the sole purpose of 4899
interviewing inmates to determine parole or pardon; 4900

(4) The organized crime investigations commission established 4901
under section 177.01 of the Revised Code; 4902

(5) Meetings of a child fatality review board established 4903
under section 307.621 of the Revised Code and meetings conducted 4904
pursuant to sections 5153.171 to 5153.173 of the Revised Code; 4905

(6) The state medical board when determining whether to 4906
suspend a certificate without a prior hearing pursuant to division 4907

(G) of either section 4730.25 or 4731.22 of the Revised Code; 4908

(7) The board of nursing when determining whether to suspend 4909
a license or certificate without a prior hearing pursuant to 4910
division (B) of section 4723.281 of the Revised Code; 4911

(8) The state board of pharmacy when determining whether to 4912
suspend a license without a prior hearing pursuant to division (D) 4913
of section 4729.16 of the Revised Code; 4914

(9) The state chiropractic board when determining whether to 4915
suspend a license without a hearing pursuant to section 4734.37 of 4916
the Revised Code; 4917

(10) The executive committee of the emergency response 4918
commission when determining whether to issue an enforcement order 4919
or request that a civil action, civil penalty action, or criminal 4920
action be brought to enforce Chapter 3750. of the Revised Code; 4921

(11) The board of directors of the nonprofit corporation 4922
formed under section 187.01 of the Revised Code or any committee 4923
thereof, and the board of directors of any subsidiary of that 4924
corporation or a committee thereof; 4925

(12) An audit conference conducted by the audit staff of the 4926
department of job and family services with officials of the public 4927
office that is the subject of that audit under section 5101.37 of 4928
the Revised Code. 4929

(E) The controlling board, ~~the industrial technology and~~ 4930
~~enterprise advisory council,~~ the tax credit authority, or the 4931
minority development financing advisory board, when meeting to 4932
consider granting assistance pursuant to Chapter 122. or 166. of 4933
the Revised Code, in order to protect the interest of the 4934
applicant or the possible investment of public funds, by unanimous 4935
vote of all board, ~~council,~~ or authority members present, may 4936
close the meeting during consideration of the following 4937
information confidentially received by the authority, ~~council,~~ or 4938

board from the applicant:	4939
(1) Marketing plans;	4940
(2) Specific business strategy;	4941
(3) Production techniques and trade secrets;	4942
(4) Financial projections;	4943
(5) Personal financial statements of the applicant or members	4944
of the applicant's immediate family, including, but not limited	4945
to, tax records or other similar information not open to public	4946
inspection.	4947
The vote by the authority, council , or board to accept or	4948
reject the application, as well as all proceedings of the	4949
authority, council , or board not subject to this division, shall	4950
be open to the public and governed by this section.	4951
(F) Every public body, by rule, shall establish a reasonable	4952
method whereby any person may determine the time and place of all	4953
regularly scheduled meetings and the time, place, and purpose of	4954
all special meetings. A public body shall not hold a special	4955
meeting unless it gives at least twenty-four hours' advance notice	4956
to the news media that have requested notification, except in the	4957
event of an emergency requiring immediate official action. In the	4958
event of an emergency, the member or members calling the meeting	4959
shall notify the news media that have requested notification	4960
immediately of the time, place, and purpose of the meeting.	4961
The rule shall provide that any person, upon request and	4962
payment of a reasonable fee, may obtain reasonable advance	4963
notification of all meetings at which any specific type of public	4964
business is to be discussed. Provisions for advance notification	4965
may include, but are not limited to, mailing the agenda of	4966
meetings to all subscribers on a mailing list or mailing notices	4967
in self-addressed, stamped envelopes provided by the person.	4968

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official, licensee, or regulated individual requests a public hearing. Except as otherwise provided by law, no public body shall hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. If a public body holds an executive session pursuant to division (G)(1) of this section, the motion and vote to hold that executive session shall state which one or more of the approved purposes listed in division (G)(1) of this section are the purposes for which the executive session is to be held, but need not include the name of any person to be considered at the meeting.

(2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. No member of a public body shall use division (G)(2) of this section as a subterfuge for providing covert information to prospective buyers or sellers. A purchase or sale of public property is void if the seller or buyer of the public property has received covert information from a member of a public body that has not been disclosed to the general

public in sufficient time for other prospective buyers and sellers 5001
to prepare and submit offers. 5002

If the minutes of the public body show that all meetings and 5003
deliberations of the public body have been conducted in compliance 5004
with this section, any instrument executed by the public body 5005
purporting to convey, lease, or otherwise dispose of any right, 5006
title, or interest in any public property shall be conclusively 5007
presumed to have been executed in compliance with this section 5008
insofar as title or other interest of any bona fide purchasers, 5009
lessees, or transferees of the property is concerned. 5010

(3) Conferences with an attorney for the public body 5011
concerning disputes involving the public body that are the subject 5012
of pending or imminent court action; 5013

(4) Preparing for, conducting, or reviewing negotiations or 5014
bargaining sessions with public employees concerning their 5015
compensation or other terms and conditions of their employment; 5016

(5) Matters required to be kept confidential by federal law 5017
or regulations or state statutes; 5018

(6) Details relative to the security arrangements and 5019
emergency response protocols for a public body or a public office, 5020
if disclosure of the matters discussed could reasonably be 5021
expected to jeopardize the security of the public body or public 5022
office; 5023

(7) In the case of a county hospital operated pursuant to 5024
Chapter 339. of the Revised Code, a joint township hospital 5025
operated pursuant to Chapter 513. of the Revised Code, or a 5026
municipal hospital operated pursuant to Chapter 749. of the 5027
Revised Code, to consider trade secrets, as defined in section 5028
1333.61 of the Revised Code. 5029

If a public body holds an executive session to consider any 5030
of the matters listed in divisions (G)(2) to (7) of this section, 5031

the motion and vote to hold that executive session shall state 5032
which one or more of the approved matters listed in those 5033
divisions are to be considered at the executive session. 5034

A public body specified in division (B)(1)(c) of this section 5035
shall not hold an executive session when meeting for the purposes 5036
specified in that division. 5037

(H) A resolution, rule, or formal action of any kind is 5038
invalid unless adopted in an open meeting of the public body. A 5039
resolution, rule, or formal action adopted in an open meeting that 5040
results from deliberations in a meeting not open to the public is 5041
invalid unless the deliberations were for a purpose specifically 5042
authorized in division (G) or (J) of this section and conducted at 5043
an executive session held in compliance with this section. A 5044
resolution, rule, or formal action adopted in an open meeting is 5045
invalid if the public body that adopted the resolution, rule, or 5046
formal action violated division (F) of this section. 5047

(I)(1) Any person may bring an action to enforce this 5048
section. An action under division (I)(1) of this section shall be 5049
brought within two years after the date of the alleged violation 5050
or threatened violation. Upon proof of a violation or threatened 5051
violation of this section in an action brought by any person, the 5052
court of common pleas shall issue an injunction to compel the 5053
members of the public body to comply with its provisions. 5054

(2)(a) If the court of common pleas issues an injunction 5055
pursuant to division (I)(1) of this section, the court shall order 5056
the public body that it enjoins to pay a civil forfeiture of five 5057
hundred dollars to the party that sought the injunction and shall 5058
award to that party all court costs and, subject to reduction as 5059
described in division (I)(2) of this section, reasonable 5060
attorney's fees. The court, in its discretion, may reduce an award 5061
of attorney's fees to the party that sought the injunction or not 5062
award attorney's fees to that party if the court determines both 5063

of the following: 5064

(i) That, based on the ordinary application of statutory law 5065
and case law as it existed at the time of violation or threatened 5066
violation that was the basis of the injunction, a well-informed 5067
public body reasonably would believe that the public body was not 5068
violating or threatening to violate this section; 5069

(ii) That a well-informed public body reasonably would 5070
believe that the conduct or threatened conduct that was the basis 5071
of the injunction would serve the public policy that underlies the 5072
authority that is asserted as permitting that conduct or 5073
threatened conduct. 5074

(b) If the court of common pleas does not issue an injunction 5075
pursuant to division (I)(1) of this section and the court 5076
determines at that time that the bringing of the action was 5077
frivolous conduct, as defined in division (A) of section 2323.51 5078
of the Revised Code, the court shall award to the public body all 5079
court costs and reasonable attorney's fees, as determined by the 5080
court. 5081

(3) Irreparable harm and prejudice to the party that sought 5082
the injunction shall be conclusively and irrebuttably presumed 5083
upon proof of a violation or threatened violation of this section. 5084

(4) A member of a public body who knowingly violates an 5085
injunction issued pursuant to division (I)(1) of this section may 5086
be removed from office by an action brought in the court of common 5087
pleas for that purpose by the prosecuting attorney or the attorney 5088
general. 5089

(J)(1) Pursuant to division (C) of section 5901.09 of the 5090
Revised Code, a veterans service commission shall hold an 5091
executive session for one or more of the following purposes unless 5092
an applicant requests a public hearing: 5093

(a) Interviewing an applicant for financial assistance under 5094

sections 5901.01 to 5901.15 of the Revised Code; 5095

(b) Discussing applications, statements, and other documents 5096
described in division (B) of section 5901.09 of the Revised Code; 5097

(c) Reviewing matters relating to an applicant's request for 5098
financial assistance under sections 5901.01 to 5901.15 of the 5099
Revised Code. 5100

(2) A veterans service commission shall not exclude an 5101
applicant for, recipient of, or former recipient of financial 5102
assistance under sections 5901.01 to 5901.15 of the Revised Code, 5103
and shall not exclude representatives selected by the applicant, 5104
recipient, or former recipient, from a meeting that the commission 5105
conducts as an executive session that pertains to the applicant's, 5106
recipient's, or former recipient's application for financial 5107
assistance. 5108

(3) A veterans service commission shall vote on the grant or 5109
denial of financial assistance under sections 5901.01 to 5901.15 5110
of the Revised Code only in an open meeting of the commission. The 5111
minutes of the meeting shall indicate the name, address, and 5112
occupation of the applicant, whether the assistance was granted or 5113
denied, the amount of the assistance if assistance is granted, and 5114
the votes for and against the granting of assistance. 5115

Sec. 121.35. (A) Subject to division (B) of this section, the 5116
following state agencies shall collaborate to revise and make more 5117
uniform the eligibility standards and eligibility determination 5118
procedures of programs the state agencies administer: 5119

(1) The department of aging; 5120

(2) ~~The department of alcohol and drug addiction services;~~ 5121

~~(3) The department of development services agency;~~ 5122

~~(4)~~(3) The department of developmental disabilities; 5123

(5) (4) The department of education;	5125
(6) (5) The department of health;	5126
(7) (6) The department of job and family services;	5127
(8) (7) <u>The department of medicaid;</u>	5128
(8) The department of mental health <u>mental health and</u>	5129
<u>addiction services;</u>	5130
(9) The rehabilitation services commission <u>opportunities for</u>	5131
<u>Ohioans with disabilities agency.</u>	5132
(B) In revising eligibility standards and eligibility	5133
determination procedures, a state agency shall not make any	5134
program's eligibility standards or eligibility determination	5135
procedures inconsistent with state or federal law. To the extent	5136
authorized by state and federal law, the revisions may provide for	5137
the state agencies to share administrative operations.	5138
Sec. 121.37. (A)(1) There is hereby created the Ohio family	5139
and children first cabinet council. The council shall be composed	5140
of the superintendent of public instruction, the administrator	5141
<u>executive director</u> of the rehabilitation services commission	5142
<u>opportunities for Ohioans with disabilities agency, the medicaid</u>	5143
<u>director,</u> and the directors of youth services, job and family	5144
services, mental health <u>mental health and addiction services,</u>	5145
health, alcohol and drug addiction services, developmental	5146
disabilities, aging, rehabilitation and correction, and budget and	5147
management. The chairperson of the council shall be the governor	5148
or the governor's designee and shall establish procedures for the	5149
council's internal control and management.	5150
The purpose of the cabinet council is to help families	5151
seeking government services. This section shall not be interpreted	5152
or applied to usurp the role of parents, but solely to streamline	5153
and coordinate existing government services for families seeking	5154

assistance for their children. 5155

(2) In seeking to fulfill its purpose, the council may do any 5156
of the following: 5157

(a) Advise and make recommendations to the governor and 5158
general assembly regarding the provision of services to children; 5159

(b) Advise and assess local governments on the coordination 5160
of service delivery to children; 5161

(c) Hold meetings at such times and places as may be 5162
prescribed by the council's procedures and maintain records of the 5163
meetings, except that records identifying individual children are 5164
confidential and shall be disclosed only as provided by law; 5165

(d) Develop programs and projects, including pilot projects, 5166
to encourage coordinated efforts at the state and local level to 5167
improve the state's social service delivery system; 5168

(e) Enter into contracts with and administer grants to county 5169
family and children first councils, as well as other county or 5170
multicounty organizations to plan and coordinate service delivery 5171
between state agencies and local service providers for families 5172
and children; 5173

(f) Enter into contracts with and apply for grants from 5174
federal agencies or private organizations; 5175

(g) Enter into interagency agreements to encourage 5176
coordinated efforts at the state and local level to improve the 5177
state's social service delivery system. The agreements may include 5178
provisions regarding the receipt, transfer, and expenditure of 5179
funds; 5180

(h) Identify public and private funding sources for services 5181
provided to alleged or adjudicated unruly children and children 5182
who are at risk of being alleged or adjudicated unruly children, 5183
including regulations governing access to and use of the services; 5184

(i) Collect information provided by local communities 5185
regarding successful programs for prevention, intervention, and 5186
treatment of unruly behavior, including evaluations of the 5187
programs; 5188

(j) Identify and disseminate publications regarding alleged 5189
or adjudicated unruly children and children who are at risk of 5190
being alleged or adjudicated unruly children and regarding 5191
programs serving those types of children; 5192

(k) Maintain an inventory of strategic planning facilitators 5193
for use by government or nonprofit entities that serve alleged or 5194
adjudicated unruly children or children who are at risk of being 5195
alleged or adjudicated unruly children. 5196

(3) The cabinet council shall provide for the following: 5197

(a) Reviews of service and treatment plans for children for 5198
which such reviews are requested; 5199

(b) Assistance as the council determines to be necessary to 5200
meet the needs of children referred by county family and children 5201
first councils; 5202

(c) Monitoring and supervision of a statewide, comprehensive, 5203
coordinated, multi-disciplinary, interagency system for infants 5204
and toddlers with developmental disabilities or delays and their 5205
families, as established pursuant to federal grants received and 5206
administered by the department of health for early intervention 5207
services under the "Individuals with Disabilities Education Act of 5208
2004," 118 Stat. 2744 20 U.S.C.A. 1400, as amended. 5209

(4) The cabinet council shall develop and implement the 5210
following: 5211

(a) An interagency process to select the indicators that will 5212
be used to measure progress toward increasing child well-being in 5213
the state and to update the indicators on an annual basis. The 5214

indicators shall focus on expectant parents and newborns thriving; 5215
infants and toddlers thriving; children being ready for school; 5216
children and youth succeeding in school; youth choosing healthy 5217
behaviors; and youth successfully transitioning into adulthood. 5218

(b) An interagency system to offer guidance and monitor 5219
progress toward increasing child well-being in the state and in 5220
each county; 5221

(c) An annual plan that identifies state-level agency efforts 5222
taken to ensure progress towards increasing child well-being in 5223
the state. 5224

On an annual basis, the cabinet council shall submit to the 5225
governor and the general assembly a report on the status of 5226
efforts to increase child well-being in the state. This report 5227
shall be made available to any other person on request. 5228

(B)(1) Each board of county commissioners shall establish a 5229
county family and children first council. The board may invite any 5230
local public or private agency or group that funds, advocates, or 5231
provides services to children and families to have a 5232
representative become a permanent or temporary member of its 5233
county council. Each county council must include the following 5234
individuals: 5235

(a) At least three individuals who are not employed by an 5236
agency represented on the council and whose families are or have 5237
received services from an agency represented on the council or 5238
another county's council. Where possible, the number of members 5239
representing families shall be equal to twenty per cent of the 5240
council's membership. 5241

(b) The director of the board of alcohol, drug addiction, and 5242
mental health services that serves the county, or, in the case of 5243
a county that has a board of alcohol and drug addiction services 5244
and a community mental health board, the directors of both boards. 5245

If a board of alcohol, drug addiction, and mental health services 5246
covers more than one county, the director may designate a person 5247
to participate on the county's council. 5248

(c) The health commissioner, or the commissioner's designee, 5249
of the board of health of each city and general health district in 5250
the county. If the county has two or more health districts, the 5251
health commissioner membership may be limited to the commissioners 5252
of the two districts with the largest populations. 5253

(d) The director of the county department of job and family 5254
services; 5255

(e) The executive director of the public children services 5256
agency; 5257

(f) The superintendent of the county board of developmental 5258
disabilities or, if the superintendent serves as superintendent of 5259
more than one county board of developmental disabilities, the 5260
superintendent's designee; 5261

(g) The superintendent of the city, exempted village, or 5262
local school district with the largest number of pupils residing 5263
in the county, as determined by the department of education, which 5264
shall notify each board of county commissioners of its 5265
determination at least biennially; 5266

(h) A school superintendent representing all other school 5267
districts with territory in the county, as designated at a 5268
biennial meeting of the superintendents of those districts; 5269

(i) A representative of the municipal corporation with the 5270
largest population in the county; 5271

(j) The president of the board of county commissioners or an 5272
individual designated by the board; 5273

(k) A representative of the regional office of the department 5274
of youth services; 5275

(l) A representative of the county's head start agencies, as 5276
defined in section 3301.32 of the Revised Code; 5277

(m) A representative of the county's early intervention 5278
collaborative established pursuant to the federal early 5279
intervention program operated under the "Individuals with 5280
Disabilities Education Act of 2004"; 5281

(n) A representative of a local nonprofit entity that funds, 5282
advocates, or provides services to children and families. 5283

Notwithstanding any other provision of law, the public 5284
members of a county council are not prohibited from serving on the 5285
council and making decisions regarding the duties of the council, 5286
including those involving the funding of joint projects and those 5287
outlined in the county's service coordination mechanism 5288
implemented pursuant to division (C) of this section. 5289

The cabinet council shall establish a state appeals process 5290
to resolve disputes among the members of a county council 5291
concerning whether reasonable responsibilities as members are 5292
being shared. The appeals process may be accessed only by a 5293
majority vote of the council members who are required to serve on 5294
the council. Upon appeal, the cabinet council may order that state 5295
funds for services to children and families be redirected to a 5296
county's board of county commissioners. 5297

The county's juvenile court judge senior in service or 5298
another judge of the juvenile court designated by the 5299
administrative judge or, where there is no administrative judge, 5300
by the judge senior in service shall serve as the judicial advisor 5301
to the county family and children first council. The judge may 5302
advise the county council on the court's utilization of resources, 5303
services, or programs provided by the entities represented by the 5304
members of the county council and how those resources, services, 5305
or programs assist the court in its administration of justice. 5306

Service of a judge as a judicial advisor pursuant to this section 5307
is a judicial function. 5308

(2) The purpose of the county council is to streamline and 5309
coordinate existing government services for families seeking 5310
services for their children. In seeking to fulfill its purpose, a 5311
county council shall provide for the following: 5312

(a) Referrals to the cabinet council of those children for 5313
whom the county council cannot provide adequate services; 5314

(b) Development and implementation of a process that annually 5315
evaluates and prioritizes services, fills service gaps where 5316
possible, and invents new approaches to achieve better results for 5317
families and children; 5318

(c) Participation in the development of a countywide, 5319
comprehensive, coordinated, multi-disciplinary, interagency system 5320
for infants and toddlers with developmental disabilities or delays 5321
and their families, as established pursuant to federal grants 5322
received and administered by the department of health for early 5323
intervention services under the "Individuals with Disabilities 5324
Education Act of 2004"; 5325

(d) Maintenance of an accountability system to monitor the 5326
county council's progress in achieving results for families and 5327
children; 5328

(e) Establishment of a mechanism to ensure ongoing input from 5329
a broad representation of families who are receiving services 5330
within the county system. 5331

(3) A county council shall develop and implement the 5332
following: 5333

(a) An interagency process to establish local indicators and 5334
monitor the county's progress toward increasing child well-being 5335
in the county; 5336

(b) An interagency process to identify local priorities to increase child well-being. The local priorities shall focus on expectant parents and newborns thriving; infants and toddlers thriving; children being ready for school; children and youth succeeding in school; youth choosing healthy behaviors; and youth successfully transitioning into adulthood and take into account the indicators established by the cabinet council under division (A)(4)(a) of this section.

(c) An annual plan that identifies the county's interagency efforts to increase child well-being in the county.

On an annual basis, the county council shall submit a report on the status of efforts by the county to increase child well-being in the county to the county's board of county commissioners and the cabinet council. This report shall be made available to any other person on request.

(4)(a) Except as provided in division (B)(4)(b) of this section, a county council shall comply with the policies, procedures, and activities prescribed by the rules or interagency agreements of a state department participating on the cabinet council whenever the county council performs a function subject to those rules or agreements.

(b) On application of a county council, the cabinet council may grant an exemption from any rules or interagency agreements of a state department participating on the council if an exemption is necessary for the council to implement an alternative program or approach for service delivery to families and children. The application shall describe the proposed program or approach and specify the rules or interagency agreements from which an exemption is necessary. The cabinet council shall approve or disapprove the application in accordance with standards and procedures it shall adopt. If an application is approved, the exemption is effective only while the program or approach is being

implemented, including a reasonable period during which the 5369
program or approach is being evaluated for effectiveness. 5370

(5)(a) Each county council shall designate an administrative 5371
agent for the council from among the following public entities: 5372
the board of alcohol, drug addiction, and mental health services, 5373
including a board of alcohol and drug addiction or a community 5374
mental health board if the county is served by separate boards; 5375
the board of county commissioners; any board of health of the 5376
county's city and general health districts; the county department 5377
of job and family services; the county agency responsible for the 5378
administration of children services pursuant to section 5153.15 of 5379
the Revised Code; the county board of developmental disabilities; 5380
any of the county's boards of education or governing boards of 5381
educational service centers; or the county's juvenile court. Any 5382
of the foregoing public entities, other than the board of county 5383
commissioners, may decline to serve as the council's 5384
administrative agent. 5385

A county council's administrative agent shall serve as the 5386
council's appointing authority for any employees of the council. 5387
The council shall file an annual budget with its administrative 5388
agent, with copies filed with the county auditor and with the 5389
board of county commissioners, unless the board is serving as the 5390
council's administrative agent. The council's administrative agent 5391
shall ensure that all expenditures are handled in accordance with 5392
policies, procedures, and activities prescribed by state 5393
departments in rules or interagency agreements that are applicable 5394
to the council's functions. 5395

The administrative agent of a county council shall send 5396
notice of a member's absence if a member listed in division (B)(1) 5397
of this section has been absent from either three consecutive 5398
meetings of the county council or a county council subcommittee, 5399
or from one-quarter of such meetings in a calendar year, whichever 5400

is less. The notice shall be sent to the board of county 5401
commissioners that establishes the county council and, for the 5402
members listed in divisions (B)(1)(b), (c), (e), and (l) of this 5403
section, to the governing board overseeing the respective entity; 5404
for the member listed in division (B)(1)(f) of this section, to 5405
the county board of developmental disabilities that employs the 5406
superintendent; for a member listed in division (B)(1)(g) or (h) 5407
of this section, to the school board that employs the 5408
superintendent; for the member listed in division (B)(1)(i) of 5409
this section, to the mayor of the municipal corporation; for the 5410
member listed in division (B)(1)(k) of this section, to the 5411
director of youth services; and for the member listed in division 5412
(B)(1)(n) of this section, to that member's board of trustees. 5413

The administrative agent for a county council may do any of 5414
the following on behalf of the council: 5415

(i) Enter into agreements or administer contracts with public 5416
or private entities to fulfill specific council business. Such 5417
agreements and contracts are exempt from the competitive bidding 5418
requirements of section 307.86 of the Revised Code if they have 5419
been approved by the county council and they are for the purchase 5420
of family and child welfare or child protection services or other 5421
social or job and family services for families and children. The 5422
approval of the county council is not required to exempt 5423
agreements or contracts entered into under section 5139.34, 5424
5139.41, or 5139.43 of the Revised Code from the competitive 5425
bidding requirements of section 307.86 of the Revised Code. 5426

(ii) As determined by the council, provide financial 5427
stipends, reimbursements, or both, to family representatives for 5428
expenses related to council activity; 5429

(iii) Receive by gift, grant, devise, or bequest any moneys, 5430
lands, or other property for the purposes for which the council is 5431
established. The agent shall hold, apply, and dispose of the 5432

moneys, lands, or other property according to the terms of the 5433
gift, grant, devise, or bequest. Any interest or earnings shall be 5434
treated in the same manner and are subject to the same terms as 5435
the gift, grant, devise, or bequest from which it accrues. 5436

(b)(i) If the county council designates the board of county 5437
commissioners as its administrative agent, the board may, by 5438
resolution, delegate any of its powers and duties as 5439
administrative agent to an executive committee the board 5440
establishes from the membership of the county council. The board 5441
shall name to the executive committee at least the individuals 5442
described in divisions (B)(1)(b) to (h) of this section and may 5443
appoint the president of the board or another individual as the 5444
chair of the executive committee. The executive committee must 5445
include at least one family county council representative who does 5446
not have a family member employed by an agency represented on the 5447
council. 5448

(ii) The executive committee may, with the approval of the 5449
board, hire an executive director to assist the county council in 5450
administering its powers and duties. The executive director shall 5451
serve in the unclassified civil service at the pleasure of the 5452
executive committee. The executive director may, with the approval 5453
of the executive committee, hire other employees as necessary to 5454
properly conduct the county council's business. 5455

(iii) The board may require the executive committee to submit 5456
an annual budget to the board for approval and may amend or repeal 5457
the resolution that delegated to the executive committee its 5458
authority as the county council's administrative agent. 5459

(6) Two or more county councils may enter into an agreement 5460
to administer their county councils jointly by creating a regional 5461
family and children first council. A regional council possesses 5462
the same duties and authority possessed by a county council, 5463
except that the duties and authority apply regionally rather than 5464

to individual counties. Prior to entering into an agreement to 5465
create a regional council, the members of each county council to 5466
be part of the regional council shall meet to determine whether 5467
all or part of the members of each county council will serve as 5468
members of the regional council. 5469

(7) A board of county commissioners may approve a resolution 5470
by a majority vote of the board's members that requires the county 5471
council to submit a statement to the board each time the council 5472
proposes to enter into an agreement, adopt a plan, or make a 5473
decision, other than a decision pursuant to section 121.38 of the 5474
Revised Code, that requires the expenditure of funds for two or 5475
more families. The statement shall describe the proposed 5476
agreement, plan, or decision. 5477

Not later than fifteen days after the board receives the 5478
statement, it shall, by resolution approved by a majority of its 5479
members, approve or disapprove the agreement, plan, or decision. 5480
Failure of the board to pass a resolution during that time period 5481
shall be considered approval of the agreement, plan, or decision. 5482

An agreement, plan, or decision for which a statement is 5483
required to be submitted to the board shall be implemented only if 5484
it is approved by the board. 5485

(C) Each county shall develop a county service coordination 5486
mechanism. The county service coordination mechanism shall serve 5487
as the guiding document for coordination of services in the 5488
county. For children who also receive services under the help me 5489
grow program, the service coordination mechanism shall be 5490
consistent with rules adopted by the department of health under 5491
section 3701.61 of the Revised Code. All family service 5492
coordination plans shall be developed in accordance with the 5493
county service coordination mechanism. The mechanism shall be 5494
developed and approved with the participation of the county 5495
entities representing child welfare; mental retardation and 5496

developmental disabilities; alcohol, drug addiction, and mental 5497
health services; health; juvenile judges; education; the county 5498
family and children first council; and the county early 5499
intervention collaborative established pursuant to the federal 5500
early intervention program operated under the "Individuals with 5501
Disabilities Education Act of 2004." The county shall establish an 5502
implementation schedule for the mechanism. The cabinet council may 5503
monitor the implementation and administration of each county's 5504
service coordination mechanism. 5505

Each mechanism shall include all of the following: 5506

(1) A procedure for an agency, including a juvenile court, or 5507
a family voluntarily seeking service coordination, to refer the 5508
child and family to the county council for service coordination in 5509
accordance with the mechanism; 5510

(2) A procedure ensuring that a family and all appropriate 5511
staff from involved agencies, including a representative from the 5512
appropriate school district, are notified of and invited to 5513
participate in all family service coordination plan meetings; 5514

(3) A procedure that permits a family to initiate a meeting 5515
to develop or review the family's service coordination plan and 5516
allows the family to invite a family advocate, mentor, or support 5517
person of the family's choice to participate in any such meeting; 5518

(4) A procedure for ensuring that a family service 5519
coordination plan meeting is conducted for each child who receives 5520
service coordination under the mechanism and for whom an emergency 5521
out-of-home placement has been made or for whom a nonemergency 5522
out-of-home placement is being considered. The meeting shall be 5523
conducted within ten days of an emergency out-of-home placement. 5524
The meeting shall be conducted before a nonemergency out-of-home 5525
placement. The family service coordination plan shall outline how 5526
the county council members will jointly pay for services, where 5527

applicable, and provide services in the least restrictive 5528
environment. 5529

(5) A procedure for monitoring the progress and tracking the 5530
outcomes of each service coordination plan requested in the county 5531
including monitoring and tracking children in out-of-home 5532
placements to assure continued progress, appropriateness of 5533
placement, and continuity of care after discharge from placement 5534
with appropriate arrangements for housing, treatment, and 5535
education; 5536

(6) A procedure for protecting the confidentiality of all 5537
personal family information disclosed during service coordination 5538
meetings or contained in the comprehensive family service 5539
coordination plan. 5540

(7) A procedure for assessing the needs and strengths of any 5541
child or family that has been referred to the council for service 5542
coordination, including a child whose parent or custodian is 5543
voluntarily seeking services, and for ensuring that parents and 5544
custodians are afforded the opportunity to participate; 5545

(8) A procedure for development of a family service 5546
coordination plan described in division (D) of this section; 5547

(9) A local dispute resolution process to serve as the 5548
process that must be used first to resolve disputes among the 5549
agencies represented on the county council concerning the 5550
provision of services to children, including children who are 5551
abused, neglected, dependent, unruly, alleged unruly, or 5552
delinquent children and under the jurisdiction of the juvenile 5553
court and children whose parents or custodians are voluntarily 5554
seeking services. The local dispute resolution process shall 5555
comply with sections 121.38, 121.381, and 121.382 of the Revised 5556
Code. The local dispute resolution process shall be used to 5557
resolve disputes between a child's parents or custodians and the 5558

county council regarding service coordination. The county council 5559
shall inform the parents or custodians of their right to use the 5560
dispute resolution process. Parents or custodians shall use 5561
existing local agency grievance procedures to address disputes not 5562
involving service coordination. The dispute resolution process is 5563
in addition to and does not replace other rights or procedures 5564
that parents or custodians may have under other sections of the 5565
Revised Code. 5566

The cabinet council shall adopt rules in accordance with 5567
Chapter 119. of the Revised Code establishing an administrative 5568
review process to address problems that arise concerning the 5569
operation of a local dispute resolution process. 5570

Nothing in division (C)(4) of this section shall be 5571
interpreted as overriding or affecting decisions of a juvenile 5572
court regarding an out-of-home placement, long-term placement, or 5573
emergency out-of-home placement. 5574

(D) Each county shall develop a family service coordination 5575
plan that does all of the following: 5576

(1) Designates service responsibilities among the various 5577
state and local agencies that provide services to children and 5578
their families, including children who are abused, neglected, 5579
dependent, unruly, or delinquent children and under the 5580
jurisdiction of the juvenile court and children whose parents or 5581
custodians are voluntarily seeking services; 5582

(2) Designates an individual, approved by the family, to 5583
track the progress of the family service coordination plan, 5584
schedule reviews as necessary, and facilitate the family service 5585
coordination plan meeting process; 5586

(3) Ensures that assistance and services to be provided are 5587
responsive to the strengths and needs of the family, as well as 5588
the family's culture, race, and ethnic group, by allowing the 5589

family to offer information and suggestions and participate in 5590
decisions. Identified assistance and services shall be provided in 5591
the least restrictive environment possible. 5592

(4) Includes a process for dealing with a child who is 5593
alleged to be an unruly child. The process shall include methods 5594
to divert the child from the juvenile court system; 5595

(5) Includes timelines for completion of goals specified in 5596
the plan with regular reviews scheduled to monitor progress toward 5597
those goals; 5598

(6) Includes a plan for dealing with short-term crisis 5599
situations and safety concerns. 5600

(E)(1) The process provided for under division (D)(4) of this 5601
section may include, but is not limited to, the following: 5602

(a) Designation of the person or agency to conduct the 5603
assessment of the child and the child's family as described in 5604
division (C)(7) of this section and designation of the instrument 5605
or instruments to be used to conduct the assessment; 5606

(b) An emphasis on the personal responsibilities of the child 5607
and the parental responsibilities of the parents, guardian, or 5608
custodian of the child; 5609

(c) Involvement of local law enforcement agencies and 5610
officials. 5611

(2) The method to divert a child from the juvenile court 5612
system that must be included in the service coordination process 5613
may include, but is not limited to, the following: 5614

(a) The preparation of a complaint under section 2151.27 of 5615
the Revised Code alleging that the child is an unruly child and 5616
notifying the child and the parents, guardian, or custodian that 5617
the complaint has been prepared to encourage the child and the 5618
parents, guardian, or custodian to comply with other methods to 5619

divert the child from the juvenile court system;	5620
(b) Conducting a meeting with the child, the parents, guardian, or custodian, and other interested parties to determine the appropriate methods to divert the child from the juvenile court system;	5621 5622 5623 5624
(c) A method to provide to the child and the child's family a short-term respite from a short-term crisis situation involving a confrontation between the child and the parents, guardian, or custodian;	5625 5626 5627 5628
(d) A program to provide a mentor to the child or the parents, guardian, or custodian;	5629 5630
(e) A program to provide parenting education to the parents, guardian, or custodian;	5631 5632
(f) An alternative school program for children who are truant from school, repeatedly disruptive in school, or suspended or expelled from school;	5633 5634 5635
(g) Other appropriate measures, including, but not limited to, any alternative methods to divert a child from the juvenile court system that are identified by the Ohio family and children first cabinet council.	5636 5637 5638 5639
(F) Each county may review and revise the service coordination process described in division (D) of this section based on the availability of funds under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, or to the extent resources are available from any other federal, state, or local funds.	5640 5641 5642 5643 5644 5645
Sec. 121.372. (A) As used in this section, "substitute care provider" means any of the following:	5646 5647
(1) An alcohol and drug <u>A community</u> addiction program <u>services provider</u> subject to certification under section 3793.06	5648 5649

5119.36 of the Revised Code; 5650

(2) An institution or association subject to certification 5651
under section 5103.03 of the Revised Code; 5652

(3) A residential facility subject to licensure under section 5653
~~5119.22~~ 5119.34 of the Revised Code; 5654

(4) A residential facility subject to licensure under section 5655
5123.19 of the Revised Code. 5656

(B) Not later than ninety days after ~~the effective date of~~ 5657
~~this section~~ March 18, 1999, the members of the Ohio family and 5658
children first cabinet council, other than the director of budget 5659
and management, shall enter into an agreement to establish an 5660
office to perform the duties prescribed by division (C) of this 5661
section. The agreement shall specify one of the departments 5662
represented on the council as the department responsible for 5663
housing and supervising the office. The agreement shall include 5664
the recommendation of the council for funding the office. 5665

(C) The office established pursuant to the agreement entered 5666
into under this section shall review rules governing the 5667
certification and licensure of substitute care providers and 5668
determine which of the rules can be made substantively identical 5669
or more similar in order to minimize the number of differing 5670
certification and licensure standards and simplify the 5671
certification or licensure process for substitute care providers 5672
seeking certification or licensure from two or more of the 5673
departments represented on the council. The office shall provide 5674
county family and children first councils, substitute care 5675
providers, and persons interested in substitute care providers the 5676
opportunity to help the office with the review and determination. 5677
The office shall report its findings to the council. Each of the 5678
departments represented on the council that has adopted rules 5679
governing the certification or licensure of substitute care 5680

providers shall review the report and amend the rules as that 5681
department considers appropriate, except that no rule shall be 5682
amended so as to make it inconsistent with substitute care 5683
provider certification or licensure procedures and standards 5684
established by federal or state law. A department shall give 5685
priority to amendments that will not increase the department's 5686
administrative costs. In amending a rule, a department shall 5687
comply with Chapter 119. or section 111.15 of the Revised Code, as 5688
required by the Revised Code section governing the adoption of the 5689
particular rule. 5690

(D) In accordance with section 124.27 of the Revised Code, 5691
the council shall select a coordinator to oversee the office 5692
established pursuant to the agreement entered into under this 5693
section. The coordinator shall be in the classified service. In 5694
addition to overseeing the office, the coordinator shall perform 5695
any other duties the council assigns to the coordinator. The 5696
duties the council assigns to the coordinator shall be related to 5697
the duties of the office under division (C) of this section. 5698

Sec. 122.075. (A) As used in this section: 5699

(1) "Alternative fuel" has the same meaning as in section 5700
125.831 of the Revised Code. 5701

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 5702
fuel that is derived from vegetable oils or animal fats, or any 5703
combination of those reagents, and that meets American society for 5704
testing and materials specification D6751-03a for biodiesel fuel 5705
(B100) blend stock distillate fuels. 5706

(3) "Diesel fuel" and "gasoline" have the same meanings as in 5707
section 5735.01 of the Revised Code. 5708

(4) "Ethanol" has the same meaning as in section 5733.46 of 5709
the Revised Code. 5710

(5) "Blended biodiesel" means diesel fuel containing at least 5711
twenty per cent biodiesel by volume. 5712

(6) "Blended gasoline" means gasoline containing at least 5713
eighty-five per cent ethanol by volume. 5714

(7) "Incremental cost" means either of the following: 5715

(a) The difference in cost between blended gasoline and 5716
gasoline containing ten per cent or less ethanol at the time that 5717
the blended gasoline is purchased; 5718

(b) The difference in cost between blended biodiesel and 5719
diesel fuel containing two per cent or less biodiesel at the time 5720
that the blended biodiesel is purchased. 5721

(B) For the purpose of improving the air quality in this 5722
state, the director of development services shall establish an 5723
alternative fuel transportation program under which the director 5724
may make grants and loans to businesses, nonprofit organizations, 5725
public school systems, or local governments for the purchase and 5726
installation of alternative fuel refueling or distribution 5727
facilities and terminals, for the purchase and use of alternative 5728
fuel, to pay the cost of fleet conversion, and to pay the costs of 5729
educational and promotional materials and activities intended for 5730
prospective alternative fuel consumers, fuel marketers, and others 5731
in order to increase the availability and use of alternative fuel. 5732

(C) The director, in consultation with the director of 5733
agriculture, shall adopt rules in accordance with Chapter 119. of 5734
the Revised Code that are necessary for the administration of the 5735
alternative fuel transportation program. The rules shall establish 5736
at least all of the following: 5737

(1) An application form and procedures governing the 5738
application process for receiving funds under the program; 5739

(2) A procedure for prioritizing the award of grants and 5740

loans under the program. The procedures shall give preference to 5741
all of the following: 5742

(a) Publicly accessible refueling facilities; 5743

(b) Entities applying to the program that have secured 5744
funding from other sources, including, but not limited to, private 5745
or federal incentives; 5746

(c) Entities that have presented compelling evidence of 5747
demand in the market in which the facilities or terminals will be 5748
located; 5749

(d) Entities that have committed to utilizing purchased or 5750
installed facilities or terminals for the greatest number of 5751
years; 5752

(e) Entities that will be purchasing or installing facilities 5753
or terminals for any type of alternative fuel. 5754

(3) A requirement that the maximum incentive for the purchase 5755
and installation of an alternative fuel refueling or distribution 5756
facility or terminal be eighty per cent of the cost of the 5757
facility or terminal, except that at least twenty per cent of the 5758
total net cost of the facility or terminal shall be incurred by 5759
the recipient and not compensated for by any other source; 5760

(4) A requirement that the maximum incentive for the purchase 5761
of alternative fuel be eighty per cent of the cost of the fuel or, 5762
in the case of blended biodiesel or blended gasoline, eighty per 5763
cent of the incremental cost of the blended biodiesel or blended 5764
gasoline; 5765

(5) Any other criteria, procedures, or guidelines that the 5766
director determines are necessary to administer the program, 5767
including fees, charges, interest rates, and payment schedules. 5768

(D) An applicant for a grant or loan under this section that 5769
sells motor vehicle fuel at retail shall agree that if the 5770

applicant receives funding, the applicant will report to the 5771
director the gallon or gallon equivalent amounts of alternative 5772
fuel the applicant sells at retail in this state for a period of 5773
three years after the project is completed. 5774

The director shall enter into a written confidentiality 5775
agreement with the applicant regarding the gallon or gallon 5776
equivalent amounts sold as described in this division, and upon 5777
execution of the agreement this information is not a public 5778
record. 5779

(E) There is hereby created in the state treasury the 5780
alternative fuel transportation fund. The fund shall consist of 5781
money transferred to the fund under division ~~(C)~~(B) of section 5782
125.836 and under division (B)(2) of section 3706.27 of the 5783
Revised Code, money that is appropriated to it by the general 5784
assembly, ~~and~~ money as may be specified by the general assembly 5785
from the advanced energy fund created by section 4928.61 of the 5786
Revised Code, and all money received from the repayment of loans 5787
made from the fund or in the event of a default on any such loan. 5788
Money in the fund shall be used to make grants and loans under the 5789
alternative fuel transportation program and by the director in the 5790
administration of that program. 5791

Sec. 122.17. (A) As used in this section: 5792

(1) "Income tax revenue" means the total amount withheld 5793
under section 5747.06 of the Revised Code by the taxpayer during 5794
the taxable year, or during the calendar year that includes the 5795
tax period, from the compensation of each employee or each 5796
home-based employee employed in the project to the extent the 5797
employee's withholdings are not used to determine the credit under 5798
section 122.171 of the Revised Code. "Income tax revenue" excludes 5799
amounts withheld before the day the taxpayer becomes eligible for 5800
the credit. 5801

(2) "Baseline income tax revenue" means income tax revenue 5802
except that the applicable withholding period is the twelve months 5803
immediately preceding the date the tax credit authority approves 5804
the taxpayer's application or the date the tax credit authority 5805
receives the recommendation described in division (C)(2)(a) of 5806
this section, whichever occurs first, multiplied by the sum of one 5807
plus an annual pay increase factor to be determined by the tax 5808
credit authority. If the taxpayer becomes eligible for the credit 5809
after the first day of the taxpayer's taxable year or after the 5810
first day of the calendar year that includes the tax period, the 5811
taxpayer's baseline income tax revenue for the first such taxable 5812
or calendar year of credit eligibility shall be reduced in 5813
proportion to the number of days during the taxable or calendar 5814
year for which the taxpayer was not eligible for the credit. For 5815
subsequent taxable or calendar years, "baseline income tax 5816
revenue" equals the unreduced baseline income tax revenue for the 5817
preceding taxable or calendar year multiplied by the sum of one 5818
plus the pay increase factor. 5819

(3) "Excess income tax revenue" means income tax revenue 5820
minus baseline income tax revenue. 5821

(4) "Home-based employee" means an employee whose services 5822
are performed primarily from the employee's residence in this 5823
state exclusively for the benefit of the project and whose rate of 5824
pay is at least one hundred thirty-one per cent of the federal 5825
minimum wage under 29 U.S.C. 206. 5826

(B) The tax credit authority may make grants under this 5827
section to foster job creation in this state. Such a grant shall 5828
take the form of a refundable credit allowed against the tax 5829
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 5830
or levied under Chapter 5751. of the Revised Code. The credit 5831
shall be claimed for the taxable years or tax periods specified in 5832
the taxpayer's agreement with the tax credit authority under 5833

division (D) of this section. With respect to taxes imposed under 5834
section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the 5835
Revised Code, the credit shall be claimed in the order required 5836
under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised 5837
Code. The amount of the credit available for a taxable year or for 5838
a calendar year that includes a tax period equals the excess 5839
income tax revenue for that year multiplied by the percentage 5840
specified in the agreement with the tax credit authority. Any 5841
credit granted under this section against the tax imposed by 5842
section 5733.06 or 5747.02 of the Revised Code, to the extent not 5843
fully utilized against such tax for taxable years ending prior to 5844
2008, shall automatically be converted without any action taken by 5845
the tax credit authority to a credit against the tax levied under 5846
Chapter 5751. of the Revised Code for tax periods beginning on or 5847
after July 1, 2008, provided that the person to whom the credit 5848
was granted is subject to such tax. The converted credit shall 5849
apply to those calendar years in which the remaining taxable years 5850
specified in the agreement end. 5851

(C)(1) A taxpayer or potential taxpayer who proposes a 5852
project to create new jobs in this state may apply to the tax 5853
credit authority to enter into an agreement for a tax credit under 5854
this section. 5855

An application shall not propose to include both home-based 5856
employees and employees who are not home-based employees in the 5857
computation of income tax revenue for the purposes of the same tax 5858
credit agreement. If a taxpayer or potential taxpayer employs both 5859
home-based employees and employees who are not home-based 5860
employees in a project, the taxpayer shall submit separate 5861
applications for separate tax credit agreements for the project, 5862
one of which shall include home-based employees in the computation 5863
of income tax revenue and one of which shall include all other 5864
employees in the computation of income tax revenue. 5865

The director of development services shall prescribe the form 5866
of the application. After receipt of an application, the authority 5867
may enter into an agreement with the taxpayer for a credit under 5868
this section if it determines all of the following: 5869

(a) The taxpayer's project will increase payroll and income 5870
tax revenue; 5871

(b) The taxpayer's project is economically sound and will 5872
benefit the people of this state by increasing opportunities for 5873
employment and strengthening the economy of this state; 5874

(c) Receiving the tax credit is a major factor in the 5875
taxpayer's decision to go forward with the project. 5876

(2)(a) A taxpayer that chooses to begin the project prior to 5877
receiving the determination of the authority may, upon submitting 5878
the taxpayer's application to the authority, request that the 5879
chief investment officer of the nonprofit corporation formed under 5880
section 187.01 of the Revised Code and the director review the 5881
taxpayer's application and recommend to the authority that the 5882
taxpayer's application be considered. As soon as possible after 5883
receiving such a request, the chief investment officer and the 5884
director shall review the taxpayer's application and, if they 5885
determine that the application warrants consideration by the 5886
authority, make that recommendation to the authority not later 5887
than six months after the application is received by the 5888
authority. 5889

(b) The authority shall consider any taxpayer's application 5890
for which it receives a recommendation under division (C)(2)(a) of 5891
this section. If the authority determines that the taxpayer does 5892
not meet all of the criteria set forth in division (C)(1) of this 5893
section, the authority and the development services agency shall 5894
proceed in accordance with rules adopted by the director pursuant 5895
to division (I) of this section. 5896

(D) An agreement under this section shall include all of the 5897
following: 5898

(1) A detailed description of the project that is the subject 5899
of the agreement; 5900

(2)(a) The term of the tax credit, which, except as provided 5901
in division (D)(2)(b) of this section, shall not exceed fifteen 5902
years, and the first taxable year, or first calendar year that 5903
includes a tax period, for which the credit may be claimed; 5904

(b) If the tax credit is computed on the basis of home-based 5905
employees, the term of the credit shall expire on or before the 5906
last day of the taxable or calendar year ending before the 5907
beginning of the seventh year after September 6, 2012, the 5908
effective date of H.B. 327 of the 129th general assembly~~+~~. 5909

(3) A requirement that the taxpayer shall maintain operations 5910
at the project location for at least the greater of seven years or 5911
the term of the credit plus three years; 5912

(4) The percentage, as determined by the tax credit 5913
authority, of excess income tax revenue that will be allowed as 5914
the amount of the credit for each taxable year or for each 5915
calendar year that includes a tax period; 5916

(5) The pay increase factor to be applied to the taxpayer's 5917
baseline income tax revenue; 5918

(6) A requirement that the taxpayer annually shall report to 5919
the director of development services employment, tax withholding, 5920
investment, the provision of health care benefits and tuition 5921
reimbursement if required in the agreement, and other information 5922
the director needs to perform the director's duties under this 5923
section; 5924

(7) A requirement that the director of development services 5925
annually review the information reported under division (D)(6) of 5926

this section and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year;

(8) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project location unless the director of development services determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment position in the first political subdivision is replaced.

(9) If the tax credit is computed on the basis of home-based employees, that the tax credit may not be claimed by the taxpayer until the taxable year or tax period in which the taxpayer employs at least two hundred employees more than the number of employees the taxpayer employed on June 30, 2011.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of

the project consisting of the nonretail facilities is eligible for 5958
a tax credit and only the excess income tax revenue from the 5959
nonretail facilities shall be considered when computing the amount 5960
of the tax credit. If a warehouse facility is part of a 5961
point-of-final-purchase retail facility and supplies only that 5962
facility, the warehouse facility is not eligible for a tax credit. 5963
Catalog distribution centers are not considered 5964
point-of-final-purchase retail facilities for the purposes of this 5965
division, and are eligible for tax credits under this section. 5966

(G) Financial statements and other information submitted to 5967
the development services agency or the tax credit authority by an 5968
applicant or recipient of a tax credit under this section, and any 5969
information taken for any purpose from such statements or 5970
information, are not public records subject to section 149.43 of 5971
the Revised Code. However, the chairperson of the authority may 5972
make use of the statements and other information for purposes of 5973
issuing public reports or in connection with court proceedings 5974
concerning tax credit agreements under this section. Upon the 5975
request of the tax commissioner or, if the applicant or recipient 5976
is an insurance company, upon the request of the superintendent of 5977
insurance, the chairperson of the authority shall provide to the 5978
commissioner or superintendent any statement or information 5979
submitted by an applicant or recipient of a tax credit in 5980
connection with the credit. The commissioner or superintendent 5981
shall preserve the confidentiality of the statement or 5982
information. 5983

(H) A taxpayer claiming a credit under this section shall 5984
submit to the tax commissioner or, if the taxpayer is an insurance 5985
company, to the superintendent of insurance, a copy of the 5986
director of development services' certificate of verification 5987
under division (D)(7) of this section with the taxpayer's tax 5988
report or return for the taxable year or for the calendar year 5989

that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within sixty days after the commissioner or superintendent requests it.

(I) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules that establish a procedure to be followed by the tax credit authority and the development services agency in the event the authority considers a taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section but does not approve it. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the business assistance fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report

required under division (D)(6) of this section. The election 6022
applies to and is irrevocable for the credit for which the report 6023
is submitted. If the election is made, the credit shall be 6024
apportioned among those persons in the same proportions as those 6025
in which the income or profit is distributed. 6026

(K) If the director of development services determines that a 6027
taxpayer who has received a credit under this section is not 6028
complying with the requirement under division (D)(3) of this 6029
section, the director shall notify the tax credit authority of the 6030
noncompliance. After receiving such a notice, and after giving the 6031
taxpayer an opportunity to explain the noncompliance, the tax 6032
credit authority may require the taxpayer to refund to this state 6033
a portion of the credit in accordance with the following: 6034

(1) If the taxpayer maintained operations at the project 6035
location for a period less than or equal to the term of the 6036
credit, an amount not exceeding one hundred per cent of the sum of 6037
any credits allowed and received under this section; 6038

(2) If the taxpayer maintained operations at the project 6039
location for a period longer than the term of the credit, but less 6040
than the greater of seven years or the term of the credit plus 6041
three years, an amount not exceeding seventy-five per cent of the 6042
sum of any credits allowed and received under this section. 6043

In determining the portion of the tax credit to be refunded 6044
to this state, the tax credit authority shall consider the effect 6045
of market conditions on the taxpayer's project and whether the 6046
taxpayer continues to maintain other operations in this state. 6047
After making the determination, the authority shall certify the 6048
amount to be refunded to the tax commissioner or superintendent of 6049
insurance, as appropriate. If the amount is certified to the 6050
commissioner, the commissioner shall make an assessment for that 6051
amount against the taxpayer under Chapter 5726., 5733., 5747., or 6052
5751. of the Revised Code. If the amount is certified to the 6053

superintendent, the superintendent shall make an assessment for 6054
that amount against the taxpayer under Chapter 5725. or 5729. of 6055
the Revised Code. The time limitations on assessments under those 6056
chapters do not apply to an assessment under this division, but 6057
the commissioner or superintendent, as appropriate, shall make the 6058
assessment within one year after the date the authority certifies 6059
to the commissioner or superintendent the amount to be refunded. 6060

(L) On or before the first day of August each year, the 6061
director of development services shall submit a report to the 6062
governor, the president of the senate, and the speaker of the 6063
house of representatives on the tax credit program under this 6064
section. The report shall include information on the number of 6065
agreements that were entered into under this section during the 6066
preceding calendar year, a description of the project that is the 6067
subject of each such agreement, and an update on the status of 6068
projects under agreements entered into before the preceding 6069
calendar year. 6070

(M) There is hereby created the tax credit authority, which 6071
consists of the director of development services and four other 6072
members appointed as follows: the governor, the president of the 6073
senate, and the speaker of the house of representatives each shall 6074
appoint one member who shall be a specialist in economic 6075
development; the governor also shall appoint a member who is a 6076
specialist in taxation. Of the initial appointees, the members 6077
appointed by the governor shall serve a term of two years; the 6078
members appointed by the president of the senate and the speaker 6079
of the house of representatives shall serve a term of four years. 6080
Thereafter, terms of office shall be for four years. Initial 6081
appointments to the authority shall be made within thirty days 6082
after January 13, 1993. Each member shall serve on the authority 6083
until the end of the term for which the member was appointed. 6084
Vacancies shall be filled in the same manner provided for original 6085

appointments. Any member appointed to fill a vacancy occurring 6086
prior to the expiration of the term for which the member's 6087
predecessor was appointed shall hold office for the remainder of 6088
that term. Members may be reappointed to the authority. Members of 6089
the authority shall receive their necessary and actual expenses 6090
while engaged in the business of the authority. The director of 6091
development services shall serve as chairperson of the authority, 6092
and the members annually shall elect a vice-chairperson from among 6093
themselves. Three members of the authority constitute a quorum to 6094
transact and vote on the business of the authority. The majority 6095
vote of the membership of the authority is necessary to approve 6096
any such business, including the election of the vice-chairperson. 6097

The director of development services may appoint a 6098
professional employee of the development services agency to serve 6099
as the director's substitute at a meeting of the authority. The 6100
director shall make the appointment in writing. In the absence of 6101
the director from a meeting of the authority, the appointed 6102
substitute shall serve as chairperson. In the absence of both the 6103
director and the director's substitute from a meeting, the 6104
vice-chairperson shall serve as chairperson. 6105

(N) For purposes of the credits granted by this section 6106
against the taxes imposed under sections 5725.18 and 5729.03 of 6107
the Revised Code, "taxable year" means the period covered by the 6108
taxpayer's annual statement to the superintendent of insurance. 6109

(O) On or before the first day of ~~January~~ March of each of 6110
the ~~six~~ five calendar years ~~following the year in which H.B. 327~~ 6111
~~of the 129th general assembly becomes effective~~ beginning with 6112
2014, each taxpayer subject to an agreement with the tax credit 6113
authority under this section on the basis of home-based employees 6114
shall report the number of home-based employees and other 6115
employees employed by the taxpayer in this state to the ~~department~~ 6116
~~of~~ development services agency. 6117

(P) On or before the first day of January of ~~the seventh~~ 6118
~~calendar year following the year in which H.B. 327 of the 129th~~ 6119
~~general assembly became effective~~ 2019, the director of 6120
development services shall submit a report to the governor, the 6121
president of the senate, and the speaker of the house of 6122
representatives on the effect of agreements entered into under 6123
this section in which the taxpayer included home-based employees 6124
in the computation of income tax revenue. The report shall include 6125
information on the number of such agreements that were entered 6126
into in the preceding six years, a description of the projects 6127
that were the subjects of such agreements, and an analysis of 6128
nationwide home-based employment trends, including the number of 6129
home-based jobs created from July 1, 2011, through June 30, 2017, 6130
and a description of any home-based employment tax incentives 6131
provided by other states during that time. 6132

(Q) The director of development services may require any 6133
agreement entered into under this section for a tax credit 6134
computed on the basis of home-based employees to contain a 6135
provision that the taxpayer makes available health care benefits 6136
and tuition reimbursement to all employees. 6137

Sec. 122.175. (A) As used in this section: 6138

(1) "Capital investment project" means a plan of investment 6139
at a project site for the acquisition, construction, renovation, 6140
expansion, replacement, or repair of a computer data center or of 6141
computer data center equipment, but does not include any of the 6142
following: 6143

(a) Project costs paid before a date determined by the tax 6144
credit authority for each capital investment project; 6145

(b) Payments made to a related member as defined in section 6146
5733.042 of the Revised Code or to a consolidated elected taxpayer 6147
or a combined taxpayer as defined in section 5751.01 of the 6148

Revised Code. 6149

(2) "Computer data center" means a facility used or to be 6150
used primarily to house computer data center equipment used or to 6151
be used in conducting a computer data center business, as 6152
determined by the tax credit authority. 6153

(3) "Computer data center business" means, as may be further 6154
determined by the tax credit authority, a business that provides 6155
electronic information services as defined in ~~division (Y)(1)(c)~~ 6156
~~of~~ section ~~5739.01~~ 5739.071 of the Revised Code. "Computer data 6157
center business" does not include providing electronic publishing 6158
as defined in ~~division (LLL)~~ ~~of that~~ section 5739.01 of the 6159
Revised Code. 6160

(4) "Computer data center equipment" means tangible personal 6161
property used or to be used for any of the following: 6162

(a) To conduct a computer data center business, including 6163
equipment cooling systems to manage the performance of computer 6164
data center equipment; 6165

(b) To generate, transform, transmit, distribute, or manage 6166
electricity necessary to operate the tangible personal property 6167
used or to be used in conducting a computer data center business; 6168

(c) As building and construction materials sold to 6169
construction contractors for incorporation into a computer data 6170
center. 6171

(5) "Eligible computer data center" means a computer data 6172
center that satisfies all of the following requirements: 6173

(a) The taxpayer will make payments for a capital investment 6174
project of at least one hundred million dollars in the aggregate 6175
at the project site during a period of three consecutive calendar 6176
years; 6177

(b) The taxpayer will pay annual compensation that is subject 6178

to the withholding obligation imposed under section 5747.06 of the Revised Code of at least five million dollars to employees employed at the project site for the term of the agreement.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Project site," "related member," and "tax credit authority" have the same meanings as in sections 122.17 and 122.171 of the Revised Code.

(8) "Taxpayer" means any person subject to the taxes imposed under Chapters 5739. and 5741. of the Revised Code.

(B) The tax credit authority may completely or partially exempt from the taxes levied under Chapters 5739. and 5741. of the Revised Code the sale, storage, use, or other consumption of computer data center equipment used or to be used at an eligible computer data center. Any such exemption shall extend to charges for the delivery, installation, or repair of the computer data center equipment subject to the exemption under this section.

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at the eligible computer data center. The director of development services shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development services, each of whom shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and any affected political subdivisions and submit to the authority a summary of

their determinations and recommendations. 6210

(D) Upon review and consideration of such determinations and 6211
recommendations, the tax credit authority may enter into an 6212
agreement with the taxpayer for a complete or partial exemption 6213
from the taxes imposed under Chapters 5739. and 5741. of the 6214
Revised Code on computer data center equipment used or to be used 6215
at an eligible computer data center if the authority determines 6216
all of the following: 6217

(1) The taxpayer's capital investment project for the 6218
eligible computer data center will increase payroll and the amount 6219
of income taxes to be withheld from employee compensation pursuant 6220
to section 5747.06 of the Revised Code. 6221

(2) The taxpayer is economically sound and has the ability to 6222
complete the proposed capital investment project. 6223

(3) The taxpayer intends to and has the ability to maintain 6224
operations at the project site for the term of the agreement. 6225

(4) Receiving the exemption is a major factor in the 6226
taxpayer's decision to begin, continue with, or complete the 6227
capital investment project. 6228

(E) An agreement entered into under this section shall 6229
include all of the following: 6230

(1) A detailed description of the capital investment project 6231
that is the subject of the agreement, including the amount of the 6232
investment, the period over which the investment has been or is 6233
being made, the annual compensation to be paid by the taxpayer to 6234
its employees at the project site, and the anticipated amount of 6235
income taxes to be withheld from employee compensation pursuant to 6236
section 5747.06 of the Revised Code. 6237

(2) The percentage of the exemption from the taxes imposed 6238
under Chapters 5739. and 5741. of the Revised Code for the 6239

computer data center equipment used or to be used at the eligible 6240
computer data center, the length of time the computer data center 6241
equipment will be exempted, and the first date on which the 6242
exemption applies. 6243

(3) A requirement that the taxpayer maintain the computer 6244
data center as an eligible computer data center during the term of 6245
the agreement and that the taxpayer maintain operations at the 6246
eligible computer data center during that term. 6247

(4) A requirement that during each year of the term of the 6248
agreement the taxpayer pay annual compensation that is subject to 6249
the withholding obligation imposed under section 5747.06 of the 6250
Revised Code of at least five million dollars to its employees at 6251
the eligible computer data center. 6252

(5) A requirement that the taxpayer annually report to the 6253
director of development services employment, tax withholding, 6254
capital investment, and other information required by the director 6255
to perform the director's duties under this section. 6256

(6) A requirement that the director of development services 6257
annually review the annual reports of the taxpayer to verify the 6258
information reported under division (E)(5) of this section and 6259
compliance with the agreement. Upon verification, the director 6260
shall issue a certificate to the taxpayer stating that the 6261
information has been verified and that the taxpayer remains 6262
eligible for the exemption specified in the agreement. 6263

(7) A provision providing that the taxpayer may not relocate 6264
a substantial number of employment positions from elsewhere in 6265
this state to the project site unless the director of development 6266
services determines that the taxpayer notified the legislative 6267
authority of the county, township, or municipal corporation from 6268
which the employment positions would be relocated. For purposes of 6269
this paragraph, the movement of an employment position from one 6270

political subdivision to another political subdivision shall be 6271
considered a relocation of an employment position unless the 6272
movement is confined to the project site. The transfer of an 6273
employment position from one political subdivision to another 6274
political subdivision shall not be considered a relocation of an 6275
employment position if the employment position in the first 6276
political subdivision is replaced by another employment position. 6277

(8) A waiver by the taxpayer of any limitations periods 6278
relating to assessments or adjustments resulting from the 6279
taxpayer's failure to comply with the agreement. 6280

(F) The term of an agreement under this section shall be 6281
determined by the tax credit authority, and the amount of the 6282
exemption shall not exceed one hundred per cent of such taxes that 6283
would otherwise be owed in respect to the exempted computer data 6284
center equipment. 6285

(G) If a taxpayer fails to meet or comply with any condition 6286
or requirement set forth in an agreement under this section, the 6287
tax credit authority may amend the agreement to reduce the 6288
percentage of the exemption or term during which the exemption 6289
applies to the computer data center equipment used or to be used 6290
at an eligible computer data center. The reduction of the 6291
percentage or term may take effect in the current calendar year. 6292

(H) Financial statements and other information submitted to 6293
the ~~department of~~ development services agency or the tax credit 6294
authority by an applicant for or recipient of an exemption under 6295
this section, and any information taken for any purpose from such 6296
statements or information, are not public records subject to 6297
section 149.43 of the Revised Code. However, the chairperson of 6298
the authority may make use of the statements and other information 6299
for purposes of issuing public reports or in connection with court 6300
proceedings concerning tax exemption agreements under this 6301
section. Upon the request of the tax commissioner, the chairperson 6302

of the authority shall provide to the tax commissioner any 6303
statement or other information submitted by an applicant for or 6304
recipient of an exemption under this section. The tax commissioner 6305
shall preserve the confidentiality of the statement or other 6306
information. 6307

(I) The tax commissioner shall issue a direct payment permit 6308
under section 5739.031 of the Revised Code to a taxpayer that 6309
enters into an agreement under this section. Such direct payment 6310
permit shall authorize the taxpayer to pay any sales and use taxes 6311
due on purchases of computer data center equipment used or to be 6312
used in an eligible computer data center and to pay any sales and 6313
use taxes due on purchases of tangible personal property or 6314
taxable services other than computer data center equipment used or 6315
to be used in an eligible computer data center directly to the tax 6316
commissioner. Each taxpayer shall pay pursuant to such direct 6317
payment permit all sales tax levied on such purchases under 6318
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised 6319
Code and all use tax levied on such purchases under sections 6320
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, 6321
consistent with the terms of the agreement entered into under this 6322
section. 6323

During the term of an agreement under this section the 6324
taxpayer shall submit to the tax commissioner a return that shows 6325
the amount of computer data center equipment purchased for use at 6326
the eligible computer data center, the amount of tangible personal 6327
property and taxable services other than computer data center 6328
equipment purchased for use at the eligible computer data center, 6329
the amount of tax under Chapter 5739. or 5741. of the Revised Code 6330
that would be due in the absence of the agreement under this 6331
section, the exemption percentage for computer data center 6332
equipment specified in the agreement, and the amount of tax due 6333
under Chapter 5739. or 5741. of the Revised Code as a result of 6334

the agreement under this section. The taxpayer shall pay the tax 6335
shown on the return to be due in the manner and at the times as 6336
may be further prescribed by the tax commissioner. The taxpayer 6337
shall include a copy of the director of development services' 6338
certificate of verification issued under division (E)(6) of this 6339
section. Failure to submit a copy of the certificate with the 6340
return does not invalidate the claim for exemption if the taxpayer 6341
submits a copy of the certificate to the tax commissioner within 6342
sixty days after the tax commissioner requests it. 6343

(J) If the director of development services determines that a 6344
taxpayer that received an exemption under this section is not 6345
complying with the requirement under division (E)(3) of this 6346
section, the director shall notify the tax credit authority of the 6347
noncompliance. After receiving such a notice, and after giving the 6348
taxpayer an opportunity to explain the noncompliance, the 6349
authority may terminate the agreement and require the taxpayer to 6350
pay to the state all or a portion of the taxes that would have 6351
been owed in regards to the exempt equipment in previous years, 6352
all as determined under rules adopted pursuant to division (K) of 6353
this section. In determining the portion of the taxes that would 6354
have been owed on the previously exempted equipment to be paid to 6355
this state by the taxpayer, the authority shall consider the 6356
effect of market conditions on the taxpayer's eligible computer 6357
data center and whether the taxpayer continues to maintain other 6358
operations in this state. After making the determination, the 6359
authority shall certify to the tax commissioner the amount to be 6360
paid by the taxpayer. The tax commissioner shall make an 6361
assessment for that amount against the taxpayer under Chapter 6362
5739. or 5741. of the Revised Code. The time limitations on 6363
assessments under those chapters do not apply to an assessment 6364
under this division, but the tax commissioner shall make the 6365
assessment within one year after the date the authority certifies 6366
to the tax commissioner the amount to be paid by the taxpayer. 6367

(K) The director of development services, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax exemptions under this section to be charged fees to cover administrative costs incurred in the administration of this section. The fees collected shall be credited to the business assistance fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax exemption authorized under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the eligible computer data center that is the subject of each such agreement, and an update on the status of eligible computer data centers under agreements entered into before the preceding calendar year.

Sec. 122.28. As used in sections 122.28 and 122.30 to 122.36 of the Revised Code:

(A) "New technology" means the development through science or research of methods, processes, and procedures, including but not limited to those involving the processing and utilization of coal, for practical application in industrial or agribusiness situations.

(B) "Industrial research" means study and investigation in

giving new shapes, new qualities or new combinations to matter or 6399
material products by the application of labor thereto or the 6400
rehabilitation of an existing matter or material product. 6401

(C) "Enterprise" means a business with its principal place of 6402
business in this state or which proposes to be engaged in this 6403
state in research and development or in the provision of products 6404
or services involving a significant amount of new technology. 6405

(D) "Educational institutions" means nonprofit public and 6406
private colleges and universities, incorporated or unincorporated, 6407
in the state. 6408

(E) "Small business" means an enterprise with less than four 6409
hundred employees, including corporations, partnerships, 6410
unincorporated entities, proprietorships, and joint enterprises. 6411

(F) "Applied research" means the application of basic 6412
research for the development of new technology. 6413

Sec. 122.30. ~~The industrial technology and enterprise~~ 6414
~~advisory council and the~~ director of development are services is 6415
vested with the powers and duties provided in sections 122.28 and 6416
122.30 to 122.36 of the Revised Code, to promote the welfare of 6417
the people of the state through the interaction of the business 6418
and industrial community and educational institutions in the 6419
development of new technology and enterprise. 6420

(A) It is necessary for the state to establish the ~~industrial~~ 6421
~~technology and enterprise advisory council and the~~ programs 6422
created pursuant to sections 122.28 and 122.30 to 122.36 of the 6423
Revised Code to accomplish the following purposes which are 6424
determined to be essential: 6425

(1) Improve the existing industrial and agricultural base of 6426
the state; 6427

(2) Improve the economy of the state by providing employment, 6428

increasing productivity, and slowing the rate of inflation; 6429

(3) Develop markets worldwide for the products of the state's 6430
natural resources and agricultural and manufacturing industries; 6431

(4) Maintain a high standard of living for the people of the 6432
state. 6433

(B) ~~The industrial technology and enterprise advisory council~~ 6434
~~shall do all of the following:~~ 6435

~~(1) Make recommendations to the director of development as to~~ 6436
~~applications for assistance pursuant to sections 122.28 to 122.36~~ 6437
~~of the Revised Code. The council may revise its recommendations to~~ 6438
~~reflect any changes in the proposed assistance made by the~~ 6439
~~director.~~ 6440

~~(2) Advise the director in the administration of sections~~ 6441
~~122.28 to 122.36 of the Revised Code;~~ 6442

~~(3) Adopt bylaws to govern the conduct of the council's~~ 6443
~~business.~~ 6444

~~(C) The director of development shall do all of the~~ 6445
following: 6446

(1) Receive applications for assistance under sections 122.28 6447
~~and 122.30~~ to 122.36 of the Revised Code ~~and, after processing,~~ 6448
~~forward them to the council together with necessary supporting~~ 6449
~~information;~~ 6450

(2) ~~Receive the recommendations of the council and make~~ Make 6451
~~a final~~ determination whether to approve the application for 6452
assistance; 6453

(3) Transmit determinations to approve assistance exceeding 6454
forty thousand dollars to the controlling board, together with any 6455
information the controlling board requires, for the board's review 6456
and decision as to whether to approve the assistance; 6457

(4) Gather and disseminate information and conduct hearings, 6458

conferences, seminars, investigations, and special studies on 6459
problems and programs concerning industrial research and new 6460
technology and their commercial applications in the state; 6461

(5) Establish an annual program to recognize the 6462
accomplishments and contributions of individuals and organizations 6463
in the development of industrial research and new technology in 6464
the state; 6465

(6) Stimulate both public and industrial awareness and 6466
interest in industrial research and development of new technology 6467
primarily in the areas of industrial processes, implementation, 6468
energy, agribusiness, medical technology, avionics, and food 6469
processing; 6470

(7) Develop and implement comprehensive and coordinated 6471
policies, programs, and procedures promoting industrial research 6472
and new technology; 6473

(8) Propose appropriate legislation or executive actions to 6474
stimulate the development of industrial research and new 6475
technology by enterprises and individuals; 6476

(9) Encourage and facilitate contracts between industry, 6477
agriculture, educational institutions, federal agencies, and state 6478
agencies, with special emphasis on industrial research and new 6479
technology by small businesses and agribusiness; 6480

(10) Participate with any state agency in developing specific 6481
programs and goals to assist in the development of industrial 6482
research and new technology and monitor performance; 6483

(11) Assist enterprises in obtaining alternative forms of 6484
governmental or commercial financing for industrial research and 6485
new technology; 6486

(12) Assist enterprises or individuals in the implementation 6487
of new programs and policies and the expansion of existing 6488

programs to provide an atmosphere conducive to increased 6489
cooperation among and participation by individuals, enterprises, 6490
and educational institutions engaged in industrial research and 6491
the development of new technology; 6492

(13) Advertise, prepare, print, and distribute books, maps, 6493
pamphlets, and other information ~~which in the judgment of the~~ 6494
~~director will further its purposes;~~ 6495

(14) Include in the director's annual report to the governor 6496
and the general assembly a report on the activities for the 6497
preceding calendar year under sections 122.28 and 122.30 to 122.36 6498
of the Revised Code; 6499

(15) Approve the expenditure of money appropriated by the 6500
general assembly for the purpose of sections 122.28 and 122.30 to 6501
122.36 of the Revised Code; 6502

(16) Identify and implement federal research and development 6503
programs which would link Ohio's industrial base, research 6504
facilities, and natural resources; 6505

(17) Employ and fix the compensation of technical and 6506
professional personnel, who shall be in the unclassified civil 6507
service, and employ other personnel, who shall be in the 6508
classified civil service, as necessary to carry out the provisions 6509
of sections 122.28 and 122.30 to 122.36 of the Revised Code. 6510

Sec. 122.31. All expenses and obligations incurred by the 6511
director of development ~~and the industrial technology and~~ 6512
~~enterprise advisory council~~ services in carrying out ~~their~~ the 6513
director's powers and ~~in exercising their~~ duties under sections 6514
122.28 and 122.30 to 122.36 of the Revised Code, are payable from 6515
revenues or other receipts or income from grants, gifts, 6516
contributions, compensation, reimbursement, and funds established 6517
in accordance with those sections or general revenue funds 6518

appropriated by the general assembly for operating expenses of the 6519
director ~~or council~~. 6520

Sec. 122.32. The director of development services, on behalf 6521
of the programs authorized pursuant to sections 122.28 and 122.30 6522
to 122.36 of the Revised Code, may receive and accept grants, 6523
gifts, and contributions of money, property, labor, and other 6524
things of value to be held, used, and applied only for the purpose 6525
for which the grants, gifts, and contributions are made, from 6526
individuals, private and public corporations, from the United 6527
States or any agency of the United States, and from any political 6528
subdivision of the state. The director may agree to repay any 6529
contribution of money or to return any property contributed or its 6530
value at times, in amounts, and on terms and conditions excluding 6531
the payment of interest as the director determines at the time the 6532
contribution is made. The director may evidence the obligation by 6533
written contracts, subject to section 122.31 of the Revised Code, 6534
provided that the director shall not thereby incur indebtedness of 6535
or impose liability upon the state or any political subdivision. 6536

Sec. 122.33. The director of development services shall 6537
administer the following programs: 6538

(A) The industrial technology and enterprise development 6539
grant program, to provide capital to acquire, construct, enlarge, 6540
improve, or equip and to sell, lease, exchange, and otherwise 6541
dispose of property, structures, equipment, and facilities within 6542
the state. 6543

Such funding may be made to enterprises that propose to 6544
develop new products or technologies when the director finds all 6545
of the following factors to be present: 6546

(1) The undertaking will benefit the people of the state by 6547
creating or preserving jobs and employment opportunities or 6548

improving the economic welfare of the people of the state, and 6549
promoting the development of new technology. 6550

(2) There is reasonable assurance that the potential 6551
royalties to be derived from the sale of the product or process 6552
described in the proposal will be sufficient to repay the funding 6553
pursuant to sections 122.28 and 122.30 to 122.36 of the Revised 6554
Code and that, in making the agreement, as it relates to patents, 6555
copyrights, and other ownership rights, there is reasonable 6556
assurance that the resulting new technology will be utilized to 6557
the maximum extent possible in facilities located in Ohio. 6558

(3) The technology and research to be undertaken will allow 6559
enterprises to compete more effectively in the marketplace. Grants 6560
of capital may be in such form and conditioned upon such terms as 6561
the ~~board~~ director deems appropriate. 6562

(B) The industrial technology and enterprise resources 6563
program to provide for the collection, dissemination, and exchange 6564
of information regarding equipment, facilities, and business 6565
planning consultation resources available in business, industry, 6566
and educational institutions and to establish methods by which 6567
small businesses may use available facilities and resources. The 6568
methods may include, but need not be limited to, leases 6569
reimbursing the educational institutions for their actual costs 6570
incurred in maintaining the facilities and agreements assigning 6571
royalties from development of successful products or processes 6572
through the use of the facilities and resources. The director 6573
shall operate this program in conjunction with the board of 6574
regents. 6575

(C) The Thomas Alva Edison grant program to provide grants to 6576
foster research, development, or technology transfer efforts 6577
involving enterprises and educational institutions that will lead 6578
to the creation of jobs. 6579

(1) Grants may be made to a nonprofit organization or a public or private educational institution, department, college, institute, faculty member, or other administrative subdivision or related entity of an educational institution when the director finds that the undertaking will benefit the people of the state by supporting research in advanced technology areas likely to improve the economic welfare of the people of the state through promoting the development of new commercial technology.

(2) Grants may be made in a form and conditioned upon terms as the director considers appropriate.

(3) Grants made under this program shall in all instances be in conjunction with a contribution to the project by a cooperating enterprise which maintains or proposes to maintain a relevant research, development, or manufacturing facility in the state, by a nonprofit organization, or by an educational institution or related entity; however, funding provided by an educational institution or related entity shall not be from general revenue funds appropriated by the Ohio general assembly. No grant made under this program shall exceed the contribution made by the cooperating enterprise, nonprofit organization, or educational institution or related entity. The director may consider cooperating contributions in the form of state of the art new equipment or in other forms provided the director determines that the contribution is essential to the successful implementation of the project. The director may adopt rules or guidelines for the valuation of contributions of equipment or other property.

(4) The director may determine fields of research from which grant applications will be accepted under this program.

Sec. 122.34. The exercise of the powers granted by sections 122.28 and 122.30 to 122.36 of the Revised Code will be in all respects for the benefit of the people of the state, for the

improvement of commerce and prosperity, improvement of employment 6611
conditions, and will constitute the performance of essential 6612
governmental functions. 6613

Sec. 122.35. All moneys received under sections 122.28 and 6614
122.30 to 122.36 of the Revised Code are trust funds to be held 6615
and applied solely as provided in those sections and section 6616
166.03 of the Revised Code. All moneys, except when deposited with 6617
the treasurer of the state, shall be kept and secured in 6618
depositories as selected by the director of development services 6619
in the manner provided in sections 135.01 to 135.21 of the Revised 6620
Code, insofar as those sections are applicable. All moneys held by 6621
the director in trust to carry out the purposes of sections 122.28 6622
and 122.30 to 122.36 of the Revised Code shall be used as provided 6623
in sections 122.28 and 122.30 to 122.36 of the Revised Code and at 6624
no time be part of other public funds. 6625

Sec. 122.36. Any materials or data submitted to, made 6626
available to, or received by the director of development, ~~the~~ 6627
~~industrial technology and enterprise advisory council,~~ services or 6628
the controlling board, to the extent that the material or data 6629
consist of trade secrets, as defined in section 1333.61 of the 6630
Revised Code, or commercial or financial information, regarding 6631
projects are not public records for the purposes of section 149.43 6632
of the Revised Code. 6633

Sec. 122.58. Moneys in the funds established pursuant to 6634
Chapter 122. of the Revised Code, except as otherwise provided in 6635
any proceedings authorizing revenue bonds or in any trust 6636
agreement securing such bonds, in excess of current needs, may be 6637
invested in notes, bonds, or other obligations which are direct 6638
obligations of or are guaranteed by the United States, in 6639
certificates of deposit or other withdrawable accounts of banks, 6640

trust companies, and building and loan or savings and loan 6641
associations organized under the laws of the state or the United 6642
States, or in the manner provided in any agreement entered into 6643
pursuant to section 169.05 of the Revised Code. 6644

Income from all such investments of moneys in any fund shall 6645
be credited to such funds as the director of development services 6646
determines subject to the provisions of any bond issuance 6647
proceedings or trust agreement, and such investments may be sold 6648
at such time as the director shall determine, provided 6649
certificates of deposit or other withdrawable accounts may be sold 6650
only in accordance with division (B) of section 169.05 or 6651
divisions ~~(D) and~~ (E) and (F) of section 169.08 of the Revised 6652
Code. 6653

Sec. 122.66. As used in sections 122.66 to 122.702 of the 6654
Revised Code: 6655

(A) "Poverty line" means the official poverty line 6656
established by the director of the United States office of 6657
management and budget and as revised by the ~~director~~ secretary of 6658
~~the office of community health and human~~ services in accordance 6659
with section 673(2) of the "Community Services Block Grant Act," 6660
95 Stat. 1609, 42 U.S.C.A. 9902. 6661

(B) "Low-income person" means a person whose adjusted gross 6662
income as defined in division (A) of section 5747.01 of the 6663
Revised Code is below the poverty line as defined in division (A) 6664
of this section. 6665

(C) "Advocacy" means the act of pleading for, supporting, or 6666
recommending actions on behalf of low-income persons. 6667

(D) "Community action agency" means a community-based and 6668
operated private nonprofit agency or organization that includes or 6669
is designed to include a sufficient number of projects or 6670

components to provide a range of services and activities having a 6671
measurable and potentially major impact on the causes of poverty 6672
in the community or those areas of the community where poverty is 6673
a particularly acute problem and is designated as a community 6674
action agency by the ~~office of~~ community services division 6675
pursuant to sections 122.68 and 122.69 of the Revised Code. 6676

(E) "Community" means a city, village, county, multicity or 6677
multicounty unit, a neighborhood or other area, disregarding 6678
boundaries or political subdivisions, which provides a suitable 6679
organizational base and possesses a commonality of needs and 6680
interests for a community action program suitable to be served by 6681
a community action agency. 6682

(F) "Service area" means the geographical area served by a 6683
community action agency. 6684

Sec. 122.67. There is hereby created in the ~~department of~~ 6685
development services agency the ~~office of~~ community services 6686
division. The director of development services shall employ and 6687
fix the compensation of professional and technical unclassified 6688
personnel as necessary to carry out the provisions of sections 6689
122.66 to 122.701 of the Revised Code. 6690

Sec. 122.68. The ~~office of~~ community services division shall: 6691
6692

(A) Administer all federal funds appropriated to the state 6693
from the "Community Services Block Grant Act," 95 Stat. 511, 42 6694
U.S.C.A. 9901, and comply with requirements imposed by that act in 6695
its application for, and administration of, the funds; 6696

(B) Designate community action agencies to receive community 6697
services block grant funds; 6698

(C) Disburse at least ninety-five per cent or such other 6699
higher maximum amount as may from time to time be designated by 6700

congress of the funds received in the state from the "Community
Services Block Grant Act" to community action agencies that comply
with the requirements of section 122.69 of the Revised Code and
migrant and seasonal farm worker organizations that are not
designated community action agencies but which provide the
services described in division (B)(1) of section 122.69 of the
Revised Code.

(D) Provide technical assistance to community action agencies
to improve program planning, development, and administration;

(E) Conduct yearly performance assessments, according to
criteria determined by ~~department of~~ development services agency
rule, to determine whether community action agencies are in
compliance with section 122.69 of the Revised Code;

(F) Annually prepare and submit to the United States
secretary of health and human services, the governor, the
president of the Ohio senate, and the speaker of the Ohio house of
representatives, a comprehensive report that includes:

(1) Certification that all community action agencies
designated to receive funds from the "Community Services Block
Grant Act" are in compliance with section 122.69 of the Revised
Code;

(2) A program plan for the next federal fiscal year that has
been made available for public inspection and that details how
community services block grant funds will be disbursed and used
during that fiscal year;

(3) Information detailing how funds were expended for the
current fiscal year;

(4) An audit of community services block grant expenditures
for the preceding federal fiscal year that is conducted in
accordance with generally accepted accounting principles by an
independent auditing firm that has no connection with any

community action agency receiving community services block grant 6732
funds or with any employee of the ~~office~~ division. 6733

(G) Serve as a statewide advocate for social and economic 6734
opportunities for low-income persons. 6735

Sec. 122.681. (A) Except as permitted by this section, or 6736
when required by federal law, no person or government entity shall 6737
solicit, release, disclose, receive, use, or knowingly permit or 6738
participate in the use of any information regarding an individual 6739
receiving assistance pursuant to a community services division 6740
program under sections 122.66 to 122.702 of the Revised Code for 6741
any purpose not directly related to the administration of a 6742
division assistance program. 6743

(B) To the extent permitted by federal law, the division, and 6744
any entity that receives division funds to administer a division 6745
program to assist individuals, shall release information regarding 6746
an individual assistance recipient to the following: 6747

(1) A government entity responsible for administering the 6748
assistance program for purposes directly related to the 6749
administration of the program; 6750

(2) A law enforcement agency for the purpose of any 6751
investigation, prosecution, or criminal or civil proceeding 6752
relating to the administration of the assistance program; 6753

(3) A government entity responsible for administering a 6754
children's protective services program, for the purpose of 6755
protecting children. 6756

(C) To the extent permitted by federal law and section 6757
1347.08 of the Revised Code, the division, and any entity 6758
administering a division program, shall provide access to 6759
information regarding an individual assistance recipient to all of 6760
the following: 6761

<u>(1) The individual assistance recipient;</u>	6762
<u>(2) The authorized representative of the individual assistance recipient;</u>	6763 6764
<u>(3) The legal guardian of the individual assistance recipient;</u>	6765 6766
<u>(4) The attorney of the individual assistance recipient.</u>	6767
<u>(D) To the extent permitted by federal law, the division, and any entity administering a division program, may do either of the following:</u>	6768 6769 6770
<u>(1) Release information about an individual assistance recipient if the recipient gives voluntary, written authorization;</u>	6771 6772
<u>(2) Release information regarding an individual assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need.</u>	6773 6774 6775 6776
<u>(E) The community services division, or an entity administering a division program, shall provide, at no cost, a copy of each written authorization to the individual who signed it.</u>	6777 6778 6779 6780
<u>(F) The development services agency may adopt rules defining who may serve as an individual assistance recipient's authorized representative for purposes of division (C)(2) of this section.</u>	6781 6782 6783
Sec. 122.69. (A) Any nonprofit agency or organization seeking designation as a community action agency by the office of community services <u>division</u> shall obtain the endorsement of the chief elected officials of at least two-thirds of the municipal corporations and the counties within the community to be served by the agency or organization.	6784 6785 6786 6787 6788 6789
(B) Any nonprofit agency or organization that receives the	6790

endorsement provided for in division (A) of this section shall be 6791
designated by the ~~office~~ division as the community action agency 6792
for the community it serves and shall receive community services 6793
block grant funds for any period of time that the nonprofit agency 6794
or organization: 6795

(1) Provides a range of services and opportunities having a 6796
measurable and potentially major impact on the causes of poverty 6797
in the community or those areas of the community where poverty is 6798
a particularly acute problem. These activities may include but 6799
shall not be limited to: 6800

(a) Providing activities designed to assist low-income 6801
persons, including elderly and handicapped low-income persons, to: 6802

(i) Secure and maintain meaningful employment, training, work 6803
experience, and unsubsidized employment; 6804

(ii) Attain an adequate education; 6805

(iii) Make better use of available income; 6806

(iv) Obtain and maintain adequate housing and a suitable 6807
living environment; 6808

(v) Obtain emergency assistance through loans or grants to 6809
meet immediate and urgent individual and family needs, including 6810
the need for health services, nutritious food, housing, and 6811
employment-related assistance; 6812

(vi) Remove obstacles and solve personal and family problems 6813
that block the achievement of self-sufficiency; 6814

(vii) Achieve greater participation in the affairs of the 6815
community; 6816

(viii) Undertake family planning, consistent with personal 6817
and family goals and religious and moral convictions; 6818

(ix) Obtain energy assistance, conservation, and 6819
weatherization services. 6820

(b) Providing, on an emergency basis, supplies and services, 6821
nutritious foodstuffs, and related services necessary to 6822
counteract conditions of starvation and malnutrition among 6823
low-income persons; 6824

(c) Coordinating and establishing links between government 6825
and other social services programs to assure the effective 6826
delivery of services to low-income individuals; 6827

(d) Providing child care services, nutrition and health 6828
services, transportation services, alcoholism and narcotic 6829
addiction prevention and rehabilitation services, youth 6830
development services, and community services to elderly and 6831
handicapped persons; 6832

(e) Encouraging entities in the private sector to participate 6833
in efforts to ameliorate poverty in the community. 6834

(2) Annually submits to the ~~office of community services~~ 6835
division a program plan and budget for use of community services 6836
block grant funds for the next federal fiscal year. At least ten 6837
days prior to its submission to the ~~office of community services~~ 6838
division, a copy of the program plan and budget shall be made 6839
available to the chief elected officials of the municipal 6840
corporations and counties within the service area in order to 6841
provide them the opportunity to review and comment upon such plan 6842
and budget. 6843

(3) Composes its board of directors in compliance with 6844
section (c)(3) of section 675 of ~~the~~ the "Community Services Block 6845
Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9904, except that the board 6846
shall consist of not less than fifteen nor more than thirty-three 6847
members; 6848

(4) Complies with the prohibitions against discrimination and 6849
political activity, as provided in the "Community Services Block 6850
Grant Act"; 6851

(5) Complies with fiscal and program requirements established 6852
by ~~department of~~ development services agency rule. 6853

Sec. 122.70. The board of directors of a community action 6854
agency shall: 6855

(A) Select, appoint, and may remove the executive director of 6856
the community action agency; 6857

(B) Approve contracts, annual program budgets, and policies 6858
of the community action agency; 6859

(C) Advise the elected officials of any political subdivision 6860
located within its service area, and state and federal elected 6861
officials who represent its service area, of the nature and extent 6862
of poverty within its community, and advise them of any needed 6863
changes; 6864

(D) Convene public meetings to provide community members the 6865
opportunity to comment on public policies and programs to reduce 6866
poverty; 6867

(E) Annually evaluate the policies and programs of the 6868
community action agency according to criteria determined by 6869
~~department of~~ development services agency rule; 6870

(F) Submit the results of the evaluation required by division 6871
(E) of this section, along with recommendations for improved 6872
administration of the community action agency, to the ~~office of~~ 6873
community services division; 6874

(G) Adopt a code of ethics for the board of directors and the 6875
employees of the community action agency; 6876

(H) Adopt written policies describing all of the following: 6877

(1) How the community action agency is to expend and 6878
distribute the community services block grant funds that it 6879
receives from the ~~office of~~ community services division under 6880

sections 122.68 and 122.69 of the Revised Code; 6881

(2) The salary, benefits, travel expenses, and any other 6882
compensation that persons are to receive for serving on the 6883
community action agency's board of directors; 6884

(3) The operating procedures to be used by the board to 6885
conduct its meetings, to vote on all official business it 6886
considers, and to provide notice of its meetings. 6887

(I) Provide for the posting of notices in a conspicuous place 6888
indicating that the code of ethics described in division (G) of 6889
this section and the policies described in division (H) of this 6890
section are available for public inspection at the community 6891
action agency during normal business hours. 6892

Sec. 122.701. (A) Prior to designating a new community action 6893
agency or rescinding a community action agency's designation, the 6894
~~office of~~ community services division shall: 6895

(1) Determine whether a community action agency is in 6896
compliance with section 122.69 of the Revised Code; 6897

(2) Consult with the chief elected officials of political 6898
subdivisions located within a community action agency's service 6899
area, and, in designating a new community action agency, obtain 6900
their endorsement of the agency in accordance with division (A) of 6901
section 122.69 of the Revised Code; 6902

(3) Hold at least one public meeting within a community 6903
action agency's service area for the purpose of allowing citizens 6904
to comment on the community action agency's delivery of services; 6905

(4) Evaluate the proposed service area of the community 6906
action agency, and, as may be necessary, modify the boundaries of 6907
the service area so that low-income persons in the area are 6908
adequately and efficiently served. 6909

(B) After providing notice and hearing pursuant to sections 6910

119.01 to 119.13 of the Revised Code, the director of development 6911
services: 6912

(1) May rescind the designation of a community action agency 6913
~~if he finds~~ after finding that the agency is not in compliance 6914
with any or all of the provisions of section 122.69 of the Revised 6915
Code; 6916

(2) Shall rescind the designation of a community action 6917
agency upon notification from the chief elected officials of more 6918
than one-half of the municipal corporations and the counties 6919
within a community currently served by a community action agency 6920
that such agency is not endorsed by them and ~~upon a~~ after finding 6921
~~by him~~ that the agency is not in compliance with section 122.69 of 6922
the Revised Code. 6923

Any agency whose designation is rescinded pursuant to this 6924
section may appeal from an order rescinding such designation 6925
pursuant to section 119.12 of the Revised Code. 6926

Sec. 122.76. (A) The director of development services, with 6927
controlling board approval, may lend funds to minority business 6928
enterprises and to community improvement corporations, Ohio 6929
development corporations, minority contractors business assistance 6930
organizations, and minority business supplier development councils 6931
for the purpose of loaning funds to minority business enterprises 6932
~~and,~~ for the purpose of procuring or improving real or personal 6933
property, or both, for the establishment, location, or expansion 6934
of industrial, distribution, commercial, or research facilities in 6935
the state, and for the purpose of contract financing, and to 6936
community development corporations that predominantly benefit 6937
minority business enterprises or are located in a census tract 6938
that has a population that is sixty per cent or more minority, if 6939
the director determines, in the director's sole discretion, that 6940
all of the following apply: 6941

(1) The project is economically sound and will benefit the people of the state by increasing opportunities for employment, by strengthening the economy of the state, or expanding minority business enterprises.

(2) The proposed minority business enterprise borrower is unable to finance the proposed project through ordinary financial channels at comparable terms.

(3) The value of the project is or, upon completion, will be at least equal to the total amount of the money expended in the procurement or improvement of the project.

(4) The amount to be loaned by the director will not exceed seventy-five per cent of the total amount expended in the procurement or improvement of the project.

(5) The amount to be loaned by the director will be adequately secured by a first or second mortgage upon the project or by mortgages, leases, liens, assignments, or pledges on or of other property or contracts as the director requires, and such mortgage will not be subordinate to any other liens or mortgages except the liens securing loans or investments made by financial institutions referred to in division (A)(3) of this section, and the liens securing loans previously made by any financial institution in connection with the procurement or expansion of all or part of a project.

(B) Any proposed minority business enterprise borrower submitting an application for assistance under this section shall not have defaulted on a previous loan from the director, and no full or limited partner, major shareholder, or holder of an equity interest of the proposed minority business enterprise borrower shall have defaulted on a loan from the director.

(C) The proposed minority business enterprise borrower shall demonstrate to the satisfaction of the director that it is able to

successfully compete in the private sector if it obtains the 6973
necessary financial, technical, or managerial support and that 6974
support is available through the director, the minority business 6975
development office of the ~~department of~~ development services 6976
agency, or other identified and acceptable sources. In determining 6977
whether a minority business enterprise borrower will be able to 6978
successfully compete, the director may give consideration to such 6979
factors as the successful completion of or participation in 6980
courses of study, recognized by the board of regents as providing 6981
financial, technical, or managerial skills related to the 6982
operation of the business, by the economically disadvantaged 6983
individual, owner, or partner, and the prior success of the 6984
individual, owner, or partner in personal, career, or business 6985
activities, as well as to other factors identified by the 6986
director. 6987

(D) The director shall not lend funds for the purpose of 6988
procuring or improving motor vehicles or accounts receivable. 6989

Sec. 123.01. (A) The department of administrative services, 6990
in addition to those powers enumerated in Chapters 124. and 125. 6991
of the Revised Code and provided elsewhere by law, shall exercise 6992
the following powers: 6993

(1) To prepare and suggest comprehensive plans for the 6994
development of grounds and buildings under the control of a state 6995
agency; 6996

(2) To acquire, by purchase, gift, devise, lease, or grant, 6997
all real estate required by a state agency, in the exercise of 6998
which power the department may exercise the power of eminent 6999
domain, in the manner provided by sections 163.01 to 163.22 of the 7000
Revised Code; 7001

(3) To erect, supervise, and maintain all public monuments 7002
and memorials erected by the state, except where the supervision 7003

and maintenance is otherwise provided by law; 7004

(4) To procure, by lease, storage accommodations for a state 7005
agency; 7006

(5) To lease or grant easements or licenses for unproductive 7007
and unused lands or other property under the control of a state 7008
agency. Such leases, easements, or licenses may be granted to any 7009
person or entity, shall be for a period not to exceed fifteen 7010
years, and shall be executed for the state by the director of 7011
administrative services, provided that the director shall grant 7012
leases, easements, or licenses of university land for periods not 7013
to exceed twenty-five years for purposes approved by the 7014
respective university's board of trustees wherein the uses are 7015
compatible with the uses and needs of the university and may grant 7016
leases of university land for periods not to exceed forty years 7017
for purposes approved by the respective university's board of 7018
trustees pursuant to section 123.17 of the Revised Code. 7019

(6) To lease space for the use of a state agency; 7020

(7) To have general supervision and care of the storerooms, 7021
offices, and buildings leased for the use of a state agency; 7022

(8) To exercise general custodial care of all real property 7023
of the state; 7024

(9) To assign and group together state offices in any city in 7025
the state and to establish, in cooperation with the state agencies 7026
involved, rules governing space requirements for office or storage 7027
use; 7028

(10) To lease for a period not to exceed forty years, 7029
pursuant to a contract providing for the construction thereof 7030
under a lease-purchase plan, buildings, structures, and other 7031
improvements for any public purpose, and, in conjunction 7032
therewith, to grant leases, easements, or licenses for lands under 7033
the control of a state agency for a period not to exceed forty 7034

years. The lease-purchase plan shall provide that at the end of 7035
the lease period, the buildings, structures, and related 7036
improvements, together with the land on which they are situated, 7037
shall become the property of the state without cost. 7038

(a) Whenever any building, structure, or other improvement is 7039
to be so leased by a state agency, the department shall retain 7040
either basic plans, specifications, bills of materials, and 7041
estimates of cost with sufficient detail to afford bidders all 7042
needed information or, alternatively, all of the following plans, 7043
details, bills of materials, and specifications: 7044

(i) Full and accurate plans suitable for the use of mechanics 7045
and other builders in the improvement; 7046

(ii) Details to scale and full sized, so drawn and 7047
represented as to be easily understood; 7048

(iii) Accurate bills showing the exact quantity of different 7049
kinds of material necessary to the construction; 7050

(iv) Definite and complete specifications of the work to be 7051
performed, together with such directions as will enable a 7052
competent mechanic or other builder to carry them out and afford 7053
bidders all needed information; 7054

(v) A full and accurate estimate of each item of expense and 7055
of the aggregate cost thereof. 7056

(b) The department shall give public notice, in such 7057
newspaper, in such form, and with such phraseology as the director 7058
of administrative services prescribes, published once each week 7059
for four consecutive weeks, of the time when and place where bids 7060
will be received for entering into an agreement to lease to a 7061
state agency a building, structure, or other improvement. The last 7062
publication shall be at least eight days preceding the day for 7063
opening the bids. The bids shall contain the terms upon which the 7064
builder would propose to lease the building, structure, or other 7065

improvement to the state agency. The form of the bid approved by 7066
the department shall be used, and a bid is invalid and shall not 7067
be considered unless that form is used without change, alteration, 7068
or addition. Before submitting bids pursuant to this section, any 7069
builder shall comply with Chapter 153. of the Revised Code. 7070

(c) On the day and at the place named for receiving bids for 7071
entering into lease agreements with a state agency, the director 7072
of administrative services shall open the bids and shall publicly 7073
proceed immediately to tabulate the bids upon duplicate sheets. No 7074
lease agreement shall be entered into until the bureau of workers' 7075
compensation has certified that the person to be awarded the lease 7076
agreement has complied with Chapter 4123. of the Revised Code, 7077
until, if the builder submitting the lowest and best bid is a 7078
foreign corporation, the secretary of state has certified that the 7079
corporation is authorized to do business in this state, until, if 7080
the builder submitting the lowest and best bid is a person 7081
nonresident of this state, the person has filed with the secretary 7082
of state a power of attorney designating the secretary of state as 7083
its agent for the purpose of accepting service of summons in any 7084
action brought under Chapter 4123. of the Revised Code, and until 7085
the agreement is submitted to the attorney general and the 7086
attorney general's approval is certified thereon. Within thirty 7087
days after the day on which the bids are received, the department 7088
shall investigate the bids received and shall determine that the 7089
bureau and the secretary of state have made the certifications 7090
required by this section of the builder who has submitted the 7091
lowest and best bid. Within ten days of the completion of the 7092
investigation of the bids, the department shall award the lease 7093
agreement to the builder who has submitted the lowest and best bid 7094
and who has been certified by the bureau and secretary of state as 7095
required by this section. If bidding for the lease agreement has 7096
been conducted upon the basis of basic plans, specifications, 7097
bills of materials, and estimates of costs, upon the award to the 7098

builder the department, or the builder with the approval of the 7099
department, shall appoint an architect or engineer licensed in 7100
this state to prepare such further detailed plans, specifications, 7101
and bills of materials as are required to construct the building, 7102
structure, or improvement. The department shall adopt such rules 7103
as are necessary to give effect to this section. The department 7104
may reject any bid. Where there is reason to believe there is 7105
collusion or combination among bidders, the bids of those 7106
concerned therein shall be rejected. 7107

(11) To acquire by purchase, gift, devise, or grant and to 7108
transfer, lease, or otherwise dispose of all real property 7109
required to assist in the development of a conversion facility as 7110
defined in section 5709.30 of the Revised Code as that section 7111
existed before its repeal by Amended Substitute House Bill 95 of 7112
the 125th general assembly; 7113

(12) To lease for a period not to exceed forty years, 7114
notwithstanding any other division of this section, the 7115
state-owned property located at 408-450 East Town Street, 7116
Columbus, Ohio, formerly the state school for the deaf, to a 7117
developer in accordance with this section. "Developer," as used in 7118
this section, has the same meaning as in section 123.77 of the 7119
Revised Code. 7120

Such a lease shall be for the purpose of development of the 7121
land for use by senior citizens by constructing, altering, 7122
renovating, repairing, expanding, and improving the site as it 7123
existed on June 25, 1982. A developer desiring to lease the land 7124
shall prepare for submission to the department a plan for 7125
development. Plans shall include provisions for roads, sewers, 7126
water lines, waste disposal, water supply, and similar matters to 7127
meet the requirements of state and local laws. The plans shall 7128
also include provision for protection of the property by insurance 7129
or otherwise, and plans for financing the development, and shall 7130

set forth details of the developer's financial responsibility. 7131

The department may employ, as employees or consultants, 7132
persons needed to assist in reviewing the development plans. Those 7133
persons may include attorneys, financial experts, engineers, and 7134
other necessary experts. The department shall review the 7135
development plans and may enter into a lease if it finds all of 7136
the following: 7137

(a) The best interests of the state will be promoted by 7138
entering into a lease with the developer; 7139

(b) The development plans are satisfactory; 7140

(c) The developer has established the developer's financial 7141
responsibility and satisfactory plans for financing the 7142
development. 7143

The lease shall contain a provision that construction or 7144
renovation of the buildings, roads, structures, and other 7145
necessary facilities shall begin within one year after the date of 7146
the lease and shall proceed according to a schedule agreed to 7147
between the department and the developer or the lease will be 7148
terminated. The lease shall contain such conditions and 7149
stipulations as the director considers necessary to preserve the 7150
best interest of the state. Moneys received by the state pursuant 7151
to this lease shall be paid into the general revenue fund. The 7152
lease shall provide that at the end of the lease period the 7153
buildings, structures, and related improvements shall become the 7154
property of the state without cost. 7155

(13) To manage the use of space owned and controlled by the 7156
department, including space in property under the jurisdiction of 7157
the Ohio building authority, by doing all of the following: 7158

(a) Biennially implementing, by state agency location, a 7159
census of agency employees assigned space; 7160

(b) Periodically in the discretion of the director of administrative services: 7161
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(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department; 7163
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(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics. 7167
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(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings; 7170
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(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus. 7172
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(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility. 7174
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(14) To adopt rules to ensure that energy efficiency and conservation is considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. The department may require minimum energy efficiency standards for purchased products and equipment based on federal testing and labeling if available or on standards developed by the department. When possible, the rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code. 7178
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(15) To ensure energy efficient and energy conserving purchasing practices by doing all of the following: 7189
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(a) Identifying available energy efficiency and conservation opportunities;	7191 7192
(b) Providing for interchange of information among purchasing agencies;	7193 7194
(c) Identifying laws, policies, rules, and procedures that should be modified;	7195 7196
(d) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by the government;	7197 7198 7199 7200 7201
(e) Providing technical assistance and training to state employees involved in the purchasing process;	7202 7203
(f) Working with the department of development <u>services agency</u> to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation.	7204 7205 7206 7207
(16) To require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures to ensure that all of the passenger automobiles they acquire in each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.	7208 7209 7210 7211 7212 7213 7214 7215 7216 7217 7218 7219 7220
Each state agency, department, division, bureau, office,	7221

unit, commission, board, authority, quasi-governmental entity, 7222
institution, and state institution of higher education shall 7223
determine its fleet average fuel economy by dividing the total 7224
number of passenger vehicles acquired during the fiscal year, 7225
except for those passenger vehicles acquired for use in law 7226
enforcement or emergency rescue work, by a sum of terms, each of 7227
which is a fraction created by dividing the number of passenger 7228
vehicles of a given make, model, and year, except for passenger 7229
vehicles acquired for use in law enforcement or emergency rescue 7230
work, acquired during the fiscal year by the fuel economy measured 7231
by the administrator of the United States environmental protection 7232
agency, for the given make, model, and year of vehicle, that 7233
constitutes an average fuel economy for combined city and highway 7234
driving. 7235

As used in division (A)(16) of this section, "acquired" means 7236
leased for a period of sixty continuous days or more, or 7237
purchased. 7238

(B) This section and section 125.02 of the Revised Code shall 7239
not interfere with any of the following: 7240

(1) The power of the adjutant general to purchase military 7241
supplies, or with the custody of the adjutant general of property 7242
leased, purchased, or constructed by the state and used for 7243
military purposes, or with the functions of the adjutant general 7244
as director of state armories; 7245

(2) The power of the director of transportation in acquiring 7246
rights-of-way for the state highway system, or the leasing of 7247
lands for division or resident district offices, or the leasing of 7248
lands or buildings required in the maintenance operations of the 7249
department of transportation, or the purchase of real property for 7250
garage sites or division or resident district offices, or in 7251
preparing plans and specifications for and constructing such 7252
buildings as the director may require in the administration of the 7253

department; 7254

(3) The power of the director of public safety and the 7255
registrar of motor vehicles to purchase or lease real property and 7256
buildings to be used solely as locations to which a deputy 7257
registrar is assigned pursuant to division (B) of section 4507.011 7258
of the Revised Code and from which the deputy registrar is to 7259
conduct the deputy registrar's business, the power of the director 7260
of public safety to purchase or lease real property and buildings 7261
to be used as locations for division or district offices as 7262
required in the maintenance of operations of the department of 7263
public safety, and the power of the superintendent of the state 7264
highway patrol in the purchase or leasing of real property and 7265
buildings needed by the patrol, to negotiate the sale of real 7266
property owned by the patrol, to rent or lease real property owned 7267
or leased by the patrol, and to make or cause to be made repairs 7268
to all property owned or under the control of the patrol; 7269

(4) The power of the division of liquor control in the 7270
leasing or purchasing of retail outlets and warehouse facilities 7271
for the use of the division; 7272

(5) The power of the director of development services to 7273
enter into leases of real property, buildings, and office space to 7274
be used solely as locations for the state's foreign offices to 7275
carry out the purposes of section 122.05 of the Revised Code; 7276

(6) The power of the director of environmental protection to 7277
enter into environmental covenants, to grant and accept easements, 7278
or to sell property pursuant to division (G) of section 3745.01 of 7279
the Revised Code. 7280

(C) Purchases for, and the custody and repair of, buildings 7281
under the management and control of the capitol square review and 7282
advisory board, the ~~rehabilitation services commission~~ 7283
opportunities for Ohioans with disabilities agency, the bureau of 7284

workers' compensation, or the departments of public safety, job 7285
and family services, ~~mental health~~ mental health and addiction 7286
services, developmental disabilities, and rehabilitation and 7287
correction; buildings of educational and benevolent institutions 7288
under the management and control of boards of trustees; and 7289
purchases or leases for, and the custody and repair of, office 7290
space used for the purposes of the joint legislative ethics 7291
committee are not subject to the control and jurisdiction of the 7292
department of administrative services. 7293

If the joint legislative ethics committee so requests, the 7294
committee and the director of administrative services may enter 7295
into a contract under which the department of administrative 7296
services agrees to perform any services requested by the committee 7297
that the department is authorized under this section to perform. 7298

(D) Any instrument by which real property is acquired 7299
pursuant to this section shall identify the agency of the state 7300
that has the use and benefit of the real property as specified in 7301
section 5301.012 of the Revised Code. 7302

Sec. 123.10. (A) As used in this section and section 123.11 7303
of the Revised Code, "public exigency" means an injury or 7304
obstruction that occurs in any public works of the state 7305
maintained by the director of administrative services and that 7306
materially impairs its immediate use or places in jeopardy 7307
property adjacent to it; an immediate danger of such an injury or 7308
obstruction; or an injury or obstruction, or an immediate danger 7309
of an injury or obstruction, that occurs in any public works of 7310
the state maintained by the director of administrative services 7311
and that materially impairs its immediate use or places in 7312
jeopardy property adjacent to it. 7313

(B) When a declaration of public exigency is issued pursuant 7314
to division (C) of this section, ~~the director of administrative~~ 7315

~~services may request~~ the Ohio facilities construction commission 7316
~~to~~ shall enter into contracts with proper persons for the 7317
performance of labor, the furnishing of materials, or the 7318
construction of any structures and buildings necessary to the 7319
maintenance, control, and management of the public works of the 7320
state or any part of those public works. Any contracts awarded for 7321
the work performed pursuant to the declaration of a public 7322
exigency may be awarded without competitive bidding or selection 7323
as set forth in Chapter 153. of the Revised Code. 7324

(C) The executive director of ~~administrative services~~ the 7325
Ohio facilities construction commission may issue a declaration of 7326
a public exigency on the executive director's own initiative or 7327
upon the request of the director of any state agency. The 7328
executive director's declaration shall identify the specific 7329
injury, obstruction, or danger that is the subject of the 7330
declaration and shall set forth a dollar limitation for the 7331
repair, removal, or prevention of that exigency under the 7332
declaration. 7333

Before any project to repair, remove, or prevent a public 7334
exigency under the executive director's declaration may begin, the 7335
executive director shall send notice of the project, in writing, 7336
to the director of budget and management and to the members of the 7337
controlling board. That notice shall detail the project to be 7338
undertaken to address the public exigency and shall include a copy 7339
of the executive director's declaration that establishes the 7340
monetary limitations on that project. 7341

Sec. 123.11. When a public exigency, as defined in division 7342
(A) of section 123.10 of the Revised Code, exists, the executive 7343
director of ~~administrative services~~ the Ohio facilities 7344
construction commission may take possession of lands and use them, 7345
or materials and other property necessary for the maintenance, 7346

protection, or repair of the public works, in accordance with 7347
sections 163.01 to 163.22 of the Revised Code. 7348

Sec. 123.19. There is hereby established in the state 7349
treasury the theater equipment maintenance fund. All appropriate 7350
theater-related revenues of the department of administrative 7351
services, as determined by the department, shall be credited to 7352
that fund and to any accounts created in that fund with the 7353
department's approval. All appropriate theater-related expenses of 7354
the department, as determined by the department, including 7355
reimbursement of, or payment to, any other fund or any 7356
governmental agency for advances made or services rendered to or 7357
on behalf of the department, shall be paid from that fund as 7358
determined by or pursuant to directions of the department. All 7359
investment earnings of that fund shall be credited to it and shall 7360
be allocated among any accounts created in the fund in the manner 7361
determined by the department. 7362

Sec. 123.201. (A) There is hereby created in the state 7363
treasury the Ohio facilities construction commission fund, 7364
consisting of transfers of moneys authorized by the general 7365
assembly and revenues received by the Ohio facilities construction 7366
commission under section 123.21 of the Revised Code. Investment 7367
earnings on moneys in the fund shall be credited to the fund. 7368
Moneys in the fund may be used by the commission, in performing 7369
its duties under this chapter, to pay personnel and other 7370
administrative expenses, to pay the cost of preparing building 7371
design specifications, to pay the cost of providing project 7372
management services, and for other purposes determined by the 7373
commission to be necessary to fulfill its duties under this 7374
chapter. 7375

(B)(1) There is hereby created in the state treasury the 7376
cultural and sports facilities building fund, consisting of 7377

proceeds of obligations authorized to pay costs of Ohio cultural facilities and Ohio sports facilities for which appropriations are made by the general assembly. All investment earnings of the fund shall be credited to the fund. 7378
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(2) Upon the request of the executive director of the Ohio facilities construction commission and subject to applicable tax law limitations, the director of budget and management may transfer to the Ohio cultural facilities administration fund moneys credited to the cultural and sports facilities building fund to pay the costs of administering projects funded through the cultural and sports facilities building fund. 7382
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(C) There is hereby created in the state treasury the Ohio cultural facilities administration fund, consisting of transfers of money authorized by the general assembly and revenues received by the commission under division (A)(9) of section 123.21 of the Revised Code. Moneys in the fund may be used by the Ohio facilities construction commission in administering projects funded through the cultural and sports facilities building fund pursuant to sections 123.28 and 128.281 of the Revised Code. All investment earnings of that fund shall be credited to it and shall be allocated among any accounts created in the fund in the manner determined by the commission. 7389
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(D)(1) There is hereby created in the state treasury the capital donations fund, which shall be administered by the Ohio facilities construction commission. The fund consists of gifts, grants, devises, bequests, and other financial contributions made to the commission for the construction or improvement of cultural and sports facilities and shall be used in accordance with the specific purposes for which the gifts, grants, devises, bequests, or other financial contributions are made. All investment earnings of the fund shall be credited to the fund. Chapters 123., 125., 127., and 153. and section 3517.13 of the Revised Code do not 7400
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apply to contract obligations paid from the fund, notwithstanding 7410
anything to the contrary in those chapters or that section. 7411

(2) Not later than one month following the end of each 7412
quarter of the fiscal year, the commission shall allocate the 7413
amounts credited to the fund from investment earnings during that 7414
preceding quarter of the fiscal year among the specific projects 7415
for which they are to be used and shall certify this information 7416
to the director of budget and management. 7417

(3) If the amounts credited to the fund for a particular 7418
project exceed what is required to complete that project, the 7419
commission may refund any of those excess amounts, including 7420
unexpended investment earnings attributable to those amounts, to 7421
the entity from which they were received. 7422

Sec. 123.21. (A) The Ohio facilities construction commission 7423
may perform any act and ensure the performance of any function 7424
necessary or appropriate to carry out the purposes of, and 7425
exercise the powers granted under this chapter or any other 7426
provision of the Revised Code, including any of the following: 7427

(1) Prepare, or contract to be prepared, by licensed 7428
engineers or architects, surveys, general and detailed plans, 7429
specifications, bills of materials, and estimates of cost for any 7430
projects, improvements, or public buildings to be constructed by 7431
state agencies that may be authorized by legislative 7432
appropriations or any other funds made available therefor, 7433
provided that the construction of the projects, improvements, or 7434
public buildings is a statutory duty of the commission. This 7435
section does not require the independent employment of an 7436
architect or engineer as provided by section 153.01 of the Revised 7437
Code in the cases to which section 153.01 of the Revised Code 7438
applies. This section does not affect or alter the existing powers 7439
of the director of transportation. 7440

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

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

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

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

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

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

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

(9) Enter into and administer cooperative agreements for

cultural projects, as provided in sections 123.28 and 123.281 of 7472
the Revised Code. 7473

(B) The commission shall appoint and fix the compensation of 7474
an executive director who shall serve at the pleasure of the 7475
commission. The executive director shall exercise all powers that 7476
the commission possesses, supervise the operations of the 7477
commission, and perform such other duties as delegated by the 7478
commission. The executive director also shall employ and fix the 7479
compensation of such employees as will facilitate the activities 7480
and purposes of the commission, who shall serve at the pleasure of 7481
the executive director. The employees of the commission are exempt 7482
from Chapter 4117. of the Revised Code and are not considered 7483
public employees as defined in section 4117.01 of the Revised 7484
Code. Any agreement entered into prior to July 1, 2012, between 7485
the office of collective bargaining and the exclusive 7486
representative for employees of the commission is binding and 7487
shall continue to have effect. 7488

(C) The attorney general shall serve as the legal 7489
representative for the commission and may appoint other counsel as 7490
necessary for that purpose in accordance with section 109.07 of 7491
the Revised Code. 7492

Sec. 123.27. (A) As used in this section: 7493

"Capital facilities project" means the construction, 7494
reconstruction, improvement, enlargement, alteration, or repair of 7495
a building by a public entity. 7496

"Public entity" includes a state agency and a state 7497
institution of higher education. 7498

"State institution of higher education" has the same meaning 7499
as in section 3345.011 of the Revised Code. 7500

(B) Commencing not later than July 1, 2012, and upon 7501

completion of a capital facilities project that is funded wholly 7502
or in part using state funds, each public entity shall submit a 7503
report about the project to the executive director of the Ohio 7504
facilities construction commission. The report shall be submitted 7505
in Ohio administrative knowledge system capital improvement format 7506
or in a manner determined by the executive director and not later 7507
than thirty days after the project is complete. The report shall 7508
provide the total original contract bid, total cost of change 7509
orders, total actual cost of the project, total costs incurred for 7510
mediation and litigation services, and any other data requested by 7511
the executive director. The first report submitted pursuant to 7512
this division shall include information about any capital 7513
facilities project completed on or after July 1, 2011. Any capital 7514
facilities project that is funded wholly or in part through 7515
appropriations made to the Ohio school facilities commission, or 7516
the Ohio public works commission, ~~or the Ohio cultural facilities~~ 7517
~~commission,~~ or for which a joint use agreement has been entered 7518
into with any public entity, is exempt from the reporting 7519
requirement prescribed under this division. 7520

(C) Commencing not later than July 1, 2012, and annually 7521
thereafter, the attorney general shall report to the executive 7522
director of the Ohio facilities construction commission on any 7523
mediation and litigation costs associated with capital facilities 7524
projects for which a judgment has been rendered. The report shall 7525
be submitted in a manner prescribed by the executive director and 7526
shall contain any information requested by the executive director 7527
related to capital facilities project mediation and litigation 7528
costs. 7529

(D) As soon as practicable after such information is made 7530
available, the executive director of the Ohio facilities 7531
construction commission shall incorporate the information reported 7532
pursuant to divisions (B) and (C) of this section into the Ohio 7533

administrative knowledge system. 7534

Sec. ~~3383.01~~ 123.28. As used in this ~~chapter~~ section and in 7535
section 123.281 of the Revised Code: 7536

(A) "Culture" means any of the following: 7537

(1) Visual, musical, dramatic, graphic, design, and other 7538
arts, including, but not limited to, architecture, dance, 7539
literature, motion pictures, music, painting, photography, 7540
sculpture, and theater, and the provision of training or education 7541
in these arts; 7542

(2) The presentation or making available, in museums or other 7543
indoor or outdoor facilities, of principles of science and their 7544
development, use, or application in business, industry, or 7545
commerce or of the history, heritage, development, presentation, 7546
and uses of the arts described in division (A)(1) of this section 7547
and of transportation; 7548

(3) The preservation, presentation, or making available of 7549
features of archaeological, architectural, environmental, or 7550
historical interest or significance in a state historical facility 7551
or a local historical facility. 7552

(B) "Cultural organization" means either of the following: 7553

(1) A governmental agency or Ohio nonprofit corporation that 7554
provides programs or activities in areas directly concerned with 7555
culture; 7556

(2) A regional arts and cultural district as defined in 7557
section 3381.01 of the Revised Code. 7558

(C) "Cultural project" means all or any portion of an Ohio 7559
cultural facility for which the general assembly has ~~specifically~~ 7560
~~authorized the spending of money, or~~ made an appropriation, 7561
~~pursuant to division (D)(3) or (E) of section 3383.07 of the~~ 7562
Revised Code or has specifically authorized the spending of money 7563

or the making of rental payments relating to the financing of 7564
construction. 7565

(D) "Cooperative contract" means a contract between the Ohio 7566
~~cultural~~ facilities construction commission and a cultural 7567
organization providing the terms and conditions of the cooperative 7568
use of an Ohio cultural facility. 7569

(E) "Costs of operation" means amounts required to manage an 7570
Ohio cultural facility that are incurred following the completion 7571
of construction of its cultural project, provided that both of the 7572
following apply: 7573

(1) Those amounts either: 7574

(a) Have been committed to a fund dedicated to that purpose; 7575

(b) Equal the principal of any endowment fund, the income 7576
from which is dedicated to that purpose. 7577

(2) The commission and the cultural organization have 7578
executed an agreement with respect to either of those funds. 7579

(F) ~~"General building services" means general building~~ 7580
~~services for an Ohio cultural facility or an Ohio sports facility,~~ 7581
~~including, but not limited to, general custodial care, security,~~ 7582
~~maintenance, repair, painting, decoration, cleaning, utilities,~~ 7583
~~fire safety, grounds and site maintenance and upkeep, and~~ 7584
~~plumbing.~~ 7585

~~(G) "Governmental agency" means a state agency, a~~ 7586
~~state supported or state assisted institution of higher education~~ 7587
the Ohio historical society, a municipal corporation, county, 7588
township, or school district, a port authority created under 7589
Chapter 4582. of the Revised Code, any other political subdivision 7590
or special district in this state established by or pursuant to 7591
law, or any combination of these entities; except where otherwise 7592
indicated, the United States or any department, division, or 7593

agency of the United States, or any agency, commission, or 7594
authority established pursuant to an interstate compact or 7595
agreement. 7596

~~(H)~~(G) "Local contributions" means the value of an asset 7597
provided by or on behalf of a cultural organization from sources 7598
other than the state, the value and nature of which shall be 7599
approved by the Ohio ~~cultural~~ facilities construction commission, 7600
in its sole discretion. "Local contributions" may include the 7601
value of the site where a cultural project is to be constructed. 7602
All "local contributions," except a contribution attributable to 7603
such a site, shall be for the costs of construction of a cultural 7604
project or the creation or expansion of an endowment for the costs 7605
of operation of a cultural facility. 7606

~~(I)~~(H) "Local historical facility" means a site or facility, 7607
other than a state historical facility, of archaeological, 7608
architectural, environmental, or historical interest or 7609
significance, or a facility, including a storage facility, 7610
appurtenant to the operations of such a site or facility, that is 7611
owned by a cultural organization, ~~provided the facility meets the~~ 7612
~~requirements of division (K)(2)(b) of this section, is managed by~~ 7613
~~or pursuant to a contract with the Ohio cultural facilities~~ 7614
~~commission,~~ and is used for or in connection with the cultural 7615
activities ~~of the commission~~, including the presentation or making 7616
available of culture to the public. 7617

~~(J)~~(I) "Manage," "operate," or "management" means the 7618
provision of, or the exercise of control over the provision of, 7619
activities: 7620

(1) Relating to culture for an Ohio cultural facility, 7621
including as applicable, but not limited to, providing for 7622
displays, exhibitions, specimens, and models; booking of artists, 7623
performances, or presentations; scheduling; and hiring or 7624
contracting for directors, curators, technical and scientific 7625

staff, ushers, stage managers, and others directly related to the 7626
cultural activities in the facility; but not including general 7627
building services; 7628

(2) Relating to sports and athletic events for an Ohio sports 7629
facility, including as applicable, but not limited to, providing 7630
for booking of athletes, teams, and events; scheduling; and hiring 7631
or contracting for staff, ushers, managers, and others directly 7632
related to the sports and athletic events in the facility; but not 7633
including general building services. 7634

~~(K)~~(J) "Ohio cultural facility" means any of the following: 7635

(1) The theaters located in the state office tower at 77 7636
South High street in Columbus; 7637

(2) Any ~~capital~~ cultural facility in this state ~~to which both~~ 7638
~~of the following apply:~~ 7639

~~(a) The construction of a cultural project related to the 7640
facility was authorized or funded by the general assembly pursuant 7641
to division (D)(3) of section 3383.07 of the Revised Code and 7642
proceeds of state bonds are used for costs of the cultural 7643
project. 7644~~

~~(b) The facility that is managed directly by, or is subject 7645
to a cooperative or management contract with, the Ohio ~~cultural~~ 7646
facilities construction commission, ~~and is used for or in~~ 7647
~~connection with the activities of the commission, including the~~ 7648
~~presentation or making available of culture to the public and the~~ 7649
~~provision of training or education in culture. 7650~~~~

(3) A state historical facility or a local historical 7651
facility. 7652

~~(L) "State agency" means the state or any of its branches, 7653
officers, boards, commissions, authorities, departments, 7654
divisions, or other units or agencies. 7655~~

~~(M)~~(K) "Construction" includes acquisition, including 7656
acquisition by lease-purchase, demolition, reconstruction, 7657
alteration, renovation, remodeling, enlargement, improvement, site 7658
improvements, and related equipping and furnishing. 7659

~~(N)~~(L) "State historical facility" means a site or facility 7660
that has all of the following characteristics: 7661

(1) It is created, supervised, operated, protected, 7662
maintained, and promoted by the Ohio historical society pursuant 7663
to the society's performance of public functions under sections 7664
149.30 and 149.302 of the Revised Code. 7665

(2) Its title must reside wholly or in part with the state, 7666
the society, or both the state and the society. 7667

(3) It is managed directly by or is subject to a cooperative 7668
or management contract with the Ohio ~~cultural~~ facilities 7669
construction commission and is used for or in connection with ~~the~~ 7670
cultural activities ~~of the commission~~, including the presentation 7671
or making available of culture to the public. 7672

~~(O)~~(M) "Ohio sports facility" means all or a portion of a 7673
stadium, arena, tennis facility, motorsports complex, or other 7674
capital facility in this state. A primary purpose of the facility 7675
shall be to provide a site or venue for the presentation to the 7676
public of motorsports events, professional tennis tournaments, or 7677
events of one or more major or minor league professional athletic 7678
or sports teams that are associated with the state or with a city 7679
or region of the state. The facility shall be, in the case of a 7680
motorsports complex, owned by the state or governmental agency, or 7681
in all other instances, owned by or located on real property owned 7682
by the state or a governmental agency, and includes all parking 7683
facilities, walkways, and other auxiliary facilities, equipment, 7684
furnishings, and real and personal property and interests and 7685
rights therein, that may be appropriate for or used for or in 7686

connection with the facility or its operation, for capital costs 7687
of which state funds are spent pursuant to ~~this chapter~~ this 7688
section and section 123.281 of the Revised Code. A facility 7689
constructed as an Ohio sports facility may be both an Ohio 7690
cultural facility and an Ohio sports facility. 7691

~~(P)~~(N) "Motorsports" means sporting events in which motor 7692
vehicles are driven on a clearly demarcated tracked surface. 7693

Sec. ~~3383-07~~ 123.281. (A) The Ohio facilities construction 7694
commission shall provide for the construction of a cultural 7695
project in conformity with Chapter 153. of the Revised Code, 7696
except as follows: 7697

~~(1) For a cultural project other than a state historical~~ 7698
~~facility, construction services may be provided on behalf of the~~ 7699
~~state by the Ohio cultural facilities commission, or by for~~ 7700
construction services provided on behalf of the state by a 7701
governmental agency or a cultural organization in accordance with 7702
divisions (B) and (C) of this section. 7703

(B) In order for a governmental agency or a cultural 7704
organization ~~that occupies, will occupy, or is responsible for the~~ 7705
~~Ohio cultural facility, as determined by the Ohio cultural~~ 7706
~~facilities commission. For a project receiving a state~~ 7707
~~appropriation of fifty thousand dollars or less, the Ohio cultural~~ 7708
~~facilities commission may delegate to its executive director the~~ 7709
~~authority to approve the provision of construction services by~~ 7710
~~such an agency or organization, but not the authority to~~ 7711
~~disapprove that provision. Construction services to be provided by~~ 7712
~~a governmental agency or a cultural organization shall be~~ 7713
~~specified in an agreement between the Ohio cultural facilities~~ 7714
~~commission and the governmental agency or cultural organization.~~ 7715
~~The agreement, or any actions taken under it, are not subject to~~ 7716
~~Chapter 123. or 153. of the Revised Code, except for sections~~ 7717

~~123.081 and 153.011 of the Revised Code, and shall be subject to~~ 7718
~~Chapter 4115. of the Revised Code.~~ 7719

~~(2) For a cultural project that is to provide construction~~ 7720
~~services on behalf of the state for a cultural project for which~~ 7721
~~the general assembly has made an appropriation or specifically~~ 7722
~~authorized the spending of money or the making of rental payments~~ 7723
~~relating to the financing of the construction, the governmental~~ 7724
~~agency or cultural organization shall submit to the Ohio~~ 7725
~~facilities construction commission a cooperative agreement that~~ 7726
~~includes, but is not limited to, provisions that:~~ 7727

~~(1) Specify how the proposed project will support culture, as~~ 7728
~~defined in section 123.28 of the Revised Code;~~ 7729

~~(2) Specify that the governmental agency or cultural~~ 7730
~~organization has local contributions amounting to not less than~~ 7731
~~fifty per cent of the total state funding for the cultural~~ 7732
~~project;~~ 7733

~~(3) Specify that the funds shall be used only for~~ 7734
~~construction, as defined in section 123.28 of the Revised Code;~~ 7735

~~(4) Identify the facility to be constructed, renovated,~~ 7736
~~remodeled, or improved;~~ 7737

~~(5) Specify that the project scope meets the intent and~~ 7738
~~purpose of the project appropriation and that the project can be~~ 7739
~~completed and ready for full occupancy without exceeding~~ 7740
~~appropriated funds;~~ 7741

~~(6) Specify that the governmental agency or cultural~~ 7742
~~organization shall hold the Ohio facilities construction~~ 7743
~~commission harmless from all liability for the operation and~~ 7744
~~maintenance costs of the facility;~~ 7745

~~(7) Specify that the agreement or any actions taken under it~~ 7746
~~are not subject to Chapters 123. or 153. of the Revised Code,~~ 7747

except for section 153.011 of the Revised Code, and are subject to 7748
Chapter 4115. of the Revised Code; and 7749

(8) Provide that amendments to the agreement shall require 7750
the approval of the Ohio facilities construction commission. 7751

(C) In order for a cultural organization to provide 7752
construction services on behalf of the state for a state 7753
historical facility, construction services may be provided by the 7754
Ohio cultural facilities commission or by a cultural organization 7755
that occupies, will occupy, or is responsible for the facility, as 7756
determined by the Ohio cultural facilities commission. For a 7757
facility receiving a state appropriation of fifty thousand dollars 7758
or less, the Ohio cultural facilities commission may delegate to 7759
its executive director the authority to approve the provision of 7760
construction services by such an organization, but not the 7761
authority to disapprove that provision. The construction services 7762
to be provided by the cultural organization shall be specified in 7763
an agreement between the Ohio cultural facilities commission and 7764
the cultural organization. That agreement, and any actions taken 7765
under it, are not subject to Chapter 123., 153., or 4115. of the 7766
Revised Code. 7767

(B) For an Ohio sports facility that is financed in part by 7768
obligations issued pursuant to Chapter 154. of the Revised Code, 7769
construction services shall be provided on behalf of the state by 7770
or at the direction of the governmental agency or nonprofit 7771
corporation that will own or be responsible for the management of 7772
the facility, all as determined by the Ohio cultural facilities 7773
commission. For a facility receiving a state appropriation of 7774
fifty thousand dollars or less, the Ohio cultural facilities 7775
commission may delegate to its executive director the authority to 7776
approve the provision of construction services by or at the 7777
direction of the agency or corporation, but not the authority to 7778
disapprove that provision. Any construction services to be 7779

~~provided by a governmental agency or nonprofit corporation shall 7780
be specified in an agreement between the Ohio cultural facilities 7781
commission and the governmental agency or nonprofit corporation. 7782
That agreement, and any actions taken under it, are not subject to 7783
Chapter 123. or 153. of the Revised Code, except for sections 7784
123.081 and 153.011 of the Revised Code, and shall be subject to 7785
Chapter 4115. of the Revised Code. 7786~~

~~(C) General building services for an Ohio cultural facility 7787
shall be provided by the Ohio cultural facilities commission or by 7788
a cultural organization that occupies, will occupy, or is 7789
responsible for the facility, as determined by the Ohio cultural 7790
facilities commission. For a facility receiving a state 7791
appropriation of fifty thousand dollars or less, the Ohio cultural 7792
facilities commission may delegate to its executive director the 7793
authority to approve the provision of general building services by 7794
such an organization, but not the authority to disapprove that 7795
provision. Alternatively, the Ohio building authority may elect to 7796
provide those services for Ohio cultural facilities financed with 7797
proceeds of state bonds issued by the authority. The costs of 7798
management and general building services shall be paid by the 7799
cultural organization that occupies, will occupy, or is 7800
responsible for the facility as provided in an agreement between 7801
the Ohio cultural facilities commission and the cultural 7802
organization, except that the state may pay for general building 7803
services for state-owned cultural facilities constructed on 7804
state-owned land. 7805~~

~~General building services for an Ohio sports facility shall 7806
be provided by or at the direction of the governmental agency or 7807
nonprofit corporation that will be responsible for the management 7808
of the facility, all as determined by the Ohio cultural facilities 7809
commission. For a facility receiving a state appropriation of 7810
fifty thousand dollars or less, the Ohio cultural facilities 7811~~

~~commission may delegate to its executive director the authority to 7812
approve the provision of general building services by or at the 7813
direction of the agency or corporation, but not the authority to 7814
disapprove that provision. Any general building services to be 7815
provided by a governmental agency or nonprofit corporation for an 7816
Ohio sports facility shall be specified in an agreement between 7817
the Ohio cultural facilities commission and the governmental 7818
agency or nonprofit corporation. That agreement, and any actions 7819
taken under it, are not subject to Chapter 123. or 153. of the 7820
Revised Code, except for sections 123.081 and 153.011 of the 7821
Revised Code, and shall be subject to Chapter 4115. of the Revised 7822
Code. 7823~~

~~(D) This division does not apply to a state historical 7824
facility. No state funds, including any state bond proceeds, shall 7825
be spent on the construction of any cultural project under this 7826
chapter unless, with respect to the cultural project and to the 7827
Ohio cultural facility related to the project, all of the 7828
following apply: 7829~~

~~(1) The Ohio cultural facilities commission has determined 7830
that there is a need for the cultural project and the Ohio 7831
cultural facility related to the project in the region of the 7832
state in which the Ohio cultural facility is located or for which 7833
the facility is proposed. For a project receiving a state 7834
appropriation of fifty thousand dollars or less, the Ohio cultural 7835
facilities commission may delegate to its executive director the 7836
authority to determine need but only in the affirmative. 7837~~

~~(2) The Ohio cultural facilities commission has determined 7838
that, as an indication of substantial regional support for the 7839
cultural project, the cultural organization has made provision 7840
satisfactory to the Ohio cultural facilities commission, in its 7841
sole discretion, for local contributions amounting to not less 7842
than fifty per cent of the total state funding for the cultural 7843~~

~~project. For a project receiving a state appropriation of fifty 7844
thousand dollars or less, the Ohio cultural facilities commission 7845
may delegate to its executive director the authority to determine 7846
the adequacy of the regional support but only in the affirmative. 7847~~

~~(3) The general assembly has specifically authorized the 7848
spending of money on, or made an appropriation for, the 7849
construction of the cultural project, or for rental payments 7850
relating to the financing of the construction of the cultural 7851
project. Authorization to spend money, or an appropriation, for 7852
planning the cultural project does not constitute authorization to 7853
spend money on, or an appropriation for, construction of the 7854
cultural project. 7855~~

~~(E) No state funds, including any state bond proceeds, shall 7856
be spent on the construction of any state historical facility 7857
under this chapter unless the general assembly has specifically 7858
authorized the spending of money on, or made an appropriation for, 7859
the construction of the state historical project related to the 7860
facility, or for rental payments relating to the financing of the 7861
construction of the state historical project. Authorization to 7862
spend money, or an appropriation, for planning the state 7863
historical project does not constitute authorization to spend 7864
money on, or an appropriation for, the construction of the state 7865
historical project. 7866~~

~~(F) for which the general assembly has made an appropriation 7867
or specifically authorized the spending of money or the making of 7868
rental payments relating to the financing of the construction, the 7869
cultural organization shall submit to the Ohio facilities 7870
construction commission a cooperative agreement that includes, but 7871
is not limited to, provisions that: 7872~~

~~(1) Specify how the proposed project will support culture, as 7873
defined in section 123.28 of the Revised Code; 7874~~

(2) Specify that the cultural organization has local contributions amounting to not less than fifty per cent of the total state funding for the cultural project; 7875
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(3) Specify that the funds shall be used only for construction, as defined in section 123.28 of the Revised Code; 7878
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(4) Identify the facility to be constructed, renovated, remodeled, or improved; 7880
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(5) Specify that the project scope meets the intent and purpose of the project appropriation and that the project can be completed and ready for full occupancy without exceeding appropriated funds; 7882
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(6) Specify that the cultural organization shall hold the Ohio facilities construction commission harmless from all liability for the operation and maintenance costs of the facility; 7886
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(7) Specify that the agreement or any actions taken under it are not subject to Chapters 123., 153., or 4115. of the Revised Code; and 7889
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7891

(8) Provide that amendments to the agreement shall require the approval of the Ohio facilities construction commission. 7892
7893

(D) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply: 7894
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(1) The Ohio ~~cultural~~ facilities construction commission has determined that there is a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter. For a facility receiving a state appropriation of fifty 7900
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~~thousand dollars or less, the Ohio cultural facilities commission 7905
may delegate to its executive director the authority to determine 7906
need but only in the affirmative. 7907~~

~~(2) As an indication of substantial local support for the 7908
facility, the Ohio cultural facilities commission has received a 7909
financial and development plan satisfactory to it, and provision 7910
has been made, by agreement or otherwise, satisfactory to the Ohio 7911
cultural facilities commission, for a contribution amounting to 7912
not less than eighty-five per cent of the total estimated 7913
construction cost of the facility, excluding any site acquisition 7914
cost, from sources other than the state. For a facility receiving 7915
a state appropriation of fifty thousand dollars or less, the Ohio 7916
cultural facilities commission may delegate to its executive 7917
director the authority to evaluate the financial and development 7918
plan and the contribution and to determine their adequacy but only 7919
in the affirmative. 7920~~

~~(3)(2) The general assembly has specifically authorized the 7921
spending of money on, or made an appropriation for, the 7922
construction of the facility, or for rental payments relating to 7923
state financing of all or a portion of the costs of constructing 7924
the facility. Authorization to spend money, or an appropriation, 7925
for planning or determining the feasibility of or need for the 7926
facility does not constitute authorization to spend money on, or 7927
an appropriation for, costs of constructing the facility. 7928~~

~~(4)(3) If state bond proceeds are being used for the Ohio 7929
sports facility, the state or a governmental agency owns or has 7930
sufficient property interests in the facility or in the site of 7931
the facility or in the portion or portions of the facility 7932
financed from proceeds of state bonds, which may include, but is 7933
not limited to, the right to use or to require the use of the 7934
facility for the presentation of sport and athletic events to the 7935
public at the facility. 7936~~

~~(G)~~(E) In addition to the requirements of division ~~(F)~~(D) of 7937
this section, no state funds, including any state bond proceeds, 7938
shall be spent on any Ohio sports facility that is a motorsports 7939
complex, unless, with respect to that facility, both of the 7940
following apply: 7941

(1) Motorsports events shall be presented at the facility 7942
pursuant to a lease entered into with the owner of the facility. 7943
The term of the lease shall be for a period of not less than the 7944
greater of the useful life of the portion of the facility financed 7945
from proceeds of state bonds as determined using the guidelines 7946
for maximum maturities as provided under divisions (B) and (C) of 7947
section 133.20 of the Revised Code, or the period of time 7948
remaining to the date of payment or provision for payment of 7949
outstanding state bonds allocable to costs of the facility, all as 7950
determined by the director of budget and management and certified 7951
by the executive director ~~to~~ of the Ohio ~~cultural~~ facilities 7952
construction commission and to the treasurer of state. 7953

(2) Any motorsports organization that commits to using the 7954
facility for an established period of time shall give the 7955
political subdivision in which the facility is located not less 7956
than six months' advance notice if the organization intends to 7957
cease utilizing the facility prior to the expiration of that 7958
established period. Such a motorsports organization shall be 7959
liable to the state for any state funds used on the construction 7960
costs of the facility. 7961

~~(H)~~(F) In addition to the requirements of division ~~(F)~~(D) of 7962
this section, no state bond proceeds shall be spent on any Ohio 7963
sports facility that is a tennis facility, unless the owner or 7964
manager of the facility provides contractual commitments from a 7965
national or international professional tennis organization in a 7966
form acceptable to the ~~cultural~~ Ohio facilities construction 7967
commission that assures that one or more sanctioned professional 7968

tennis events will be presented at the facility during each year 7969
that the bonds remain outstanding. 7970

Sec. 124.11. The civil service of the state and the several 7971
counties, cities, civil service townships, city health districts, 7972
general health districts, and city school districts of the state 7973
shall be divided into the unclassified service and the classified 7974
service. 7975

(A) The unclassified service shall comprise the following 7976
positions, which shall not be included in the classified service, 7977
and which shall be exempt from all examinations required by this 7978
chapter: 7979

(1) All officers elected by popular vote or persons appointed 7980
to fill vacancies in those offices; 7981

(2) All election officers as defined in section 3501.01 of 7982
the Revised Code; 7983

(3)(a) The members of all boards and commissions, and heads 7984
of principal departments, boards, and commissions appointed by the 7985
governor or by and with the governor's consent; 7986

(b) The heads of all departments appointed by a board of 7987
county commissioners; 7988

(c) The members of all boards and commissions and all heads 7989
of departments appointed by the mayor, or, if there is no mayor, 7990
such other similar chief appointing authority of any city or city 7991
school district; 7992

Except as otherwise provided in division (A)(17) or (C) of 7993
this section, this chapter does not exempt the chiefs of police 7994
departments and chiefs of fire departments of cities or civil 7995
service townships from the competitive classified service. 7996

(4) The members of county or district licensing boards or 7997
commissions and boards of revision, and not more than five deputy 7998

county auditors;	7999
(5) All officers and employees elected or appointed by either	8000
or both branches of the general assembly, and employees of the	8001
city legislative authority engaged in legislative duties;	8002
(6) All commissioned, warrant, and noncommissioned officers	8003
and enlisted persons in the Ohio organized militia, including	8004
military appointees in the adjutant general's department;	8005
(7)(a) All presidents, business managers, administrative	8006
officers, superintendents, assistant superintendents, principals,	8007
deans, assistant deans, instructors, teachers, and such employees	8008
as are engaged in educational or research duties connected with	8009
the public school system, colleges, and universities, as	8010
determined by the governing body of the public school system,	8011
colleges, and universities;	8012
(b) The library staff of any library in the state supported	8013
wholly or in part at public expense.	8014
(8) Four clerical and administrative support employees for	8015
each of the elective state officers, four clerical and	8016
administrative support employees for each board of county	8017
commissioners and one such employee for each county commissioner,	8018
and four clerical and administrative support employees for other	8019
elective officers and each of the principal appointive executive	8020
officers, boards, or commissions, except for civil service	8021
commissions, that are authorized to appoint such clerical and	8022
administrative support employees;	8023
(9) The deputies and assistants of state agencies authorized	8024
to act for and on behalf of the agency, or holding a fiduciary or	8025
administrative relation to that agency and those persons employed	8026
by and directly responsible to elected county officials or a	8027
county administrator and holding a fiduciary or administrative	8028
relationship to such elected county officials or county	8029

administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the appointing authority finds it impracticable to determine their fitness by competitive examination;

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

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

(13) Any physician or dentist who is a full-time employee of

the department of ~~mental health~~ mental health and addiction 8062
services, the department of developmental disabilities, or an 8063
institution under the jurisdiction of either department; and 8064
physicians who are in residency programs at the institutions; 8065

(14) Up to twenty positions at each institution under the 8066
jurisdiction of the department of ~~mental health~~ mental health and 8067
addiction services or the department of developmental disabilities 8068
that the department director determines to be primarily 8069
administrative or managerial; and up to fifteen positions in any 8070
division of either department, excluding administrative assistants 8071
to the director and division chiefs, which are within the 8072
immediate staff of a division chief and which the director 8073
determines to be primarily and distinctively administrative and 8074
managerial; 8075

(15) Noncitizens of the United States employed by the state, 8076
or its counties or cities, as physicians or nurses who are duly 8077
licensed to practice their respective professions under the laws 8078
of this state, or medical assistants, in mental or chronic disease 8079
hospitals, or institutions; 8080

(16) Employees of the governor's office; 8081

(17) Fire chiefs and chiefs of police in civil service 8082
townships appointed by boards of township trustees under section 8083
505.38 or 505.49 of the Revised Code; 8084

(18) Executive directors, deputy directors, and program 8085
directors employed by boards of alcohol, drug addiction, and 8086
mental health services under Chapter 340. of the Revised Code, and 8087
secretaries of the executive directors, deputy directors, and 8088
program directors; 8089

(19) Superintendents, and management employees as defined in 8090
section 5126.20 of the Revised Code, of county boards of 8091
developmental disabilities; 8092

(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;	8093 8094 8095
(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;	8096 8097 8098
(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;	8099 8100 8101
(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;	8102 8103
(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of industrial compliance in the department of commerce;	8104 8105 8106 8107
(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;	8108 8109 8110
(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, <u>opportunities for Ohioans with disabilities agency</u> , and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range	8111 8112 8113 8114 8115 8116 8117 8118 8119 8120 8121 8122 8123

44 47 of salary schedule E-2 in section 124.152 of the Revised 8124
Code. The authority to establish positions in the unclassified 8125
service under division (A)(26) of this section is in addition to 8126
and does not limit any other authority that an administrative 8127
department or state agency has under the Revised Code to establish 8128
positions, appoint employees, or set compensation. 8129

(27) Employees of the department of agriculture employed 8130
under section 901.09 of the Revised Code; 8131

(28) For cities, counties, civil service townships, city 8132
health districts, general health districts, and city school 8133
districts, the deputies and assistants of elective or principal 8134
executive officers authorized to act for and in the place of their 8135
principals or holding a fiduciary relation to their principals; 8136

(29) Employees who receive intermittent or temporary 8137
appointments under division (B) of section 124.30 of the Revised 8138
Code; 8139

(30) Employees appointed to administrative staff positions 8140
for which an appointing authority is given specific statutory 8141
authority to set compensation; 8142

(31) Employees appointed to highway patrol cadet or highway 8143
patrol cadet candidate classifications; 8144

(32) Employees placed in the unclassified service by another 8145
section of the Revised Code. 8146

(B) The classified service shall comprise all persons in the 8147
employ of the state and the several counties, cities, city health 8148
districts, general health districts, and city school districts of 8149
the state, not specifically included in the unclassified service. 8150
Upon the creation by the board of trustees of a civil service 8151
township civil service commission, the classified service shall 8152
also comprise, except as otherwise provided in division (A)(17) or 8153
(C) of this section, all persons in the employ of a civil service 8154

township police or fire department having ten or more full-time 8155
paid employees. The classified service consists of two classes, 8156
which shall be designated as the competitive class and the 8157
unskilled labor class. 8158

(1) The competitive class shall include all positions and 8159
employments in the state and the counties, cities, city health 8160
districts, general health districts, and city school districts of 8161
the state, and, upon the creation by the board of trustees of a 8162
civil service township of a township civil service commission, all 8163
positions in a civil service township police or fire department 8164
having ten or more full-time paid employees, for which it is 8165
practicable to determine the merit and fitness of applicants by 8166
competitive examinations. Appointments shall be made to, or 8167
employment shall be given in, all positions in the competitive 8168
class that are not filled by promotion, reinstatement, transfer, 8169
or reduction, as provided in this chapter, and the rules of the 8170
director of administrative services, by appointment from those 8171
certified to the appointing officer in accordance with this 8172
chapter. 8173

(2) The unskilled labor class shall include ordinary 8174
unskilled laborers. Vacancies in the labor class for positions in 8175
service of the state shall be filled by appointment from lists of 8176
applicants registered by the director or the director's designee. 8177
Vacancies in the labor class for all other positions shall be 8178
filled by appointment from lists of applicants registered by a 8179
commission. The director or the commission, as applicable, by 8180
rule, shall require an applicant for registration in the labor 8181
class to furnish evidence or take tests as the director or 8182
commission considers proper with respect to age, residence, 8183
physical condition, ability to labor, honesty, sobriety, industry, 8184
capacity, and experience in the work or employment for which 8185
application is made. Laborers who fulfill the requirements shall 8186

be placed on the eligible list for the kind of labor or employment 8187
sought, and preference shall be given in employment in accordance 8188
with the rating received from that evidence or in those tests. 8189
Upon the request of an appointing officer, stating the kind of 8190
labor needed, the pay and probable length of employment, and the 8191
number to be employed, the director or commission, as applicable, 8192
shall certify from the highest on the list double the number to be 8193
employed; from this number, the appointing officer shall appoint 8194
the number actually needed for the particular work. If more than 8195
one applicant receives the same rating, priority in time of 8196
application shall determine the order in which their names shall 8197
be certified for appointment. 8198

(C) A municipal or civil service township civil service 8199
commission may place volunteer firefighters who are paid on a 8200
fee-for-service basis in either the classified or the unclassified 8201
civil service. 8202

(D)(1) This division does not apply to persons in the 8203
unclassified service who have the right to resume positions in the 8204
classified service under sections 4121.121, ~~5119.071~~ 5119.18, 8205
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the 8206
Revised Code or to cities, counties, or political subdivisions of 8207
the state. 8208

(2) A person who holds a position in the classified service 8209
of the state and who is appointed to a position in the 8210
unclassified service shall retain the right to resume the position 8211
and status held by the person in the classified service 8212
immediately prior to the person's appointment to the position in 8213
the unclassified service, regardless of the number of positions 8214
the person held in the unclassified service. An employee's right 8215
to resume a position in the classified service may only be 8216
exercised when an appointing authority demotes the employee to a 8217
pay range lower than the employee's current pay range or revokes 8218

the employee's appointment to the unclassified service and: 8219

(a) That person held a certified position prior to July 1, 8220
2007, in the classified service within the appointing authority's 8221
agency; or 8222

(b) That person held a permanent position on or after July 1, 8223
2007, in the classified service within the appointing authority's 8224
agency. 8225

(3) An employee forfeits the right to resume a position in 8226
the classified service when: 8227

(a) The employee is removed from the position in the 8228
unclassified service due to incompetence, inefficiency, 8229
dishonesty, drunkenness, immoral conduct, insubordination, 8230
discourteous treatment of the public, neglect of duty, violation 8231
of this chapter or the rules of the director of administrative 8232
services, any other failure of good behavior, any other acts of 8233
misfeasance, malfeasance, or nonfeasance in office, or conviction 8234
of a felony; or 8235

(b) Upon transfer to a different agency. 8236

(4) Reinstatement to a position in the classified service 8237
shall be to a position substantially equal to that position in the 8238
classified service held previously, as certified by the director 8239
of administrative services. If the position the person previously 8240
held in the classified service has been placed in the unclassified 8241
service or is otherwise unavailable, the person shall be appointed 8242
to a position in the classified service within the appointing 8243
authority's agency that the director of administrative services 8244
certifies is comparable in compensation to the position the person 8245
previously held in the classified service. Service in the position 8246
in the unclassified service shall be counted as service in the 8247
position in the classified service held by the person immediately 8248
prior to the person's appointment to the position in the 8249

unclassified service. When a person is reinstated to a position in 8250
the classified service as provided in this division, the person is 8251
entitled to all rights, status, and benefits accruing to the 8252
position in the classified service during the person's time of 8253
service in the position in the unclassified service. 8254

Sec. 124.14. (A)(1) The director of administrative services 8255
shall establish, and may modify or rescind, ~~by rule,~~ a job 8256
classification plan for all positions, offices, and employments 8257
~~the salaries of which are paid in whole or in part by~~ in the 8258
service of the state. The director shall group jobs within a 8259
classification so that the positions are similar enough in duties 8260
and responsibilities to be described by the same title, to have 8261
the same pay assigned with equity, and to have the same 8262
qualifications for selection applied. The director shall, ~~by rule,~~ 8263
assign a classification title to each classification within the 8264
classification plan. However, the director shall consider in 8265
establishing classifications, including classifications with 8266
parenthetical titles, and assigning pay ranges such factors as 8267
duties performed only on one shift, special skills in short supply 8268
in the labor market, recruitment problems, separation rates, 8269
comparative salary rates, the amount of training required, and 8270
other conditions affecting employment. The director shall describe 8271
the duties and responsibilities of the class, establish the 8272
qualifications for being employed in each position in the class, 8273
and file with the secretary of state a copy of specifications for 8274
all of the classifications. The director shall file new, 8275
additional, or revised specifications with the secretary of state 8276
before they are used. 8277

The director shall, ~~by rule,~~ assign each classification, 8278
either on a statewide basis or in particular counties or state 8279
institutions, to a pay range established under section 124.15 or 8280
section 124.152 of the Revised Code. The director may assign a 8281

classification to a pay range on a temporary basis for a period of 8282
six months. The director may establish, ~~by rule adopted under~~ 8283
~~Chapter 119. of the Revised Code,~~ experimental classification 8284
plans for some or all employees paid directly by warrant of the 8285
director of budget and management. ~~The rule that~~ shall include 8286
specifications for each classification within the plan and shall 8287
specifically address compensation ranges, and methods for 8288
advancing within the ranges, for the classifications, which may be 8289
assigned to pay ranges other than the pay ranges established under 8290
section 124.15 or 124.152 of the Revised Code. 8291

(2) The director of administrative services may reassign to a 8292
proper classification those positions that have been assigned to 8293
an improper classification. If the compensation of an employee in 8294
such a reassigned position exceeds the maximum rate of pay for the 8295
employee's new classification, the employee shall be placed in pay 8296
step X and shall not receive an increase in compensation until the 8297
maximum rate of pay for that classification exceeds the employee's 8298
compensation. 8299

(3) The director may reassign an exempt employee, as defined 8300
in section 124.152 of the Revised Code, to a bargaining unit 8301
classification if the director determines that the bargaining unit 8302
classification is the proper classification for that employee. 8303
Notwithstanding Chapter 4117. of the Revised Code or instruments 8304
and contracts negotiated under it, these placements are at the 8305
director's discretion. 8306

(4) The director shall, ~~by rule,~~ assign related 8307
classifications, which form a career progression, to a 8308
classification series. The director shall, ~~by rule,~~ assign each 8309
classification in the classification plan a five-digit number, the 8310
first four digits of which shall denote the classification series 8311
to which the classification is assigned. When a career progression 8312
encompasses more than ten classifications, the director shall, ~~by~~ 8313

~~rule,~~ identify the additional classifications belonging to a 8314
classification series. The additional classifications shall be 8315
part of the classification series, notwithstanding the fact that 8316
the first four digits of the number assigned to the additional 8317
classifications do not correspond to the first four digits of the 8318
numbers assigned to other classifications in the classification 8319
series. 8320

(B) Division (A) of this section and sections 124.15 and 8321
124.152 of the Revised Code do not apply to the following persons, 8322
positions, offices, and employments: 8323

(1) Elected officials; 8324

(2) Legislative employees, employees of the legislative 8325
service commission, employees in the office of the governor, 8326
employees who are in the unclassified civil service and exempt 8327
from collective bargaining coverage in the office of the secretary 8328
of state, auditor of state, treasurer of state, and attorney 8329
general, and employees of the supreme court; 8330

(3) Any position for which the authority to determine 8331
compensation is given by law to another individual or entity; 8332

(4) Employees of the bureau of workers' compensation whose 8333
compensation the administrator of workers' compensation 8334
establishes under division (B) of section 4121.121 of the Revised 8335
Code. 8336

(C) The director may employ a consulting agency to aid and 8337
assist the director in carrying out this section. 8338

(D)(1) When the director proposes to modify a classification 8339
or the assignment of classes to appropriate pay ranges, the 8340
director shall send written notice ~~of the proposed rule~~ to the 8341
appointing authorities of the affected employees ~~thirty days~~ 8342
~~before a hearing on the proposed rule. The appointing authorities~~ 8343
that shall notify the affected employees regarding the ~~proposed~~ 8344

~~rule modification thirty days before the modification occurs.~~ The 8345
director also shall send those appointing authorities notice ~~of~~ 8346
~~any final rule that is adopted~~ within ten days after ~~adoption~~ the 8347
modification is finalized. 8348

(2) When the director proposes to reclassify any employee in 8349
the service of the state so that the employee is adversely 8350
affected, the director shall give to the employee affected and to 8351
the employee's appointing authority a written notice setting forth 8352
the proposed new classification, pay range, and salary. Upon the 8353
request of any classified employee in the service of the state who 8354
is not serving in a probationary period, the director shall 8355
perform a job audit to review the classification of the employee's 8356
position to determine whether the position is properly classified. 8357
The director shall give to the employee affected and to the 8358
employee's appointing authority a written notice of the director's 8359
determination whether or not to reclassify the position or to 8360
reassign the employee to another classification. An employee or 8361
appointing authority desiring a hearing shall file a written 8362
request for the hearing with the state personnel board of review 8363
within thirty days after receiving the notice. The board shall set 8364
the matter for a hearing and notify the employee and appointing 8365
authority of the time and place of the hearing. The employee, the 8366
appointing authority, or any authorized representative of the 8367
employee who wishes to submit facts for the consideration of the 8368
board shall be afforded reasonable opportunity to do so. After the 8369
hearing, the board shall consider anew the reclassification and 8370
may order the reclassification of the employee and require the 8371
director to assign the employee to such appropriate classification 8372
as the facts and evidence warrant. As provided in division (A)(1) 8373
of section 124.03 of the Revised Code, the board may determine the 8374
most appropriate classification for the position of any employee 8375
coming before the board, with or without a job audit. The board 8376
shall disallow any reclassification or reassignment classification 8377

of any employee when it finds that changes have been made in the 8378
duties and responsibilities of any particular employee for 8379
political, religious, or other unjust reasons. 8380

(E)(1) Employees of each county department of job and family 8381
services shall be paid a salary or wage established by the board 8382
of county commissioners. The provisions of section 124.18 of the 8383
Revised Code concerning the standard work week apply to employees 8384
of county departments of job and family services. A board of 8385
county commissioners may do either of the following: 8386

(a) Notwithstanding any other section of the Revised Code, 8387
supplement the sick leave, vacation leave, personal leave, and 8388
other benefits of any employee of the county department of job and 8389
family services of that county, if the employee is eligible for 8390
the supplement under a written policy providing for the 8391
supplement; 8392

(b) Notwithstanding any other section of the Revised Code, 8393
establish alternative schedules of sick leave, vacation leave, 8394
personal leave, or other benefits for employees not inconsistent 8395
with the provisions of a collective bargaining agreement covering 8396
the affected employees. 8397

(2) Division (E)(1) of this section does not apply to 8398
employees for whom the state employment relations board 8399
establishes appropriate bargaining units pursuant to section 8400
4117.06 of the Revised Code, except in either of the following 8401
situations: 8402

(a) The employees for whom the state employment relations 8403
board establishes appropriate bargaining units elect no 8404
representative in a board-conducted representation election. 8405

(b) After the state employment relations board establishes 8406
appropriate bargaining units for such employees, all employee 8407
organizations withdraw from a representation election. 8408

(F)(1) Notwithstanding any contrary provision of sections 8409
124.01 to 124.64 of the Revised Code, the board of trustees of 8410
each state university or college, as defined in section 3345.12 of 8411
the Revised Code, shall carry out all matters of governance 8412
involving the officers and employees of the university or college, 8413
including, but not limited to, the powers, duties, and functions 8414
of the department of administrative services and the director of 8415
administrative services specified in this chapter. Officers and 8416
employees of a state university or college shall have the right of 8417
appeal to the state personnel board of review as provided in this 8418
chapter. 8419

(2) Each board of trustees shall adopt rules under section 8420
111.15 of the Revised Code to carry out the matters of governance 8421
described in division (F)(1) of this section. Until the board of 8422
trustees adopts those rules, a state university or college shall 8423
continue to operate pursuant to the applicable rules adopted by 8424
the director of administrative services under this chapter. 8425

(G)(1) Each board of county commissioners may, by a 8426
resolution adopted by a majority of its members, establish a 8427
county personnel department to exercise the powers, duties, and 8428
functions specified in division (G) of this section. As used in 8429
division (G) of this section, "county personnel department" means 8430
a county personnel department established by a board of county 8431
commissioners under division (G)(1) of this section. 8432

(2)(a) Each board of county commissioners, by a resolution 8433
adopted by a majority of its members, may designate the county 8434
personnel department of the county to exercise the powers, duties, 8435
and functions specified in sections 124.01 to 124.64 and Chapter 8436
325. of the Revised Code with regard to employees in the service 8437
of the county, except for the powers and duties of the state 8438
personnel board of review, which powers and duties shall not be 8439
construed as having been modified or diminished in any manner by 8440

division (G)(2) of this section, with respect to the employees for 8441
whom the board of county commissioners is the appointing authority 8442
or co-appointing authority. 8443

(b) Nothing in division (G)(2) of this section shall be 8444
construed to limit the right of any employee who possesses the 8445
right of appeal to the state personnel board of review to continue 8446
to possess that right of appeal. 8447

(c) Any board of county commissioners that has established a 8448
county personnel department may contract with the department of 8449
administrative services, in accordance with division (H) of this 8450
section, another political subdivision, or an appropriate public 8451
or private entity to provide competitive testing services or other 8452
appropriate services. 8453

(3) After the county personnel department of a county has 8454
been established as described in division (G)(2) of this section, 8455
any elected official, board, agency, or other appointing authority 8456
of that county, upon written notification to the county personnel 8457
department, may elect to use the services and facilities of the 8458
county personnel department. Upon receipt of the notification by 8459
the county personnel department, the county personnel department 8460
shall exercise the powers, duties, and functions as described in 8461
division (G)(2) of this section with respect to the employees of 8462
that elected official, board, agency, or other appointing 8463
authority. 8464

(4) Each board of county commissioners, by a resolution 8465
adopted by a majority of its members, may disband the county 8466
personnel department. 8467

(5) Any elected official, board, agency, or appointing 8468
authority of a county may end its involvement with a county 8469
personnel department upon actual receipt by the department of a 8470
certified copy of the notification that contains the decision to 8471

no longer participate. 8472

(6) A county personnel department, in carrying out its 8473
duties, shall adhere to merit system principles with regard to 8474
employees of county departments of job and family services, child 8475
support enforcement agencies, and public child welfare agencies so 8476
that there is no threatened loss of federal funding for these 8477
agencies, and the county is financially liable to the state for 8478
any loss of federal funds due to the action or inaction of the 8479
county personnel department. 8480

(H) County agencies may contract with the department of 8481
administrative services for any human resources services, 8482
including, but not limited to, establishment and modification of 8483
job classification plans, competitive testing services, and 8484
periodic audits and reviews of the county's uniform application of 8485
the powers, duties, and functions specified in sections 124.01 to 8486
124.64 and Chapter 325. of the Revised Code with regard to 8487
employees in the service of the county. Nothing in this division 8488
modifies the powers and duties of the state personnel board of 8489
review with respect to employees in the service of the county. 8490
Nothing in this division limits the right of any employee who 8491
possesses the right of appeal to the state personnel board of 8492
review to continue to possess that right of appeal. 8493

(I) The director of administrative services shall establish 8494
the rate and method of compensation for all employees who are paid 8495
directly by warrant of the director of budget and management and 8496
who are serving in positions that the director of administrative 8497
services has determined impracticable to include in the state job 8498
classification plan. This division does not apply to elected 8499
officials, legislative employees, employees of the legislative 8500
service commission, employees who are in the unclassified civil 8501
service and exempt from collective bargaining coverage in the 8502
office of the secretary of state, auditor of state, treasurer of 8503

state, and attorney general, employees of the courts, employees of 8504
the bureau of workers' compensation whose compensation the 8505
administrator of workers' compensation establishes under division 8506
(B) of section 4121.121 of the Revised Code, or employees of an 8507
appointing authority authorized by law to fix the compensation of 8508
those employees. 8509

(J) The director of administrative services shall set the 8510
rate of compensation for all intermittent, seasonal, temporary, 8511
emergency, and casual employees in the service of the state who 8512
are not considered public employees under section 4117.01 of the 8513
Revised Code. Those employees are not entitled to receive employee 8514
benefits. This rate of compensation shall be equitable in terms of 8515
the rate of employees serving in the same or similar 8516
classifications. This division does not apply to elected 8517
officials, legislative employees, employees of the legislative 8518
service commission, employees who are in the unclassified civil 8519
service and exempt from collective bargaining coverage in the 8520
office of the secretary of state, auditor of state, treasurer of 8521
state, and attorney general, employees of the courts, employees of 8522
the bureau of workers' compensation whose compensation the 8523
administrator establishes under division (B) of section 4121.121 8524
of the Revised Code, or employees of an appointing authority 8525
authorized by law to fix the compensation of those employees. 8526

Sec. 124.141. The director of administrative services may 8527
~~establish, by rule adopted under Chapter 119. of the Revised Code,~~ 8528
an appointment incentive program that allows an appointing 8529
authority to pay to an officer or employee described in division 8530
(A)(30) of section 124.11, division (B)(2) of section 124.14, or 8531
division (B) of section 126.32 of the Revised Code a salary and 8532
benefits package that differs from the salary and benefits 8533
otherwise provided by law for that officer or employee, provided 8534
that the appointment incentive program established by the director 8535

cannot include authority for an appointing authority to provide 8536
health care benefits to a covered officer or employee that are 8537
different from health care benefits otherwise provided by law for 8538
that officer or employee. 8539

Sec. 124.15. (A) Board and commission members appointed prior 8540
to July 1, 1991, shall be paid a salary or wage in accordance with 8541
the following schedules of rates: 8542

Schedule B 8543

Pay Ranges and Step Values 8544

Range	Step 1	Step 2	Step 3	Step 4	
23 Hourly	5.72	5.91	6.10	6.31	8546
Annually	11897.60	12292.80	12688.00	13124.80	8547
	Step 5	Step 6			8548
Hourly	6.52	6.75			8549
Annually	13561.60	14040.00			8550
	Step 1	Step 2	Step 3	Step 4	8551
24 Hourly	6.00	6.20	6.41	6.63	8552
Annually	12480.00	12896.00	13332.80	13790.40	8553
	Step 5	Step 6			8554
Hourly	6.87	7.10			8555
Annually	14289.60	14768.00			8556
	Step 1	Step 2	Step 3	Step 4	8557
25 Hourly	6.31	6.52	6.75	6.99	8558
Annually	13124.80	13561.60	14040.00	14539.20	8559
	Step 5	Step 6			8560
Hourly	7.23	7.41			8561
Annually	15038.40	15412.80			8562
	Step 1	Step 2	Step 3	Step 4	8563
26 Hourly	6.63	6.87	7.10	7.32	8564
Annually	13790.40	14289.60	14768.00	15225.60	8565
	Step 5	Step 6			8566

	Hourly	7.53	7.77			8567
	Annually	15662.40	16161.60			8568
		Step 1	Step 2	Step 3	Step 4	8569
27	Hourly	6.99	7.23	7.41	7.64	8570
	Annually	14534.20	15038.40	15412.80	15891.20	8571
		Step 5	Step 6	Step 7		8572
	Hourly	7.88	8.15	8.46		8573
	Annually	16390.40	16952.00	17596.80		8574
		Step 1	Step 2	Step 3	Step 4	8575
28	Hourly	7.41	7.64	7.88	8.15	8576
	Annually	15412.80	15891.20	16390.40	16952.00	8577
		Step 5	Step 6	Step 7		8578
	Hourly	8.46	8.79	9.15		8579
	Annually	17596.80	18283.20	19032.00		8580
		Step 1	Step 2	Step 3	Step 4	8581
29	Hourly	7.88	8.15	8.46	8.79	8582
	Annually	16390.40	16952.00	17596.80	18283.20	8583
		Step 5	Step 6	Step 7		8584
	Hourly	9.15	9.58	10.01		8585
	Annually	19032.00	19926.40	20820.80		8586
		Step 1	Step 2	Step 3	Step 4	8587
30	Hourly	8.46	8.79	9.15	9.58	8588
	Annually	17596.80	18283.20	19032.00	19926.40	8589
		Step 5	Step 6	Step 7		8590
	Hourly	10.01	10.46	10.99		8591
	Annually	20820.80	21756.80	22859.20		8592
		Step 1	Step 2	Step 3	Step 4	8593
31	Hourly	9.15	9.58	10.01	10.46	8594
	Annually	19032.00	19962.40	20820.80	21756.80	8595
		Step 5	Step 6	Step 7		8596
	Hourly	10.99	11.52	12.09		8597
	Annually	22859.20	23961.60	25147.20		8598
		Step 1	Step 2	Step 3	Step 4	8599

32	Hourly	10.01	10.46	10.99	11.52	8600
	Annually	20820.80	21756.80	22859.20	23961.60	8601
		Step 5	Step 6	Step 7	Step 8	8602
	Hourly	12.09	12.68	13.29	13.94	8603
	Annually	25147.20	26374.40	27643.20	28995.20	8604
		Step 1	Step 2	Step 3	Step 4	8605
33	Hourly	10.99	11.52	12.09	12.68	8606
	Annually	22859.20	23961.60	25147.20	26374.40	8607
		Step 5	Step 6	Step 7	Step 8	8608
	Hourly	13.29	13.94	14.63	15.35	8609
	Annually	27643.20	28995.20	30430.40	31928.00	8610
		Step 1	Step 2	Step 3	Step 4	8611
34	Hourly	12.09	12.68	13.29	13.94	8612
	Annually	25147.20	26374.40	27643.20	28995.20	8613
		Step 5	Step 6	Step 7	Step 8	8614
	Hourly	14.63	15.35	16.11	16.91	8615
	Annually	30430.40	31928.00	33508.80	35172.80	8616
		Step 1	Step 2	Step 3	Step 4	8617
35	Hourly	13.29	13.94	14.63	15.35	8618
	Annually	27643.20	28995.20	30430.40	31928.00	8619
		Step 5	Step 6	Step 7	Step 8	8620
	Hourly	16.11	16.91	17.73	18.62	8621
	Annually	33508.80	35172.80	36878.40	38729.60	8622
		Step 1	Step 2	Step 3	Step 4	8623
36	Hourly	14.63	15.35	16.11	16.91	8624
	Annually	30430.40	31928.00	33508.80	35172.80	8625
		Step 5	Step 6	Step 7	Step 8	8626
	Hourly	17.73	18.62	19.54	20.51	8627
	Annually	36878.40	38729.60	40643.20	42660.80	8628
	Schedule C					8629
		Pay Range and Values				8630
	Range	Minimum		Maximum		8631
41	Hourly	10.44		15.72		8632

Annually	21715.20	32697.60	8633
42 Hourly	11.51	17.35	8634
Annually	23940.80	36088.00	8635
43 Hourly	12.68	19.12	8636
Annually	26374.40	39769.60	8637
44 Hourly	13.99	20.87	8638
Annually	29099.20	43409.60	8639
45 Hourly	15.44	22.80	8640
Annually	32115.20	47424.00	8641
46 Hourly	17.01	24.90	8642
Annually	35380.80	51792.00	8643
47 Hourly	18.75	27.18	8644
Annually	39000.00	56534.40	8645
48 Hourly	20.67	29.69	8646
Annually	42993.60	61755.20	8647
49 Hourly	22.80	32.06	8648
Annually	47424.00	66684.80	8649

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 8650
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(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code. 8652
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(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of 8655
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the employee's compensation. An appointing authority that appoints 8665
employees in the service of the state, with the approval of the 8666
director of administrative services and the director of budget and 8667
management, may establish payments to employees for uniforms, 8668
tools, equipment, and other requirements of the department and 8669
payments for the maintenance of them. 8670

The director of administrative services may review collective 8671
bargaining agreements entered into under Chapter 4117. of the 8672
Revised Code that cover employees in the service of the state and 8673
determine whether certain benefits or payments provided to the 8674
employees covered by those agreements should also be provided to 8675
employees in the service of the state who are exempt from 8676
collective bargaining coverage and are paid in accordance with 8677
section 124.152 of the Revised Code or are listed in division 8678
(B)(2) or (4) of section 124.14 of the Revised Code. On completing 8679
the review, the director of administrative services, with the 8680
approval of the director of budget and management, may provide to 8681
some or all of these employees any payment or benefit, except for 8682
salary, contained in such a collective bargaining agreement even 8683
if it is similar to a payment or benefit already provided by law 8684
to some or all of these employees. Any payment or benefit so 8685
provided shall not exceed the highest level for that payment or 8686
benefit specified in such a collective bargaining agreement. The 8687
director of administrative services shall not provide, and the 8688
director of budget and management shall not approve, any payment 8689
or benefit to such an employee under this division unless the 8690
payment or benefit is provided pursuant to a collective bargaining 8691
agreement to a state employee who is in a position with similar 8692
duties as, is supervised by, or is employed by the same appointing 8693
authority as, the employee to whom the benefit or payment is to be 8694
provided. 8695

As used in this division, "payment or benefit already 8696

provided by law" includes, but is not limited to, bereavement, 8697
personal, vacation, administrative, and sick leave, disability 8698
benefits, holiday pay, and pay supplements provided under the 8699
Revised Code, but does not include wages or salary. 8700

(E) New employees paid in accordance with schedule B of 8701
division (A) of this section or schedule E-1 of section 124.152 of 8702
the Revised Code shall be employed at the minimum rate established 8703
for the range unless otherwise provided. Employees with 8704
qualifications that are beyond the minimum normally required for 8705
the position and that are determined by the director to be 8706
exceptional may be employed in, or may be transferred or promoted 8707
to, a position at an advanced step of the range. Further, in time 8708
of a serious labor market condition when it is relatively 8709
impossible to recruit employees at the minimum rate for a 8710
particular classification, the entrance rate may be set at an 8711
advanced step in the range by the director of administrative 8712
services. This rate may be limited to geographical regions of the 8713
state. Appointments made to an advanced step under the provision 8714
regarding exceptional qualifications shall not affect the step 8715
assignment of employees already serving. However, anytime the 8716
hiring rate of an entire classification is advanced to a higher 8717
step, all incumbents of that classification being paid at a step 8718
lower than that being used for hiring, shall be advanced beginning 8719
at the start of the first pay period thereafter to the new hiring 8720
rate, and any time accrued at the lower step will be used to 8721
calculate advancement to a succeeding step. If the hiring rate of 8722
a classification is increased for only a geographical region of 8723
the state, only incumbents who work in that geographical region 8724
shall be advanced to a higher step. When an employee in the 8725
unclassified service changes from one state position to another or 8726
is appointed to a position in the classified service, or if an 8727
employee in the classified service is appointed to a position in 8728
the unclassified service, the employee's salary or wage in the new 8729

position shall be determined in the same manner as if the employee 8730
were an employee in the classified service. When an employee in 8731
the unclassified service who is not eligible for step increases is 8732
appointed to a classification in the classified service under 8733
which step increases are provided, future step increases shall be 8734
based on the date on which the employee last received a pay 8735
increase. If the employee has not received an increase during the 8736
previous year, the date of the appointment to the classified 8737
service shall be used to determine the employee's annual step 8738
advancement eligibility date. In reassigning any employee to a 8739
classification resulting in a pay range increase or to a new pay 8740
range as a result of a promotion, an increase pay range 8741
adjustment, or other classification change resulting in a pay 8742
range increase, the director shall assign such employee to the 8743
step in the new pay range that will provide an increase of 8744
approximately four per cent if the new pay range can accommodate 8745
the increase. When an employee is being assigned to a 8746
classification or new pay range as the result of a class plan 8747
change, if the employee has completed a probationary period, the 8748
employee shall be placed in a step no lower than step two of the 8749
new pay range. If the employee has not completed a probationary 8750
period, the employee may be placed in step one of the new pay 8751
range. Such new salary or wage shall become effective on such date 8752
as the director determines. 8753

(F) If employment conditions and the urgency of the work 8754
require such action, the director of administrative services may, 8755
upon the application of a department head, authorize payment at 8756
any rate established within the range for the class of work, for 8757
work of a casual or intermittent nature or on a project basis. 8758
Payment at such rates shall not be made to the same individual for 8759
more than three calendar months in any one calendar year. Any such 8760
action shall be subject to the approval of the director of budget 8761
and management as to the availability of funds. This section and 8762

sections 124.14 and 124.152 of the Revised Code do not repeal any 8763
authority of any department or public official to contract with or 8764
fix the compensation of professional persons who may be employed 8765
temporarily for work of a casual nature or for work on a project 8766
basis. 8767

(G)(1) Except as provided in divisions (G)(2) and (3) of this 8768
section, each state employee paid in accordance with schedule B of 8769
this section or schedule E-1 of section 124.152 of the Revised 8770
Code shall be eligible for advancement to succeeding steps in the 8771
range for the employee's class or grade according to the schedule 8772
established in this division. Beginning on the first day of the 8773
pay period within which the employee completes the prescribed 8774
probationary period in the employee's classification with the 8775
state, each employee shall receive an automatic salary adjustment 8776
equivalent to the next higher step within the pay range for the 8777
employee's class or grade. 8778

Except as provided in divisions (G)(2) and (3) of this 8779
section, each employee paid in accordance with schedule E-1 of 8780
section 124.152 of the Revised Code shall be eligible to advance 8781
to the next higher step until the employee reaches the top step in 8782
the range for the employee's class or grade, if the employee has 8783
maintained satisfactory performance in accordance with criteria 8784
established by the employee's appointing authority. Those step 8785
advancements shall not occur more frequently than once in any 8786
twelve-month period. 8787

When an employee is promoted, the step entry date shall be 8788
set to account for a probationary period. When an employee is 8789
reassigned to a higher pay range, the step entry date shall be set 8790
to allow an employee who is not at the highest step of the range 8791
to receive a step advancement one year from the reassignment date. 8792
Step advancement shall not be affected by demotion. A promoted 8793
employee shall advance to the next higher step of the pay range on 8794

the first day of the pay period in which the required probationary 8795
period is completed. Step advancement shall become effective at 8796
the beginning of the pay period within which the employee attains 8797
the necessary length of service. Time spent on authorized leave of 8798
absence shall be counted for this purpose. 8799

If determined to be in the best interest of the state 8800
service, the director of administrative services may, either 8801
statewide or in selected agencies, adjust the dates on which 8802
annual step advancements are received by employees paid in 8803
accordance with schedule E-1 of section 124.152 of the Revised 8804
Code. 8805

(2)(a) There shall be a moratorium on annual step 8806
advancements under division (G)(1) of this section beginning June 8807
21, 2009, through June 20, 2011. Step advancements shall resume 8808
with the pay period beginning June 21, 2011. Upon the resumption 8809
of step advancements, there shall be no retroactive step 8810
advancements for the period the moratorium was in effect. The 8811
moratorium shall not affect an employee's performance evaluation 8812
schedule. 8813

An employee who begins a probationary period before June 21, 8814
2009, shall advance to the next step in the employee's pay range 8815
at the end of probation, and then become subject to the 8816
moratorium. An employee who is hired, promoted, or reassigned to a 8817
higher pay range between June 21, 2009, through June 20, 2011, 8818
shall not advance to the next step in the employee's pay range 8819
until the next anniversary of the employee's date of hire, 8820
promotion, or reassignment that occurs on or after June 21, 2011. 8821

(b) The moratorium under division (G)(2)(a) of this section 8822
shall apply to the employees of the secretary of state, the 8823
auditor of state, the treasurer of state, and the attorney 8824
general, who are subject to this section unless the secretary of 8825
state, the auditor of state, the treasurer of state, or the 8826

attorney general decides to exempt the office's employees from the 8827
moratorium and so notifies the director of administrative services 8828
in writing on or before July 1, 2009. 8829

(3) Employees in intermittent positions shall be employed at 8830
the minimum rate established for the pay range for their 8831
classification and are not eligible for step advancements. 8832

(H) Employees in appointive managerial or professional 8833
positions paid in accordance with schedule C of this section or 8834
schedule E-2 of section 124.152 of the Revised Code may be 8835
appointed at any rate within the appropriate pay range. This rate 8836
of pay may be adjusted higher or lower within the respective pay 8837
range at any time the appointing authority so desires as long as 8838
the adjustment is based on the employee's ability to successfully 8839
administer those duties assigned to the employee. Salary 8840
adjustments shall not be made more frequently than once in any 8841
six-month period under this provision to incumbents holding the 8842
same position and classification. 8843

(I) When an employee is assigned to duty outside this state, 8844
the employee may be compensated, upon request of the department 8845
head and with the approval of the director of administrative 8846
services, at a rate not to exceed fifty per cent in excess of the 8847
employee's current base rate for the period of time spent on that 8848
duty. 8849

(J) Unless compensation for members of a board or commission 8850
is otherwise specifically provided by law, the director of 8851
administrative services shall establish the rate and method of 8852
payment for members of boards and commissions pursuant to the pay 8853
schedules listed in section 124.152 of the Revised Code. 8854

(K) Regular full-time employees in positions assigned to 8855
classes within the instruction and education administration series 8856
under the rules of the director of administrative services, except 8857

certificated employees on the instructional staff of the state 8858
school for the blind or the state school for the deaf, whose 8859
positions are scheduled to work on the basis of an academic year 8860
rather than a full calendar year, shall be paid according to the 8861
pay range assigned by ~~such rules~~ the director but only during 8862
those pay periods included in the academic year of the school 8863
where the employee is located. 8864

(1) Part-time or substitute teachers or those whose period of 8865
employment is other than the full academic year shall be 8866
compensated for the actual time worked at the rate established by 8867
this section. 8868

(2) Employees governed by this division are exempt from 8869
sections 124.13 and 124.19 of the Revised Code. 8870

(3) Length of service for the purpose of determining 8871
eligibility for step advancements as provided by division (G) of 8872
this section and for the purpose of determining eligibility for 8873
longevity pay supplements as provided by division (E) of section 8874
124.181 of the Revised Code shall be computed on the basis of one 8875
full year of service for the completion of each academic year. 8876

(L) The superintendent of the state school for the deaf and 8877
the superintendent of the state school for the blind shall, 8878
subject to the approval of the superintendent of public 8879
instruction, carry out both of the following: 8880

(1) Annually, between the first day of April and the last day 8881
of June, establish for the ensuing fiscal year a schedule of 8882
hourly rates for the compensation of each certificated employee on 8883
the instructional staff of that superintendent's respective school 8884
constructed as follows: 8885

(a) Determine for each level of training, experience, and 8886
other professional qualification for which an hourly rate is set 8887
forth in the current schedule, the per cent that rate is of the 8888

rate set forth in such schedule for a teacher with a bachelor's 8889
degree and no experience. If there is more than one such rate for 8890
such a teacher, the lowest rate shall be used to make the 8891
computation. 8892

(b) Determine which six city, local, and exempted village 8893
school districts with territory in Franklin county have in effect 8894
on, or have adopted by, the first day of April for the school year 8895
that begins on the ensuing first day of July, teacher salary 8896
schedules with the highest minimum salaries for a teacher with a 8897
bachelor's degree and no experience; 8898

(c) Divide the sum of such six highest minimum salaries by 8899
ten thousand five hundred sixty; 8900

(d) Multiply each per cent determined in division (L)(1)(a) 8901
of this section by the quotient obtained in division (L)(1)(c) of 8902
this section; 8903

(e) One hundred five per cent of each product thus obtained 8904
shall be the hourly rate for the corresponding level of training, 8905
experience, or other professional qualification in the schedule 8906
for the ensuing fiscal year. 8907

(2) Annually, assign each certificated employee on the 8908
instructional staff of the superintendent's respective school to 8909
an hourly rate on the schedule that is commensurate with the 8910
employee's training, experience, and other professional 8911
qualifications. 8912

If an employee is employed on the basis of an academic year, 8913
the employee's annual salary shall be calculated by multiplying 8914
the employee's assigned hourly rate times one thousand seven 8915
hundred sixty. If an employee is not employed on the basis of an 8916
academic year, the employee's annual salary shall be calculated in 8917
accordance with the following formula: 8918

(a) Multiply the number of days the employee is required to 8919

work pursuant to the employee's contract by eight; 8920

(b) Multiply the product of division (L)(2)(a) of this 8921
section by the employee's assigned hourly rate. 8922

Each employee shall be paid an annual salary in biweekly 8923
installments. The amount of each installment shall be calculated 8924
by dividing the employee's annual salary by the number of biweekly 8925
installments to be paid during the year. 8926

Sections 124.13 and 124.19 of the Revised Code do not apply 8927
to an employee who is paid under this division. 8928

As used in this division, "academic year" means the number of 8929
days in each school year that the schools are required to be open 8930
for instruction with pupils in attendance. Upon completing an 8931
academic year, an employee paid under this division shall be 8932
deemed to have completed one year of service. An employee paid 8933
under this division is eligible to receive a pay supplement under 8934
division (L)(1), (2), or (3) of section 124.181 of the Revised 8935
Code for which the employee qualifies, but is not eligible to 8936
receive a pay supplement under division (L)(4) or (5) of that 8937
section. An employee paid under this division is eligible to 8938
receive a pay supplement under division (L)(6) of section 124.181 8939
of the Revised Code for which the employee qualifies, except that 8940
the supplement is not limited to a maximum of five per cent of the 8941
employee's regular base salary in a calendar year. 8942

(M) Division (A) of this section does not apply to "exempt 8943
employees," as defined in section 124.152 of the Revised Code, who 8944
are paid under that section. 8945

Notwithstanding any other provisions of this chapter, when an 8946
employee transfers between bargaining units or transfers out of or 8947
into a bargaining unit, the director of administrative services 8948
shall establish the employee's compensation and adjust the maximum 8949
leave accrual schedule as the director deems equitable. 8950

Sec. 124.18. (A) Forty hours shall be the standard work week 8951
for all employees whose salary or wage is paid in whole or in part 8952
by the state or by any state-supported college or university. When 8953
any employee whose salary or wage is paid in whole or in part by 8954
the state or by any state-supported college or university is 8955
required by an authorized administrative authority to be in an 8956
active pay status more than forty hours in any calendar week, the 8957
employee shall be compensated for such time over forty hours, 8958
except as otherwise provided in this section, at one and one-half 8959
times the employee's regular rate of pay. The use of sick leave or 8960
any leave used in lieu of sick leave shall not be considered to be 8961
active pay status for the purposes of earning overtime or 8962
compensatory time by employees whose wages are paid directly by 8963
warrant of the director of budget and management. A flexible-hours 8964
employee is not entitled to compensation for overtime work unless 8965
the employee's authorized administrative authority required the 8966
employee to be in active pay status for more than forty hours in a 8967
calendar week, regardless of the number of hours the employee 8968
works on any day in the same calendar week. 8969

Such compensation for overtime work shall be paid no later 8970
than at the conclusion of the next succeeding pay period. 8971

If the employee elects to take compensatory time off in lieu 8972
of overtime pay for any overtime worked, such compensatory time 8973
shall be granted by the employee's administrative superior, on a 8974
time and one-half basis, at a time mutually convenient to the 8975
employee and the administrative superior. Compensatory time is not 8976
available for use until it appears on the employee's earning 8977
statement and the compensation described in the earning statement 8978
is available to the employee. 8979

An employee may accrue compensatory time to a maximum of two 8980
hundred forty hours, except that public safety employees and other 8981

employees who meet the criteria established in the "Federal Fair 8982
Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, 8983
as amended, may accrue a maximum of four hundred eighty hours of 8984
compensatory time. An employee shall be paid at the employee's 8985
regular rate of pay for any hours of compensatory time accrued in 8986
excess of these maximum amounts if the employee has not used the 8987
compensatory time within three hundred sixty-five days after it is 8988
granted, if the employee transfers to another agency of the state, 8989
or if a change in the employee's status exempts the employee from 8990
the payment of overtime compensation. Upon the termination of 8991
employment, any employee with accrued but unused compensatory time 8992
shall be paid for that time at a rate that is the greater of the 8993
employee's final regular rate of pay or the employee's average 8994
regular rate of pay during the employee's last three years of 8995
employment with the state. 8996

No overtime, as described in this section, can be paid unless 8997
it has been authorized by the authorized administrative authority. 8998
Employees may be exempted from the payment of compensation as 8999
required by this section only under the criteria for exemption 9000
from the payment of overtime compensation established in the 9001
"Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 9002
U.S.C.A. 207, 213, as amended. With the approval of the director 9003
of administrative services, the appointing authority may establish 9004
a policy to grant compensatory time or to pay compensation to 9005
~~state~~ employees in the service of the state who are exempt from 9006
overtime compensation. With the approval of the board of county 9007
commissioners, a county human services department may establish a 9008
policy to grant compensatory time or to pay compensation to 9009
employees of the department who are exempt from overtime 9010
compensation. 9011

(B)(1) An employee, whose salary or wage is paid in whole or 9012
in part by the state, shall be paid for the holidays declared in 9013

section 124.19 of the Revised Code and shall not be required to 9014
work on those holidays, unless, in the opinion of the employee's 9015
responsible administrative authority, failure to work on those 9016
holidays would impair the public service. 9017

(2) An employee paid directly by warrant of the director of 9018
budget and management who is scheduled to work on the first day of 9019
January, the commemoration of memorial day, the fourth day of 9020
July, the fourth Thursday in November, or the twenty-fifth day of 9021
December and who does not report to work the day before, the day 9022
of, or the day after the holiday due to an illness of the employee 9023
or of a member of the employee's immediate family shall not 9024
receive holiday pay as provided by this division, unless the 9025
employee can provide documentation of extenuating circumstances 9026
that prohibited the employee from so reporting to work. If the 9027
employee works a shift between the employee's scheduled shift and 9028
the holiday, the employee shall be paid for the holiday. 9029

(3) An employee also shall not be paid for a holiday unless 9030
the employee was in active pay status on the scheduled work day 9031
immediately preceding the holiday, except that an employee need 9032
not be in active pay status on that work day in order to be paid 9033
for the holiday if the employee is participating in a mandatory or 9034
voluntary cost savings day under section 124.392 of the Revised 9035
Code. 9036

(4) If any of the holidays declared in section 124.19 of the 9037
Revised Code falls on Saturday, the Friday immediately preceding 9038
shall be observed as the holiday. If any of the holidays declared 9039
in section 124.19 of the Revised Code falls on Sunday, the Monday 9040
immediately succeeding shall be observed as the holiday. Employees 9041
whose work schedules are based on the requirements of a 9042
seven-days-a-week work operation shall observe holidays on the 9043
actual days specified in section 124.19 of the Revised Code. 9044

(5) If an employee's work schedule is other than Monday 9045

through Friday, the employee shall be entitled to eight hours of 9046
holiday pay for holidays observed on the employee's day off 9047
regardless of the day of the week on which they are observed. 9048

(6) A full-time permanent employee is entitled to a minimum 9049
of eight hours of pay for each holiday regardless of the 9050
employee's work shift and work schedule. A flexible-hours 9051
employee, who is normally scheduled to work in excess of eight 9052
hours on a day on which a holiday falls, either shall be required 9053
to work an alternate schedule for that week or shall receive 9054
additional holiday pay for the hours the employee is normally 9055
scheduled to work. Such an alternate schedule may require a 9056
flexible-hours employee to work five shifts consisting of eight 9057
hours each during the week including the holiday, and, in that 9058
case, the employee shall receive eight hours of holiday pay for 9059
the day the holiday is observed. 9060

(7) Except as provided under section 124.392 of the Revised 9061
Code, part-time permanent employees shall receive four hours of 9062
holiday pay regardless of the employee's work shift and work 9063
schedule. 9064

(8) When an employee who is eligible for overtime pay under 9065
this section is required by the employee's responsible 9066
administrative authority to work on the day observed as a holiday, 9067
the employee shall be entitled to pay for such time worked at one 9068
and one-half times the employee's regular rate of pay in addition 9069
to the employee's regular pay, or to be granted compensatory time 9070
off at time and one-half thereafter, at the employee's option. 9071
Payment at such rate shall be excluded in the calculation of hours 9072
in active pay status. 9073

(C) Each appointing authority may designate the number of 9074
employees in an agency who are flexible-hours employees. The 9075
appointing authority may establish for each flexible-hours 9076
employee a specified minimum number of hours to be worked each day 9077

that is consistent with the "Federal Fair Labor Standards Act of 9078
1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended. 9079

(D) This section shall be uniformly administered for 9080
employees as defined in section 124.01 of the Revised Code and by 9081
the personnel departments of state-supported colleges and 9082
universities for employees of state-supported colleges and 9083
universities. If employees are not paid directly by warrant of the 9084
director of budget and management, the political subdivision shall 9085
determine whether the use of sick leave shall be considered to be 9086
active pay status for purposes of those employees earning overtime 9087
or compensatory time. 9088

(E) Policies relating to the payment of overtime pay or the 9089
granting of compensatory time off shall be adopted by the chief 9090
administrative officer of the house of representatives for 9091
employees of the house of representatives, by the clerk of the 9092
senate for employees of the senate, and by the director of the 9093
legislative service commission for all other legislative 9094
employees. 9095

(F) As used in this section, "regular rate of pay" means the 9096
base rate of pay an employee receives plus any pay supplements 9097
received pursuant to section 124.181 of the Revised Code. 9098

Sec. 124.30. (A) Classified positions in the civil service 9099
may be filled without competition as follows: 9100

(1) Whenever there are urgent reasons for filling a vacancy 9101
in any position in the classified civil service and the director 9102
of administrative services is unable to certify to the appointing 9103
authority, upon its request, a list of persons eligible for 9104
appointment to the position after a competitive examination, the 9105
appointing authority may fill the position by noncompetitive 9106
examination. 9107

A temporary appointment may be made without regard to the 9108
rules of sections 124.01 to 124.64 of the Revised Code. Except as 9109
otherwise provided in this division, the temporary appointment may 9110
not continue longer than one hundred twenty days, and in no case 9111
shall successive temporary appointments be made. A temporary 9112
appointment longer than one hundred twenty days may be made if 9113
necessary by reason of sickness, disability, or other approved 9114
leave of absence of regular officers or employees, in which case 9115
it may continue during the period of sickness, disability, or 9116
other approved leave of absence, subject to the rules of the 9117
director. 9118

(2) In case of a vacancy in a position in the classified 9119
civil service where peculiar and exceptional qualifications of a 9120
scientific, managerial, professional, or educational character are 9121
required, and upon satisfactory evidence that for specified 9122
reasons competition in this special case is impracticable and that 9123
the position can best be filled by a selection of some designated 9124
person of high and recognized attainments in those qualities, the 9125
director may suspend the provisions of sections 124.01 to 124.64 9126
of the Revised Code that require competition in this special case, 9127
but no suspension shall be general in its application. All such 9128
cases of suspension shall be reported in the annual report of the 9129
director with the reasons for each suspension. The director shall 9130
suspend the provisions when ~~the~~ either of the following applies: 9131

(a) The director of job and family services provides the 9132
certification under section 5101.051 of the Revised Code that a 9133
position with the department of job and family services can best 9134
be filled if the provisions are suspended; 9135

(b) The medicaid director provides the certification under 9136
section 5160.051 of the Revised Code that a position with the 9137
department of medicaid can best be filled if the provisions are 9138
suspended. 9139

(3) The acceptance or refusal by an eligible person of a 9140
temporary appointment shall not affect the person's standing on 9141
the eligible list for permanent appointment, nor shall the period 9142
of temporary service be counted as a part of the probationary 9143
service in case of subsequent appointment to a permanent position. 9144

(B) Persons who receive temporary or intermittent 9145
appointments are in the unclassified civil service and serve at 9146
the pleasure of their appointing authority. 9147

Sec. 124.341. (A) If an employee in the classified or 9148
unclassified civil service becomes aware in the course of 9149
employment of a violation of state or federal statutes, rules, or 9150
regulations or the misuse of public resources, and the employee's 9151
supervisor or appointing authority has authority to correct the 9152
violation or misuse, the employee may file a written report 9153
identifying the violation or misuse with the supervisor or 9154
appointing authority. In addition to or instead of filing a 9155
written report with the supervisor or appointing authority, the 9156
employee may file a written report with the office of internal 9157
~~auditing~~ audit created under section 126.45 of the Revised Code or 9158
file a complaint with the auditor of state's fraud-reporting 9159
system under section 117.103 of the Revised Code. 9160

If the employee reasonably believes that a violation or 9161
misuse of public resources is a criminal offense, the employee, in 9162
addition to or instead of filing a written report or complaint 9163
with the supervisor, appointing authority, the office of internal 9164
~~auditing~~ audit, or the auditor of state's fraud-reporting system, 9165
may report it to a prosecuting attorney, director of law, village 9166
solicitor, or similar chief legal officer of a municipal 9167
corporation, to a peace officer, as defined in section 2935.01 of 9168
the Revised Code, or, if the violation or misuse of public 9169
resources is within the jurisdiction of the inspector general, to 9170

the inspector general in accordance with section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the employee may report it to the appropriate ethics commission.

(B) Except as otherwise provided in division (C) of this section, no officer or employee in the classified or unclassified civil service shall take any disciplinary action against an employee in the classified or unclassified civil service for making any report or filing a complaint as authorized by division (A) of this section, including, without limitation, doing any of the following:

- (1) Removing or suspending the employee from employment;
- (2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;
- (3) Transferring or reassigning the employee;
- (4) Denying the employee promotion that otherwise would have been received;
- (5) Reducing the employee in pay or position.

(C) An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.

(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report or complaint

under division (A) of this section, the employee's sole and 9201
exclusive remedy, notwithstanding any other provision of law, is 9202
to file an appeal with the state personnel board of review within 9203
thirty days after receiving actual notice of the appointing 9204
authority's action. If the employee files such an appeal, the 9205
board shall immediately notify the employee's appointing authority 9206
and shall hear the appeal. The board may affirm or disaffirm the 9207
action of the appointing authority or may issue any other order as 9208
is appropriate. The order of the board is appealable in accordance 9209
with Chapter 119. of the Revised Code. 9210

(E) As used in this section: 9211

(1) "Purposely," "knowingly," and "recklessly" have the same 9212
meanings as in section 2901.22 of the Revised Code. 9213

(2) "Appropriate ethics commission" has the same meaning as 9214
in section 102.01 of the Revised Code. 9215

(3) "Inspector general" means the inspector general appointed 9216
under section 121.48 of the Revised Code. 9217

Sec. 124.381. (A)(1)(a) An employee in the service of the 9218
state may be eligible to receive salary continuation not to exceed 9219
four hundred eighty hours at the employee's total rate of pay for 9220
absence as a result of injury incurred during the performance of, 9221
or arising out of, state employment. When an eligible employee's 9222
absence as a result of such an injury extends beyond four hundred 9223
eighty hours, the employee immediately becomes subject to sections 9224
124.382 and 124.385 of the Revised Code regarding sick leave and 9225
disability leave benefits. 9226

An employee is ineligible to receive salary continuation 9227
until the date of implementation is established in the rules 9228
adopted under division (C)(1) of this section. 9229

(b) Employees of the secretary of state, auditor of state, 9230

treasurer of state, attorney general, supreme court, general 9231
assembly, or legislative service commission are not subject to 9232
division (A)(1)(a) of this section unless the relevant appointing 9233
authority notifies the director of administrative services in 9234
writing of the intent to have all of the appointing authority's 9235
employees participate in salary continuation. The relevant 9236
appointing authority also may discontinue salary continuation for 9237
all of its employees by providing written notice of the 9238
discontinuation to the director. 9239

Participation in salary continuation is subject to rules 9240
adopted under division (C)(1) of this section. 9241

(2) Each employee of the department of rehabilitation and 9242
correction, the department of ~~mental health~~ mental health and 9243
addiction services, the department of developmental disabilities, 9244
the department of veterans services, or the Ohio schools for the 9245
deaf and blind, and each employee of the department of youth 9246
services as established in division (A) of section 124.14 of the 9247
Revised Code who sustains a qualifying physical condition 9248
inflicted by a ward of these agencies during the time the employee 9249
is lawfully carrying out the assigned duties of the employee's 9250
position shall be paid occupational injury leave at the employee's 9251
total rate of pay during the period the employee is disabled as a 9252
result of that qualifying physical condition, but in no case to 9253
exceed nine hundred sixty hours, in lieu of workers' compensation. 9254
Pay made according to this division shall not be charged to the 9255
employee's accumulation of sick leave credit. In any case when an 9256
employee's disability as a result of such a qualifying physical 9257
condition extends beyond nine hundred sixty hours, the employee 9258
immediately becomes subject to sections 124.382 and 124.385 of the 9259
Revised Code regarding sick leave and disability leave benefits. 9260

(B) An employee who is receiving salary continuation or 9261
occupational injury leave under division (A)(1) or (2) of this 9262

section is not eligible for other paid leave, including holiday 9263
pay, while receiving benefits under either division. While an 9264
employee is receiving salary continuation or occupational injury 9265
leave under division (A)(1) or (2) of this section, vacation leave 9266
credit ceases to accrue to the employee under section 124.134 of 9267
the Revised Code, but sick leave credit and personal leave credit 9268
continue to accrue to the employee under sections 124.382 and 9269
124.386 of the Revised Code. 9270

(C)(1) The director of administrative services shall adopt 9271
rules for the administration of both the salary continuation 9272
program and the occupational injury leave program. The rules shall 9273
include, but not be limited to, provisions for determining a 9274
disability, for filing a claim for leave under this section, and 9275
for allowing or denying claims for the leave. 9276

(2) The director also may adopt rules for the payment of 9277
health benefits while an employee is on workers' compensation 9278
leave. 9279

(D) An appointing authority may apply to the director of 9280
administrative services to grant salary continuation under 9281
division (A)(1) of this section or occupational injury leave under 9282
division (A)(2) of this section to law enforcement personnel 9283
employed by the agency. 9284

Sec. 125.05. Except as provided in division (F) of this 9285
section, no state agency shall purchase any supplies or services 9286
except as provided in divisions (A) to (D) of this section. 9287

(A) Subject to division (E) of this section, a state agency 9288
may, without competitive selection, make any purchase of supplies 9289
or services that cost twenty-five thousand dollars or less. The 9290
agency may make the purchase directly or may make the purchase 9291
from or through the department of administrative services, 9292
whichever the agency determines. The agency shall adopt written 9293

procedures consistent with the department's purchasing procedures 9294
and shall use those procedures when making purchases under this 9295
division. 9296

(B) Subject to division (E) of this section and in accordance 9297
with section 125.051 of the Revised Code, a state agency may make 9298
purchases of supplies and services that cost more than twenty-five 9299
thousand dollars but less than fifty thousand dollars if the 9300
purchases are made under the direction of an employee of the 9301
agency who is certified by the department to make purchases and if 9302
the purchases comply with the department's purchasing procedures. 9303
Section 127.16 of the Revised Code does not apply to purchases 9304
made under this division. Until the certification effective date 9305
established by the department in rules adopted under section 9306
125.051 of the Revised Code, state agencies may make purchases of 9307
supplies and services that cost more than twenty-five thousand 9308
dollars but less than fifty thousand dollars in the same manner as 9309
provided in division (A) of this section. 9310

(C) Subject to division (E) of this section, a state agency 9311
wanting to purchase supplies or services that cost more than 9312
twenty-five thousand dollars shall, unless otherwise authorized by 9313
law, make the purchase from or through the department. The 9314
department shall make the purchase by competitive selection. If 9315
the director of administrative services determines that it is not 9316
possible or not advantageous to the state for the department to 9317
make the purchase, the department shall grant the agency a release 9318
and permit under section 125.06 of the Revised Code to make the 9319
purchase. Section 127.16 of the Revised Code does not apply to 9320
purchases the department makes under this section. 9321

(D) An agency that has been granted a release and permit to 9322
make a purchase may make the purchase without competitive 9323
selection if after making the purchase the cumulative purchase 9324
threshold as computed under division (E) of section 127.16 of the 9325

Revised Code would: 9326

(1) Be exceeded and the controlling board approves the 9327
purchase; 9328

(2) Not be exceeded and the department of administrative 9329
services approves the purchase. 9330

(E) Not later than the thirty-first day of January of each 9331
even-numbered year, the directors of administrative services and 9332
budget and management shall review and recommend to the general 9333
assembly, if necessary, adjustments to the amounts specified in 9334
divisions (A) to (C) of this section and division (B) of section 9335
127.16 of the Revised Code. 9336

(F) If ~~the eTech Ohio commission~~, the department of 9337
education, or the Ohio education computer network determines that 9338
it can purchase software services or supplies for specified school 9339
districts at a price less than the price for which the districts 9340
could purchase the same software services or supplies for 9341
themselves, the ~~commission~~, department, or network shall certify 9342
that fact to the department of administrative services and, acting 9343
as an agent for the specified school districts, shall make that 9344
purchase without following the provisions in divisions (A) to (D) 9345
of this section. 9346

Sec. 125.21. The director of administrative services shall 9347
process payroll information for the purpose of payment for 9348
personal services of state officials and employees on the basis of 9349
rates of pay determined by pertinent law, the director, or other 9350
competent authority. 9351

Calculation of payrolls may be made after the conclusion of 9352
each pay period based upon the amount of time served as certified 9353
by the appropriate appointing authority. Payment for personal 9354
service rendered by an official or employee during any pay period 9355

shall be made no later than at the conclusion of the official's or 9356
employee's next succeeding pay period. 9357

The director of administrative services shall furnish to the 9358
director of budget and management all necessary data for drawing 9359
state official and employee pay warrants and preparing earning 9360
statements. These data shall include the rate at which paid; the 9361
time for which paid, including overtime and any other adjustments 9362
affecting the official's or employee's gross pay; all taxes 9363
withheld, including, whenever practicable, year-to-date figures on 9364
all taxes withheld; the amount of contribution to the appropriate 9365
retirement system; any voluntary deductions made in accordance 9366
with authorizations filed by the official or employee; and whether 9367
a direct deposit is to be made in accordance with an authorization 9368
filed by the official or employee. 9369

Amounts deducted from the salaries or wages of all officials 9370
and employees shall be transferred to the payroll ~~withholding~~ 9371
deduction fund, which is hereby created in the state treasury for 9372
the purpose of consolidating all such deductions made in any 9373
month. Payments from this fund shall be made at intervals for the 9374
intended purpose of the deduction or for refund where it is 9375
determined that deductions were made in error. 9376

Sec. 125.212. The life insurance investment fund is hereby 9377
created in the state treasury. The fund shall consist of amounts 9378
from ~~the payroll withholding fund created by section 125.21 of the~~ 9379
~~Revised Code~~ state agencies, life insurance premium refunds 9380
received by the state, and other receipts related to the state's 9381
life insurance benefit program. The fund shall be used to pay the 9382
costs of the state's life insurance benefit program. All 9383
investment earnings of the life insurance investment fund shall be 9384
credited to the fund. 9385

Sec. 125.27. (A) There is hereby created in the state 9386
treasury the building improvement fund. The fund shall retain the 9387
interest earned. 9388

(B) The fund shall consist of any payments made by intrastate 9389
transfer voucher from the appropriation item for office building 9390
operating payments. 9391

(C) The fund shall be used for major maintenance or 9392
improvements required in the James A. Rhodes or Frank J. Lausche 9393
state office tower, Toledo government center, Senator Oliver R. 9394
Ocasek government office building, and Vern Riffe center for 9395
government and the arts. 9396

Sec. 125.28. (A)(1) Each state agency that is supported in 9397
whole or in part by nongeneral revenue fund money and that 9398
occupies space in the James A. Rhodes or Frank J. Lausche state 9399
office tower, Toledo government center, Senator Oliver R. Ocasek 9400
government office building, Vern Riffe center for government and 9401
the arts, capitol square, or governor's mansion shall reimburse 9402
the general revenue fund for the cost of occupying the space in 9403
the ratio that the occupied space in each facility attributable to 9404
the nongeneral revenue fund money bears to the total space 9405
occupied by the state agency in the facility. 9406

(2) All agencies that occupy space in the old blind school or 9407
that occupy warehouse space in the general services facility shall 9408
reimburse the department of administrative services for the cost 9409
of occupying the space. The director of administrative services 9410
shall determine the amount of debt service, if any, to be charged 9411
to building tenants and shall collect reimbursements for it. 9412

(3) Each agency that is supported in whole or in part by 9413
nongeneral revenue fund money and that occupies space in any other 9414
facility or facilities owned and maintained by the department of 9415

administrative services or space in the general services facility 9416
other than warehouse space shall reimburse the department for the 9417
cost of occupying the space, including debt service, if any, in 9418
the ratio that the occupied space in each facility attributable to 9419
the nongeneral revenue fund money bears to the total space 9420
occupied by the state agency in the facility. 9421

(B) The director of administrative services may provide 9422
building maintenance services and ~~skilled trades~~ minor 9423
construction project management services to any state agency 9424
~~occupying space in a facility that is not owned by the department~~ 9425
~~of administrative services~~ and may collect reimbursements for the 9426
cost of providing those services. 9427

(C) All money collected by the department of administrative 9428
services for operating expenses of facilities owned or maintained 9429
by the department shall be deposited into the state treasury to 9430
the credit of the building management fund, which is hereby 9431
created, or to the credit of the building operation fund, which is 9432
hereby created. All money collected by the department for ~~skilled~~ 9433
~~trades~~ minor construction project management services shall be 9434
deposited into the state treasury to the credit of the ~~skilled~~ 9435
~~trades~~ minor construction project management fund, which is hereby 9436
created. All money collected for debt service shall be deposited 9437
into the general revenue fund. 9438

(D) The director of administrative services shall determine 9439
the reimbursable cost of space in state-owned or state-leased 9440
facilities and shall collect reimbursements for that cost. 9441

Sec. 125.602. (A) The department of developmental 9442
disabilities, the department of ~~mental health~~ mental health and 9443
addiction services, the department of job and family services, the 9444
~~rehabilitation services commission~~ opportunities for Ohioans with 9445
disabilities agency, and any other state or governmental agency or 9446

community rehabilitation program responsible for the provision of 9447
rehabilitation and vocational educational services to persons with 9448
work-limiting disabilities may, through written agreement, 9449
cooperate in providing resources to the department of 9450
administrative services for the operation of the office of 9451
procurement from community rehabilitation programs. These 9452
resources may include, but are not limited to, leadership and 9453
assistance in dealing with the societal aspects of meeting the 9454
needs of persons with work-limiting disabilities. 9455

(B) The office and all governmental entities that administer 9456
socioeconomic programs may enter into contractual agreements, 9457
cooperative working relationships, or other arrangements that are 9458
necessary for effective coordination and realization of the 9459
objectives of these entities. 9460

Sec. 125.603. (A) The office of procurement from community 9461
rehabilitation programs shall do the following in addition to 9462
other duties specified in sections 125.60 to 125.6012 of the 9463
Revised Code: 9464

(1) Establish, maintain, and periodically update a 9465
procurement list of approved supplies and services available from 9466
qualified nonprofit agencies; 9467

(2) Monitor the procurement practices of government ordering 9468
offices to ensure compliance with sections 125.60 to 125.6012 of 9469
the Revised Code; 9470

(3) In cooperation with qualified nonprofit agencies, 9471
government ordering offices, the department of developmental 9472
disabilities, the department of ~~mental health~~ mental health and 9473
addiction services, the department of job and family services, and 9474
the ~~rehabilitation services commission~~ opportunities for Ohioans 9475
with disabilities agency, develop and recommend to the director of 9476
administrative services rules the director shall adopt in 9477

accordance with Chapter 119. of the Revised Code for the effective 9478
and efficient administration of sections 125.60 to 125.6012 of the 9479
Revised Code; 9480

(4) Prepare a report of its activities by the last day of 9481
December of each year. The report shall be posted electronically 9482
on the office's web site. 9483

(B) The office of procurement from community rehabilitation 9484
programs may enter into contractual agreements and establish pilot 9485
programs to further the objectives of sections 125.60 to 125.6012 9486
of the Revised Code. 9487

Sec. 125.832. (A) The department of administrative services 9488
is granted exclusive authority over the acquisition and management 9489
of all motor vehicles used by state agencies. In carrying out this 9490
authority, the department shall do both of the following: 9491

(1) Approve the purchase or lease of each motor vehicle for 9492
use by a state agency. The department shall decide if a motor 9493
vehicle shall be leased or purchased for that use. 9494

Except as otherwise provided in division (A)(1) of this 9495
section, on and after July 1, 2005, each state agency shall 9496
acquire all passenger motor vehicles under the department's master 9497
leasing program. If the department determines that acquisition 9498
under that program is not the most economical method and if the 9499
department and the state agency acquiring the passenger motor 9500
vehicle can provide economic justification for doing so, the 9501
department may approve the purchase, rather than the lease, of a 9502
passenger motor vehicle for the acquiring state agency. 9503

(2) Direct and approve all funds that are expended for the 9504
purchase, lease, repair, maintenance, registration, insuring, and 9505
other costs related to the possession and operation of motor 9506
vehicles for the use of state agencies. 9507

(B) The director of administrative services shall establish 9508
and operate a fleet management program. The director shall operate 9509
the program for purposes including, but not limited to, 9510
cost-effective acquisition, maintenance, management, analysis, and 9511
disposal of all motor vehicles owned or leased by the state. All 9512
state agencies shall comply with statewide fleet management 9513
policies and procedures established by the director for the 9514
program, including, but not limited to, motor vehicle assignments, 9515
additions of motor vehicles to fleets or motor vehicle 9516
replacements, motor vehicle fueling, and motor vehicle repairs. 9517

(C) The director shall establish and maintain a fleet 9518
reporting system and shall require state agencies to submit to the 9519
department information relative to state motor vehicles, including 9520
motor vehicles described in division (G)(2) of section 125.831 of 9521
the Revised Code, to be used in operating the fleet management 9522
program. State agencies shall provide to the department fleet data 9523
and other information, including, but not limited to, mileage and 9524
costs. The data and other information shall be submitted in 9525
formats and in a manner determined by the department. 9526

(D) All state agency purchases or leases of motor vehicles 9527
are subject to the prior approval of the director under division 9528
(A)(1) of this section. 9529

(E) State agencies that utilize state motor vehicles or pay 9530
mileage reimbursements to employees shall provide a fleet plan to 9531
the department as directed by the department. 9532

(F)(1) The fleets of state agencies that consist of one 9533
hundred or less vehicles on July 1, 2004, shall be managed by the 9534
department's fleet management program on a time schedule 9535
determined by the department, unless the state agency has received 9536
delegated authority as described in division (G) of this section. 9537

(2) The fleets of state agencies that consist of greater than 9538

one hundred motor vehicles, but less than five hundred motor vehicles, on July 1, 2005, also shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.

(G)(1) The department may delegate any or all of its duties regarding fleet management to a state agency, if the state agency demonstrates to the satisfaction of the department both of the following:

(a) Capabilities to institute and manage a fleet management program, including, but not limited to, the presence of a certified fleet manager;

(b) Fleet management performance, as demonstrated by fleet data and other information submitted pursuant to annual reporting requirements and any other criteria the department considers necessary in evaluating the performance.

(2) The department may determine that a state agency is not in compliance with this section and direct that the agency's fleet management duties be transferred to the department.

(H) The proceeds derived from the disposition of any motor vehicles under this section shall be paid to whichever of the following applies:

(1) The fund that originally provided moneys for the purchase or lease of the motor vehicles;

(2) If the motor vehicles were originally purchased with moneys derived from the general revenue fund, the proceeds shall be deposited, in the director's discretion, into the state treasury to the credit of either the fleet management fund created by section 125.83 of the Revised Code or the investment recovery fund created by section 125.14 of the Revised Code.

(I)(1) The department shall create and maintain a certified fleet manager program. 9569
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(2) State agencies that have received delegated authority as described in division (G) of this section shall have a certified fleet manager. 9571
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(J) The department annually shall prepare and submit a statewide fleet report to the governor, the speaker of the house of representatives, and the president of the senate. The report shall be submitted not later than the thirty-first day of January following the end of each fiscal year. It may include, but is not limited to, the numbers and types of motor vehicles, their mileage, miles per gallon, and cost per mile, mileage reimbursements, accident and insurance data, and information regarding compliance by state agencies having delegated authority under division (G) of this section with applicable fleet management requirements. 9574
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(K) The director shall adopt rules for implementing the fleet management program that are consistent with recognized best practices. The program shall be supported by reasonable fee charges for the services provided. The director shall collect these fees and deposit them into the state treasury to the credit for the fleet management fund created by section 125.83 of the Revised Code. The setting and collection of fees under this division is not subject to any restriction imposed by law upon the director's or the department's authority to set or collect fees. 9585
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(L) The director also shall adopt rules that prohibit, except in very limited circumstances, the exclusive assignment of state-owned, leased, or pooled motor vehicles to state employees and that prohibit the reimbursement under section 126.31 of the Revised Code of state employees who use their own motor vehicles for any mileage they incur above an amount that the department shall determine annually unless reimbursement for the excess 9594
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mileage is approved by the department in accordance with standards 9601
for that approval the director shall establish in those rules. 9602
Beginning on September 26, 2003, no state-owned, leased, or pooled 9603
motor vehicle shall be personally assigned as any form of 9604
compensation or benefit of state employment, and no state-owned, 9605
leased, or pooled motor vehicle shall be assigned to an employee 9606
solely for commuting to and from home and work. 9607

(M) The director shall do both of the following: 9608

(1) Implement to the greatest extent possible the 9609
recommendations from the 2002 report entitled "Administrative 9610
Analysis of the Ohio Fleet Management Program" in connection with 9611
the authority granted to the department by this section; 9612

(2) Attempt to reduce the number of passenger vehicles used 9613
by state agencies during the fiscal years ending on June 30, 2004, 9614
and June 30, 2005. 9615

(N) Each state agency shall reimburse the department for all 9616
costs incurred in the assignment of motor vehicles to the state 9617
agency. 9618

(O) The director shall do all of the following in managing 9619
the fleet management program: 9620

(1) Determine how motor vehicles will be maintained, insured, 9621
operated, financed, and licensed; 9622

(2) Pursuant to the formula in division (O)(3) of this 9623
section, annually establish the minimum number of business miles 9624
per year an employee of a state agency must drive in order to 9625
qualify for approval by the department to receive a motor vehicle 9626
for business use; 9627

(3) Establish the minimum number of business miles per year 9628
at an amount that results when the annual motor vehicle cost is 9629
divided by the amount that is the reimbursement rate per mile 9630

minus the amount that is the sum of the fuel cost, the operating 9631
cost, and the insurance cost. As used in this division: 9632

(a) "Annual motor vehicle cost" means the price of a motor 9633
vehicle divided by the number of years an average motor vehicle is 9634
used. 9635

(b) "Fuel cost" means the average price per gallon of motor 9636
fuel divided by the miles per gallon fuel efficiency of a motor 9637
vehicle. 9638

(c) "Insurance cost" means the cost of insuring a motor 9639
vehicle per year divided by the number of miles an average motor 9640
vehicle is driven per year. 9641

(d) "Operating cost" means the maintenance cost of a motor 9642
vehicle per year divided by the product resulting when the number 9643
of miles an average motor vehicle is driven per year is multiplied 9644
by the number of years an average motor vehicle is used. 9645

(e) "Reimbursement rate per mile" means the reimbursement per 9646
mile rate for travel expenses as provided by rule of the director 9647
of budget and management adopted under division (B) of section 9648
126.31 of the Revised Code. 9649

~~(P)(1) Not later than the fifteenth day of September of each 9650
year, each state institution of higher education shall report to 9651
the department on all of the following topics relating to motor 9652
vehicles that the institution acquires and manages: 9653~~

~~(a) The methods it uses to track the motor vehicles; 9654~~

~~(b) Whether or not it uses a fuel card program to purchase 9655
fuel for, or to pay for the maintenance of, the motor vehicles; 9656~~

~~(c) Whether or not it makes bulk purchases of fuel for the 9657
motor vehicles. 9658~~

~~(2) Assuming it does not use the fleet management tracking, 9659
fuel card program, and bulk fuel purchases tools and services that 9660~~

~~the department provides, the report of a state institution of higher education required by division (P)(1) of this section also shall include both of the following:~~

~~(a) An analysis of the amount the institution would save, if any, if it were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides instead of the fleet management system the institution regularly uses;~~

~~(b) A rationale for either continuing with the fleet management system that the institution regularly uses or changing to the use of those tools and services that the department provides.~~

~~(3) The department shall certify within ninety days after receipt of all reports under division (P)(1) of this section a list of those state institutions of higher education that the department determines would save amounts if they were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides. The institutions so certified then shall use those tools and services that the department provides until the department next certifies institutions under division (P)(3) of this section.~~

Sec. 125.836. (A) As used in this section:

(1) "Biodiesel," "blended biodiesel," and "diesel fuel" have the same meanings as in section 125.831 of the Revised Code.

~~(2) "Credit" means a credit generated by the acquisition of alternative fueled vehicles in accordance with the "Energy Policy Act of 1992," 106 Stat. 2897, 42 U.S.C. 13257.~~

~~(3) "Incremental cost" means the difference in cost between blended biodiesel and conventional petroleum-based diesel fuel at the time the blended biodiesel is purchased.~~

~~(B) The department of administrative services shall establish and administer a credit banking and selling program. The department may sell or trade credits in accordance with procedures established pursuant to the "Energy Policy Act of 1992," 106 Stat. 2897, 42 U.S.C. 13258.~~

~~(C) There is hereby created in the state treasury the "biodiesel revolving fund," to which shall be credited moneys received from the sale of credits under this section, any moneys appropriated to the fund by the general assembly, and any other moneys obtained or accepted by the ~~department~~ development services agency for crediting to the fund. Moneys credited to the fund shall be used to pay for the incremental cost of biodiesel for use in vehicles owned or leased by the state that use diesel fuel. The ~~director of administrative services, after consultation with the director~~ of development, services may direct the director of budget and management to transfer available moneys in the biodiesel revolving fund to the alternative fuel transportation fund created in section 122.075 of the Revised Code to be used by the ~~department of development~~ services agency for the purposes specified in that section.~~

~~(D) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code that are necessary for the administration of the credit banking and selling program.~~

Sec. 126.07. Except as provided in division (B) of section 126.21 of the Revised Code, no contract, agreement, or obligation involving the expenditure of money chargeable to an appropriation, nor any resolution or order for the expenditure of money chargeable to an appropriation, shall be valid and enforceable unless the director of budget and management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations, in an amount at least equal to the

portion of the contract, agreement, obligation, resolution, or 9722
order to be performed in the current fiscal year. Any written 9723
contract or agreement entered into by the state shall contain a 9724
clause stating that the obligations of the state are subject to 9725
this section. 9726

The chief administrative officer of a state agency is 9727
responsible for the preaudit and approval of expenditures and 9728
other transactions of the agency. In order to initiate the making 9729
of a payment from the state treasury, the person in a state agency 9730
who requests that the payment be made shall first submit to the 9731
chief administrative officer of the agency all invoices, claims, 9732
vouchers, and other documentation related to the payment. The 9733
chief administrative officer shall examine each voucher and all 9734
other documentation required to support the voucher and determine 9735
whether they meet all the requirements established by the director 9736
of budget and management for making the payment. If they do meet 9737
those requirements, the chief administrative officer shall certify 9738
to the director the approval of the chief administrative officer 9739
for payment. 9740

Prior to drawing a warrant or processing an electronic funds 9741
transfer as provided in section 126.35 of the Revised Code, the 9742
director may review and audit the voucher, any documentation 9743
accompanying the voucher, and any other documentation related to 9744
the transaction that the director may require to determine if the 9745
transaction is in accordance with law. The director shall not 9746
approve payment to be made if the director finds that there is not 9747
an unobligated balance in the appropriation for the payment, that 9748
the payment is not for a valid claim against the state that is 9749
legally due, or that insufficient documentation has been 9750
submitted. If the director does not approve payment, the director 9751
shall notify the agency of the reasons the director has not given 9752
approval. 9753

In approving payments to be made under this section, the 9754
director, upon receipt of certification from the director of job 9755
and family services pursuant to section 4141.231 of the Revised 9756
Code, shall withhold from amounts otherwise payable to a person 9757
who is the subject of the director of jobs and family services' 9758
certification, the amount certified to be due and unpaid to the 9759
director of job and family services, and shall approve for payment 9760
to the director of job and family services, the amount withheld. 9761

As used in this section and in section 126.21 of the Revised 9762
Code, "chief administrative officer" means either of the 9763
following: 9764

(A) The director of the agency or, in the case of a state 9765
agency without a director, the equivalent officer of that agency; 9766

(B) The designee of the chief administrative officer for the 9767
purposes of such sections. 9768

Sec. 126.14. The release of any money appropriated for the 9769
purchase of real estate shall be approved by the controlling 9770
board. The release of money appropriated for all other capital 9771
projects is also subject to the approval of the controlling board, 9772
except that the director of budget and management may approve the 9773
release of money appropriated for specific projects in accordance 9774
with the requirements of this section and except that the director 9775
of budget and management may approve the release of unencumbered 9776
capital balances, for a project to repair, remove, or prevent a 9777
public exigency declared to exist by the executive director of 9778
~~administrative services~~ the Ohio facilities construction 9779
commission under section 123.10 of the Revised Code, ~~or by the~~ 9780
~~executive director of the Ohio facilities construction commission~~ 9781
~~under section 123.23 of the Revised Code,~~ in the amount designated 9782
in that declaration. 9783

Within sixty days after the effective date of any act 9784

appropriating money for capital projects, the director shall 9785
determine which appropriations are for general projects and which 9786
are for specific projects. Specific projects may include specific 9787
higher education projects that are to be funded from general 9788
purpose appropriations from the higher education improvement fund 9789
or the higher education improvement taxable fund created in 9790
section 154.21 of the Revised Code. Upon determining which 9791
projects are general and which are specific, the director shall 9792
submit to the controlling board a list that includes a brief 9793
description of and the estimated expenditures for each specific 9794
project. The release of money for any specific higher education 9795
projects that are to be funded from general purpose appropriations 9796
from the higher education improvement fund or the higher education 9797
improvement taxable fund but that are not included on the list, 9798
and the release of money for any specific higher education 9799
projects included on the list that will exceed the estimated 9800
expenditures by more than ten per cent, are subject to the 9801
approval of the controlling board. 9802

The director may create new appropriation items and make 9803
transfers of appropriations to them for specific higher education 9804
projects included on the list that are to be funded from general 9805
purpose appropriations for basic renovations that are made from 9806
the higher education improvement fund or the higher education 9807
improvement taxable fund. 9808

Sec. 126.32. (A) Any officer of any state agency may 9809
authorize reimbursement for travel, including the costs of 9810
transportation, for lodging, and for meals to any person who is 9811
interviewing for a position that is classified in pay range 13 or 9812
above in schedule E-1 or schedule E-1 for step seven only, or is 9813
classified in schedule E-2, of section 124.152 of the Revised 9814
Code. 9815

(B) If a person is appointed to a position listed in section 9816
121.03 of the Revised Code, to the position of chairperson of the 9817
industrial commission, adjutant general, chancellor of the Ohio 9818
board of regents, superintendent of public instruction, 9819
chairperson of the public utilities commission of Ohio, or 9820
director of the state lottery commission, to a position holding a 9821
fiduciary relationship to the governor, to a position of an 9822
appointing authority of the department of ~~mental health~~ mental 9823
health and addiction services, developmental disabilities, or 9824
rehabilitation and correction, to a position of superintendent in 9825
the department of youth services, or to a position under section 9826
122.05 of the Revised Code, and if that appointment requires a 9827
permanent change of residence, the appropriate state agency may 9828
reimburse the person for the person's actual and necessary 9829
expenses, including the cost of in-transit storage of household 9830
goods and personal effects, of moving the person and members of 9831
the person's immediate family residing in the person's household, 9832
and of moving their household goods and personal effects, to the 9833
person's new location. 9834

Until that person moves the person's permanent residence to 9835
the new location, but not for a period that exceeds thirty 9836
consecutive days, the state agency may reimburse the person for 9837
the person's temporary living expenses at the new location that 9838
the person has incurred on behalf of the person and members of the 9839
person's immediate family residing in the person's household. In 9840
addition, the state agency may reimburse that person for the 9841
person's travel expenses between the new location and the person's 9842
former residence during this period for a maximum number of trips 9843
specified by rule of the director of budget and management, but 9844
the state agency shall not reimburse the person for travel 9845
expenses incurred for those trips by members of the person's 9846
immediate family. With the prior written approval of the director, 9847
the maximum thirty-day period for temporary living expenses may be 9848

extended for a person appointed to a position under section 122.05 9849
of the Revised Code. 9850

The director of development services may reimburse a person 9851
appointed to a position under section 122.05 of the Revised Code 9852
for the person's actual and necessary expenses of moving the 9853
person and members of the person's immediate family residing in 9854
the person's household back to the United States and may reimburse 9855
a person appointed to such a position for the cost of storage of 9856
household goods and personal effects of the person and the 9857
person's immediate family while the person is serving outside the 9858
United States, if the person's office outside the United States is 9859
the person's primary job location. 9860

(C) All reimbursement under division (A) or (B) of this 9861
section shall be made in the manner, and at rates that do not 9862
exceed those, provided by rule of the director of budget and 9863
management in accordance with section 111.15 of the Revised Code. 9864
Reimbursements may be made under division (B) of this section 9865
directly to the persons who incurred the expenses or directly to 9866
the providers of goods or services the persons receive, as 9867
determined by the director of budget and management. 9868

Sec. 126.35. (A) The director of budget and management shall 9869
draw warrants or process electronic funds transfers against the 9870
treasurer of state pursuant to all requests for payment that the 9871
director has approved under section 126.07 of the Revised Code. 9872

(B) Unless a cash assistance payment is to be made by 9873
electronic benefit transfer, payment by the director of budget and 9874
management to a participant in the Ohio works first program 9875
pursuant to Chapter 5107. of the Revised Code, a recipient of 9876
disability financial assistance pursuant to Chapter 5115. of the 9877
Revised Code, or a recipient of cash assistance provided under the 9878
refugee assistance program established under section 5101.49 of 9879

the Revised Code shall be made by direct deposit to the account of 9880
the participant or recipient in the financial institution 9881
designated under section 329.03 of the Revised Code. Payment by 9882
the director of budget and management to a recipient of benefits 9883
distributed through the medium of electronic benefit transfer 9884
pursuant to section 5101.33 of the Revised Code shall be by 9885
electronic benefit transfer. Payment by the director of budget and 9886
management as compensation to an employee of the state who has, 9887
pursuant to section 124.151 of the Revised Code, designated a 9888
financial institution and account for the direct deposit of such 9889
payments shall be made by direct deposit to the account of the 9890
employee. Payment to any other payee who has designated a 9891
financial institution and account for the direct deposit of such 9892
payment may be made by direct deposit to the account of the payee 9893
in the financial institution as provided in section 9.37 of the 9894
Revised Code. Accounts maintained by the director of budget and 9895
management or the director's agent in a financial institution for 9896
the purpose of effectuating payment by direct deposit or 9897
electronic benefit transfer shall be maintained in accordance with 9898
section 135.18 of the Revised Code. 9899

(C) All other payments from the state treasury shall be made 9900
by paper warrants, electronic funds transfers, or by direct 9901
deposit payable to the respective payees. The director of budget 9902
and management may mail the paper warrants to the respective 9903
payees or distribute them through other state agencies, whichever 9904
the director determines to be the better procedure. 9905

~~(D) If the average per transaction cost the director of 9906
budget and management incurs in making direct deposits for a state 9907
agency exceeds the average per transaction cost the director 9908
incurs in drawing paper warrants for all public offices during the 9909
same period of time, the director may certify the difference in 9910
cost and the number of direct deposits for the agency to the 9911~~

~~director of administrative services. The director of 9912
administrative services shall reimburse the director of budget and 9913
management for such additional costs and add the amount to the 9914
processing charge assessed upon the state agency. 9915~~

Sec. 126.45. (A) As used in sections 126.45 to 126.48 of the 9916
Revised Code, "state agency" means the administrative departments 9917
listed in section 121.02 of the Revised Code, the department of 9918
taxation, the bureau of workers' compensation, ~~and~~ the Ohio board 9919
of regents, the opportunities for Ohioans with disabilities 9920
agency, the public utilities commission of Ohio, the adjutant 9921
general, and the state lottery commission. 9922

(B) The office of internal ~~auditing~~ audit is hereby created 9923
in the office of budget and management to ~~conduct~~ direct internal 9924
audits of state agencies or divisions of state agencies to improve 9925
their operations in the areas of risk management, internal 9926
controls, and governance. The director of budget and management, 9927
with the approval of the governor, shall appoint for the office of 9928
internal ~~auditing~~ audit a chief internal auditor who meets the 9929
qualifications specified in division ~~(C)~~(E) of this section. The 9930
chief internal auditor shall serve at the director's pleasure and 9931
be responsible for the administration of the office of internal 9932
~~auditing~~ audit consistent with sections 126.45 to 126.48 of the 9933
Revised Code. 9934

(C) The office of internal ~~auditing~~ audit shall conduct 9935
programs for the internal auditing of state agencies. The programs 9936
shall include an annual internal audit plan, reviewed by the state 9937
audit committee, that utilizes risk assessment techniques and 9938
identifies the specific audits to be ~~conducted~~ directed during the 9939
year. The programs also shall include periodic audits of each 9940
state agency's major systems and controls, including those systems 9941
and controls pertaining to accounting, administration, and 9942

~~electronic data processing~~ information technology. Upon the 9943
request of the office of internal ~~auditing~~ audit, each state 9944
agency shall provide office employees access to all records and 9945
documents necessary for the performance of an internal audit. 9946

The director of budget and management shall assess a charge 9947
against each state agency for which the office of internal 9948
~~auditing~~ audit conducts internal auditing programs under sections 9949
126.45 to 126.48 of the Revised Code so that the total amount of 9950
these charges is sufficient to cover the costs of the operation of 9951
the office of internal ~~auditing~~ audit. 9952

(D) At the request of any other organized body, office, or 9953
agency established by the laws of the state for the exercise of 9954
any function of state government that is not described in division 9955
(A) of this section, the office of internal audit may direct an 9956
internal audit of all or part of that body, office, or agency. The 9957
office of internal audit shall charge an amount sufficient to 9958
cover the costs it incurs in relation to the requested audit. 9959

~~(C)~~(E) The chief internal auditor of the office of internal 9960
~~auditing~~ audit shall hold at least a bachelor's degree and be one 9961
of the following: 9962

(1) A certified internal auditor, a certified government 9963
auditing professional, or a certified public accountant, who also 9964
has held a PA registration or a CPA certificate authorized by 9965
Chapter 4701. of the Revised Code for at least four years and has 9966
at least six years of auditing experience; 9967

(2) An auditor who has held a PA registration or a CPA 9968
certificate authorized by Chapter 4701. of the Revised Code for at 9969
least four years and has at least ten years of auditing 9970
experience. 9971

~~(D)~~(F) The chief internal auditor, subject to the direction 9972
and control of the director of budget and management, may appoint 9973

and maintain any staff necessary to carry out the duties assigned 9974
by sections 126.45 to 126.48 of the Revised Code to the office of 9975
internal ~~auditing~~ audit or to the chief internal auditor. 9976

Sec. 126.46. (A)(1) There is hereby created the state audit 9977
committee, consisting of the following five members: one public 9978
member appointed by the governor; two public members appointed by 9979
the speaker of the house of representatives, one of which may be a 9980
person who is recommended by the minority leader of the house of 9981
representatives; and two public members appointed by the president 9982
of the senate, one of which may be a person who is recommended by 9983
the minority leader of the senate. Not more than two of the four 9984
members appointed by the speaker of the house of representatives 9985
and the president of the senate shall belong to or be affiliated 9986
with the same political party. The member appointed by the 9987
governor shall have the program and management expertise required 9988
to perform the duties of the committee's chairperson. 9989

Each member of the committee shall be external to the 9990
management structure of state government and shall serve a 9991
three-year term. Each term shall commence on the first day of July 9992
and end on the thirtieth day of June. Any member may continue in 9993
office subsequent to the expiration date of the member's term 9994
until the member's successor takes office or until a period of 9995
ninety days has elapsed, whichever occurs first. Members may be 9996
reappointed to serve one additional term. 9997

~~On the effective date of the amendment of this section by~~ 9998
~~H.B. 153 of the 129th general assembly~~ September 29, 2011, the 9999
terms of the members shall be altered as follows: 10000

(a) The terms of the members appointed by the president shall 10001
expire on June 30, 2012. 10002

(b) The term of the member appointed by the speaker scheduled 10003
to expire on November 17, 2012, shall expire on June 30, 2013. 10004

(c) The term of the other member appointed by the speaker shall expire on June 30, 2014. 10005
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(d) The term of the member appointed by the governor shall expire on June 30, 2014. 10007
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The committee shall include at least one member who is a financial expert; at least one member who is an active, inactive, or retired certified public accountant; at least one member who is familiar with governmental financial accounting; at least one member who is familiar with information technology systems and services; and at least one member who is a representative of the public. 10009
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Any vacancy on the committee shall be filled in the same manner as provided in this division, and, when applicable, the person appointed to fill a vacancy shall serve the remainder of the predecessor's term. 10016
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(2) Members of the committee shall receive reimbursement for actual and necessary expenses incurred in the discharge of their duties. 10020
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(3) The member of the committee appointed by the governor shall serve as the committee's chairperson. 10023
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(4) Members of the committee shall be subject to the disclosure statement requirements of section 102.02 of the Revised Code. 10025
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(B) The state audit committee shall do all of the following: 10028

(1) ~~Ensure that~~ Evaluate whether the internal audits ~~conducted~~ directed by the office of internal ~~auditing~~ audit in the office of budget and management conform to the institute of internal auditors' international ~~standards for the professional practice of~~ practices framework for internal auditing and to the institute of internal auditors' code of ethics; 10029
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(2) Review and comment on the process used by the office of budget and management to prepare ~~its annual budgetary financial report and~~ the state's comprehensive annual financial report required under division (A)(9) of section 126.21 of the Revised Code; 10035
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(3) Review and comment on unaudited financial statements submitted to the auditor of state and communicate with external auditors as required by government auditing standards; 10040
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10042

(4) Perform the additional functions imposed upon it by section 126.47 of the Revised Code. 10043
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(C) As used in this section, "financial expert" means a person who has all of the following: 10045
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(1) An understanding of generally accepted accounting principles and financial statements; 10047
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(2) The ability to assess the general application of those principles in connection with accounting for estimates, accruals, and reserves; 10049
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(3) Experience preparing, auditing, analyzing, or evaluating financial statements presenting accounting issues that generally are of comparable breadth and level of complexity to those likely to be presented by a state agency's financial statements, or experience actively supervising one or more persons engaged in those activities; 10052
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(4) An understanding of internal controls and procedures for financial reporting; and 10058
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(5) An understanding of audit committee functions. 10060

Sec. 126.47. (A) The state audit committee created by section 126.46 of the Revised Code shall ensure that the office of internal ~~auditing~~ audit in the office of budget and management has an annual internal audit plan that identifies the internal audits 10061
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of state agencies or divisions of state agencies scheduled for the 10065
next fiscal year. The chief internal auditor of the office of 10066
internal ~~auditing~~ audit shall submit the plan to the state audit 10067
committee for review and comment before the beginning of each 10068
fiscal year. The chief internal auditor may submit a revised 10069
internal audit plan for review and comment at any time the 10070
director of budget and management believes there is reason to 10071
modify the previously submitted plan for a fiscal year. 10072

(B) To determine the state agencies or divisions of state 10073
agencies that are to be internally audited, the office of internal 10074
~~auditing~~ audit, in the formulation of an annual or revised 10075
internal audit plan, and the state audit committee, in reviewing a 10076
submitted annual or revised internal audit plan, shall consider 10077
the following factors: 10078

(1) The risk for fraud, waste, or abuse of public money 10079
within an agency or division; 10080

(2) The length of time since an agency or division was last 10081
subject to an internal audit; 10082

(3) The size of an agency or division, and the amount of time 10083
and resources necessary to audit it; 10084

(4) Any other factor the state audit committee determines to 10085
be relevant. 10086

(C) All internal audits shall be ~~conducted only~~ directed by 10087
employees of the office of internal ~~auditing~~ audit. 10088

(D) After the conclusion of an internal audit, the chief 10089
internal auditor shall submit a preliminary report of the internal 10090
audit's findings and recommendations to the state audit committee 10091
and to the director of the state agency involved. The state agency 10092
or division of the state agency covered by the preliminary report 10093
shall be provided an opportunity to respond within thirty days 10094
after receipt of the preliminary report. The response shall 10095

include a corrective action plan for any recommendations in the 10096
preliminary report that are not disputed by the agency or 10097
division. Any response received by the office of internal ~~auditing~~ 10098
audit within that thirty-day period shall be included in the 10099
office's final report of the internal audit's findings and 10100
recommendations. The final report shall be issued by the office of 10101
internal ~~auditing~~ audit within thirty days after the termination 10102
of the thirty-day response period. Copies of the final report 10103
shall be submitted to the state audit committee, the governor, and 10104
the director of the state agency involved. The state audit 10105
committee shall determine an appropriate method for making the 10106
preliminary and final reports available for public inspection in a 10107
timely manner. 10108

Any suspected fraud or other illegal activity discovered by 10109
the office of internal ~~auditing~~ audit during ~~the conduct of~~ an 10110
internal audit shall be reported immediately to the state audit 10111
committee, the director of the state agency in which the fraud or 10112
illegal activity is suspected to have occurred, and the auditor of 10113
state. 10114

(E) The chief internal auditor shall prepare an annual report 10115
and submit the report to the governor, the president of the 10116
senate, the speaker of the house of representatives, and the 10117
auditor of state. The office of budget and management shall make 10118
the report available to the public by posting it on the office's 10119
web site before the first of ~~July~~ August of each year. 10120

Sec. 126.48. ~~Any~~ (A) Except as provided in division (B) of 10121
this section, any preliminary or final report of an internal 10122
audit's findings and recommendations which is produced by the 10123
office of internal ~~auditing~~ audit in the office of budget and 10124
management and all work papers of the internal audit are 10125
confidential and are not public records under section 149.43 of 10126

the Revised Code until the final report of an internal audit's findings and recommendations is submitted to the state audit committee, the governor, and the director of the state agency involved.

(B) The following are not public records under section 149.43 of the Revised Code:

(1) An internal audit report that meets the definition of a security record under section 149.433 of the Revised Code;

(2) Any information derived from a state tax return or state tax return information as permitted to be used by the office of internal audit under section 5703.21 of the Revised Code.

Sec. 127.14. The controlling board may, at the request of any state agency or the director of budget and management, authorize, with respect to the provisions of any appropriation act:

(A) Transfers of all or part of an appropriation within but not between state agencies, except such transfers as the director of budget and management is authorized by law to make, provided that no transfer shall be made by the director for the purpose of effecting new or changed levels of program service not authorized by the general assembly;

(B) Transfers of all or part of an appropriation from one fiscal year to another;

(C) Transfers of all or part of an appropriation within or between state agencies made necessary by administrative reorganization or by the abolition of an agency or part of an agency;

(D) Transfers of all or part of cash balances in excess of needs from any fund of the state to the general revenue fund or to such other fund of the state to which the money would have been

credited in the absence of the fund from which the transfers are 10157
authorized to be made, except that the controlling board may not 10158
authorize such transfers from the accrued leave liability fund, 10159
auto registration distribution fund, budget stabilization fund, 10160
building improvement fund, development bond retirement fund, 10161
facilities establishment fund, gasoline excise tax fund, general 10162
revenue fund, higher education improvement fund, highway 10163
improvement bond retirement fund, highway obligations bond 10164
retirement fund, highway capital improvement fund, highway 10165
operating fund, horse racing tax fund, improvements bond 10166
retirement fund, public library fund, liquor control fund, local 10167
government fund, local transportation improvement program fund, 10168
mental health facilities improvement fund, Ohio fairs fund, parks 10169
and recreation improvement fund, public improvements bond 10170
retirement fund, school district income tax fund, state agency 10171
facilities improvement fund, state and local government highway 10172
distribution fund, state highway safety fund, state lottery fund, 10173
undivided liquor permit fund, Vietnam conflict compensation bond 10174
retirement fund, volunteer fire fighters' dependents fund, 10175
waterways safety fund, wildlife fund, workers' compensation fund, 10176
or any fund not specified in this division that the director of 10177
budget and management determines to be a bond fund or bond 10178
retirement fund; 10179

(E) Transfers of all or part of those appropriations included 10180
in the emergency purposes account of the controlling board; 10181

(F) Temporary transfers of all or part of an appropriation or 10182
other moneys into and between existing funds, or new funds, as may 10183
be established by law when needed for capital outlays for which 10184
notes or bonds will be issued; 10185

(G) Transfer or release of all or part of an appropriation to 10186
a state agency requiring controlling board approval of such 10187
transfer or release as provided by law; 10188

(H) Temporary transfer of funds included in the emergency 10189
purposes appropriation of the controlling board. Such temporary 10190
transfers may be made subject to conditions specified by the 10191
controlling board at the time temporary transfers are authorized. 10192
No transfers shall be made under this division for the purpose of 10193
effecting new or changed levels of program service not authorized 10194
by the general assembly. 10195

As used in this section, "request" means an application by a 10196
state agency or the director of budget and management seeking some 10197
action by the controlling board. 10198

When authorizing the transfer of all or part of an 10199
appropriation under this section, the controlling board may 10200
authorize the transfer to an existing appropriation item and the 10201
creation of and transfer to a new appropriation item. 10202

Whenever there is a transfer of all or part of funds included 10203
in the emergency purposes appropriation by the controlling board, 10204
pursuant to division (E) of this section, the state agency or the 10205
director of budget and management receiving such transfer shall 10206
keep a detailed record of the use of the transferred funds. At the 10207
earliest scheduled meeting of the controlling board following the 10208
accomplishment of the purposes specified in the request originally 10209
seeking the transfer, or following the total expenditure of the 10210
transferred funds for the specified purposes, the state agency or 10211
the director of budget and management shall submit a report on the 10212
expenditure of such funds to the board. The portion of any 10213
appropriation so transferred which is not required to accomplish 10214
the purposes designated in the original request to the controlling 10215
board shall be returned to the proper appropriation of the 10216
controlling board at this time. 10217

Notwithstanding any provisions of law providing for the 10218
deposit of revenues received by a state agency to the credit of a 10219
particular fund in the state treasury, whenever there is a 10220

temporary transfer of funds included in the emergency purposes 10221
appropriation of the controlling board pursuant to division (H) of 10222
this section, revenues received by any state agency receiving such 10223
a temporary transfer of funds shall, as directed by the 10224
controlling board, be transferred back to the emergency purposes 10225
appropriation. 10226

The board may delegate to the director of budget and 10227
management authority to approve transfers among items of 10228
appropriation under division (A) of this section. 10229

Sec. 127.16. (A) Upon the request of either a state agency or 10230
the director of budget and management and after the controlling 10231
board determines that an emergency or a sufficient economic reason 10232
exists, the controlling board may approve the making of a purchase 10233
without competitive selection as provided in division (B) of this 10234
section. 10235

(B) Except as otherwise provided in this section, no state 10236
agency, using money that has been appropriated to it directly, 10237
shall: 10238

(1) Make any purchase from a particular supplier, that would 10239
amount to fifty thousand dollars or more when combined with both 10240
the amount of all disbursements to the supplier during the fiscal 10241
year for purchases made by the agency and the amount of all 10242
outstanding encumbrances for purchases made by the agency from the 10243
supplier, unless the purchase is made by competitive selection or 10244
with the approval of the controlling board; 10245

(2) Lease real estate from a particular supplier, if the 10246
lease would amount to seventy-five thousand dollars or more when 10247
combined with both the amount of all disbursements to the supplier 10248
during the fiscal year for real estate leases made by the agency 10249
and the amount of all outstanding encumbrances for real estate 10250
leases made by the agency from the supplier, unless the lease is 10251

made by competitive selection or with the approval of the 10252
controlling board. 10253

(C) Any person who authorizes a purchase in violation of 10254
division (B) of this section shall be liable to the state for any 10255
state funds spent on the purchase, and the attorney general shall 10256
collect the amount from the person. 10257

(D) Nothing in division (B) of this section shall be 10258
construed as: 10259

(1) A limitation upon the authority of the director of 10260
transportation as granted in sections 5501.17, 5517.02, and 10261
5525.14 of the Revised Code; 10262

(2) Applying to medicaid provider agreements under ~~Chapter~~ 10263
~~5111. of the Revised Code~~ medicaid program; 10264

(3) Applying to the purchase of examinations from a sole 10265
supplier by a state licensing board under Title XLVII of the 10266
Revised Code; 10267

(4) Applying to entertainment contracts for the Ohio state 10268
fair entered into by the Ohio expositions commission, provided 10269
that the controlling board has given its approval to the 10270
commission to enter into such contracts and has approved a total 10271
budget amount for such contracts as agreed upon by commission 10272
action, and that the commission causes to be kept itemized records 10273
of the amounts of money spent under each contract and annually 10274
files those records with the clerk of the house of representatives 10275
and the clerk of the senate following the close of the fair; 10276

(5) Limiting the authority of the chief of the division of 10277
mineral resources management to contract for reclamation work with 10278
an operator mining adjacent land as provided in section 1513.27 of 10279
the Revised Code; 10280

(6) Applying to investment transactions and procedures of any 10281

state agency, except that the agency shall file with the board the 10282
name of any person with whom the agency contracts to make, broker, 10283
service, or otherwise manage its investments, as well as the 10284
commission, rate, or schedule of charges of such person with 10285
respect to any investment transactions to be undertaken on behalf 10286
of the agency. The filing shall be in a form and at such times as 10287
the board considers appropriate. 10288

(7) Applying to purchases made with money for the per cent 10289
for arts program established by section 3379.10 of the Revised 10290
Code; 10291

(8) Applying to purchases made by the ~~rehabilitation services~~ 10292
~~commission~~ opportunities for Ohioans with disabilities agency of 10293
services, or supplies, that are provided to persons with 10294
disabilities, or to purchases made by the ~~commission~~ agency in 10295
connection with the eligibility determinations it makes for 10296
applicants of programs administered by the social security 10297
administration; 10298

(9) Applying to payments by the department of ~~job and family~~ 10299
~~services~~ medicaid under section ~~5111.13~~ 5164.85 of the Revised 10300
Code for group health plan premiums, deductibles, coinsurance, and 10301
other cost-sharing expenses; 10302

(10) Applying to any agency of the legislative branch of the 10303
state government; 10304

(11) Applying to agreements or contracts entered into under 10305
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 10306
Revised Code; 10307

(12) Applying to purchases of services by the adult parole 10308
authority under section 2967.14 of the Revised Code or by the 10309
department of youth services under section 5139.08 of the Revised 10310
Code; 10311

(13) Applying to dues or fees paid for membership in an 10312

organization or association;	10313
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	10314 10315
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	10316 10317 10318 10319
(16) Applying to purchases of tickets for passenger air transportation;	10320 10321
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	10322 10323 10324
(18) Applying to the judicial branch of state government;	10325
(19) Applying to purchases of liquor for resale by the division of liquor control;	10326 10327
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	10328 10329 10330
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	10331 10332 10333 10334
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	10335 10336 10337
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	10338 10339
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as	10340 10341 10342

defined in division (A) of that section; 10343

(25) Applying to purchases from a qualified nonprofit agency 10344
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of 10345
the Revised Code; 10346

(26) Applying to payments by the department of job and family 10347
services to the United States department of health and human 10348
services for printing and mailing notices pertaining to the tax 10349
refund offset program of the internal revenue service of the 10350
United States department of the treasury; 10351

(27) Applying to contracts entered into by the department of 10352
developmental disabilities under section 5123.18 of the Revised 10353
Code; 10354

(28) Applying to payments made by the department of ~~mental~~ 10355
~~health~~ mental health and addiction services under a physician 10356
recruitment program authorized by section ~~5119.101~~ 5119.185 of the 10357
Revised Code; 10358

(29) Applying to contracts entered into with persons by the 10359
director of commerce for unclaimed funds collection and remittance 10360
efforts as provided in division (F) of section 169.03 of the 10361
Revised Code. The director shall keep an itemized accounting of 10362
unclaimed funds collected by those persons and amounts paid to 10363
them for their services. 10364

(30) Applying to purchases made by a state institution of 10365
higher education in accordance with the terms of a contract 10366
between the vendor and an inter-university purchasing group 10367
comprised of purchasing officers of state institutions of higher 10368
education; 10369

(31) Applying to the department of ~~job and family services~~ 10370
medicaid's purchases of health assistance services under the 10371
children's health insurance program ~~part I provided for under~~ 10372
~~section 5101.50 of the Revised Code, the children's health~~ 10373

insurance program part II provided for under section 5101.51 of	10374
the Revised Code, or the children's health insurance program part	10375
III provided for under section 5101.52 of the Revised Code;	10376
(32) Applying to payments by the attorney general from the	10377
reparations fund to hospitals and other emergency medical	10378
facilities for performing medical examinations to collect physical	10379
evidence pursuant to section 2907.28 of the Revised Code;	10380
(33) Applying to contracts with a contracting authority or	10381
administrative receiver under division (B) of section 5126.056 of	10382
the Revised Code;	10383
(34) Applying to purchases of goods and services by the	10384
department of veterans services in accordance with the terms of	10385
contracts entered into by the United States department of veterans	10386
affairs;	10387
(35) Applying to payments by the superintendent of the bureau	10388
of criminal identification and investigation to the federal bureau	10389
of investigation for criminal records checks pursuant to section	10390
109.572 of the Revised Code;	10391
(36) Applying to contracts entered into by the department of	10392
job and family services <u>medicaid</u> under section 5111.054 <u>5164.47</u> of	10393
the Revised Code;	10394
<u>(37) Applying to contracts entered into under section 5160.12</u>	10395
<u>of the Revised Code.</u>	10396
(E) When determining whether a state agency has reached the	10397
cumulative purchase thresholds established in divisions (B)(1) and	10398
(2) of this section, all of the following purchases by such agency	10399
shall not be considered:	10400
(1) Purchases made through competitive selection or with	10401
controlling board approval;	10402
(2) Purchases listed in division (D) of this section;	10403

(3) For the purposes of the threshold of division (B)(1) of this section only, leases of real estate. 10404
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(F) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code. 10406
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Sec. 133.06. (A) A school district shall not incur, without a vote of the electors, net indebtedness that exceeds an amount equal to one-tenth of one per cent of its tax valuation, except as provided in divisions (G) and (H) of this section and in division (C) of section 3313.372 of the Revised Code, or as prescribed in section 3318.052 or 3318.44 of the Revised Code, or as provided in division (J) of this section. 10409
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(B) Except as provided in divisions (E), (F), and (I) of this section, a school district shall not incur net indebtedness that exceeds an amount equal to nine per cent of its tax valuation. 10416
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(C) A school district shall not submit to a vote of the electors the question of the issuance of securities in an amount that will make the district's net indebtedness after the issuance of the securities exceed an amount equal to four per cent of its tax valuation, unless the superintendent of public instruction, acting under policies adopted by the state board of education, and the tax commissioner, acting under written policies of the commissioner, consent to the submission. A request for the consents shall be made at least one hundred twenty days prior to the election at which the question is to be submitted. 10419
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The superintendent of public instruction shall certify to the district the superintendent's and the tax commissioner's decisions within thirty days after receipt of the request for consents. 10429
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If the electors do not approve the issuance of securities at the election for which the superintendent of public instruction 10432
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and tax commissioner consented to the submission of the question, 10434
the school district may submit the same question to the electors 10435
on the date that the next special election may be held under 10436
section 3501.01 of the Revised Code without submitting a new 10437
request for consent. If the school district seeks to submit the 10438
same question at any other subsequent election, the district shall 10439
first submit a new request for consent in accordance with this 10440
division. 10441

(D) In calculating the net indebtedness of a school district, 10442
none of the following shall be considered: 10443

(1) Securities issued to acquire school buses and other 10444
equipment used in transporting pupils or issued pursuant to 10445
division (D) of section 133.10 of the Revised Code; 10446

(2) Securities issued under division (F) of this section, 10447
under section 133.301 of the Revised Code, and, to the extent in 10448
excess of the limitation stated in division (B) of this section, 10449
under division (E) of this section; 10450

(3) Indebtedness resulting from the dissolution of a joint 10451
vocational school district under section 3311.217 of the Revised 10452
Code, evidenced by outstanding securities of that joint vocational 10453
school district; 10454

(4) Loans, evidenced by any securities, received under 10455
sections 3313.483, 3317.0210, and 3317.0211, ~~and 3317.64~~ of the 10456
Revised Code; 10457

(5) Debt incurred under section 3313.374 of the Revised Code; 10458

(6) Debt incurred pursuant to division (B)(5) of section 10459
3313.37 of the Revised Code to acquire computers and related 10460
hardware; 10461

(7) Debt incurred under section 3318.042 of the Revised Code. 10462

(E) A school district may become a special needs district as 10463

to certain securities as provided in division (E) of this section. 10464

(1) A board of education, by resolution, may declare its 10465
school district to be a special needs district by determining both 10466
of the following: 10467

(a) The student population is not being adequately serviced 10468
by the existing permanent improvements of the district. 10469

(b) The district cannot obtain sufficient funds by the 10470
issuance of securities within the limitation of division (B) of 10471
this section to provide additional or improved needed permanent 10472
improvements in time to meet the needs. 10473

(2) The board of education shall certify a copy of that 10474
resolution to the superintendent of public instruction with a 10475
statistical report showing all of the following: 10476

(a) The history of and a projection of the growth of the tax 10477
valuation; 10478

(b) The projected needs; 10479

(c) The estimated cost of permanent improvements proposed to 10480
meet such projected needs. 10481

(3) The superintendent of public instruction shall certify 10482
the district as an approved special needs district if the 10483
superintendent finds both of the following: 10484

(a) The district does not have available sufficient 10485
additional funds from state or federal sources to meet the 10486
projected needs. 10487

(b) The projection of the potential average growth of tax 10488
valuation during the next five years, according to the information 10489
certified to the superintendent and any other information the 10490
superintendent obtains, indicates a likelihood of potential 10491
average growth of tax valuation of the district during the next 10492
five years of an average of not less than one and one-half per 10493

cent per year. The findings and certification of the 10494
superintendent shall be conclusive. 10495

(4) An approved special needs district may incur net 10496
indebtedness by the issuance of securities in accordance with the 10497
provisions of this chapter in an amount that does not exceed an 10498
amount equal to the greater of the following: 10499

(a) Twelve per cent of the sum of its tax valuation plus an 10500
amount that is the product of multiplying that tax valuation by 10501
the percentage by which the tax valuation has increased over the 10502
tax valuation on the first day of the sixtieth month preceding the 10503
month in which its board determines to submit to the electors the 10504
question of issuing the proposed securities; 10505

(b) Twelve per cent of the sum of its tax valuation plus an 10506
amount that is the product of multiplying that tax valuation by 10507
the percentage, determined by the superintendent of public 10508
instruction, by which that tax valuation is projected to increase 10509
during the next ten years. 10510

(F) A school district may issue securities for emergency 10511
purposes, in a principal amount that does not exceed an amount 10512
equal to three per cent of its tax valuation, as provided in this 10513
division. 10514

(1) A board of education, by resolution, may declare an 10515
emergency if it determines both of the following: 10516

(a) School buildings or other necessary school facilities in 10517
the district have been wholly or partially destroyed, or condemned 10518
by a constituted public authority, or that such buildings or 10519
facilities are partially constructed, or so constructed or planned 10520
as to require additions and improvements to them before the 10521
buildings or facilities are usable for their intended purpose, or 10522
that corrections to permanent improvements are necessary to remove 10523
or prevent health or safety hazards. 10524

(b) Existing fiscal and net indebtedness limitations make 10525
adequate replacement, additions, or improvements impossible. 10526

(2) Upon the declaration of an emergency, the board of 10527
education may, by resolution, submit to the electors of the 10528
district pursuant to section 133.18 of the Revised Code the 10529
question of issuing securities for the purpose of paying the cost, 10530
in excess of any insurance or condemnation proceeds received by 10531
the district, of permanent improvements to respond to the 10532
emergency need. 10533

(3) The procedures for the election shall be as provided in 10534
section 133.18 of the Revised Code, except that: 10535

(a) The form of the ballot shall describe the emergency 10536
existing, refer to this division as the authority under which the 10537
emergency is declared, and state that the amount of the proposed 10538
securities exceeds the limitations prescribed by division (B) of 10539
this section; 10540

(b) The resolution required by division (B) of section 133.18 10541
of the Revised Code shall be certified to the county auditor and 10542
the board of elections at least one hundred days prior to the 10543
election; 10544

(c) The county auditor shall advise and, not later than 10545
ninety-five days before the election, confirm that advice by 10546
certification to, the board of education of the information 10547
required by division (C) of section 133.18 of the Revised Code; 10548

(d) The board of education shall then certify its resolution 10549
and the information required by division (D) of section 133.18 of 10550
the Revised Code to the board of elections not less than ninety 10551
days prior to the election. 10552

(4) Notwithstanding division (B) of section 133.21 of the 10553
Revised Code, the first principal payment of securities issued 10554
under this division may be set at any date not later than sixty 10555

months after the earliest possible principal payment otherwise 10556
provided for in that division. 10557

(G)(1) The board of education may contract with an architect, 10558
professional engineer, or other person experienced in the design 10559
and implementation of energy conservation measures for an analysis 10560
and recommendations pertaining to installations, modifications of 10561
installations, or remodeling that would significantly reduce 10562
energy consumption in buildings owned by the district. The report 10563
shall include estimates of all costs of such installations, 10564
modifications, or remodeling, including costs of design, 10565
engineering, installation, maintenance, repairs, and debt service, 10566
forgone residual value of materials or equipment replaced by the 10567
energy conservation measure, as defined by the Ohio school 10568
facilities commission, a baseline analysis of actual energy 10569
consumption data for the preceding three years, and estimates of 10570
the amounts by which energy consumption and resultant operational 10571
and maintenance costs, as defined by the commission, would be 10572
reduced. 10573

If the board finds after receiving the report that the amount 10574
of money the district would spend on such installations, 10575
modifications, or remodeling is not likely to exceed the amount of 10576
money it would save in energy and resultant operational and 10577
maintenance costs over the ensuing fifteen years, the board may 10578
submit to the commission a copy of its findings and a request for 10579
approval to incur indebtedness to finance the making or 10580
modification of installations or the remodeling of buildings for 10581
the purpose of significantly reducing energy consumption. 10582

~~If the commission determines that the board's findings are~~ 10583
~~reasonable, it~~ The school facilities commission, in consultation 10584
with the auditor of state, may deny a request under this division 10585
by the board of education any school district is in a state of 10586
fiscal watch pursuant to division (A) of section 3316.03 of the 10587

Revised Code, if it determines that the expenditure of funds is 10588
not in the best interest of the school district. 10589

No district board of education of a school district that is 10590
in a state of fiscal emergency pursuant to division (B) of section 10591
3316.03 of the Revised Code shall submit a request without 10592
submitting evidence that the installations, modifications, or 10593
remodeling have been approved by the district's financial planning 10594
and supervision commission established under section 3316.05 of 10595
the Revised Code. 10596

No board of education of a school district that, for three or 10597
more consecutive years, has been declared to be in a state of 10598
academic emergency under section 3302.03 of the Revised Code, as 10599
that section existed prior to March 22, 2013, and has failed to 10600
meet adequate yearly progress, or has met any condition set forth 10601
in division (A)(2), (3), or (4) of section 3302.10 of the Revised 10602
Code shall submit a request without first receiving approval to 10603
incur indebtedness from the district's academic distress 10604
commission established under that section, for so long as such 10605
commission continues to be required for the district. 10606

(2) The school facilities commission shall approve the 10607
board's request. ~~Upon~~ provided that the following conditions are 10608
satisfied: 10609

(a) The commission determines that the board's findings are 10610
reasonable. 10611

(b) The request for approval is complete. 10612

(c) The installations, modifications, or remodeling are 10613
consistent with any project to construct or acquire classroom 10614
facilities, or to reconstruct or make additions to existing 10615
classroom facilities under sections 3318.01 to 3318.20 or sections 10616
3318.40 to 3318.45 of the Revised Code. 10617

Upon receipt of the commission's approval, the district may 10618

issue securities without a vote of the electors in a principal 10619
amount not to exceed nine-tenths of one per cent of its tax 10620
valuation for the purpose of making such installations, 10621
modifications, or remodeling, but the total net indebtedness of 10622
the district without a vote of the electors incurred under this 10623
and all other sections of the Revised Code, except section 10624
3318.052 of the Revised Code, shall not exceed one per cent of the 10625
district's tax valuation. 10626

(3) So long as any securities issued under ~~division (C) of~~ 10627
this ~~section~~ division remain outstanding, the board of education 10628
shall monitor the energy consumption and resultant operational and 10629
maintenance costs of buildings in which installations or 10630
modifications have been made or remodeling has been done pursuant 10631
to ~~division (C) of this section~~ division and shall maintain and 10632
annually update a report documenting the reductions in energy 10633
consumption and resultant operational and maintenance cost savings 10634
attributable to such installations, modifications, or remodeling. 10635
The report shall be certified by an architect or engineer 10636
independent of any person that provided goods or services to the 10637
board in connection with the energy conservation measures that are 10638
the subject of the report. The resultant operational and 10639
maintenance cost savings shall be certified by the school district 10640
treasurer. The report shall be submitted annually to the 10641
commission. 10642

(H) With the consent of the superintendent of public 10643
instruction, a school district may incur without a vote of the 10644
electors net indebtedness that exceeds the amounts stated in 10645
divisions (A) and (G) of this section for the purpose of paying 10646
costs of permanent improvements, if and to the extent that both of 10647
the following conditions are satisfied: 10648

(1) The fiscal officer of the school district estimates that 10649
receipts of the school district from payments made under or 10650

pursuant to agreements entered into pursuant to section 725.02, 10651
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 5709.62, 10652
5709.63, 5709.632, 5709.73, 5709.78, or 5709.82 of the Revised 10653
Code, or distributions under division (C) of section 5709.43 of 10654
the Revised Code, or any combination thereof, are, after 10655
accounting for any appropriate coverage requirements, sufficient 10656
in time and amount, and are committed by the proceedings, to pay 10657
the debt charges on the securities issued to evidence that 10658
indebtedness and payable from those receipts, and the taxing 10659
authority of the district confirms the fiscal officer's estimate, 10660
which confirmation is approved by the superintendent of public 10661
instruction; 10662

(2) The fiscal officer of the school district certifies, and 10663
the taxing authority of the district confirms, that the district, 10664
at the time of the certification and confirmation, reasonably 10665
expects to have sufficient revenue available for the purpose of 10666
operating such permanent improvements for their intended purpose 10667
upon acquisition or completion thereof, and the superintendent of 10668
public instruction approves the taxing authority's confirmation. 10669

The maximum maturity of securities issued under division (H) 10670
of this section shall be the lesser of twenty years or the maximum 10671
maturity calculated under section 133.20 of the Revised Code. 10672

(I) A school district may incur net indebtedness by the 10673
issuance of securities in accordance with the provisions of this 10674
chapter in excess of the limit specified in division (B) or (C) of 10675
this section when necessary to raise the school district portion 10676
of the basic project cost and any additional funds necessary to 10677
participate in a project under Chapter 3318. of the Revised Code, 10678
including the cost of items designated by the Ohio school 10679
facilities commission as required locally funded initiatives, the 10680
cost of other locally funded initiatives in an amount that does 10681
not exceed fifty per cent of the district's portion of the basic 10682

project cost, and the cost for site acquisition. The school 10683
facilities commission shall notify the superintendent of public 10684
instruction whenever a school district will exceed either limit 10685
pursuant to this division. 10686

(J) A school district whose portion of the basic project cost 10687
of its classroom facilities project under sections 3318.01 to 10688
3318.20 of the Revised Code is greater than or equal to one 10689
hundred million dollars may incur without a vote of the electors 10690
net indebtedness in an amount up to two per cent of its tax 10691
valuation through the issuance of general obligation securities in 10692
order to generate all or part of the amount of its portion of the 10693
basic project cost if the controlling board has approved the 10694
school facilities commission's conditional approval of the project 10695
under section 3318.04 of the Revised Code. The school district 10696
board and the Ohio school facilities commission shall include the 10697
dedication of the proceeds of such securities in the agreement 10698
entered into under section 3318.08 of the Revised Code. No state 10699
moneys shall be released for a project to which this section 10700
applies until the proceeds of any bonds issued under this section 10701
that are dedicated for the payment of the school district portion 10702
of the project are first deposited into the school district's 10703
project construction fund. 10704

Sec. 140.01. As used in this chapter: 10705

(A) "Hospital agency" means any public hospital agency or any 10706
nonprofit hospital agency. 10707

(B) "Public hospital agency" means any county, board of 10708
county hospital trustees established pursuant to section 339.02 of 10709
the Revised Code, county hospital commission established pursuant 10710
to section 339.14 of the Revised Code, municipal corporation, new 10711
community authority organized under Chapter 349. of the Revised 10712
Code, joint township hospital district, state or municipal 10713

university or college operating or authorized to operate a 10714
hospital facility, or the state. 10715

(C) "Nonprofit hospital agency" means a corporation or 10716
association not for profit, no part of the net earnings of which 10717
inures or may lawfully inure to the benefit of any private 10718
shareholder or individual, that has authority to own or operate a 10719
hospital facility or provides or is to provide services to one or 10720
more other hospital agencies. 10721

(D) "Governing body" means, in the case of a county, the 10722
board of county commissioners or other legislative body; in the 10723
case of a board of county hospital trustees, the board; in the 10724
case of a county hospital commission, the commission; in the case 10725
of a municipal corporation, the council or other legislative 10726
authority; in the case of a new community authority, its board of 10727
trustees; in the case of a joint township hospital district, the 10728
joint township district hospital board; in the case of a state or 10729
municipal university or college, its board of trustees or board of 10730
directors; in the case of a nonprofit hospital agency, the board 10731
of trustees or other body having general management of the agency; 10732
and, in the case of the state, the director of development 10733
services or the Ohio higher educational facility commission. 10734

(E) "Hospital facilities" means buildings, structures and 10735
other improvements, additions thereto and extensions thereof, 10736
furnishings, equipment, and real estate and interests in real 10737
estate, used or to be used for or in connection with one or more 10738
hospitals, emergency, intensive, intermediate, extended, 10739
long-term, or self-care facilities, diagnostic and treatment and 10740
out-patient facilities, facilities related to programs for home 10741
health services, clinics, laboratories, public health centers, 10742
research facilities, and rehabilitation facilities, for or 10743
pertaining to diagnosis, treatment, care, or rehabilitation of 10744
sick, ill, injured, infirm, impaired, disabled, or handicapped 10745

persons, or the prevention, detection, and control of disease, and 10746
also includes education, training, and food service facilities for 10747
health professions personnel, housing facilities for such 10748
personnel and their families, and parking and service facilities 10749
in connection with any of the foregoing; and includes any one, 10750
part of, or any combination of the foregoing; and further includes 10751
site improvements, utilities, machinery, facilities, furnishings, 10752
and any separate or connected buildings, structures, improvements, 10753
sites, utilities, facilities, or equipment to be used in, or in 10754
connection with the operation or maintenance of, or supplementing 10755
or otherwise related to the services or facilities to be provided 10756
by, any one or more of such hospital facilities. 10757

(F) "Costs of hospital facilities" means the costs of 10758
acquiring hospital facilities or interests in hospital facilities, 10759
including membership interests in nonprofit hospital agencies, 10760
costs of constructing hospital facilities, costs of improving one 10761
or more hospital facilities, including reconstructing, 10762
rehabilitating, remodeling, renovating, and enlarging, costs of 10763
equipping and furnishing such facilities, and all financing costs 10764
pertaining thereto, including, without limitation thereto, costs 10765
of engineering, architectural, and other professional services, 10766
designs, plans, specifications and surveys, and estimates of cost, 10767
costs of tests and inspections, the costs of any indemnity or 10768
surety bonds and premiums on insurance, all related direct or 10769
allocable administrative expenses pertaining thereto, fees and 10770
expenses of trustees, depositories, and paying agents for the 10771
obligations, cost of issuance of the obligations and financing 10772
charges and fees and expenses of financial advisors, attorneys, 10773
accountants, consultants and rating services in connection 10774
therewith, capitalized interest on the obligations, amounts 10775
necessary to establish reserves as required by the bond 10776
proceedings, the reimbursement of all moneys advanced or applied 10777
by the hospital agency or others or borrowed from others for the 10778

payment of any item or items of costs of such facilities, and all 10779
other expenses necessary or incident to planning or determining 10780
feasibility or practicability with respect to such facilities, and 10781
such other expenses as may be necessary or incident to the 10782
acquisition, construction, reconstruction, rehabilitation, 10783
remodeling, renovation, enlargement, improvement, equipment, and 10784
furnishing of such facilities, the financing thereof, and the 10785
placing of the same in use and operation, including any one, part 10786
of, or combination of such classes of costs and expenses, and 10787
means the costs of refinancing obligations issued by, or 10788
reimbursement of money advanced by, nonprofit hospital agencies or 10789
others the proceeds of which were used for the payment of costs of 10790
hospital facilities, if the governing body of the public hospital 10791
agency determines that the refinancing or reimbursement advances 10792
the purposes of this chapter, whether or not the refinancing or 10793
reimbursement is in conjunction with the acquisition or 10794
construction of additional hospital facilities. 10795

(G) "Hospital receipts" means all moneys received by or on 10796
behalf of a hospital agency from or in connection with the 10797
ownership, operation, acquisition, construction, improvement, 10798
equipping, or financing of any hospital facilities, including, 10799
without limitation thereto, any rentals and other moneys received 10800
from the lease, sale, or other disposition of hospital facilities, 10801
and any gifts, grants, interest subsidies, or other moneys 10802
received under any federal program for assistance in financing the 10803
costs of hospital facilities, and any other gifts, grants, and 10804
donations, and receipts therefrom, available for financing the 10805
costs of hospital facilities. 10806

(H) "Obligations" means bonds, notes, or other evidences of 10807
indebtedness or obligation, including interest coupons pertaining 10808
thereto, issued or issuable by a public hospital agency to pay 10809
costs of hospital facilities. 10810

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.	10811 10812
(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.	10813 10814 10815 10816 10817 10818 10819
(K) "Nursing home" has the same meaning as in division (A)(1) of section 5701.13 of the Revised Code.	10820 10821
(L) "Residential care facility" has the same meaning as in division (A)(2) of section 5701.13 of the Revised Code.	10822 10823
(M) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:	10824 10825 10826 10827 10828
(1) A hospital required to be certified by section 3727.02 of the Revised Code;	10829 10830
(2) A nursing home or residential care facility;	10831
(3) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;	10832 10833 10834
(4) A residential facility licensed by the department of mental health <u>mental health and addiction services</u> under section 5119.22 <u>5119.34</u> of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;	10835 10836 10837 10838 10839
(5) A residential facility licensed by the department of	10840

~~mental health~~ mental health and addiction services under section 10841
~~5119.22~~ 5119.34 of the Revised Code that is not a residential 10842
facility described in division (M)(4) of this section; 10843

(6) A facility licensed to provide methadone treatment under 10844
section ~~3793.11~~ 5119.39 of the Revised Code; 10845

(7) A facility certified as ~~an alcohol and drug~~ a community 10846
~~addiction program~~ services provider under section ~~3793.06~~ 5119.36 10847
of the Revised Code; 10848

(8) A residential facility licensed under section 5123.19 of 10849
the Revised Code or a facility providing services under a contract 10850
with the department of developmental disabilities under section 10851
5123.18 of the Revised Code; 10852

(9) A residential facility used as part of a hospital to 10853
provide housing for staff of the hospital or students pursuing a 10854
course of study at the hospital. 10855

Sec. 140.03. (A) Two or more hospital agencies may enter into 10856
agreements for the acquisition, construction, reconstruction, 10857
rehabilitation, remodeling, renovating, enlarging, equipping, and 10858
furnishing of hospital facilities, or the management, operation, 10859
occupancy, use, maintenance, and repair of hospital facilities, or 10860
for participation in programs, projects, activities, and services 10861
useful to, connected with, supplementing, or otherwise related to 10862
the services provided by, or the operation of, hospital facilities 10863
operated by one or more participating hospital agencies, including 10864
any combination of such purposes, all in such manner as to promote 10865
the public purpose stated in section 140.02 of the Revised Code. A 10866
city health district; general health district; board of alcohol, 10867
drug addiction, and mental health services; county board of 10868
developmental disabilities; the department of ~~mental health~~ mental 10869
health and addiction services; the department of developmental 10870
disabilities; or any public body engaged in the education or 10871

training of health professions personnel may join in any such 10872
agreement for purposes related to its authority under laws 10873
applicable to it, and as such a participant shall be considered a 10874
public hospital agency or hospital agency for the purposes of this 10875
section. 10876

(B) An agreement entered into under authority of this section 10877
shall, where appropriate, provide for: 10878

(1) The manner in which the title to the hospital facilities, 10879
including the sites and interest in real estate pertaining 10880
thereto, is to be held, transferred, or disposed of; 10881

(2) Unless provided for by lease pursuant to section 140.05 10882
of the Revised Code, the method by which such hospital facilities 10883
are to be acquired, constructed, or otherwise improved and by 10884
which they shall be managed, occupied, maintained, and repaired, 10885
including the designation of one of the hospital agencies to have 10886
charge of the details of acquisition, construction, or improvement 10887
pursuant to the contracting procedures prescribed under the law 10888
applicable to one of the participating public hospital agencies; 10889

(3) The management or administration of any such programs, 10890
projects, activities, or services, which may include management or 10891
administration by one of said hospital agencies or a board or 10892
agency thereof; 10893

(4) Annual, or more frequent, reports to the participating 10894
hospital agencies as to the revenues and receipts pertaining to 10895
the subject of the agreement, the expenditures thereof, the status 10896
and application of other funds contributed under such agreement, 10897
and such other matters as may be specified by or pursuant to such 10898
agreement; 10899

(5) The manner of apportionment or sharing of costs of 10900
hospital facilities, any other applicable costs of management, 10901
operation, maintenance, and repair of hospital facilities, and 10902

costs for the programs, projects, activities, and services forming 10903
the subject of the agreement, which apportionment or sharing may 10904
be prescribed in fixed amounts, or determined by ratios, formulas, 10905
or otherwise, and paid as service charges, rentals, or in such 10906
other manner as provided in the agreement, and may include amounts 10907
sufficient to meet the bond service charges and other payments and 10908
deposits required under the bond proceedings for obligations 10909
issued to pay costs of hospital facilities. A hospital agency may 10910
commit itself to make such payments at least for so long as any 10911
such obligations are outstanding. In the apportionment, different 10912
classes of costs or expenses may be apportioned to one or more, 10913
all or less than all, of the participating hospital agencies as 10914
determined under such agreement. 10915

(C) An agreement entered into under authority of this section 10916
may provide for: 10917

(1) An orderly process for making determinations or advising 10918
as to planning, execution, implementation, and operation, which 10919
may include designating one of the hospital agencies, or a board 10920
thereof, for any of such purposes, provisions for a committee, 10921
board, or commission, and for representation thereon, or as may 10922
otherwise be provided; 10923

(2) Securing necessary personnel, including participation of 10924
personnel from the respective hospital agencies; 10925

(3) Standards or conditions for the admission or 10926
participation of patients and physicians; 10927

(4) Conditions for admittance of other hospital agencies to 10928
participation under the agreement; 10929

(5) Fixing or establishing the method of determining charges 10930
to be made for particular services; 10931

(6) The manner of amending, supplementing, terminating, or 10932
withdrawal or removal of any party from, the agreement, and the 10933

term of the agreement, or an indefinite term; 10934

(7) Designation of the applicants for or recipients of any 10935
federal, state, or other aid, assistance, or loans available by 10936
reason of any activities conducted under the agreement; 10937

(8) Designation of one or more of the participating hospital 10938
agencies to maintain, prepare, and submit, on behalf of all 10939
parties to the agreement, any or all records and reports with 10940
regard to the activities conducted under the agreement; 10941

(9) Any incidental use of the hospital facilities, or 10942
services thereof, by participating public hospital agencies for 10943
any of their lawful purposes, which incidental use does not impair 10944
the character of the facilities as hospital facilities for any 10945
purpose of this chapter; 10946

(10) Such other matters as the parties thereto may agree upon 10947
for the purposes of division (A) of this section. 10948

(D) For the purpose of paying or contributing its share under 10949
an agreement made under this section, a public hospital agency 10950
may: 10951

(1) Expend any moneys from its general fund, and from any 10952
other funds not otherwise restricted by law, but including funds 10953
for permanent improvements of hospital facilities of such public 10954
hospital agency where the contribution is to be made toward the 10955
costs of hospital facilities under the agreement, and including 10956
funds derived from levies for, or receipts available for, 10957
operating expenses of hospital facilities or services of such 10958
public hospital agency where the contribution or payment is to be 10959
made toward operating expenses of the hospital facilities or 10960
services under the agreement or for the services provided thereby; 10961

(2) Issue obligations under Chapter 133. or section 140.06, 10962
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 10963
3 of Article XVIII, Ohio Constitution, if applicable to such 10964

public hospital agency, to pay costs of hospital facilities, or 10965
issue obligations under any other provision of law authorizing 10966
such public hospital agency to issue obligations for any costs of 10967
hospital facilities; 10968

(3) Levy taxes under Chapter 5705. or section 513.13 or 10969
3709.29 of the Revised Code, if applicable to such public hospital 10970
agency, provided that the purpose of such levy may include the 10971
provision of funds for either or both permanent improvements and 10972
current expenses if required for the contribution or payment of 10973
such hospital agency under such agreement, and each such public 10974
hospital agency may issue notes in anticipation of any such levy, 10975
pursuant to the procedures provided in section 5705.191 of the 10976
Revised Code if the levy is solely for current expenses, and in 10977
section 5705.193 of the Revised Code if the levy is all or in part 10978
for permanent improvements; 10979

(4) Contribute real and personal property or interest therein 10980
without necessity for competitive bidding or public auction on 10981
disposition of such property. 10982

(E) Any funds provided by public hospital agencies that are 10983
parties to an agreement entered into under this section shall be 10984
transferred to and placed in a separate fund or funds of such 10985
participating public hospital agency as is designated under the 10986
agreement. The funds shall be applied for the purposes provided in 10987
such agreement and are subject to audit. Pursuant to any 10988
determinations to be made under such agreement, the funds shall be 10989
deposited, invested, and disbursed under the provisions of law 10990
applicable to the public hospital agency in whose custody the 10991
funds are held. This division is subject to the provisions of any 10992
applicable bond proceedings under section 133.08, 140.06, 339.15, 10993
or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 10994
Constitution. The records and reports of such public hospital 10995
agency under Chapter 117. of the Revised Code and sections 3702.51 10996

to 3702.62 of the Revised Code, with respect to the funds shall be 10997
sufficient without necessity for reports thereon by the other 10998
public hospital agencies participating under such agreement. 10999

(F)(1) Prior to its entry into any such agreement, the public 11000
hospital agency must determine, and set forth in a resolution or 11001
ordinance, that the contribution to be made by it under such 11002
agreement will be fair consideration for value and benefit to be 11003
derived by it under such agreement and that the agreement will 11004
promote the public purpose stated in section 140.02 of the Revised 11005
Code. 11006

(2) If the agreement is with a board of county commissioners, 11007
board of county hospital trustees, or county hospital commission 11008
and is an initial agreement for the acquisition or operation of a 11009
county hospital operated by a board of county hospital trustees 11010
under section 339.06 of the Revised Code, the governing body of 11011
the public hospital agency shall submit the agreement, accompanied 11012
by the resolution or ordinance, to the board of county 11013
commissioners for review pursuant to section 339.091 of the 11014
Revised Code. The agreement may be entered into only if the board 11015
of county commissioners adopts a resolution under that section. 11016
The requirements of division (F)(2) of this section do not apply 11017
to the agreement if one or more hospitals classified as general 11018
hospitals by the director of health under section 3701.07 of the 11019
Revised Code are operating in the same county as the county 11020
hospital. 11021

Sec. 140.05. (A)(1) A public hospital agency may lease any 11022
hospital facility to one or more hospital agencies for use as a 11023
hospital facility, or to one or more city or general health 11024
districts; boards of alcohol, drug addiction, and mental health 11025
services; county boards of developmental disabilities; the 11026
department of ~~mental health~~ mental health and addiction services; 11027

or the department of developmental disabilities, for uses which 11028
they are authorized to make thereof under the laws applicable to 11029
them, or any combination of them, and they may lease such 11030
facilities to or from a hospital agency for such uses, upon such 11031
terms and conditions as are agreed upon by the parties. Such lease 11032
may be for a term of fifty years or less and may provide for an 11033
option of the lessee to renew for a term of fifty years or less, 11034
as therein set forth. Prior to entering into such lease, the 11035
governing body of any public hospital agency granting such lease 11036
must determine, and set forth in a resolution or ordinance, that 11037
such lease will promote the public purpose stated in section 11038
140.02 of the Revised Code and that the lessor public hospital 11039
agency will be duly benefited thereby. 11040

(2) If the lease is with a board of county commissioners, 11041
board of county hospital trustees, or county hospital commission 11042
and is an agreement for the initial lease of a county hospital 11043
operated by a board of county hospital trustees under section 11044
339.06 of the Revised Code, the governing body of the public 11045
hospital agency shall submit the agreement, accompanied by the 11046
resolution or ordinance, to the board of county commissioners for 11047
review pursuant to section 339.091 of the Revised Code. The 11048
agreement may be entered into only if the board of county 11049
commissioners adopts a resolution under that section. The 11050
requirements of division (A)(2) of this section do not apply to 11051
the lease if one or more hospitals classified as general hospitals 11052
by the director of health under section 3701.07 of the Revised 11053
Code are operating in the same county as the county hospital. 11054

(B) Any lease entered into pursuant to this section shall 11055
provide that in the event that the lessee fails faithfully and 11056
efficiently to administer, maintain, and operate such leased 11057
facilities as hospital facilities, or fails to provide the 11058
services thereof without regard to race, creed, color, or national 11059

origin, or fails to require that any hospital agency using such facilities or the services thereof shall not discriminate by reason of race, creed, color, or national origin, after an opportunity to be heard upon written charges, said lease may be terminated at the time, in the manner and with consequences therein provided. If any such lease does not contain terms to the effect provided in this division, it shall nevertheless be deemed to contain such terms which shall be implemented as determined by the governing body of the lessor.

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

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

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

(F) If land acquired by a public hospital agency for a hospital facility is adjacent to an existing hospital facility owned by another hospital agency, the public hospital agency may, in connection with such acquisition or the leasing of such land

and hospital facilities thereon to one or more hospital agencies, 11092
enter into an agreement with the hospital agency which owns such 11093
adjacent hospital facility for the use of common walls in the 11094
construction, operation, or maintenance of hospital facilities of 11095
the public hospital agency. For the purpose of construction, 11096
operation, or maintenance of hospital facilities, a public 11097
hospital agency may acquire by purchase, gift, lease, lease with 11098
option to purchase, lease-purchase, or installment purchase, 11099
easement deed, or other agreement, real estate and interests in 11100
real estate, including rights to use space over, under or upon 11101
real property owned by others, and support, access, common wall, 11102
and other rights in connection therewith. Any public hospital 11103
agency or other political subdivision or any public agency, board, 11104
commission, institution, body, or instrumentality may grant such 11105
real estate, interests, or rights to any hospital agency upon such 11106
terms as are agreed upon without necessity for competitive bidding 11107
or public auction. 11108

Sec. 145.01. As used in this chapter: 11109

(A) "Public employee" means: 11110

(1) Any person holding an office, not elective, under the 11111
state or any county, township, municipal corporation, park 11112
district, conservancy district, sanitary district, health 11113
district, metropolitan housing authority, state retirement board, 11114
Ohio historical society, public library, county law library, union 11115
cemetery, joint hospital, institutional commissary, state 11116
university, or board, bureau, commission, council, committee, 11117
authority, or administrative body as the same are, or have been, 11118
created by action of the general assembly or by the legislative 11119
authority of any of the units of local government named in 11120
division (A)(1) of this section, or employed and paid in whole or 11121
in part by the state or any of the authorities named in division 11122

(A)(1) of this section in any capacity not covered by section 11123
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 11124

(2) A person who is a member of the public employees 11125
retirement system and who continues to perform the same or similar 11126
duties under the direction of a contractor who has contracted to 11127
take over what before the date of the contract was a publicly 11128
operated function. The governmental unit with which the contract 11129
has been made shall be deemed the employer for the purposes of 11130
administering this chapter. 11131

(3) Any person who is an employee of a public employer, 11132
notwithstanding that the person's compensation for that employment 11133
is derived from funds of a person or entity other than the 11134
employer. Credit for such service shall be included as total 11135
service credit, provided that the employee makes the payments 11136
required by this chapter, and the employer makes the payments 11137
required by sections 145.48 and 145.51 of the Revised Code. 11138

(4) A person who elects in accordance with section 145.015 of 11139
the Revised Code to remain a contributing member of the public 11140
employees retirement system. 11141

(5) A person who is an employee of the legal rights service 11142
on September 30, 2012, and continues to be employed by the 11143
nonprofit entity established under Section 319.20 of Am. Sub. H.B. 11144
153 of the 129th general assembly. The nonprofit entity is the 11145
employer for the purpose of this chapter. 11146

In all cases of doubt, the public employees retirement board 11147
shall determine under section 145.036, 145.037, or 145.038 of the 11148
Revised Code whether any person is a public employee, and its 11149
decision is final. 11150

(B) "Member" means any public employee, other than a public 11151
employee excluded or exempted from membership in the retirement 11152
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 11153

145.035, or 145.38 of the Revised Code. "Member" includes a PERS 11154
retirant who becomes a member under division (C) of section 145.38 11155
of the Revised Code. "Member" also includes a disability benefit 11156
recipient. 11157

(C) "Head of the department" means the elective or appointive 11158
head of the several executive, judicial, and administrative 11159
departments, institutions, boards, and commissions of the state 11160
and local government as the same are created and defined by the 11161
laws of this state or, in case of a charter government, by that 11162
charter. 11163

(D) "Employer" or "public employer" means the state or any 11164
county, township, municipal corporation, park district, 11165
conservancy district, sanitary district, health district, 11166
metropolitan housing authority, state retirement board, Ohio 11167
historical society, public library, county law library, union 11168
cemetery, joint hospital, institutional commissary, state medical 11169
university, state university, or board, bureau, commission, 11170
council, committee, authority, or administrative body as the same 11171
are, or have been, created by action of the general assembly or by 11172
the legislative authority of any of the units of local government 11173
named in this division not covered by section 742.01, 3307.01, 11174
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 11175
means the employer of any public employee. 11176

(E) "Prior military service" also means all service credited 11177
for active duty with the armed forces of the United States as 11178
provided in section 145.30 of the Revised Code. 11179

(F) "Contributor" means any person who has an account in the 11180
employees' savings fund created by section 145.23 of the Revised 11181
Code. When used in the sections listed in division (B) of section 11182
145.82 of the Revised Code, "contributor" includes any person 11183
participating in a PERS defined contribution plan. 11184

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

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

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

corporation as the employer of the employees. 11217

(3) Where a member also is a member of the state teachers 11218
retirement system or the school employees retirement system, or 11219
both, except in cases of retirement on a combined basis pursuant 11220
to section 145.37 of the Revised Code or as provided in section 11221
145.383 of the Revised Code, service credit for any period shall 11222
be credited on the basis of the ratio that contributions to the 11223
public employees retirement system bear to total contributions in 11224
all state retirement systems. 11225

(4) Not more than one year of credit may be given for any 11226
period of twelve months. 11227

(5) "Ohio service credit" means credit for service that was 11228
rendered to the state or any of its political subdivisions or any 11229
employer. 11230

(I) "Regular interest" means interest at any rates for the 11231
respective funds and accounts as the public employees retirement 11232
board may determine from time to time. 11233

(J) "Accumulated contributions" means the sum of all amounts 11234
credited to a contributor's individual account in the employees' 11235
savings fund together with any interest credited to the 11236
contributor's account under section 145.471 or 145.472 of the 11237
Revised Code. 11238

(K)(1) "Final average salary" means the greater of the 11239
following: 11240

(a) The sum of the member's earnable salaries for the 11241
appropriate number of calendar years of contributing service, 11242
determined under section 145.017 of the Revised Code, in which the 11243
member's earnable salary was highest, divided by the same number 11244
of calendar years or, if the member has fewer than the appropriate 11245
number of calendar years of contributing service, the total of the 11246
member's earnable salary for all years of contributing service 11247

divided by the number of calendar years of the member's 11248
contributing service; 11249

(b) The sum of a member's earnable salaries for the 11250
appropriate number of consecutive months, determined under section 11251
145.017 of the Revised Code, that were the member's last months of 11252
service, up to and including the last month, divided by the 11253
appropriate number of years or, if the time between the first and 11254
final months of service is less than the appropriate number of 11255
consecutive months, the total of the member's earnable salary for 11256
all months of contributing service divided by the number of years 11257
between the first and final months of contributing service, 11258
including any fraction of a year, except that the member's final 11259
average salary shall not exceed the member's highest earnable 11260
salary for any twelve consecutive months. 11261

(2) If contributions were made in only one calendar year, 11262
"final average salary" means the member's total earnable salary. 11263

(L) "Annuity" means payments for life derived from 11264
contributions made by a contributor and paid from the annuity and 11265
pension reserve fund as provided in this chapter. All annuities 11266
shall be paid in twelve equal monthly installments. 11267

(M) "Annuity reserve" means the present value, computed upon 11268
the basis of the mortality and other tables adopted by the board, 11269
of all payments to be made on account of any annuity, or benefit 11270
in lieu of any annuity, granted to a retirant as provided in this 11271
chapter. 11272

(N)(1) "Disability retirement" means retirement as provided 11273
in section 145.36 of the Revised Code. 11274

(2) "Disability allowance" means an allowance paid on account 11275
of disability under section 145.361 of the Revised Code. 11276

(3) "Disability benefit" means a benefit paid as disability 11277
retirement under section 145.36 of the Revised Code, as a 11278

disability allowance under section 145.361 of the Revised Code, or 11279
as a disability benefit under section 145.37 of the Revised Code. 11280

(4) "Disability benefit recipient" means a member who is 11281
receiving a disability benefit. 11282

(O) "Age and service retirement" means retirement as provided 11283
in sections 145.32, 145.33, 145.331, 145.332, 145.37, and 145.46 11284
and former section 145.34 of the Revised Code. 11285

(P) "Pensions" means annual payments for life derived from 11286
contributions made by the employer that at the time of retirement 11287
are credited into the annuity and pension reserve fund from the 11288
employers' accumulation fund and paid from the annuity and pension 11289
reserve fund as provided in this chapter. All pensions shall be 11290
paid in twelve equal monthly installments. 11291

(Q) "Retirement allowance" means the pension plus that 11292
portion of the benefit derived from contributions made by the 11293
member. 11294

(R)(1) Except as otherwise provided in division (R) of this 11295
section, "earnable salary" means all salary, wages, and other 11296
earnings paid to a contributor by reason of employment in a 11297
position covered by the retirement system. The salary, wages, and 11298
other earnings shall be determined prior to determination of the 11299
amount required to be contributed to the employees' savings fund 11300
under section 145.47 of the Revised Code and without regard to 11301
whether any of the salary, wages, or other earnings are treated as 11302
deferred income for federal income tax purposes. "Earnable salary" 11303
includes the following: 11304

(a) Payments made by the employer in lieu of salary, wages, 11305
or other earnings for sick leave, personal leave, or vacation used 11306
by the contributor; 11307

(b) Payments made by the employer for the conversion of sick 11308
leave, personal leave, and vacation leave accrued, but not used if 11309

the payment is made during the year in which the leave is accrued, 11310
except that payments made pursuant to section 124.383 or 124.386 11311
of the Revised Code are not earnable salary; 11312

(c) Allowances paid by the employer for maintenance, 11313
consisting of housing, laundry, and meals, as certified to the 11314
retirement board by the employer or the head of the department 11315
that employs the contributor; 11316

(d) Fees and commissions paid under section 507.09 of the 11317
Revised Code; 11318

(e) Payments that are made under a disability leave program 11319
sponsored by the employer and for which the employer is required 11320
by section 145.296 of the Revised Code to make periodic employer 11321
and employee contributions; 11322

(f) Amounts included pursuant to former division (K)(3) and 11323
former division (Y) of this section and section 145.2916 of the 11324
Revised Code. 11325

(2) "Earnable salary" does not include any of the following: 11326

(a) Fees and commissions, other than those paid under section 11327
507.09 of the Revised Code, paid as sole compensation for personal 11328
services and fees and commissions for special services over and 11329
above services for which the contributor receives a salary; 11330

(b) Amounts paid by the employer to provide life insurance, 11331
sickness, accident, endowment, health, medical, hospital, dental, 11332
or surgical coverage, or other insurance for the contributor or 11333
the contributor's family, or amounts paid by the employer to the 11334
contributor in lieu of providing the insurance; 11335

(c) Incidental benefits, including lodging, food, laundry, 11336
parking, or services furnished by the employer, or use of the 11337
employer's property or equipment, or amounts paid by the employer 11338
to the contributor in lieu of providing the incidental benefits; 11339

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	11340 11341 11342
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	11343 11344 11345 11346
(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;	11347 11348 11349 11350 11351
(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;	11352 11353 11354 11355 11356 11357
(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:	11358 11359 11360 11361 11362
(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;	11363 11364
(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.	11365 11366 11367
(i) The portion of any amount included in section 145.2916 of the Revised Code that represents employer contributions.	11368 11369

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

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

(T) "Contributing service" means both of the following:

(1) All service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed in accordance with section 145.016 of the Revised Code.

(2) Service credit received by election of the member under section 145.814 of the Revised Code.

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

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.332, and 145.46 and former section 145.34 of the Revised Code.

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

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

(Y) "Five years of service credit," for the exclusive purpose

of satisfying the service credit requirements and of determining 11400
eligibility under section 145.33 or 145.332 of the Revised Code, 11401
means employment covered under this chapter or under a former 11402
retirement plan operated, recognized, or endorsed by the employer 11403
prior to coverage under this chapter or under a combination of the 11404
coverage. 11405

(Z) "Deputy sheriff" means any person who is commissioned and 11406
employed as a full-time peace officer by the sheriff of any 11407
county, and has been so employed since on or before December 31, 11408
1965; any person who is or has been commissioned and employed as a 11409
peace officer by the sheriff of any county since January 1, 1966, 11410
and who has received a certificate attesting to the person's 11411
satisfactory completion of the peace officer training school as 11412
required by section 109.77 of the Revised Code; or any person 11413
deputized by the sheriff of any county and employed pursuant to 11414
section 2301.12 of the Revised Code as a criminal bailiff or court 11415
constable who has received a certificate attesting to the person's 11416
satisfactory completion of the peace officer training school as 11417
required by section 109.77 of the Revised Code. 11418

(AA) "Township constable or police officer in a township 11419
police department or district" means any person who is 11420
commissioned and employed as a full-time peace officer pursuant to 11421
Chapter 505. or 509. of the Revised Code, who has received a 11422
certificate attesting to the person's satisfactory completion of 11423
the peace officer training school as required by section 109.77 of 11424
the Revised Code. 11425

(BB) "Drug agent" means any person who is either of the 11426
following: 11427

(1) Employed full time as a narcotics agent by a county 11428
narcotics agency created pursuant to section 307.15 of the Revised 11429
Code and has received a certificate attesting to the satisfactory 11430
completion of the peace officer training school as required by 11431

section 109.77 of the Revised Code; 11432

(2) Employed full time as an undercover drug agent as defined 11433
in section 109.79 of the Revised Code and is in compliance with 11434
section 109.77 of the Revised Code. 11435

(CC) "Department of public safety enforcement agent" means a 11436
full-time employee of the department of public safety who is 11437
designated under section 5502.14 of the Revised Code as an 11438
enforcement agent and who is in compliance with section 109.77 of 11439
the Revised Code. 11440

(DD) "Natural resources law enforcement staff officer" means 11441
a full-time employee of the department of natural resources who is 11442
designated a natural resources law enforcement staff officer under 11443
section 1501.013 of the Revised Code and is in compliance with 11444
section 109.77 of the Revised Code. 11445

(EE) "Park officer" means a full-time employee of the 11446
department of natural resources who is designated a park officer 11447
under section 1541.10 of the Revised Code and is in compliance 11448
with section 109.77 of the Revised Code. 11449

(FF) "Forest officer" means a full-time employee of the 11450
department of natural resources who is designated a forest officer 11451
under section 1503.29 of the Revised Code and is in compliance 11452
with section 109.77 of the Revised Code. 11453

(GG) "Preserve officer" means a full-time employee of the 11454
department of natural resources who is designated a preserve 11455
officer under section 1517.10 of the Revised Code and is in 11456
compliance with section 109.77 of the Revised Code. 11457

(HH) "Wildlife officer" means a full-time employee of the 11458
department of natural resources who is designated a wildlife 11459
officer under section 1531.13 of the Revised Code and is in 11460
compliance with section 109.77 of the Revised Code. 11461

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

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

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

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

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

(NN) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section ~~5119.14~~ 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(OO) "Special police officer for an institution for the developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(PP) "State university law enforcement officer" means any person who is employed full time as a state university law

enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code. 11493
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(QQ) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section. 11496
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(RR) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code. 11500
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(SS) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code. 11503
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(TT) "State highway patrol police officer" means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code. 11507
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(UU) "Municipal public safety director" means a person who serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department. 11514
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(VV) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety 11518
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enforcement agent, natural resources law enforcement staff 11524
officer, park officer, forest officer, preserve officer, wildlife 11525
officer, state watercraft officer, park district police officer, 11526
conservancy district officer, veterans' home police officer, 11527
special police officer for a mental health institution, special 11528
police officer for an institution for the developmentally 11529
disabled, state university law enforcement officer, municipal 11530
police officer, house sergeant at arms, assistant house sergeant 11531
at arms, regional transit authority police officer, or state 11532
highway patrol police officer. "PERS law enforcement officer" also 11533
includes a person serving as a municipal public safety director at 11534
any time during the period from September 29, 2005, to March 24, 11535
2009, if the duties of that service were to preserve the peace, 11536
protect life and property, and enforce the laws of this state. 11537

(WW) "Hamilton county municipal court bailiff" means a person 11538
appointed by the clerk of courts of the Hamilton county municipal 11539
court under division (A)(3) of section 1901.32 of the Revised Code 11540
who is employed full time as a bailiff or deputy bailiff, who has 11541
received a certificate attesting to the person's satisfactory 11542
completion of the peace officer basic training described in 11543
division (D)(1) of section 109.77 of the Revised Code. 11544

(XX) "PERS public safety officer" means a Hamilton county 11545
municipal court bailiff, or any of the following whose primary 11546
duties are other than to preserve the peace, protect life and 11547
property, and enforce the laws of this state: a deputy sheriff, 11548
township constable or police officer in a township police 11549
department or district, drug agent, department of public safety 11550
enforcement agent, natural resources law enforcement staff 11551
officer, park officer, forest officer, preserve officer, wildlife 11552
officer, state watercraft officer, park district police officer, 11553
conservancy district officer, veterans' home police officer, 11554
special police officer for a mental health institution, special 11555

police officer for an institution for the ~~mentally retarded and~~ 11556
developmentally disabled, state university law enforcement 11557
officer, municipal police officer, house sergeant at arms, 11558
assistant house sergeant at arms, regional transit authority 11559
police officer, or state highway patrol police officer. "PERS 11560
public safety officer" also includes a person serving as a 11561
municipal public safety director at any time during the period 11562
from September 29, 2005, to March 24, 2009, if the duties of that 11563
service were other than to preserve the peace, protect life and 11564
property, and enforce the laws of this state. 11565

(YY) "Fiduciary" means a person who does any of the 11566
following: 11567

(1) Exercises any discretionary authority or control with 11568
respect to the management of the system or with respect to the 11569
management or disposition of its assets; 11570

(2) Renders investment advice for a fee, direct or indirect, 11571
with respect to money or property of the system; 11572

(3) Has any discretionary authority or responsibility in the 11573
administration of the system. 11574

(ZZ) "Actuary" means an individual who satisfies all of the 11575
following requirements: 11576

(1) Is a member of the American academy of actuaries; 11577

(2) Is an associate or fellow of the society of actuaries; 11578

(3) Has a minimum of five years' experience in providing 11579
actuarial services to public retirement plans. 11580

(AAA) "PERS defined benefit plan" means the plan described in 11581
sections 145.201 to 145.79 of the Revised Code. 11582

(BBB) "PERS defined contribution plans" means the plan or 11583
plans established under section 145.81 of the Revised Code. 11584

Sec. 145.012. (A) "Public employee," as defined in division	11585
(A) of section 145.01 of the Revised Code, does not include any	11586
person:	11587
(1) Who is employed by a private, temporary-help service and	11588
performs services under the direction of a public employer or is	11589
employed on a contractual basis as an independent contractor under	11590
a personal service contract with a public employer;	11591
(2) Who is an emergency employee serving on a temporary basis	11592
in case of fire, snow, earthquake, flood, or other similar	11593
emergency;	11594
(3) Who is employed in a program established pursuant to the	11595
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A.	11596
1501;	11597
(4) Who is an appointed member of either the motor vehicle	11598
salvage dealers board or the motor vehicle dealer's board whose	11599
rate and method of payment are determined pursuant to division (J)	11600
of section 124.15 of the Revised Code;	11601
(5) Who is employed as an election worker and paid less than	11602
five hundred dollars per calendar year for that service;	11603
(6) Who is employed as a firefighter in a position requiring	11604
satisfactory completion of a firefighter training course approved	11605
under former section 3303.07 or section 4765.55 of the Revised	11606
Code or conducted under section 3737.33 of the Revised Code except	11607
for the following:	11608
(a) Any firefighter who has elected under section 145.013 of	11609
the Revised Code to remain a contributing member of the public	11610
employees retirement system;	11611
(b) Any firefighter who was eligible to transfer from the	11612
public employees retirement system to the Ohio police and fire	11613
pension fund under section 742.51 or 742.515 of the Revised Code	11614

and did not elect to transfer; 11615

(c) Any firefighter who has elected under section 742.516 of 11616
the Revised Code to transfer from the Ohio police and fire pension 11617
fund to the public employees retirement system. 11618

(7) Who is a member of the board of health of a city or 11619
general health district, which pursuant to sections 3709.051 and 11620
3709.07 of the Revised Code includes a combined health district, 11621
and whose compensation for attendance at meetings of the board is 11622
set forth in division (B) of section 3709.02 or division (B) of 11623
section 3709.05 of the Revised Code, as appropriate; 11624

(8) Who participates in an alternative retirement plan 11625
established under Chapter 3305. of the Revised Code; 11626

(9) Who is a member of the board of directors of a sanitary 11627
district established under Chapter 6115. of the Revised Code; 11628

(10) Who is a member of the unemployment compensation 11629
advisory council; 11630

(11) Who is an employee, officer, or governor-appointed 11631
member of the board of directors of the nonprofit corporation 11632
formed under section 187.01 of the Revised Code; 11633

(12) Who is employed by the nonprofit entity established to 11634
provide advocacy services and a client assistance program for 11635
people with disabilities under Section 319.20 of Am. Sub. H.B. 153 11636
of the 129th general assembly and whose employment begins on or 11637
after October 1, 2012. 11638

(B) No inmate of a correctional institution operated by the 11639
department of rehabilitation and correction, no patient in a 11640
hospital for the mentally ill or criminally insane operated by the 11641
department of ~~mental health~~ mental health and addiction services, 11642
no resident in an institution for the mentally retarded operated 11643
by the department of developmental disabilities, no resident 11644

admitted as a patient of a veterans' home operated under Chapter 11645
5907. of the Revised Code, and no resident of a county home shall 11646
be considered as a public employee for the purpose of establishing 11647
membership or calculating service credit or benefits under this 11648
chapter. Nothing in this division shall be construed to affect any 11649
service credit attained by any person who was a public employee 11650
before becoming an inmate, patient, or resident at any institution 11651
listed in this division, or the payment of any benefit for which 11652
such a person or such a person's beneficiaries otherwise would be 11653
eligible. 11654

Sec. 145.22. (A) The public employees retirement board shall 11655
have prepared annually by or under the supervision of an actuary 11656
an actuarial valuation of the pension assets, liabilities, and 11657
funding requirements of the public employees retirement system as 11658
established pursuant to this chapter. The actuary shall complete 11659
the valuation in accordance with actuarial standards of practice 11660
promulgated by the actuarial standards board of the American 11661
academy of actuaries and prepare a report of the valuation. The 11662
report shall include all of the following: 11663

(1) A summary of the benefit provisions evaluated; 11664

(2) A summary of the census data and financial information 11665
used in the valuation; 11666

(3) A description of the actuarial assumptions, actuarial 11667
cost method, and asset valuation method used in the valuation, 11668
including a statement of the assumed rate of payroll growth and 11669
assumed rate of growth or decline in the number of members 11670
contributing to the retirement system; 11671

(4) A summary of findings that includes a statement of the 11672
actuarial accrued pension liabilities and unfunded actuarial 11673
accrued pension liabilities; 11674

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of September following the year for which the valuation was made.

(B) At such time as the public employees retirement board determines, and at least once in each five-year period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, contributors, and beneficiaries of the system to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended

changes in actuarial assumptions. 11706

The board shall submit the report to the Ohio retirement 11707
study council and the standing committees of the house of 11708
representatives and the senate with primary responsibility for 11709
retirement legislation not later than the first day of November 11710
following the last fiscal year of the period the report covers. 11711

(C) The board may at any time request the actuary to make any 11712
studies or actuarial valuations to determine the adequacy of the 11713
contribution rate determined under section 145.48 of the Revised 11714
Code, and those rates may be adjusted by the board, as recommended 11715
by the actuary, effective as of the first of any year thereafter. 11716

(D) The board shall have prepared by or under the supervision 11717
of an actuary an actuarial analysis of any introduced legislation 11718
expected to have a measurable financial impact on the retirement 11719
system. The actuarial analysis shall be completed in accordance 11720
with the actuarial standards of practice promulgated by the 11721
actuarial standards board of the American academy of actuaries. 11722
The actuary shall prepare a report of the actuarial analysis, 11723
which shall include all of the following: 11724

(1) A summary of the statutory changes that are being 11725
evaluated; 11726

(2) A description of or reference to the actuarial 11727
assumptions and actuarial cost method used in the report; 11728

(3) A description of the participant group or groups included 11729
in the report; 11730

(4) A statement of the financial impact of the legislation, 11731
including the resulting increase, if any, in the employer normal 11732
cost percentage; the increase, if any, in actuarial accrued 11733
liabilities; and the per cent of payroll that would be required to 11734
amortize the increase in actuarial accrued liabilities as a level 11735
per cent of covered payroll for all active members over a period 11736

not to exceed thirty years; 11737

(5) A statement of whether the scheduled contributions to the 11738
system after the proposed change is enacted are expected to be 11739
sufficient to satisfy the funding objectives established by the 11740
board. 11741

Not later than sixty days from the date of introduction of 11742
the legislation, the board shall submit a copy of the actuarial 11743
analysis to the legislative service commission, the standing 11744
committees of the house of representatives and the senate with 11745
primary responsibility for retirement legislation, and the Ohio 11746
retirement study council. 11747

(E) The board shall have prepared annually a report giving a 11748
full accounting of the revenues and costs relating to the 11749
provision of benefits under sections 145.325 and 145.58 of the 11750
Revised Code. The report shall be made as of December 31, 1997, 11751
and the thirty-first day of December of each year thereafter. The 11752
report shall include the following: 11753

(1) A description of the statutory authority for the benefits 11754
provided; 11755

(2) A summary of the benefits; 11756

(3) A summary of the eligibility requirements for the 11757
benefits; 11758

(4) A statement of the number of participants eligible for 11759
the benefits; 11760

(5) A description of the accounting, asset valuation, and 11761
funding method used to provide the benefits; 11762

(6) A statement of the net assets available for the provision 11763
of the benefits as of the last day of the fiscal year; 11764

(7) A statement of any changes in the net assets available 11765
for the provision of benefits, including participant and employer 11766

contributions, net investment income, administrative expenses, and 11767
benefits provided to participants, as of the last day of the 11768
fiscal year; 11769

(8) For the last six consecutive fiscal years, a schedule of 11770
the net assets available for the benefits, the annual cost of 11771
benefits, administrative expenses incurred, and annual employer 11772
contributions allocated for the provision of benefits; 11773

(9) A description of any significant changes that affect the 11774
comparability of the report required under this division; 11775

(10) A statement of the amount paid under division (C) of 11776
section 145.58 of the Revised Code. 11777

The board shall submit the report to the Ohio retirement 11778
study council, the director of budget and management, and the 11779
standing committees of the house of representatives and the senate 11780
with primary responsibility for retirement legislation immediately 11781
upon its availability and not later than the thirtieth day of June 11782
following the year for which the report was made. 11783

Sec. 149.43. (A) As used in this section: 11784

(1) "Public record" means records kept by any public office, 11785
including, but not limited to, state, county, city, village, 11786
township, and school district units, and records pertaining to the 11787
delivery of educational services by an alternative school in this 11788
state kept by the nonprofit or for-profit entity operating the 11789
alternative school pursuant to section 3313.533 of the Revised 11790
Code. "Public record" does not mean any of the following: 11791

(a) Medical records; 11792

(b) Records pertaining to probation and parole proceedings or 11793
to proceedings related to the imposition of community control 11794
sanctions and post-release control sanctions; 11795

(c) Records pertaining to actions under section 2151.85 and 11796

division (C) of section 2919.121 of the Revised Code and to	11797
appeals of actions arising under those sections;	11798
(d) Records pertaining to adoption proceedings, including the	11799
contents of an adoption file maintained by the department of	11800
health under section 3705.12 of the Revised Code;	11801
(e) Information in a record contained in the putative father	11802
registry established by section 3107.062 of the Revised Code,	11803
regardless of whether the information is held by the department of	11804
job and family services or, pursuant to section 3111.69 of the	11805
Revised Code, the office of child support in the department or a	11806
child support enforcement agency;	11807
(f) Records listed in division (A) of section 3107.42 of the	11808
Revised Code or specified in division (A) of section 3107.52 of	11809
the Revised Code;	11810
(g) Trial preparation records;	11811
(h) Confidential law enforcement investigatory records;	11812
(i) Records containing information that is confidential under	11813
section 2710.03 or 4112.05 of the Revised Code;	11814
(j) DNA records stored in the DNA database pursuant to	11815
section 109.573 of the Revised Code;	11816
(k) Inmate records released by the department of	11817
rehabilitation and correction to the department of youth services	11818
or a court of record pursuant to division (E) of section 5120.21	11819
of the Revised Code;	11820
(l) Records maintained by the department of youth services	11821
pertaining to children in its custody released by the department	11822
of youth services to the department of rehabilitation and	11823
correction pursuant to section 5139.05 of the Revised Code;	11824
(m) Intellectual property records;	11825
(n) Donor profile records;	11826

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	11827 11828
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;	11829 11830 11831 11832 11833 11834
(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;	11835 11836 11837 11838 11839
(r) Information pertaining to the recreational activities of a person under the age of eighteen;	11840 11841
(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, and child fatality review data submitted by the child fatality review board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;	11842 11843 11844 11845 11846 11847 11848 11849
(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;	11850 11851 11852 11853
(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners <u>executives</u> of nursing home administrators <u>long-term services and supports</u> administers under section 4751.04	11854 11855 11856 11857

of the Revised Code or contracts under that section with a private 11858
or government entity to administer; 11859

(v) Records the release of which is prohibited by state or 11860
federal law; 11861

(w) Proprietary information of or relating to any person that 11862
is submitted to or compiled by the Ohio venture capital authority 11863
created under section 150.01 of the Revised Code; 11864

~~(x) Information reported and evaluations conducted pursuant 11865
to section 3701.072 of the Revised Code; 11866~~

~~(y)~~ Financial statements and data any person submits for any 11867
purpose to the Ohio housing finance agency or the controlling 11868
board in connection with applying for, receiving, or accounting 11869
for financial assistance from the agency, and information that 11870
identifies any individual who benefits directly or indirectly from 11871
financial assistance from the agency; 11872

~~(z)~~(y) Records listed in section 5101.29 of the Revised Code; 11873

~~(aa)~~(z) Discharges recorded with a county recorder under 11874
section 317.24 of the Revised Code, as specified in division 11875
(B)(2) of that section; 11876

~~(bb)~~(aa) Usage information including names and addresses of 11877
specific residential and commercial customers of a municipally 11878
owned or operated public utility; 11879

~~(cc)~~(bb) Records described in division (C) of section 187.04 11880
of the Revised Code that are not designated to be made available 11881
to the public as provided in that division. 11882

(2) "Confidential law enforcement investigatory record" means 11883
any record that pertains to a law enforcement matter of a 11884
criminal, quasi-criminal, civil, or administrative nature, but 11885
only to the extent that the release of the record would create a 11886
high probability of disclosure of any of the following: 11887

(a) The identity of a suspect who has not been charged with 11888
the offense to which the record pertains, or of an information 11889
source or witness to whom confidentiality has been reasonably 11890
promised; 11891

(b) Information provided by an information source or witness 11892
to whom confidentiality has been reasonably promised, which 11893
information would reasonably tend to disclose the source's or 11894
witness's identity; 11895

(c) Specific confidential investigatory techniques or 11896
procedures or specific investigatory work product; 11897

(d) Information that would endanger the life or physical 11898
safety of law enforcement personnel, a crime victim, a witness, or 11899
a confidential information source. 11900

(3) "Medical record" means any document or combination of 11901
documents, except births, deaths, and the fact of admission to or 11902
discharge from a hospital, that pertains to the medical history, 11903
diagnosis, prognosis, or medical condition of a patient and that 11904
is generated and maintained in the process of medical treatment. 11905

(4) "Trial preparation record" means any record that contains 11906
information that is specifically compiled in reasonable 11907
anticipation of, or in defense of, a civil or criminal action or 11908
proceeding, including the independent thought processes and 11909
personal trial preparation of an attorney. 11910

(5) "Intellectual property record" means a record, other than 11911
a financial or administrative record, that is produced or 11912
collected by or for faculty or staff of a state institution of 11913
higher learning in the conduct of or as a result of study or 11914
research on an educational, commercial, scientific, artistic, 11915
technical, or scholarly issue, regardless of whether the study or 11916
research was sponsored by the institution alone or in conjunction 11917
with a governmental body or private concern, and that has not been 11918

publicly released, published, or patented. 11919

(6) "Donor profile record" means all records about donors or 11920
potential donors to a public institution of higher education 11921
except the names and reported addresses of the actual donors and 11922
the date, amount, and conditions of the actual donation. 11923

(7) "Peace officer, parole officer, probation officer, 11924
bailiff, prosecuting attorney, assistant prosecuting attorney, 11925
correctional employee, community-based correctional facility 11926
employee, youth services employee, firefighter, EMT, or 11927
investigator of the bureau of criminal identification and 11928
investigation residential and familial information" means any 11929
information that discloses any of the following about a peace 11930
officer, parole officer, probation officer, bailiff, prosecuting 11931
attorney, assistant prosecuting attorney, correctional employee, 11932
community-based correctional facility employee, youth services 11933
employee, firefighter, EMT, or investigator of the bureau of 11934
criminal identification and investigation: 11935

(a) The address of the actual personal residence of a peace 11936
officer, parole officer, probation officer, bailiff, assistant 11937
prosecuting attorney, correctional employee, community-based 11938
correctional facility employee, youth services employee, 11939
firefighter, EMT, or an investigator of the bureau of criminal 11940
identification and investigation, except for the state or 11941
political subdivision in which the peace officer, parole officer, 11942
probation officer, bailiff, assistant prosecuting attorney, 11943
correctional employee, community-based correctional facility 11944
employee, youth services employee, firefighter, EMT, or 11945
investigator of the bureau of criminal identification and 11946
investigation resides; 11947

(b) Information compiled from referral to or participation in 11948
an employee assistance program; 11949

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility

employee's, youth services employee's, firefighter's, EMT's, or 11982
investigator of the bureau of criminal identification and 11983
investigation's compensation unless the amount of the deduction is 11984
required by state or federal law; 11985

(f) The name, the residential address, the name of the 11986
employer, the address of the employer, the social security number, 11987
the residential telephone number, any bank account, debit card, 11988
charge card, or credit card number, or the emergency telephone 11989
number of the spouse, a former spouse, or any child of a peace 11990
officer, parole officer, probation officer, bailiff, prosecuting 11991
attorney, assistant prosecuting attorney, correctional employee, 11992
community-based correctional facility employee, youth services 11993
employee, firefighter, EMT, or investigator of the bureau of 11994
criminal identification and investigation; 11995

(g) A photograph of a peace officer who holds a position or 11996
has an assignment that may include undercover or plain clothes 11997
positions or assignments as determined by the peace officer's 11998
appointing authority. 11999

As used in divisions (A)(7) and (B)(9) of this section, 12000
"peace officer" has the same meaning as in section 109.71 of the 12001
Revised Code and also includes the superintendent and troopers of 12002
the state highway patrol; it does not include the sheriff of a 12003
county or a supervisory employee who, in the absence of the 12004
sheriff, is authorized to stand in for, exercise the authority of, 12005
and perform the duties of the sheriff. 12006

As used in divisions (A)(7) and (B)(5) of this section, 12007
"correctional employee" means any employee of the department of 12008
rehabilitation and correction who in the course of performing the 12009
employee's job duties has or has had contact with inmates and 12010
persons under supervision. 12011

As used in divisions (A)(7) and (B)(5) of this section, 12012

"youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a 12043
person under the age of eighteen for the purpose of allowing that 12044
person to participate in any recreational activity conducted or 12045
sponsored by a public office or to use or obtain admission 12046
privileges to any recreational facility owned or operated by a 12047
public office. 12048

(9) "Community control sanction" has the same meaning as in 12049
section 2929.01 of the Revised Code. 12050

(10) "Post-release control sanction" has the same meaning as 12051
in section 2967.01 of the Revised Code. 12052

(11) "Redaction" means obscuring or deleting any information 12053
that is exempt from the duty to permit public inspection or 12054
copying from an item that otherwise meets the definition of a 12055
"record" in section 149.011 of the Revised Code. 12056

(12) "Designee" and "elected official" have the same meanings 12057
as in section 109.43 of the Revised Code. 12058

(B)(1) Upon request and subject to division (B)(8) of this 12059
section, all public records responsive to the request shall be 12060
promptly prepared and made available for inspection to any person 12061
at all reasonable times during regular business hours. Subject to 12062
division (B)(8) of this section, upon request, a public office or 12063
person responsible for public records shall make copies of the 12064
requested public record available at cost and within a reasonable 12065
period of time. If a public record contains information that is 12066
exempt from the duty to permit public inspection or to copy the 12067
public record, the public office or the person responsible for the 12068
public record shall make available all of the information within 12069
the public record that is not exempt. When making that public 12070
record available for public inspection or copying that public 12071
record, the public office or the person responsible for the public 12072
record shall notify the requester of any redaction or make the 12073

redaction plainly visible. A redaction shall be deemed a denial of 12074
a request to inspect or copy the redacted information, except if 12075
federal or state law authorizes or requires a public office to 12076
make the redaction. 12077

(2) To facilitate broader access to public records, a public 12078
office or the person responsible for public records shall organize 12079
and maintain public records in a manner that they can be made 12080
available for inspection or copying in accordance with division 12081
(B) of this section. A public office also shall have available a 12082
copy of its current records retention schedule at a location 12083
readily available to the public. If a requester makes an ambiguous 12084
or overly broad request or has difficulty in making a request for 12085
copies or inspection of public records under this section such 12086
that the public office or the person responsible for the requested 12087
public record cannot reasonably identify what public records are 12088
being requested, the public office or the person responsible for 12089
the requested public record may deny the request but shall provide 12090
the requester with an opportunity to revise the request by 12091
informing the requester of the manner in which records are 12092
maintained by the public office and accessed in the ordinary 12093
course of the public office's or person's duties. 12094

(3) If a request is ultimately denied, in part or in whole, 12095
the public office or the person responsible for the requested 12096
public record shall provide the requester with an explanation, 12097
including legal authority, setting forth why the request was 12098
denied. If the initial request was provided in writing, the 12099
explanation also shall be provided to the requester in writing. 12100
The explanation shall not preclude the public office or the person 12101
responsible for the requested public record from relying upon 12102
additional reasons or legal authority in defending an action 12103
commenced under division (C) of this section. 12104

(4) Unless specifically required or authorized by state or 12105

federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking

the copy makes a choice under this division, the public office or 12138
person responsible for the public record shall provide a copy of 12139
it in accordance with the choice made by the person seeking the 12140
copy. Nothing in this section requires a public office or person 12141
responsible for the public record to allow the person seeking a 12142
copy of the public record to make the copies of the public record. 12143

(7) Upon a request made in accordance with division (B) of 12144
this section and subject to division (B)(6) of this section, a 12145
public office or person responsible for public records shall 12146
transmit a copy of a public record to any person by United States 12147
mail or by any other means of delivery or transmission within a 12148
reasonable period of time after receiving the request for the 12149
copy. The public office or person responsible for the public 12150
record may require the person making the request to pay in advance 12151
the cost of postage if the copy is transmitted by United States 12152
mail or the cost of delivery if the copy is transmitted other than 12153
by United States mail, and to pay in advance the costs incurred 12154
for other supplies used in the mailing, delivery, or transmission. 12155

Any public office may adopt a policy and procedures that it 12156
will follow in transmitting, within a reasonable period of time 12157
after receiving a request, copies of public records by United 12158
States mail or by any other means of delivery or transmission 12159
pursuant to this division. A public office that adopts a policy 12160
and procedures under this division shall comply with them in 12161
performing its duties under this division. 12162

In any policy and procedures adopted under this division, a 12163
public office may limit the number of records requested by a 12164
person that the office will transmit by United States mail to ten 12165
per month, unless the person certifies to the office in writing 12166
that the person does not intend to use or forward the requested 12167
records, or the information contained in them, for commercial 12168
purposes. For purposes of this division, "commercial" shall be 12169

narrowly construed and does not include reporting or gathering 12170
news, reporting or gathering information to assist citizen 12171
oversight or understanding of the operation or activities of 12172
government, or nonprofit educational research. 12173

(8) A public office or person responsible for public records 12174
is not required to permit a person who is incarcerated pursuant to 12175
a criminal conviction or a juvenile adjudication to inspect or to 12176
obtain a copy of any public record concerning a criminal 12177
investigation or prosecution or concerning what would be a 12178
criminal investigation or prosecution if the subject of the 12179
investigation or prosecution were an adult, unless the request to 12180
inspect or to obtain a copy of the record is for the purpose of 12181
acquiring information that is subject to release as a public 12182
record under this section and the judge who imposed the sentence 12183
or made the adjudication with respect to the person, or the 12184
judge's successor in office, finds that the information sought in 12185
the public record is necessary to support what appears to be a 12186
justiciable claim of the person. 12187

(9)(a) Upon written request made and signed by a journalist 12188
on or after December 16, 1999, a public office, or person 12189
responsible for public records, having custody of the records of 12190
the agency employing a specified peace officer, parole officer, 12191
probation officer, bailiff, prosecuting attorney, assistant 12192
prosecuting attorney, correctional employee, community-based 12193
correctional facility employee, youth services employee, 12194
firefighter, EMT, or investigator of the bureau of criminal 12195
identification and investigation shall disclose to the journalist 12196
the address of the actual personal residence of the peace officer, 12197
parole officer, probation officer, bailiff, prosecuting attorney, 12198
assistant prosecuting attorney, correctional employee, 12199
community-based correctional facility employee, youth services 12200
employee, firefighter, EMT, or investigator of the bureau of 12201

criminal identification and investigation and, if the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to

promptly prepare a public record and to make it available to the 12234
person for inspection in accordance with division (B) of this 12235
section or by any other failure of a public office or the person 12236
responsible for public records to comply with an obligation in 12237
accordance with division (B) of this section, the person allegedly 12238
aggrieved may commence a mandamus action to obtain a judgment that 12239
orders the public office or the person responsible for the public 12240
record to comply with division (B) of this section, that awards 12241
court costs and reasonable attorney's fees to the person that 12242
instituted the mandamus action, and, if applicable, that includes 12243
an order fixing statutory damages under division (C)(1) of this 12244
section. The mandamus action may be commenced in the court of 12245
common pleas of the county in which division (B) of this section 12246
allegedly was not complied with, in the supreme court pursuant to 12247
its original jurisdiction under Section 2 of Article IV, Ohio 12248
Constitution, or in the court of appeals for the appellate 12249
district in which division (B) of this section allegedly was not 12250
complied with pursuant to its original jurisdiction under Section 12251
3 of Article IV, Ohio Constitution. 12252

If a requestor transmits a written request by hand delivery 12253
or certified mail to inspect or receive copies of any public 12254
record in a manner that fairly describes the public record or 12255
class of public records to the public office or person responsible 12256
for the requested public records, except as otherwise provided in 12257
this section, the requestor shall be entitled to recover the 12258
amount of statutory damages set forth in this division if a court 12259
determines that the public office or the person responsible for 12260
public records failed to comply with an obligation in accordance 12261
with division (B) of this section. 12262

The amount of statutory damages shall be fixed at one hundred 12263
dollars for each business day during which the public office or 12264
person responsible for the requested public records failed to 12265

comply with an obligation in accordance with division (B) of this 12266
section, beginning with the day on which the requester files a 12267
mandamus action to recover statutory damages, up to a maximum of 12268
one thousand dollars. The award of statutory damages shall not be 12269
construed as a penalty, but as compensation for injury arising 12270
from lost use of the requested information. The existence of this 12271
injury shall be conclusively presumed. The award of statutory 12272
damages shall be in addition to all other remedies authorized by 12273
this section. 12274

The court may reduce an award of statutory damages or not 12275
award statutory damages if the court determines both of the 12276
following: 12277

(a) That, based on the ordinary application of statutory law 12278
and case law as it existed at the time of the conduct or 12279
threatened conduct of the public office or person responsible for 12280
the requested public records that allegedly constitutes a failure 12281
to comply with an obligation in accordance with division (B) of 12282
this section and that was the basis of the mandamus action, a 12283
well-informed public office or person responsible for the 12284
requested public records reasonably would believe that the conduct 12285
or threatened conduct of the public office or person responsible 12286
for the requested public records did not constitute a failure to 12287
comply with an obligation in accordance with division (B) of this 12288
section; 12289

(b) That a well-informed public office or person responsible 12290
for the requested public records reasonably would believe that the 12291
conduct or threatened conduct of the public office or person 12292
responsible for the requested public records would serve the 12293
public policy that underlies the authority that is asserted as 12294
permitting that conduct or threatened conduct. 12295

(2)(a) If the court issues a writ of mandamus that orders the 12296
public office or the person responsible for the public record to 12297

comply with division (B) of this section and determines that the 12298
circumstances described in division (C)(1) of this section exist, 12299
the court shall determine and award to the relator all court 12300
costs. 12301

(b) If the court renders a judgment that orders the public 12302
office or the person responsible for the public record to comply 12303
with division (B) of this section, the court may award reasonable 12304
attorney's fees subject to reduction as described in division 12305
(C)(2)(c) of this section. The court shall award reasonable 12306
attorney's fees, subject to reduction as described in division 12307
(C)(2)(c) of this section when either of the following applies: 12308

(i) The public office or the person responsible for the 12309
public records failed to respond affirmatively or negatively to 12310
the public records request in accordance with the time allowed 12311
under division (B) of this section. 12312

(ii) The public office or the person responsible for the 12313
public records promised to permit the relator to inspect or 12314
receive copies of the public records requested within a specified 12315
period of time but failed to fulfill that promise within that 12316
specified period of time. 12317

(c) Court costs and reasonable attorney's fees awarded under 12318
this section shall be construed as remedial and not punitive. 12319
Reasonable attorney's fees shall include reasonable fees incurred 12320
to produce proof of the reasonableness and amount of the fees and 12321
to otherwise litigate entitlement to the fees. The court may 12322
reduce an award of attorney's fees to the relator or not award 12323
attorney's fees to the relator if the court determines both of the 12324
following: 12325

(i) That, based on the ordinary application of statutory law 12326
and case law as it existed at the time of the conduct or 12327
threatened conduct of the public office or person responsible for 12328

the requested public records that allegedly constitutes a failure 12329
to comply with an obligation in accordance with division (B) of 12330
this section and that was the basis of the mandamus action, a 12331
well-informed public office or person responsible for the 12332
requested public records reasonably would believe that the conduct 12333
or threatened conduct of the public office or person responsible 12334
for the requested public records did not constitute a failure to 12335
comply with an obligation in accordance with division (B) of this 12336
section; 12337

(ii) That a well-informed public office or person responsible 12338
for the requested public records reasonably would believe that the 12339
conduct or threatened conduct of the public office or person 12340
responsible for the requested public records as described in 12341
division (C)(2)(c)(i) of this section would serve the public 12342
policy that underlies the authority that is asserted as permitting 12343
that conduct or threatened conduct. 12344

(D) Chapter 1347. of the Revised Code does not limit the 12345
provisions of this section. 12346

(E)(1) To ensure that all employees of public offices are 12347
appropriately educated about a public office's obligations under 12348
division (B) of this section, all elected officials or their 12349
appropriate designees shall attend training approved by the 12350
attorney general as provided in section 109.43 of the Revised 12351
Code. In addition, all public offices shall adopt a public records 12352
policy in compliance with this section for responding to public 12353
records requests. In adopting a public records policy under this 12354
division, a public office may obtain guidance from the model 12355
public records policy developed and provided to the public office 12356
by the attorney general under section 109.43 of the Revised Code. 12357
Except as otherwise provided in this section, the policy may not 12358
limit the number of public records that the public office will 12359
make available to a single person, may not limit the number of 12360

public records that it will make available during a fixed period 12361
of time, and may not establish a fixed period of time before it 12362
will respond to a request for inspection or copying of public 12363
records, unless that period is less than eight hours. 12364

(2) The public office shall distribute the public records 12365
policy adopted by the public office under division (E)(1) of this 12366
section to the employee of the public office who is the records 12367
custodian or records manager or otherwise has custody of the 12368
records of that office. The public office shall require that 12369
employee to acknowledge receipt of the copy of the public records 12370
policy. The public office shall create a poster that describes its 12371
public records policy and shall post the poster in a conspicuous 12372
place in the public office and in all locations where the public 12373
office has branch offices. The public office may post its public 12374
records policy on the internet web site of the public office if 12375
the public office maintains an internet web site. A public office 12376
that has established a manual or handbook of its general policies 12377
and procedures for all employees of the public office shall 12378
include the public records policy of the public office in the 12379
manual or handbook. 12380

(F)(1) The bureau of motor vehicles may adopt rules pursuant 12381
to Chapter 119. of the Revised Code to reasonably limit the number 12382
of bulk commercial special extraction requests made by a person 12383
for the same records or for updated records during a calendar 12384
year. The rules may include provisions for charges to be made for 12385
bulk commercial special extraction requests for the actual cost of 12386
the bureau, plus special extraction costs, plus ten per cent. The 12387
bureau may charge for expenses for redacting information, the 12388
release of which is prohibited by law. 12389

(2) As used in division (F)(1) of this section: 12390

(a) "Actual cost" means the cost of depleted supplies, 12391
records storage media costs, actual mailing and alternative 12392

delivery costs, or other transmitting costs, and any direct 12393
equipment operating and maintenance costs, including actual costs 12394
paid to private contractors for copying services. 12395

(b) "Bulk commercial special extraction request" means a 12396
request for copies of a record for information in a format other 12397
than the format already available, or information that cannot be 12398
extracted without examination of all items in a records series, 12399
class of records, or ~~data base~~ database by a person who intends to 12400
use or forward the copies for surveys, marketing, solicitation, or 12401
resale for commercial purposes. "Bulk commercial special 12402
extraction request" does not include a request by a person who 12403
gives assurance to the bureau that the person making the request 12404
does not intend to use or forward the requested copies for 12405
surveys, marketing, solicitation, or resale for commercial 12406
purposes. 12407

(c) "Commercial" means profit-seeking production, buying, or 12408
selling of any good, service, or other product. 12409

(d) "Special extraction costs" means the cost of the time 12410
spent by the lowest paid employee competent to perform the task, 12411
the actual amount paid to outside private contractors employed by 12412
the bureau, or the actual cost incurred to create computer 12413
programs to make the special extraction. "Special extraction 12414
costs" include any charges paid to a public agency for computer or 12415
records services. 12416

(3) For purposes of divisions (F)(1) and (2) of this section, 12417
"surveys, marketing, solicitation, or resale for commercial 12418
purposes" shall be narrowly construed and does not include 12419
reporting or gathering news, reporting or gathering information to 12420
assist citizen oversight or understanding of the operation or 12421
activities of government, or nonprofit educational research. 12422

Sec. 151.11. (A) As used in this section: 12423

(1) "Costs of sites and facilities" includes related direct administrative expenses and allocable portions of the direct costs of those projects. "Costs of sites and facilities" includes "allowable costs" as defined in section 122.085 of the Revised Code.

(2) "Obligations" means obligations as defined in section 151.01 of the Revised Code issued to pay costs of sites and facilities in Ohio for and in support of industry, commerce, distribution, and research and development purposes as referred to in division (A)(3) of Section 2p of Article VIII, Ohio Constitution.

(B) The issuing authority shall issue general obligations of the state to pay costs of sites and facilities pursuant to division (B)(3) of Section 2p of Article VIII, Ohio Constitution, section 151.01 of the Revised Code, and this section. The issuing authority shall issue obligations in the amount determined by the issuing authority to be required for those purposes. The total principal amount of obligations issued under this section shall not exceed one hundred fifty million dollars.

(C) Net proceeds of obligations shall be deposited into the job ready site development fund created by section 122.0820 of the Revised Code.

(D) There is hereby created in the state treasury the job ready site development bond service fund. All moneys received by the state and required by the bond proceedings, consistent with section 151.01 of the Revised Code and this section, to be deposited, transferred, or credited to the bond service fund, and all other moneys transferred or allocated to or received for the purposes of that fund, shall be deposited and credited to the bond service fund, subject to any applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of

obligations and continuing during the time that any obligations 12456
are outstanding in accordance with their terms, so long as moneys 12457
in the bond service fund are insufficient to pay debt service when 12458
due on those obligations payable from that fund, except the 12459
principal amounts of bond anticipation notes payable from the 12460
proceeds of renewal notes or bonds anticipated, and due in the 12461
particular fiscal year, a sufficient amount of revenues of the 12462
state is committed and, without necessity for further act of 12463
appropriation, shall be paid to the bond service fund for the 12464
purpose of paying that debt service when due. All investment 12465
earnings on the cash balance in the fund shall be credited to the 12466
fund. 12467

Sec. 152.09. (A) As used in sections 152.06 and 152.09 to 12468
152.33 of the Revised Code: 12469

(1) "Obligations" means bonds, notes, or other evidences of 12470
obligation, including interest coupons pertaining thereto, issued 12471
pursuant to sections 152.09 to 152.33 of the Revised Code. 12472

(2) "State agencies" means the state of Ohio and branches, 12473
officers, boards, commissions, authorities, departments, 12474
divisions, courts, general assembly, or other units or agencies of 12475
the state. "State agency" also includes counties, municipal 12476
corporations, and governmental entities of this state that enter 12477
into leases with the Ohio building authority pursuant to section 12478
152.31 of the Revised Code or that are designated by law as state 12479
agencies for the purpose of performing a state function that is to 12480
be housed by a capital facility for which the Ohio building 12481
authority is authorized to issue revenue obligations pursuant to 12482
sections 152.09 to 152.33 of the Revised Code. 12483

(3) "Bond service charges" means principal, including 12484
mandatory sinking fund requirements for retirement of obligations, 12485
and interest, and redemption premium, if any, required to be paid 12486

by the Ohio building authority on obligations. 12487

(4) "Capital facilities" means buildings, structures, and 12488
other improvements, and equipment, real estate, and interests in 12489
real estate therefor, within the state, and any one, part of, or 12490
combination of the foregoing, for housing of branches and agencies 12491
of state government, including capital facilities for the purpose 12492
of housing personnel, equipment, or functions, or any combination 12493
thereof that the state agencies are responsible for housing, for 12494
which the Ohio building authority is authorized to issue 12495
obligations pursuant to Chapter 152. of the Revised Code, and 12496
includes storage and parking facilities related to such capital 12497
facilities. For purposes of sections 152.10 to 152.15 of the 12498
Revised Code, "capital facilities" includes community or technical 12499
college capital facilities. 12500

(5) "Cost of capital facilities" means the costs of 12501
assessing, planning, acquiring, constructing, reconstructing, 12502
rehabilitating, remodeling, renovating, enlarging, improving, 12503
altering, maintaining, equipping, furnishing, repairing, painting, 12504
decorating, managing, or operating capital facilities, and the 12505
financing thereof, including the cost of clearance and preparation 12506
of the site and of any land to be used in connection with capital 12507
facilities, the cost of participating in capital facilities 12508
pursuant to section 152.33 of the Revised Code, the cost of any 12509
indemnity and surety bonds and premiums on insurance, all related 12510
direct administrative expenses and allocable portions of direct 12511
costs of the authority and lessee state agencies, cost of 12512
engineering and architectural services, designs, plans, 12513
specifications, surveys, and estimates of cost, legal fees, fees 12514
and expenses of trustees, depositories, and paying agents for the 12515
obligations, cost of issuance of the obligations and financing 12516
charges and fees and expenses of financial advisers and 12517
consultants in connection therewith, interest on obligations from 12518

the date thereof to the time when interest is to be covered from 12519
sources other than proceeds of obligations, amounts that represent 12520
the portion of investment earnings to be rebated or to be paid to 12521
the federal government in order to maintain the exclusion from 12522
gross income for federal income tax purposes of interest on those 12523
obligations pursuant to section 148(f) of the Internal Revenue 12524
Code, amounts necessary to establish reserves as required by the 12525
resolutions or the obligations, trust agreements, or indentures, 12526
costs of audits, the reimbursement of all moneys advanced or 12527
applied by or borrowed from any governmental entity, whether to or 12528
by the authority or others, from whatever source provided, for the 12529
payment of any item or items of cost of the capital facilities, 12530
any share of the cost undertaken by the authority pursuant to 12531
arrangements made with governmental entities under division (J) of 12532
section 152.21 of the Revised Code, and all other expenses 12533
necessary or incident to assessing, planning, or determining the 12534
feasibility or practicability with respect to capital facilities, 12535
and such other expenses as may be necessary or incident to the 12536
assessment, planning, acquisition, construction, reconstruction, 12537
rehabilitation, remodeling, renovation, enlargement, improvement, 12538
alteration, maintenance, equipment, furnishing, repair, painting, 12539
decoration, management, or operation of capital facilities, the 12540
financing thereof and the placing of the same in use and 12541
operation, including any one, part of, or combination of such 12542
classes of costs and expenses. 12543

(6) "Governmental entity" means any state agency, municipal 12544
corporation, county, township, school district, and any other 12545
political subdivision or special district in this state 12546
established pursuant to law, and, except where otherwise 12547
indicated, also means the United States or any of the states or 12548
any department, division, or agency thereof, and any agency, 12549
commission, or authority established pursuant to an interstate 12550
compact or agreement. 12551

(7) "Governing body" means: 12552

(a) In the case of a county, the board of county 12553
commissioners or other legislative authority; in the case of a 12554
municipal corporation, the legislative authority; in the case of a 12555
township, the board of township trustees; in the case of a school 12556
district, the board of education; 12557

(b) In the case of any other governmental entity, the 12558
officer, board, commission, authority, or other body having the 12559
general management of the entity or having jurisdiction or 12560
authority in the particular circumstances. 12561

(8) "Available receipts" means fees, charges, revenues, 12562
grants, subsidies, income from the investment of moneys, proceeds 12563
from the sale of goods or services, and all other revenues or 12564
receipts received by or on behalf of any state agency for which 12565
capital facilities are financed with obligations issued under 12566
Chapter 152. of the Revised Code, any state agency participating 12567
in capital facilities pursuant to section 152.33 of the Revised 12568
Code, or any state agency by which the capital facilities are 12569
constructed or financed; revenues or receipts derived by the 12570
authority from the operation, leasing, or other disposition of 12571
capital facilities, and the proceeds of obligations issued under 12572
Chapter 152. of the Revised Code; and also any moneys appropriated 12573
by a governmental entity, gifts, grants, donations, and pledges, 12574
and receipts therefrom, available for the payment of bond service 12575
charges on such obligations. 12576

(9) "Available community or technical college receipts" means 12577
all money received by a community or technical college or 12578
community or technical college district, including income, 12579
revenues, and receipts from the operation, ownership, or control 12580
of facilities, grants, gifts, donations, and pledges and receipts 12581
therefrom, receipts from fees and charges, the allocated state 12582
share of instruction as defined in section ~~3333.90~~ 3333.59 of the 12583

Revised Code, and the proceeds of the sale of obligations, 12584
including proceeds of obligations issued to refund obligations 12585
previously issued, but excluding any special fee, and receipts 12586
therefrom, charged pursuant to division (D) of section 154.21 of 12587
the Revised Code. 12588

(10) "Community or technical college," "college," "community 12589
or technical college district," and "district" have the same 12590
meanings as in section ~~3333.90~~ 3333.59 of the Revised Code. 12591

(11) "Community or technical college capital facilities" 12592
means auxiliary facilities, education facilities, and housing and 12593
dining facilities, as those terms are defined in section 3345.12 12594
of the Revised Code, to the extent permitted to be financed by the 12595
issuance of obligations under division (A)(2) of section 3357.112 12596
of the Revised Code, that are authorized by sections 3354.121, 12597
3357.112, and 3358.10 of the Revised Code to be financed by 12598
obligations issued by a community or technical college district, 12599
and for which the Ohio building authority is authorized to issue 12600
obligations pursuant to Chapter 152. of the Revised Code, and 12601
includes any one, part of, or any combination of the foregoing, 12602
and further includes site improvements, utilities, machinery, 12603
furnishings, and any separate or connected buildings, structures, 12604
improvements, sites, open space and green space areas, utilities, 12605
or equipment to be used in, or in connection with the operation or 12606
maintenance of, or supplementing or otherwise related to the 12607
services or facilities to be provided by, such facilities. 12608

(12) "Cost of community or technical college capital 12609
facilities" means the costs of acquiring, constructing, 12610
reconstructing, rehabilitating, remodeling, renovating, enlarging, 12611
improving, equipping, or furnishing community or technical college 12612
capital facilities, and the financing thereof, including the cost 12613
of clearance and preparation of the site and of any land to be 12614
used in connection with community or technical college capital 12615

facilities, the cost of any indemnity and surety bonds and 12616
premiums on insurance, all related direct administrative expenses 12617
and allocable portions of direct costs of the authority, community 12618
or technical college or community or technical college district, 12619
cost of engineering, architectural services, design, plans, 12620
specifications and surveys, estimates of cost, legal fees, fees 12621
and expenses of trustees, depositories, bond registrars, and 12622
paying agents for the obligations, cost of issuance of the 12623
obligations and financing costs and fees and expenses of financial 12624
advisers and consultants in connection therewith, interest on the 12625
obligations from the date thereof to the time when interest is to 12626
be covered by available receipts or other sources other than 12627
proceeds of the obligations, amounts that represent the portion of 12628
investment earnings to be rebated or to be paid to the federal 12629
government in order to maintain the exclusion from gross income 12630
for federal income tax purposes of interest on those obligations 12631
pursuant to section 148(f) of the Internal Revenue Code, amounts 12632
necessary to establish reserves as required by the bond 12633
proceedings, costs of audits, the reimbursements of all moneys 12634
advanced or applied by or borrowed from the community or technical 12635
college, community or technical college district, or others, from 12636
whatever source provided, including any temporary advances from 12637
state appropriations, for the payment of any item or items of cost 12638
of community or technical college facilities, and all other 12639
expenses necessary or incident to planning or determining 12640
feasibility or practicability with respect to such facilities, and 12641
such other expenses as may be necessary or incident to the 12642
acquisition, construction, reconstruction, rehabilitation, 12643
remodeling, renovation, enlargement, improvement, equipment, and 12644
furnishing of community or technical college capital facilities, 12645
the financing thereof and the placing of them in use and 12646
operation, including any one, part of, or combination of such 12647
classes of costs and expenses. 12648

(B) Pursuant to the powers granted to the general assembly 12649
under Section 2i of Article VIII, Ohio Constitution, to authorize 12650
the issuance of revenue obligations and other obligations, the 12651
owners or holders of which are not given the right to have excises 12652
or taxes levied by the general assembly for the payment of 12653
principal thereof or interest thereon, the Ohio building authority 12654
may issue obligations, in accordance with Chapter 152. of the 12655
Revised Code, and shall cause the net proceeds thereof, after any 12656
deposits of accrued interest for the payment of bond service 12657
charges and after any deposit of all or such lesser portion as the 12658
authority may direct of the premium received upon the sale of 12659
those obligations for the payment of the bond service charges, to 12660
be applied to the costs of capital facilities designated by or 12661
pursuant to act of the general assembly for housing state agencies 12662
as authorized by Chapter 152. of the Revised Code. The authority 12663
shall provide by resolution for the issuance of such obligations. 12664
The bond service charges and all other payments required to be 12665
made by the trust agreement or indenture securing such obligations 12666
shall be payable solely from available receipts of the authority 12667
pledged thereto as provided in such resolution. The available 12668
receipts pledged and thereafter received by the authority are 12669
immediately subject to the lien of such pledge without any 12670
physical delivery thereof or further act, and the lien of any such 12671
pledge is valid and binding against all parties having claims of 12672
any kind against the authority, irrespective of whether those 12673
parties have notice thereof, and creates a perfected security 12674
interest for all purposes of Chapter 1309. of the Revised Code and 12675
a perfected lien for purposes of any real property interest, all 12676
without the necessity for separation or delivery of funds or for 12677
the filing or recording of the resolution, trust agreement, 12678
indenture, or other agreement by which such pledge is created or 12679
any certificate, statement, or other document with respect 12680
thereto; and the pledge of such available receipts is effective 12681

and the money therefrom and thereof may be applied to the purposes 12682
for which pledged. Every pledge, and every covenant and agreement 12683
made with respect to the pledge, made in the resolution may 12684
therein be extended to the benefit of the owners and holders of 12685
obligations authorized by Chapter 152. of the Revised Code, the 12686
net proceeds of which are to be applied to the costs of capital 12687
facilities, and to any trustee therefor, for the further securing 12688
of the payment of the bond service charges, and all or any rights 12689
under any agreement or lease made under this section may be 12690
assigned for such purpose. Obligations may be issued at one time 12691
or from time to time, and each issue shall be dated, shall mature 12692
at such time or times as determined by the authority not exceeding 12693
forty years from the date of issue, and may be redeemable before 12694
maturity at the option of the authority at such price or prices 12695
and under such terms and conditions as are fixed by the authority 12696
prior to the issuance of the obligations. The authority shall 12697
determine the form of the obligations, fix their denominations, 12698
establish their interest rate or rates, which may be a variable 12699
rate or rates, or the maximum interest rate, and establish within 12700
or without this state a place or places of payment of bond service 12701
charges. 12702

(C) The obligations shall be signed by the authority 12703
chairperson, vice-chairperson, and secretary-treasurer, and the 12704
authority seal shall be affixed. The signatures may be facsimile 12705
signatures and the seal affixed may be a facsimile seal, as 12706
provided by resolution of the authority. Any coupons attached may 12707
bear the facsimile signature of the chairperson. In case any 12708
officer who has signed any obligations, or caused the officer's 12709
facsimile signature to be affixed thereto, ceases to be such 12710
officer before such obligations have been delivered, such 12711
obligations may, nevertheless, be issued and delivered as though 12712
the person who had signed the obligations or caused the person's 12713
facsimile signature to be affixed thereto had not ceased to be 12714

such officer. 12715

Any obligations may be executed on behalf of the authority by 12716
an officer who, on the date of execution, is the proper officer 12717
although on the date of such obligations such person was not the 12718
proper officer. 12719

(D) All obligations issued by the authority shall have all 12720
the qualities and incidents of negotiable instruments and may be 12721
issued in coupon or in registered form, or both, as the authority 12722
determines. Provision may be made for the registration of any 12723
obligations with coupons attached thereto as to principal alone or 12724
as to both principal and interest, their exchange for obligations 12725
so registered, and for the conversion or reconversion into 12726
obligations with coupons attached thereto of any obligations 12727
registered as to both principal and interest, and for reasonable 12728
charges for such registration, exchange, conversion, and 12729
reconversion. The authority may sell its obligations in any manner 12730
and for such prices as it determines, except that the authority 12731
shall sell obligations sold at public or private sale in 12732
accordance with section 152.091 of the Revised Code. 12733

(E) The obligations of the authority, principal, interest, 12734
and any proceeds from their sale or transfer, are exempt from all 12735
taxation within this state. 12736

(F) The authority is authorized to issue revenue obligations 12737
and other obligations under Section 2i of Article VIII, Ohio 12738
Constitution, for the purpose of paying the cost of capital 12739
facilities for housing of branches and agencies of state 12740
government, including capital facilities for the purpose of 12741
housing personnel, equipment, or functions, or any combination 12742
thereof that the state agencies are responsible for housing, as 12743
are authorized by Chapter 152. of the Revised Code, and that are 12744
authorized by the general assembly by the appropriation of lease 12745
payments or other moneys for such capital facilities or by any 12746

other act of the general assembly, but not including the 12747
appropriation of moneys for feasibility studies for such capital 12748
facilities. This division does not authorize the authority to 12749
issue obligations pursuant to Section 2i of Article VIII, Ohio 12750
Constitution, to pay the cost of capital facilities for mental 12751
hygiene and retardation, parks and recreation, or state-supported 12752
or state-assisted institutions of higher education. 12753

(G) The authority is authorized to issue revenue obligations 12754
under Section 2i of Article VIII, Ohio Constitution, on behalf of 12755
a community or technical college district and shall cause the net 12756
proceeds thereof, after any deposits of accrued interest for the 12757
payment of bond service charges and after any deposit of all or 12758
such lesser portion as the authority may direct of the premium 12759
received upon the sale of those obligations for the payment of the 12760
bond service charges, to be applied to the cost of community or 12761
technical college capital facilities, provided that the issuance 12762
of such obligations is subject to the execution of a written 12763
agreement in accordance with division (C) of section ~~3333.90~~ 12764
3333.59 of the Revised Code for the withholding and depositing of 12765
funds otherwise due the district, or the college it operates, in 12766
respect of its allocated state share of instruction. 12767

The authority shall provide by resolution for the issuance of 12768
such obligations. The bond service charges and all other payments 12769
required to be made by the trust agreement or indenture securing 12770
the obligations shall be payable solely from available community 12771
or technical college receipts pledged thereto as provided in the 12772
resolution. The available community or technical college receipts 12773
pledged and thereafter received by the authority are immediately 12774
subject to the lien of such pledge without any physical delivery 12775
thereof or further act, and the lien of any such pledge is valid 12776
and binding against all parties having claims of any kind against 12777
the authority, irrespective of whether those parties have notice 12778

thereof, and creates a perfected security interest for all 12779
purposes of Chapter 1309. of the Revised Code and a perfected lien 12780
for purposes of any real property interest, all without the 12781
necessity for separation or delivery of funds or for the filing or 12782
recording of the resolution, trust agreement, indenture, or other 12783
agreement by which such pledge is created or any certificate, 12784
statement, or other document with respect thereto; and the pledge 12785
of such available community or technical college receipts is 12786
effective and the money therefrom and thereof may be applied to 12787
the purposes for which pledged. Every pledge, and every covenant 12788
and agreement made with respect to the pledge, made in the 12789
resolution may therein be extended to the benefit of the owners 12790
and holders of obligations authorized by this division, and to any 12791
trustee therefor, for the further securing of the payment of the 12792
bond service charges, and all or any rights under any agreement or 12793
lease made under this section may be assigned for such purpose. 12794
Obligations may be issued at one time or from time to time, and 12795
each issue shall be dated, shall mature at such time or times as 12796
determined by the authority not exceeding forty years from the 12797
date of issue, and may be redeemable before maturity at the option 12798
of the authority at such price or prices and under such terms and 12799
conditions as are fixed by the authority prior to the issuance of 12800
the obligations. The authority shall determine the form of the 12801
obligations, fix their denominations, establish their interest 12802
rate or rates, which may be a variable rate or rates, or the 12803
maximum interest rate, and establish within or without this state 12804
a place or places of payment of bond service charges. 12805

Sec. 153.692. For every design-build contract, the public 12806
authority planning to contract for design-build services shall 12807
first obtain the services of a criteria architect or engineer by 12808
doing either of the following: 12809

(A) Contracting for the services consistent with sections 12810

153.65 to 153.70 of the Revised Code;	12811
(B) Obtaining the services through an architect or engineer	12812
who is an employee of the public authority and notifying the	12813
department of administrative services <u>Ohio facilities construction</u>	12814
<u>commission</u> before the services are performed.	12815
Sec. 154.01. As used in this chapter:	12816
(A) "Commission" means the Ohio public facilities commission	12817
created in section 151.02 of the Revised Code.	12818
(B) "Obligations" means bonds, notes, or other evidences of	12819
obligation, including interest coupons pertaining thereto, issued	12820
pursuant to Chapter 154. of the Revised Code.	12821
(C) "Bond proceedings" means the order or orders, resolution	12822
or resolutions, trust agreement, indenture, lease, and other	12823
agreements, amendments and supplements to the foregoing, or any	12824
combination thereof, authorizing or providing for the terms and	12825
conditions applicable to, or providing for the security of,	12826
obligations issued pursuant to Chapter 154. of the Revised Code,	12827
and the provisions contained in such obligations.	12828
(D) "State agencies" means the state of Ohio and officers,	12829
boards, commissions, departments, divisions, or other units or	12830
agencies of the state.	12831
(E) "Governmental agency" means state agencies, state	12832
supported and assisted institutions of higher education, municipal	12833
corporations, counties, townships, school districts, and any other	12834
political subdivision or special district in this state	12835
established pursuant to law, and, except where otherwise	12836
indicated, also means the United States or any department,	12837
division, or agency thereof, and any agency, commission, or	12838
authority established pursuant to an interstate compact or	12839
agreement.	12840

(F) "Institutions of higher education" and "state supported or state assisted institutions of higher education" means the state universities identified in section 3345.011 of the Revised Code, the northeast Ohio medical university, state universities or colleges at any time created, community college districts, university branch districts, and technical college districts at any time established or operating under Chapter 3354., 3355., or 3357. of the Revised Code, and other institutions for education, including technical education, beyond the high school, receiving state support or assistance for their expenses of operation.

(G) "Governing body" means:

(1) In the case of institutions of higher education, the board of trustees, board of directors, commission, or other body vested by law with the general management, conduct, and control of one or more institutions of higher education;

(2) In the case of a county, the board of county commissioners or other legislative body; in the case of a municipal corporation, the council or other legislative body; in the case of a township, the board of township trustees; in the case of a school district, the board of education;

(3) In the case of any other governmental agency, the officer, board, commission, authority or other body having the general management thereof or having jurisdiction or authority in the particular circumstances.

(H) "Person" means any person, firm, partnership, association, or corporation.

(I) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the state on obligations. If not prohibited by the applicable bond proceedings, bond service charges may include costs relating

to credit enhancement facilities that are related to and 12872
represent, or are intended to provide a source of payment of or 12873
limitation on, other bond service charges. 12874

(J) "Capital facilities" means buildings, structures, and 12875
other improvements, and equipment, real estate, and interests in 12876
real estate therefor, within the state, and any one, part of, or 12877
combination of the foregoing, to serve the general purposes for 12878
which the issuing authority is authorized to issue obligations 12879
pursuant to Chapter 154. of the Revised Code, including, but not 12880
limited to, drives, roadways, parking facilities, walks, lighting, 12881
machinery, furnishings, utilities, landscaping, wharves, docks, 12882
piers, reservoirs, dams, tunnels, bridges, retaining walls, 12883
riprap, culverts, ditches, channels, watercourses, retention 12884
basins, standpipes and water storage facilities, waste treatment 12885
and disposal facilities, heating, air conditioning and 12886
communications facilities, inns, lodges, cabins, camping sites, 12887
golf courses, boat and bathing facilities, athletic and 12888
recreational facilities, and site improvements. 12889

(K) "Costs of capital facilities" means the costs of 12890
acquiring, constructing, reconstructing, rehabilitating, 12891
remodeling, renovating, enlarging, improving, equipping, or 12892
furnishing capital facilities, and the financing thereof, 12893
including the cost of clearance and preparation of the site and of 12894
any land to be used in connection with capital facilities, the 12895
cost of any indemnity and surety bonds and premiums on insurance, 12896
all related direct administrative expenses and allocable portions 12897
of direct costs of the commission or issuing authority and 12898
department of administrative services, or other designees of the 12899
commission under section 154.17 of the Revised Code, cost of 12900
engineering and architectural services, designs, plans, 12901
specifications, surveys, and estimates of cost, legal fees, fees 12902
and expenses of trustees, depositories, and paying agents for the 12903

obligations, cost of issuance of the obligations and financing 12904
charges and fees and expenses of financial advisers and 12905
consultants in connection therewith, interest on obligations, 12906
including but not limited to, interest from the date of their 12907
issuance to the time when interest is to be covered from sources 12908
other than proceeds of obligations, amounts necessary to establish 12909
reserves as required by the bond proceedings, costs of audits, the 12910
reimbursement of all moneys advanced or applied by or borrowed 12911
from any governmental agency, whether to or by the commission or 12912
others, from whatever source provided, for the payment of any item 12913
or items of cost of the capital facilities, any share of the cost 12914
undertaken by the commission pursuant to arrangements made with 12915
governmental agencies under division (H) of section 154.06 of the 12916
Revised Code, and all other expenses necessary or incident to 12917
planning or determining feasibility or practicability with respect 12918
to capital facilities, and such other expenses as may be necessary 12919
or incident to the acquisition, construction, reconstruction, 12920
rehabilitation, remodeling, renovation, enlargement, improvement, 12921
equipment, and furnishing of capital facilities, the financing 12922
thereof and the placing of the same in use and operation, 12923
including any one, part of, or combination of such classes of 12924
costs and expenses. 12925

(L) "Public service facilities" means inns, lodges, hotels, 12926
cabins, camping sites, scenic trails, picnic sites, restaurants, 12927
commissaries, golf courses, boating and bathing facilities and 12928
other similar facilities in state parks. 12929

(M) "State parks" means: 12930

(1) State reservoirs described and identified in section 12931
1541.06 of the Revised Code; 12932

(2) All lands or interests therein of the state identified as 12933
administered by the division of parks and recreation in the 12934
"inventory of state owned lands administered by the department of 12935

natural resources as of June 1, 1963," as recorded in the journal 12936
of the director, which inventory was prepared by the real estate 12937
section of the department and is supported by maps now on file in 12938
said real estate section; 12939

(3) All lands or interests in lands of the state designated 12940
after June 1, 1963, as state parks in the journal of the director 12941
with the approval of the recreation and resources council. 12942

State parks do not include any lands or interest in lands of 12943
the state administered jointly by two or more divisions of the 12944
department of natural resources. The designation of lands as state 12945
parks under divisions (M)(1) to (3) of this section is conclusive 12946
and such lands shall be under the control of and administered by 12947
the division of parks and recreation. No order or proceeding 12948
designating lands as state parks or park purchase areas is subject 12949
to any appeal or review by any officer, board, commission, or 12950
court. 12951

(N) "Bond service fund" means the applicable fund created for 12952
and pledged to the payment of bond service charges under section 12953
154.20, 154.21, 154.22, or 154.23 of the Revised Code, including 12954
all moneys and investments, and earnings from investments, 12955
credited and to be credited thereto. 12956

(O) "Improvement fund" means the applicable fund created for 12957
the payment of costs of capital facilities under section 123.201, 12958
154.20, 154.21, or 154.22, ~~or 3383.09~~ of the Revised Code, 12959
including all moneys and investments, and earnings from 12960
investments, credited and to be credited thereto. 12961

(P) "Special funds" or "funds" means, except where the 12962
context does not permit, the bond service funds, the improvements 12963
funds, and any other funds for similar or different purposes 12964
created under bond proceedings, including all moneys and 12965
investments, and earnings from investments, credited and to be 12966

credited thereto. 12967

(Q) "Year" unless the context indicates a different meaning 12968
or intent, means a calendar year beginning on the first day of 12969
January and ending on the thirty-first day of December. 12970

(R) "Fiscal year" means the period of twelve months beginning 12971
on the first day of July and ending on the thirtieth day of June. 12972

(S) "Issuing authority" means the treasurer of state or the 12973
officer or employee who by law performs the functions of that 12974
office. 12975

(T) "Credit enhancement facilities" has the same meaning as 12976
in section 133.01 of the Revised Code. 12977

(U) "Ohio cultural facility" and "Ohio sports facility" have 12978
the same meanings as in section ~~3383.01~~ 123.28 of the Revised 12979
Code. 12980

Sec. 154.17. The departments of administrative services, 12981
~~mental health~~ mental health and addiction services, developmental 12982
disabilities, rehabilitation and correction, and natural 12983
resources, the Ohio board of regents, institutions of higher 12984
education, and other state officers and state agencies shall 12985
cooperate with the commission in providing services and 12986
information requested by the commission for purposes of Chapter 12987
154. of the Revised Code, and the commission may make mutually 12988
satisfactory arrangements therefor and may thereunder designate 12989
any governmental agency for the management or performance of 12990
particular functions of the commission, other than the 12991
authorization and issuance of obligations provided for in Chapter 12992
154. of the Revised Code, pursuant to which designation, upon 12993
acceptance thereof by that governmental agency, that function may 12994
be carried out with the full force and effect as if performed by 12995
the commission. Any such designation shall be made only by formal 12996

action or written agreement of the commission. In the management 12997
of capital facilities or performance of other functions with 12998
respect thereto, a governmental agency may exercise all powers 12999
which it has under law with respect to other similar facilities 13000
under its jurisdiction. 13001

Contracts relating to capital facilities shall be made in 13002
accordance with the law pertaining to the governmental agency 13003
designated under authority of this section to perform such 13004
contracting function, and in any other case shall be made in 13005
accordance with Chapter 153. of the Revised Code, for which 13006
purpose the commission shall be considered the owner, provided 13007
that the commission may assign the function of owner to the 13008
department of administrative services or other governmental agency 13009
as it determines. The commission may acquire by assignment from 13010
any governmental agency contracts which are not completed and 13011
which involve acquiring, constructing, reconstructing, 13012
rehabilitating, remodeling, renovating, enlarging, improving, 13013
equipping, or furnishing capital facilities, provided that such 13014
governmental agency has complied with the procedures prescribed by 13015
laws for its letting of such contract. 13016

No contract shall be let or assignment thereof accepted under 13017
this section involving performance in accordance with plans and 13018
specifications until such plans and specifications have been 13019
submitted to and approved by the governmental agency to have 13020
responsibility for the management of the capital facilities 13021
provided for in such plans and specifications, which approval 13022
shall be considered to be given if no approval or disapproval is 13023
communicated in writing to the commission or its designee for such 13024
purpose within sixty days following such submission of plans and 13025
specifications. Approval by such governmental agency of changes in 13026
plans and specifications is not required if the director of 13027
administrative services or the designee of the commission for such 13028

purpose shall certify that such changes do not substantially 13029
change the location, character, or extent of such capital 13030
facilities. 13031

Sec. 154.20. (A) Subject to authorization by the general 13032
assembly under section 154.02 of the Revised Code, the issuing 13033
authority may issue obligations pursuant to this chapter to pay 13034
costs of capital facilities for mental hygiene and retardation, 13035
including housing for mental hygiene and retardation patients. 13036

(B) Any capital facilities for mental hygiene or retardation, 13037
including housing for mental hygiene and retardation patients, may 13038
be leased by the commission to the department of ~~mental health,~~ 13039
mental health and addiction services or the department of 13040
~~developmental disabilities, or the department of alcohol and drug~~ 13041
~~addiction services,~~ and other agreements may be made by the 13042
commission and any one or more of these departments with respect 13043
to the use or purchase of such capital facilities or, subject to 13044
the approval of the director of the department, the commission may 13045
lease such capital facilities to, and make or provide for other 13046
agreements with respect to the use or purchase thereof with, any 13047
governmental agency having authority under law to operate such 13048
capital facilities, and the director of the department may 13049
sublease such capital facilities to, and make other agreements 13050
with respect to the use or purchase thereof with, any such 13051
governmental agency, which may include provisions for transmittal 13052
to the mental health bond service trust fund created under 13053
division (E) of this section, by such governmental agency or by a 13054
nonprofit corporation providing mental hygiene and retardation 13055
services for or under contract with or the supervision of that 13056
governmental agency, of receipts of that agency or nonprofit 13057
corporation from charges for the treatment or care of mental 13058
hygiene and retardation patients, all upon such terms and 13059
conditions as the parties may agree upon and pursuant to this 13060

chapter, notwithstanding any other provision of law affecting the 13061
leasing, acquisition, or disposition of capital facilities by the 13062
parties. 13063

(C) For purposes of this section, "available receipts" means 13064
all receipts of the state from charges for the treatment or care 13065
of mental hygiene and retardation patients, including support 13066
payments received under Chapter 5121. of the Revised Code and 13067
moneys required to be transmitted to the mental health bond 13068
service trust fund pursuant to subleases and other agreements 13069
between any of the departments and another governmental agency 13070
pursuant to division (B) of this section as the subleases and 13071
other agreements may be further implemented for internal planning, 13072
budgeting, and accounting purposes pursuant to rules adopted by 13073
the director of ~~mental health~~, mental health and addiction 13074
services or director of developmental disabilities, ~~or director of~~ 13075
~~alcohol and drug addiction services~~, any revenues or receipts 13076
derived by the commission from the operation, leasing, or other 13077
disposition of capital facilities financed under this section, the 13078
proceeds of obligations issued under this section and sections 13079
154.11 and 154.12 of the Revised Code, and also means any gifts, 13080
grants, donations, and pledges, and receipts therefrom, available 13081
for the payment of bond service charges on such obligations. The 13082
issuing authority may pledge all, or such portion as that 13083
authority determines, of the available receipts to the payment of 13084
bond service charges on obligations issued under this section and 13085
under sections 154.11 and 154.12 of the Revised Code and for the 13086
establishment and maintenance of any reserves, as provided in the 13087
bond proceedings, and make other provisions therein with respect 13088
to such available receipts as authorized by this chapter, which 13089
provisions shall be controlling notwithstanding any other 13090
provision of law pertaining thereto. 13091

(D) The issuing authority may covenant in the bond 13092

proceedings that the state and state agencies shall, so long as 13093
any obligations issued under this section are outstanding, cause 13094
to be charged and collected charges for the treatment or care of 13095
mental hygiene and retardation patients sufficient in amount to 13096
provide for the payment of bond service charges on such 13097
obligations and for the establishment and maintenance of any 13098
reserves, as provided in the bond proceedings, and such covenants 13099
shall be controlling notwithstanding any other provision of law 13100
pertaining to such charges. 13101

(E) There is hereby created the mental health bond service 13102
trust fund, which shall be in the custody of the treasurer of 13103
state but shall be separate and apart from and not a part of the 13104
state treasury. All moneys received by or on account of the 13105
commission or issuing authority or state agencies and required by 13106
the applicable bond proceedings to be deposited, transferred, or 13107
credited to the fund, and all other moneys transferred or 13108
allocated to or received for the purposes of the fund, shall be 13109
deposited with the treasurer of state and credited to such fund, 13110
subject to applicable provisions of the bond proceedings, but 13111
without necessity for any act of appropriation. The mental health 13112
bond service trust fund is a trust fund and is hereby pledged to 13113
the payment of bond service charges on the obligations issued 13114
pursuant to this section and sections 154.11 and 154.12 of the 13115
Revised Code to the extent provided in the applicable bond 13116
proceedings, and payment thereof from such fund shall be made or 13117
provided for by the treasurer of state in accordance with such 13118
bond proceedings without necessity for any act of appropriation. 13119

(F) There is hereby created in the state treasury the mental 13120
health facilities improvement fund. Subject to the bond 13121
proceedings therefor, all of the proceeds of the sale of 13122
obligations pursuant to this section shall be credited to the 13123
fund, except that any accrued interest shall be credited to the 13124

mental health bond service fund. The mental health facilities 13125
improvement fund may also be comprised of gifts, grants, 13126
appropriated moneys, and other sums and securities received to the 13127
credit of such fund. All investment earnings on the cash balance 13128
in the fund shall be credited to the fund. The fund shall be 13129
applied only to the following purposes: 13130

(1) Paying costs of capital facilities for mental hygiene and 13131
retardation, including housing for mental hygiene and retardation 13132
patients, under the jurisdiction of the department of ~~mental~~ 13133
~~health,~~ mental health and addiction services or department of 13134
developmental disabilities, ~~or department of alcohol and drug~~ 13135
~~addiction services;~~ 13136

(2) Participating in capital facilities for mental hygiene 13137
and retardation, including housing for mental hygiene and 13138
retardation patients, with the federal government, municipal 13139
corporations, counties, or other governmental agencies, or a 13140
nonprofit corporation specifically chartered to provide a mental 13141
health or mental retardation service when such service fulfills a 13142
public purpose, which participation may be by grants or 13143
contributions to them for such capital facilities. Except as 13144
provided in division (G) of this section, the nonprofit 13145
corporation may act in concert with a limited partnership or a 13146
limited liability company eligible to participate in the nonprofit 13147
set-aside described in section 42(h)(5) of the "Internal Revenue 13148
Code of 1986," 100 Stat. 2198, 26 U.S.C. 42, and the Ohio housing 13149
finance agency's housing tax credit program for the purpose of 13150
making use of low-income housing tax credits in support of housing 13151
for mental hygiene and retardation patients. 13152

(G) A nonprofit corporation providing a mental retardation 13153
service must obtain written approval from the director of 13154
developmental disabilities before acting in concert with a limited 13155
partnership or limited liability company as described in division 13156

(F)(2) of this section. However, the director may issue one 13157
blanket approval for all such nonprofit corporations. 13158

(H) This section is to be applied with other applicable 13159
provisions of this chapter. 13160

Sec. 154.22. (A) Subject to authorization by the general 13161
assembly under section 154.02 of the Revised Code, the issuing 13162
authority may authorize and issue obligations pursuant to this 13163
chapter to pay costs of capital facilities for parks and 13164
recreation. 13165

(B) Any capital facilities for parks and recreation may be 13166
leased by the commission to the department of natural resources 13167
and other agreements may be made by the commission and such 13168
department with respect to the use or purchase of such capital 13169
facilities or, subject to the approval of the director of such 13170
department, the commission may lease such capital facilities to, 13171
and make other agreements with respect to their use or purchase 13172
with, any governmental agency having authority under law to 13173
operate such capital facilities, and the director of such 13174
department may sublease such capital facilities to, and make other 13175
agreements with respect to the use or purchase thereof with, any 13176
such governmental agency, or such director may sublease or 13177
contract for the operation of such capital facilities in 13178
accordance with the applicable provisions of sections 1501.09, 13179
1501.091, and 1501.10 of the Revised Code, all upon such terms and 13180
conditions as the parties may agree upon and pursuant to this 13181
chapter, notwithstanding any other provisions of law affecting the 13182
leasing, acquisition, or disposition of capital facilities by such 13183
parties. 13184

(C) For purposes of this section, "available receipts" means 13185
all receipts, including fees, charges, and rentals, derived or to 13186
be derived from state parks and public service facilities in any 13187

state park or parks, any other receipts of state agencies with respect to parks and recreational facilities, any revenues or receipts derived by the commission from the operation, leasing, or other disposition of capital facilities financed under this section, the proceeds of obligations issued under this section and sections 154.11 and 154.12 of the Revised Code, and also means any gifts, grants, donations, and pledges, and receipts thereon, available for the payment of bond service charges on obligations issued under this section. The issuing authority may pledge all, or such portion as it determines, of the available receipts to the payment of bond service charges on obligations issued under this section and sections 154.11 and 154.12 of the Revised Code and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to such available receipts as authorized by this chapter, which provisions shall be controlling notwithstanding any other provision of law pertaining thereto.

(D) The issuing authority may covenant in the bond proceeding that the state and state agencies shall, so long as any obligations issued under this section are outstanding, cause to be charged and collected fees, charges, and rentals for the use of state parks and public service facilities and other fees and charges with respect to parks and recreation sufficient in amount to provide for the payment of bond service charges on such obligations and for the establishment and maintenance of any reserves as provided in the bond proceedings, and such covenants shall be controlling notwithstanding any other provision of law pertaining to such charges except any provision of law prohibiting or limiting charges for the use of swimming facilities of state parks and public service facilities by persons under sixteen years of age.

(E) There is hereby created the parks and recreation bond

service trust fund, which shall be in the custody of the treasurer 13220
of state but shall be separate and apart from and not a part of 13221
the state treasury. All moneys received by or on account of the 13222
commission or issuing authority or state agencies and required by 13223
the applicable bond proceedings to be deposited, transferred, or 13224
allocated to or received for the purposes of the trust fund shall 13225
be deposited with the treasurer of state and credited to such 13226
fund, subject to applicable provisions of the bond proceedings but 13227
without necessity for any act of appropriation. The trust fund is 13228
hereby pledged to the payment of bond service charges on the 13229
obligations issued pursuant to this section and sections 154.11 13230
and 154.12 of the Revised Code to the extent provided in the 13231
applicable bond proceedings, and payment thereof from such fund 13232
shall be made or provided for by the treasurer of state in 13233
accordance with such bond proceedings without necessity for any 13234
act of appropriation. 13235

(F) There is hereby created in the state treasury the parks 13236
and recreation improvement fund. Subject to the bond proceedings 13237
therefor, all of the proceeds of the sale of obligations issued 13238
pursuant to this section shall be credited to such fund, except 13239
that any accrued interest received shall be credited to the parks 13240
and recreation bond service trust fund. The parks and recreation 13241
improvement fund may also be comprised of gifts, grants, 13242
appropriated moneys, and other sums and securities received to the 13243
credit of such fund. Such fund shall be applied only to the 13244
purpose of paying costs of capital facilities for parks and 13245
recreation under the jurisdiction of the department of natural 13246
resources or for participation in capital facilities for parks and 13247
recreation with the federal government, municipal corporations, 13248
counties, or other governmental agencies, or any one or more of 13249
them, which participation may be by grants or contributions to 13250
them for such capital facilities. All investment earnings on the 13251
cash balance in the fund shall be credited to the fund. 13252

(G) All state parks shall be exclusively under the control 13253
and administration of the division of parks and recreation. With 13254
the approval of the recreation and resources council, the director 13255
of natural resources may by order remove from the classification 13256
as state parks any of the lands or interests therein referred to 13257
in divisions (M)(2) and (3) of section 154.01 of the Revised Code, 13258
subject to the limitations, provisions, and conditions in any 13259
order authorizing state park revenue bonds, in any trust agreement 13260
securing such bonds, or in bond proceedings with respect to 13261
obligations issued pursuant to this section. Lands or interests 13262
therein so removed shall be transferred to other divisions of the 13263
department for administration or may be sold as provided by law. 13264
Proceeds of any sale shall be used or transferred as provided in 13265
the order authorizing state park revenue bonds or in such trust 13266
agreement, or in bond proceedings with respect to obligations 13267
issued pursuant to this section, and if no such provision is made 13268
shall be transferred to the state park fund created by section 13269
1541.22 of the Revised Code. 13270

(H) This section shall be applied with other applicable 13271
provisions of this chapter. 13272

(I) Any instrument by which real property is acquired 13273
pursuant to this section shall identify the agency of the state 13274
that has the use and benefit of the real property as specified in 13275
section 5301.012 of the Revised Code. 13276

Sec. 154.23. (A) Subject to authorization by the general 13277
assembly under section 154.02 of the Revised Code, the issuing 13278
authority may issue obligations pursuant to this chapter to pay 13279
costs of capital facilities for Ohio cultural facilities and Ohio 13280
sports facilities. 13281

(B) The Ohio public facilities commission may lease any 13282
capital facilities for Ohio cultural facilities or Ohio sports 13283

facilities to, and make or provide for other agreements with 13284
respect to the use or purchase of such capital facilities with, 13285
the Ohio ~~cultural~~ facilities construction commission and, with the 13286
Ohio ~~cultural~~ facilities construction commission's approval, any 13287
governmental agency having authority under law to operate such 13288
capital facilities. ~~Any lease or agreement shall be subject to~~ 13289
~~Chapter 3383. of the Revised Code.~~ 13290

(C) For purposes of this section, "available receipts" means 13291
any revenues or receipts derived by the Ohio public facilities 13292
commission from the operation, leasing, or other disposition of 13293
capital facilities financed under this section, the proceeds of 13294
obligations issued under this section and section 154.11 or 154.12 13295
of the Revised Code, and also means any gifts, grants, donations, 13296
and pledges, and receipts thereon, available for the payment of 13297
bond service charges on obligations issued under this section. The 13298
issuing authority may pledge all, or such portion as it 13299
determines, of the available receipts to the payment of bond 13300
service charges on obligations issued under this section and 13301
section 154.11 or 154.12 of the Revised Code and for the 13302
establishment and maintenance of any reserves, as provided in the 13303
bond proceedings, and make other provisions therein with respect 13304
to such available receipts as authorized by this chapter, which 13305
provisions shall be controlling notwithstanding any other 13306
provision of law pertaining thereto. 13307

(D) There is hereby created one or more funds, as determined 13308
by the issuing authority in the bond proceedings, designated as 13309
the "Ohio cultural facilities ~~commission~~ bond service fund" with, 13310
if more than one such fund, such further identifying name as the 13311
issuing authority determines, which shall be in the custody of the 13312
treasurer of state but shall be separate and apart from and not a 13313
part of the state treasury. All money received by or on account of 13314
the issuing authority or the Ohio ~~cultural~~ facilities construction 13315

commission and required by the applicable bond proceedings to be 13316
deposited, transferred, or credited to the Ohio cultural 13317
facilities ~~commission~~ bond service fund, and all other money 13318
transferred or allocated to or received for the purposes of that 13319
fund shall be deposited with the treasurer of state and credited 13320
to the applicable fund, subject to applicable provisions of the 13321
bond proceedings, but without necessity of any act or 13322
appropriation. The Ohio cultural facilities ~~commission~~ bond 13323
service funds are trust funds and are hereby pledged to the 13324
payment of bond service charges on the applicable obligations 13325
issued pursuant to this section and section 154.11 or 154.12 of 13326
the Revised Code to the extent provided in the applicable bond 13327
proceedings, and payment thereof from such funds shall be made or 13328
provided for by the treasurer of state in accordance with the 13329
applicable bond proceedings without necessity for any act or 13330
appropriation. 13331

(E) This section is to be applied with other applicable 13332
provisions of this chapter. 13333

Sec. 154.25. (A) As used in this section: 13334

(1) "Available community or technical college receipts" means 13335
all money received by a community or technical college or 13336
community or technical college district, including income, 13337
revenues, and receipts from the operation, ownership, or control 13338
of facilities, grants, gifts, donations, and pledges and receipts 13339
therefrom, receipts from fees and charges, the allocated state 13340
share of instruction as defined in section ~~3333.90~~ 3333.59 of the 13341
Revised Code, and the proceeds of the sale of obligations, 13342
including proceeds of obligations issued to refund obligations 13343
previously issued, but excluding any special fee, and receipts 13344
therefrom, charged pursuant to division (D) of section 154.21 of 13345
the Revised Code. 13346

(2) "Community or technical college," "college," "community or technical college district," and "district" have the same meanings as in section ~~3333.90~~ 3333.59 of the Revised Code.

(3) "Community or technical college capital facilities" means auxiliary facilities, education facilities, and housing and dining facilities, as those terms are defined in section 3345.12 of the Revised Code, to the extent permitted to be financed by the issuance of obligations under division (A)(2) of section 3357.112 of the Revised Code, that are authorized by sections 3354.121, 3357.112, and 3358.10 of the Revised Code to be financed by obligations issued by a community or technical college district, and for which the issuing authority is authorized to issue obligations pursuant to this section, and includes any one, part of, or any combination of the foregoing, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities, or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(4) "Cost of community or technical college capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing community or technical college capital facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with community or technical college capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the commission and the issuing authority, community or technical college or community or technical college district, cost of engineering, architectural

services, design, plans, specifications and surveys, estimates of 13379
cost, legal fees, fees and expenses of trustees, depositories, 13380
bond registrars, and paying agents for obligations, cost of 13381
issuance of obligations and financing costs and fees and expenses 13382
of financial advisers and consultants in connection therewith, 13383
interest on obligations from the date thereof to the time when 13384
interest is to be covered by available receipts or other sources 13385
other than proceeds of those obligations, amounts necessary to 13386
establish reserves as required by the bond proceedings, costs of 13387
audits, the reimbursements of all moneys advanced or applied by or 13388
borrowed from the community or technical college, community or 13389
technical college district, or others, from whatever source 13390
provided, including any temporary advances from state 13391
appropriations, for the payment of any item or items of cost of 13392
community or technical college facilities, and all other expenses 13393
necessary or incident to planning or determining feasibility or 13394
practicability with respect to such facilities, and such other 13395
expenses as may be necessary or incident to the acquisition, 13396
construction, reconstruction, rehabilitation, remodeling, 13397
renovation, enlargement, improvement, equipment, and furnishing of 13398
community or technical college capital facilities, the financing 13399
thereof and the placing of them in use and operation, including 13400
any one, part of, or combination of such classes of costs and 13401
expenses. 13402

(5) "Capital facilities" includes community or technical 13403
college capital facilities. 13404

(6) "Obligations" has the same meaning as in section 154.01 13405
or 3345.12 of the Revised Code, as the context requires. 13406

(B) The issuing authority is authorized to issue revenue 13407
obligations under Section 2i of Article VIII, Ohio Constitution, 13408
on behalf of a community or technical college district and shall 13409
cause the net proceeds thereof, after any deposits of accrued 13410

interest for the payment of bond service charges and after any 13411
deposit of all or such lesser portion as the issuing authority may 13412
direct of the premium received upon the sale of those obligations 13413
for the payment of the bond service charges, to be applied to the 13414
cost of community or technical college capital facilities, 13415
provided that the issuance of such obligations is subject to the 13416
execution of a written agreement in accordance with division (C) 13417
of section ~~3333.90~~ 3333.59 of the Revised Code for the withholding 13418
and depositing of funds otherwise due the district, or the college 13419
it operates, in respect of its allocated state share of 13420
instruction. 13421

(C) The bond service charges and all other payments required 13422
to be made by the trust agreement or indenture securing the 13423
obligations shall be payable solely from available community or 13424
technical college receipts pledged thereto as provided in the 13425
resolution. The available community or technical college receipts 13426
pledged and thereafter received by the commission are immediately 13427
subject to the lien of such pledge without any physical delivery 13428
thereof or further act, and the lien of any such pledge is valid 13429
and binding against all parties having claims of any kind against 13430
the authority, irrespective of whether those parties have notice 13431
thereof, and creates a perfected security interest for all 13432
purposes of Chapter 1309. of the Revised Code and a perfected lien 13433
for purposes of any real property interest, all without the 13434
necessity for separation or delivery of funds or for the filing or 13435
recording of the resolution, trust agreement, indenture, or other 13436
agreement by which such pledge is created or any certificate, 13437
statement, or other document with respect thereto; and the pledge 13438
of such available community or technical college receipts is 13439
effective and the money therefrom and thereof may be applied to 13440
the purposes for which pledged. Every pledge, and every covenant 13441
and agreement made with respect to the pledge, made in the 13442
resolution may therein be extended to the benefit of the owners 13443

and holders of obligations authorized by this section, and to any trustee therefor, for the further securing of the payment of the bond service charges, and all or any rights under any agreement or lease made under this section may be assigned for such purpose.

(D) This section is to be applied with other applicable provisions of this chapter.

Sec. 156.02. The executive director of ~~administrative services~~ the Ohio facilities construction commission may contract with an energy or a water services company, architect, professional engineer, contractor, or other person experienced in the design and implementation of energy or water conservation measures for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures that result in energy, water, or wastewater cost savings, operating cost savings, or avoided capital costs for the institution. The report shall include estimates of all costs of such installations, including the costs of design, engineering, installation, maintenance, repairs, and debt service, and estimates of the energy, water, or wastewater cost savings, operating cost savings, and avoided capital costs created.

Sec. 156.03. (A) If the executive director of ~~administrative services~~ the Ohio facilities construction commission wishes to enter into an installment payment contract pursuant to section 156.04 of the Revised Code or any other contract to implement one or more energy or water saving measures, the executive director may proceed under Chapter 153. of the Revised Code, or, alternatively, the executive director may request the controlling board to exempt the contract from Chapter 153. of the Revised Code.

If the controlling board by a majority vote approves an

exemption, that chapter shall not apply to the contract and 13474
instead the executive director shall request proposals from at 13475
least three parties for the implementation of the energy or water 13476
saving measures. Prior to providing any interested party a copy of 13477
any such request, the executive director shall advertise, in a 13478
newspaper of general circulation in the county where the contract 13479
is to be performed, and may advertise by electronic means pursuant 13480
to rules adopted by the executive director, the executive 13481
director's intent to request proposals for the implementation of 13482
the energy or water saving measures. The notice shall invite 13483
interested parties to submit proposals for consideration and shall 13484
be published at least thirty days prior to the date for accepting 13485
proposals. 13486

(B) Upon receiving the proposals, the executive director 13487
shall analyze them and, after considering the cost estimates of 13488
each proposal and the availability of funds to pay for each with 13489
current appropriations or by financing the cost of each through an 13490
installment payment contract under section 156.04 of the Revised 13491
Code, may select one or more proposals or reject all proposals. In 13492
selecting proposals, the executive director shall select the one 13493
or more proposals most likely to result in the greatest energy, 13494
water, or wastewater savings, operating costs savings, and avoided 13495
capital costs created. 13496

(C) No contract shall be awarded to implement energy or water 13497
saving measures under this section, unless the executive director 13498
finds that both of the following circumstances exists: 13499

(1) Not less than one-fifteenth of the costs of the contract 13500
shall be paid within two years from the date of purchase; 13501

(2) In the case of a contract for a cogeneration system 13502
described in division (B)(8) of section 156.01 of the Revised 13503
Code, the remaining balance of the cost of the contract shall be 13504
paid within twenty years from the date of purchase, and, in the 13505

case of all other contracts, fifteen years. 13506

Sec. 156.04. (A) In accordance with this section and section 13507
156.03 of the Revised Code, the executive director of 13508
~~administrative services~~ the Ohio facilities construction 13509
commission may enter into an installment payment contract for the 13510
implementation of one or more energy or water saving measures. If 13511
the executive director wishes an installment payment contract to 13512
be exempted from Chapter 153. of the Revised Code, the executive 13513
director shall proceed pursuant to section 156.03 of the Revised 13514
Code. 13515

(B) Any installment payment contract under this section shall 13516
provide that all payments, except payments for repairs and 13517
obligations on termination of the contract prior to its 13518
expiration, are to be a stated percentage of calculated energy, 13519
water, or wastewater cost savings, operating costs, and avoided 13520
capital costs attributable to the one or more measures over a 13521
defined period of time and are to be made only to the extent that 13522
those calculated amounts actually occur. No such contract shall 13523
contain either of the following: 13524

(1) A requirement of any additional capital investment or 13525
contribution of funds, other than funds available from state or 13526
federal grants; 13527

(2) In the case of a contract for a cogeneration system 13528
described in division (B)(8) of section 156.01 of the Revised 13529
Code, a payment term longer than twenty years, and, in the case of 13530
all other contracts, a payment term longer than fifteen years. 13531

(C) Any installment payment contract entered into under this 13532
section shall terminate no later than the last day of the fiscal 13533
biennium for which funds have been appropriated to the ~~department~~ 13534
~~of administrative services~~ Ohio facilities construction commission 13535
by the general assembly and shall be renewed in each succeeding 13536

fiscal biennium in which any balance of the contract remains 13537
unpaid, provided that both an appropriation for that succeeding 13538
fiscal biennium and the certification required by section 126.07 13539
of the Revised Code are made. 13540

(D) Any installment payment contract entered into under this 13541
section shall be eligible for financing provided through the Ohio 13542
air quality development authority under Chapter 3706. of the 13543
Revised Code. 13544

Sec. 156.05. In accordance with Chapter 119. of the Revised 13545
Code, the executive director of ~~administrative services~~ the Ohio 13546
facilities construction commission shall adopt, and enforce rules 13547
necessary to administer sections 156.01 to 156.04 of the Revised 13548
Code. Rules adopted under this section shall establish procedures 13549
by which the executive director may authorize in ~~his~~ the executive 13550
director's stead the manager of any building owned by the state to 13551
enter into contracts authorized under sections 156.01 to 156.04 of 13552
the Revised Code. 13553

Sec. 166.03. (A) There is hereby created the facilities 13554
establishment fund within the state treasury, consisting of 13555
proceeds from the issuance of obligations as specified under 13556
section 166.08 of the Revised Code; the moneys received by the 13557
state from the sources specified in section 166.09 of the Revised 13558
Code; service charges imposed under sections 166.06 and 166.07 of 13559
the Revised Code; any grants, gifts, or contributions of moneys 13560
received by the director of development services to be used for 13561
loans made under section 166.07 of the Revised Code or for the 13562
payment of the allowable costs of project facilities; and all 13563
other moneys appropriated or transferred to the fund. Moneys in 13564
the loan guarantee fund in excess of the loan guarantee reserve 13565
requirement, but subject to the provisions and requirements of any 13566
guarantee contracts, may be transferred to the facilities 13567

establishment fund by the treasurer of state upon the order of the 13568
director of development services. Moneys received by the state 13569
under Chapter 122. of the Revised Code, to the extent allocable to 13570
the utilization of moneys derived from proceeds of the sale of 13571
obligations pursuant to section 166.08 of the Revised Code, shall 13572
be credited to the facilities establishment fund. All investment 13573
earnings on the cash balance in the fund shall be credited to the 13574
fund. 13575

(B) All moneys appropriated or transferred to the facilities 13576
establishment fund may be released at the request of the director 13577
of development services for payment of allowable costs or the 13578
making of loans under section 166.07 of the Revised Code, for 13579
transfer to the loan guarantee fund established in section 166.06 13580
of the Revised Code, or for use for the purpose of or transfer to 13581
the funds established by sections 122.35, 122.42, 122.54, 122.55, 13582
122.56, 122.561, 122.57, 122.601, and 122.80 of the Revised Code 13583
and, until July 1, 2003, the fund established by section 166.031 13584
of the Revised Code, and, until July 1, 2007, the fund established 13585
by section 122.26 of the Revised Code, but only for such of those 13586
purposes as are within the authorization of Section 13 of Article 13587
VIII, Ohio Constitution, in all cases subject to the approval of 13588
the controlling board. 13589

(C) The ~~department of~~ development services agency, in the 13590
administration of the facilities establishment fund, is encouraged 13591
to utilize and promote the utilization of, to the maximum 13592
practicable extent, the other existing programs, business 13593
incentives, and tax incentives that department is required or 13594
authorized to administer or supervise. 13595

Sec. 166.04. (A) Prior to entering into each agreement to 13596
provide assistance under sections 166.02, 166.06, and 166.07 of 13597
the Revised Code, the director of development services shall 13598

determine whether the assistance will conform to the requirements 13599
of sections 166.01 to 166.11 of the Revised Code. Such 13600
determination, and the facts upon which it is based, shall be set 13601
forth, where required, by the director in submissions made to the 13602
controlling board when the director seeks a release of moneys 13603
under section 166.02 of the Revised Code. An agreement to provide 13604
assistance under sections 166.02, 166.06, and 166.07 of the 13605
Revised Code shall set forth such determination, which shall be 13606
conclusive for purposes of the validity and enforceability of such 13607
agreement and any loan guarantees, loans, or other agreements 13608
entered into pursuant to such agreement to provide assistance. 13609

(B) Whenever a person applies for financial assistance under 13610
sections 166.02, 166.06, and 166.07 of the Revised Code and the 13611
project for which assistance is requested is to relocate 13612
facilities that are currently being operated by the person and 13613
that are located in another county, municipal corporation, or 13614
township, the ~~director~~ person shall provide written notification 13615
of the relocation to the appropriate local governmental bodies ~~and~~ 13616
~~state officials. The~~ Prior to entering into an agreement to 13617
provide the assistance, the director shall verify that such 13618
notification ~~shall contain the following information:~~ 13619

~~(1) The name of the person applying for financial assistance;~~ 13620

~~(2) The county, and the municipal corporation or township, in 13621
which the project for which assistance is requested is located;~~ 13622
~~and~~ 13623

~~(3) The county, and the municipal corporation or township, in 13624
which the facility to be replaced is located has been provided.~~ 13625

(C) As used in division (B) of this section: 13626

~~(1)~~ "Appropriate appropriate local governmental bodies" 13627
means: 13628

~~(a)~~ (1) The ~~boards~~ board of county commissioners or 13629

legislative ~~authorities~~ authority of the county in which the 13630
~~project for which assistance is requested is located and of the~~ 13631
~~county in which the~~ facility to be replaced is located; 13632

~~(b)(2)~~ The legislative authority of the municipal corporation 13633
or the board of township trustees of the township in which the 13634
~~project for which assistance is requested is located; and~~ 13635

~~(c)~~ The legislative authority of the municipal corporation or 13636
the board of township trustees of the township in which the 13637
facility to be replaced is located. 13638

~~(2)~~ "State officials" means: 13639

~~(a)~~ The state representative and state senator in whose 13640
~~districts the project for which assistance is requested is~~ 13641
~~located;~~ 13642

~~(b)~~ The state representative and state senator in whose 13643
~~districts the facility to be replaced is located.~~ 13644

Sec. 169.01. As used in this chapter, unless the context 13645
otherwise requires: 13646

(A) "Financial organization" means any bank, trust company, 13647
savings bank, safe deposit company, mutual savings bank without 13648
mutual stock, savings and loan association, credit union, or 13649
investment company. 13650

(B)(1) "Unclaimed funds" means any moneys, rights to moneys, 13651
or intangible property, described in section 169.02 of the Revised 13652
Code, when, as shown by the records of the holder, the owner has 13653
not, within the times provided in section 169.02 of the Revised 13654
Code, done any of the following: 13655

(a) Increased, decreased, or adjusted the amount of such 13656
funds; 13657

(b) Assigned, paid premiums, or encumbered such funds; 13658

(c) Presented an appropriate record for the crediting of such funds or received payment of such funds by check, draft, or otherwise; 13659
13660
13661

(d) Corresponded with the holder concerning such funds; 13662

(e) Otherwise indicated an interest in or knowledge of such funds; 13663
13664

(f) Transacted business with the holder. 13665

(2) "Unclaimed funds" does not include any of the following: 13666

(a) Money received or collected under section 9.39 of the Revised Code, except as otherwise provided in division (H)(2) of section 169.02 of the Revised Code, division (C) of section 1345.07 of the Revised Code, and rule 5101:12-80-25(A) of the Administrative Code; 13667
13668
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13671

(b) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates; 13672
13673
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(c) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates; 13678
13679
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For purposes of divisions (B)(2)(b) and (c) of this section, "business association" means any corporation, joint venture, business trust, limited liability company, partnership, association, or other business entity composed of one or more individuals, whether or not the entity is for profit. 13683
13684
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13687

(d) Any credit due a retail customer that is represented by a 13688

gift certificate, gift card, merchandise credit, or merchandise 13689
credit card, redeemable only for merchandise. 13690

~~For purposes of divisions (B)(2)(b) and (c) of this section, 13691
"business association" means any corporation, joint venture, 13692
business trust, limited liability company, partnership, 13693
association, or other business entity composed of one or more 13694
individuals, whether or not the entity is for profit. 13695~~

(C) "Owner" means any person, or the person's legal 13696
representative, entitled to receive or having a legal or equitable 13697
interest in or claim against moneys, rights to moneys, or other 13698
intangible property, subject to this chapter. 13699

(D)(1) "Holder" means any person that has possession, 13700
custody, or control of moneys, rights to moneys, or other 13701
intangible property, or that is indebted to another, if any of the 13702
following applies: 13703

(a) Such person resides in this state; 13704

(b) Such person is formed under the laws of this state; 13705

(c) Such person is formed under the laws of the United States 13706
and has an office or principal place of business in this state; 13707

(d) The records of such person indicate that the last known 13708
address of the owner of such moneys, rights to moneys, or other 13709
intangible property is in this state; 13710

(e) The records of such person do not indicate the last known 13711
address of the owner of the moneys, rights to moneys, or other 13712
intangible property and the entity originating or issuing the 13713
moneys, rights to moneys, or other intangible property ~~is~~ in this 13714
state or any political subdivision of this state, or is 13715
incorporated, organized, created, or otherwise located in this 13716
state. Division (D)(1)(e) of this section applies to all moneys, 13717
rights to moneys, or other intangible property that is in the 13718

possession, custody, or control of such person on or after July 13719
22, 1994, whether the moneys, rights to moneys, or other 13720
intangible property becomes unclaimed funds prior to or on or 13721
after that date. 13722

(2) "Holder" does not mean any hospital granted tax-exempt 13723
status under section 501(c)(3) of the Internal Revenue Code or any 13724
hospital owned or operated by the state or by any political 13725
subdivision. Any entity in order to be exempt from the definition 13726
of "holder" pursuant to this division shall make a reasonable, 13727
good-faith effort to contact the owner of the unclaimed funds. 13728

(E) "Person" includes a natural person; corporation, whether 13729
for profit or not for profit; copartnership; unincorporated 13730
nonprofit association; public authority; estate; trust; two or 13731
more persons having a joint or common interest; eleemosynary 13732
organization; fraternal or cooperative association; other legal or 13733
community entity; the United States government, including any 13734
district, territory, possession, officer, agency, department, 13735
authority, instrumentality, board, bureau, or court; or any state 13736
or political subdivision thereof, including any officer, agency, 13737
board, bureau, commission, division, department, authority, court, 13738
or instrumentality. 13739

(F) "Mortgage funds" means the mortgage insurance fund 13740
created by section 122.561 of the Revised Code, and the housing 13741
~~guarantee~~ development fund created by division ~~(D)~~(A) of section 13742
~~128.11~~ 175.11 of the Revised Code. 13743

(G) "Lawful claims" means any vested right a holder of 13744
unclaimed funds has against the owner of such unclaimed funds. 13745

(H) "Public utility" means any entity defined as such by 13746
division (A) of section 745.01 or by section 4905.02 of the 13747
Revised Code. 13748

(I) "Deposit" means to place money in the custody of a 13749

financial organization for the purpose of establishing an 13750
income-bearing account by purchase or otherwise. 13751

(J) "Income-bearing account" means a time or savings account, 13752
whether or not evidenced by a certificate of deposit, or an 13753
investment account through which investments are made solely in 13754
obligations of the United States or its agencies or 13755
instrumentalities or guaranteed as to principal and interest by 13756
the United States or its agencies or instrumentalities, debt 13757
securities rated as investment grade by at least two nationally 13758
recognized rating services, debt securities which the director of 13759
commerce has determined to have been issued for the safety and 13760
welfare of the residents of this state, and equity interests in 13761
mutual funds that invest solely in some or all of the above-listed 13762
securities and involve no general liability, without regard to 13763
whether income earned on such accounts, securities, or interests 13764
is paid periodically or at the end of a term. 13765

(K) "Director of commerce" may be read as the "division of 13766
unclaimed funds" or the "superintendent of unclaimed funds." 13767

Sec. 169.02. Subject to division (B) of section 169.01 of the 13768
Revised Code, the following constitute unclaimed funds: 13769

(A) Except as provided in division (R) of this section, any 13770
demand, savings, or matured time deposit account, or matured 13771
certificate of deposit, together with any interest or dividend on 13772
it, less any lawful claims, that is held or owed by a holder which 13773
is a financial organization, unclaimed for a period of five years; 13774

(B) Any funds paid toward the purchase of withdrawable shares 13775
or other interest in a financial organization, and any interest or 13776
dividends on them, less any lawful claims, that is held or owed by 13777
a holder which is a financial organization, unclaimed for a period 13778
of five years; 13779

(C) Except as provided in division (A) of section 3903.45 of the Revised Code, moneys held or owed by a holder, including a fraternal association, providing life insurance, including annuity or endowment coverage, unclaimed for three years after becoming payable as established from the records of such holder under any life or endowment insurance policy or annuity contract that has matured or terminated. An insurance policy, the proceeds of which are payable on the death of the insured, not matured by proof of death of the insured is deemed matured and the proceeds payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based.

Moneys otherwise payable according to the records of such holder are deemed payable although the policy or contract has not been surrendered as required.

(D) Any deposit made to secure payment or any sum paid in advance for utility services of a public utility and any amount refundable from rates or charges collected by a public utility for utility services held or owed by a holder, less any lawful claims, that has remained unclaimed for one year after the termination of the services for which the deposit or advance payment was made or one year from the date the refund was payable, whichever is earlier;

(E) Except as provided in division (R) of this section, any certificates, securities as defined in section 1707.01 of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, and instruments representing an ownership interest, unclaimed for five years. Any underlying share or other intangible instrument representing an ownership interest in a

business association, in which the issuer has recorded on its 13812
books the issuance of the share but has been unable to deliver the 13813
certificate to the shareholder, constitutes unclaimed funds if 13814
such underlying share is unclaimed for five years. In addition, an 13815
underlying share constitutes unclaimed funds if a dividend, 13816
distribution, or other sum payable as a result of the underlying 13817
share has remained unclaimed by the owner for five years. 13818

This division shall not prejudice the rights of fiscal agents 13819
or fiduciaries for payment to return the items described in this 13820
division to their principals, according to the terms of an agency 13821
or fiduciary agreement, but such a return shall constitute the 13822
principal as the holder of the items and shall not interrupt the 13823
period for computing the time for which the items have remained 13824
unclaimed. 13825

In the case of any such funds accruing and held or owed by a 13826
corporation under division (E) of section 1701.24 of the Revised 13827
Code, such corporation shall comply with this chapter, subject to 13828
the limitation contained in section 1701.34 of the Revised Code. 13829
The period of time for which such funds have gone unclaimed 13830
specified in section 1701.34 of the Revised Code shall be 13831
computed, with respect to dividends or distributions, commencing 13832
as of the dates when such dividends or distributions would have 13833
been payable to the shareholder had such shareholder surrendered 13834
the certificates for cancellation and exchange by the date 13835
specified in the order relating to them. 13836

Capital credits of a cooperative which after January 1, 1972, 13837
have been allocated to members and which by agreement are 13838
expressly required to be paid if claimed after death of the owner 13839
are deemed payable, for the purpose of this chapter, fifteen years 13840
after either the termination of service by the cooperative to the 13841
owner or upon the nonactivity as provided in division (B) of 13842
section 169.01 of the Revised Code, whichever occurs later, 13843

provided that this provision does not apply if the payment is not 13844
mandatory. 13845

(F) Any sum payable on certified checks or other written 13846
instruments certified or issued and representing funds held or 13847
owed by a holder, less any lawful claims, that are unclaimed for 13848
five years from the date payable or from the date of issuance if 13849
payable on demand; except that the unclaimed period for money 13850
orders that are not third party bank checks is seven years, and 13851
the unclaimed period for traveler's checks is fifteen years, from 13852
the date payable or from the date of issuance if payable on 13853
demand. 13854

As used in this division, "written instruments" include, but 13855
are not limited to, certified checks, cashier's checks, bills of 13856
exchange, letters of credit, drafts, money orders, and traveler's 13857
checks. 13858

If there is no address of record for the owner or other 13859
person entitled to the funds, such address is presumed to be the 13860
address where the instrument was certified or issued. 13861

(G) Except as provided in division (R) of this section, all 13862
moneys, rights to moneys, or other intangible property, arising 13863
out of the business of engaging in the purchase or sale of 13864
securities, or otherwise dealing in intangibles, less any lawful 13865
claims, that are held or owed by a holder and are unclaimed for 13866
five years from the date of transaction. 13867

(H)(1) Except as provided in division (A) of section 3903.45 13868
of the Revised Code, all moneys, rights to moneys, and other 13869
intangible property distributable in the course of dissolution or 13870
liquidation of a holder that are unclaimed for one year after the 13871
date set by the holder for distribution; 13872

(2) Notwithstanding division (B)(2)(a) of section 169.01 and 13873
section 9.39 of the Revised Code, the proceeds from the sale of 13874

property removed from a safe-deposit box or safekeeping 13875
depository, unclaimed for three or more years from the date of the 13876
closing, liquidation, or dissolution of a financial institution as 13877
reported to the superintendent of unclaimed funds by the 13878
superintendent of financial institutions. 13879

(I) All moneys, rights to moneys, or other intangible 13880
property removed from a safe-deposit box or other safekeeping 13881
~~repository located in this state or removed from a safe deposit~~ 13882
~~box or other safekeeping repository~~ of a holder, on which the 13883
lease or rental period has expired or has been terminated, or any 13884
amount arising from the sale of such property, less any lawful 13885
claims, that are unclaimed for three years from the date on which 13886
the lease or rental period expired or terminated; 13887

(J) Subject to division (M)(2) of this section, all moneys, 13888
rights to moneys, or other intangible property, and any income or 13889
increment on them, held or owed by a holder which is a fiduciary 13890
for the benefit of another, or a fiduciary or custodian of a 13891
qualified retirement plan or individual retirement arrangement 13892
under section 401 or 408 of the Internal Revenue Code, unclaimed 13893
for three years after the final date for distribution; 13894

(K) All moneys, rights to moneys, or other intangible 13895
property held or owed in this state or held for or owed to an 13896
owner whose last known address is within this state, by the United 13897
States government or any state, as those terms are described in 13898
division (E) of section 169.01 of the Revised Code, unclaimed by 13899
the owner for three years, excluding any property in the control 13900
of any court in a proceeding in which a final adjudication has not 13901
been made; 13902

(L) Amounts payable pursuant to the terms of any policy of 13903
insurance, other than life insurance, or any refund available 13904
under such a policy, held or owed by any holder, unclaimed for 13905
three years from the date payable or distributable; 13906

(M)(1) Subject to division (M)(2) of this section, any funds 13907
constituting rents or lease payments due, any deposit made to 13908
secure payment of rents or leases, or any sum paid in advance for 13909
rents, leases, possible damage to property, unused services, 13910
performance requirements, or any other purpose, held or owed by a 13911
holder unclaimed for one year; 13912

(2) Any escrow funds, security deposits, or other moneys that 13913
are received by a licensed broker in a fiduciary capacity and 13914
that, pursuant to division (A)(26) of section 4735.18 of the 13915
Revised Code, are required to be deposited into and maintained in 13916
a special or trust, noninterest-bearing bank account separate and 13917
distinct from any personal or other account of the licensed 13918
broker, held or owed by the licensed broker unclaimed for two 13919
years. 13920

(N) Any sum greater than fifty dollars payable as wages, any 13921
sum payable as salaries or commissions, any sum payable for 13922
services rendered, funds owed or held as royalties, oil and 13923
mineral proceeds, funds held for or owed to suppliers, and moneys 13924
owed under pension and profit-sharing plans, held or owed by any 13925
holder unclaimed for one year from date payable or distributable, 13926
and all other credits held or owed, or to be refunded to a retail 13927
customer, by any holder unclaimed for three years from date 13928
payable or distributable; 13929

(O) Amounts held in respect of or represented by lay-aways 13930
sold after January 1, 1972, less any lawful claims, when such 13931
lay-aways are unclaimed for three years after the sale of them; 13932

(P) All moneys, rights to moneys, and other intangible 13933
property not otherwise constituted as unclaimed funds by this 13934
section, including any income or increment on them, less any 13935
lawful claims, which are held or owed by any holder, other than a 13936
holder which holds a permit issued pursuant to Chapter 3769. of 13937
the Revised Code, and which have remained unclaimed for three 13938

years after becoming payable or distributable; 13939

(Q) All moneys that arise out of a sale held pursuant to 13940
section 5322.03 of the Revised Code, that are held by a holder for 13941
delivery on demand to the appropriate person pursuant to division 13942
(I) of that section, and that are unclaimed for two years after 13943
the date of the sale. 13944

(R)(1) Any funds that are subject to an agreement between the 13945
holder and owner providing for automatic reinvestment and that 13946
constitute dividends, distributions, or other sums held or owed by 13947
a holder in connection with a security as defined in section 13948
1707.01 of the Revised Code, an ownership interest in an 13949
investment company registered under the "Investment Company Act of 13950
1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended, or a certificate 13951
of deposit, unclaimed for a period of five years. 13952

(2) The five-year period under division (R)(1) of this 13953
section commences from the date a second shareholder notification 13954
or communication mailing to the owner of the funds is returned to 13955
the holder as undeliverable by the United States postal service or 13956
other carrier. The notification or communication mailing by the 13957
holder shall be no less frequent than quarterly. 13958

All moneys in a personal allowance account, as defined by 13959
rules adopted by the medicaid director ~~of job and family services~~, 13960
up to and including the maximum resource limitation, of a medicaid 13961
~~patient~~ recipient who has died after receiving care in a long-term 13962
care facility, and for whom there is no identifiable heir or 13963
sponsor, are not subject to this chapter. 13964

Sec. 169.03. (A)(1) Every holder of unclaimed funds and, when 13965
requested, every person that could be the holder of unclaimed 13966
funds, under this chapter shall report to the director of commerce 13967
with respect to the unclaimed funds as provided in this section. 13968
The report shall be verified. 13969

(2) With respect to items of unclaimed funds each having a value of fifty dollars or more, the report required under division (A)(1) of this section shall include the following:

(a) The full name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of unclaimed funds under this chapter;

(b) In the case of unclaimed funds reported by holders providing life insurance coverage, the full name of the insured or annuitant and beneficiary, if any, and their last known addresses according to the holder's records;

(c) The nature and identifying number, if any, or description of the funds and the amount appearing from the records to be due;

(d) The date when the funds became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the funds;

(e) Subject to division (I) of this section, the social security number of the owner of the unclaimed funds, if it is available;

(f) If the item of unclaimed funds has a value of one thousand dollars or more and the holder has verified that the last known address as shown by the records of the holder is not accurate as provided in division (D) of this section, a statement that efforts were undertaken by the holder to verify that the address is not accurate. Any verifying documentation shall be maintained by the holder for five years from the date of the report and shall be available upon request to the director or the director's designee.

(g) Other information that the director prescribes as necessary for the administration of this chapter.

(3) With respect to items of unclaimed funds each having a

value of less than fifty dollars, the report required under 14000
division (A)(1) of this section shall include the following: 14001

(a) Each category of items of unclaimed funds as described in 14002
section 169.02 of the Revised Code; 14003

(b) The number of items of unclaimed funds within each 14004
category; 14005

(c) The aggregated value of the items of unclaimed funds 14006
within each category. 14007

(B) If the holder of unclaimed funds is a successor to other 14008
organizations that previously held the funds for the owner, or if 14009
the holder has changed its name while holding the funds, it shall 14010
file with the report all prior known names and addresses and date 14011
and state of incorporation or formation of each holder of the 14012
funds. 14013

(C) The report shall be filed before the first day of 14014
November of each year as of the preceding thirtieth day of June, 14015
but the report of holders providing life insurance coverage shall 14016
be filed before the first day of May of each year as of the 14017
preceding thirty-first day of December, and the report of property 14018
removed from a safe-deposit box or other safekeeping repository 14019
under division (I) of section 169.02 of the Revised Code, dormant 14020
as of the preceding thirtieth day of June, shall be filed not 14021
earlier than the first day of February and not later than the 14022
first day of April of each year. The director may postpone, for 14023
good cause shown, the reporting date upon written request by any 14024
holder required to file a report. 14025

(D) The holder of unclaimed funds under this chapter shall 14026
send notice to each owner of each item of unclaimed funds having a 14027
value of fifty dollars or more at the last known address of the 14028
owner as shown by the records of the holder before filing the 14029
annual report. In case of holders providing life insurance 14030

coverage, this notice shall also be mailed to each beneficiary at 14031
the last known address of the beneficiary as shown by the records 14032
of the holder, except that the notice to beneficiaries shall not 14033
be mailed if that address is the same as that of the insured and 14034
the surname of the beneficiary is the same as that of the insured. 14035
The holder shall not report an item of unclaimed funds earlier 14036
than the thirtieth day after the mailing of notice required by 14037
this division. 14038

The notice required by this division shall set forth the 14039
nature and identifying number, if any, or description of the funds 14040
and the amount appearing on the records of the holder to be due 14041
the owner or beneficiary, and shall inform the owner or 14042
beneficiary that the funds will, thirty days after the mailing of 14043
the notice, be reported as unclaimed funds under this chapter. A 14044
self-addressed, stamped envelope shall be included with the 14045
notice, with instructions that the owner or beneficiary may use 14046
the envelope to inform the holder of the owner's or beneficiary's 14047
continued interest in the funds, and, if so informed before the 14048
date for making the report to the director, the holder shall not 14049
report the funds to the director. The notice shall be mailed by 14050
first class mail if the item of unclaimed funds has a value of 14051
fifty dollars or more but less than one thousand dollars and by 14052
certified mail, return receipt requested, if the item of unclaimed 14053
funds has a value of one thousand dollars or more, unless the 14054
holder has verified that the last known address of the owner or 14055
beneficiary as shown by the records of the holder is not accurate. 14056
For purposes of this section, a holder has verified that the last 14057
known address of the owner or beneficiary is not accurate by 14058
documenting at least two of the following: 14059

(1) The owner or beneficiary failed to respond to a first 14060
class mail notice sent to the last known address of the owner or 14061
beneficiary. 14062

(2) A first class mail notice sent by the holder to the last known address of the owner or beneficiary was returned as undeliverable.

(3) An electronic or manual search of available public records failed to confirm that the last known address of the owner or beneficiary is accurate. The holder shall maintain documentation of its search efforts. If a search of public records or databases identifies a more recent address for the owner or beneficiary than the address in the holder's records, the holder shall send notice to the owner or beneficiary at that more recent address in accordance with this section.

A holder that sends a notice by certified mail, return receipt requested, may charge the item of unclaimed funds up to twenty dollars for providing that notice.

If there is no address of record for the owner or beneficiary, the holder is relieved of any responsibility of sending notice, attempting to notify, or notifying the owner or beneficiary. The mailing of notice pursuant to this section shall discharge the holder from any further responsibility to give notice.

(E) Verification of the report and of the mailing of notice, where required, shall be executed by an officer of the reporting holder.

(F)(1) The director may, at reasonable times and upon reasonable notice, examine or cause to be examined, by auditors of supervisory departments or divisions of the state, the records of any holder to determine compliance with this chapter.

(2) Holders shall retain records, designated by the director as applicable to unclaimed funds, for five years beyond the relevant time period provided in section 169.02 of the Revised Code, or until completion of an audit conducted pursuant to

division (F) of this section, whichever occurs first. An audit 14094
conducted pursuant to division (F) of this section shall not 14095
require a holder to make records available for a period of time 14096
exceeding the records retention period set forth in division (F) 14097
of this section, except for records pertaining to instruments 14098
evidencing ownership, or rights to them or funds paid toward the 14099
purchase of them, or any dividend, capital credit, profit, 14100
distribution, interest, or payment on principal or other sum, held 14101
or owed by a holder, including funds deposited with a fiscal agent 14102
or fiduciary for payment of them, or pertaining to debt of a 14103
publicly traded corporation. Any holder that is audited pursuant 14104
to division (F) of this section shall only be required to make 14105
available those records that are relevant to an unclaimed funds 14106
audit of that holder as prescribed by the director. 14107

(3) The director may enter into contracts, pursuant to 14108
procedures prescribed by the director, with persons for the sole 14109
purpose of examining the records of holders, determining 14110
compliance with this chapter, and collecting, taking possession 14111
of, and remitting to the department's division of unclaimed funds, 14112
in a timely manner, the amounts found and defined as unclaimed. 14113
The director shall not enter into such a contract with a person 14114
unless the person does all of the following: 14115

(a) Agrees to maintain the confidentiality of the records 14116
examined, as required under division (F)(4) of this section; 14117

(b) Agrees to conduct the audit in accordance with rules 14118
adopted under section 169.09 of the Revised Code; 14119

(c) Obtains a corporate surety bond issued by a bonding 14120
company or insurance company authorized to do business in this 14121
state. The bond shall be in favor of the director and in the penal 14122
sum determined by the director. The bond shall be for the benefit 14123
of any holder of unclaimed funds that is audited by the principal 14124
and is injured by the principal's failure to comply with division 14125

(F)(3)(a) or (b) of this section. 14126

(4) Records audited pursuant to division (F) of this section 14127
are confidential, and shall not be disclosed except as required by 14128
section 169.06 of the Revised Code or as the director considers 14129
necessary in the proper administration of this chapter. 14130

(5) If a person with whom the director has entered into a 14131
contract pursuant to division (F)(3) of this section intends to 14132
conduct, in conjunction with an unclaimed funds audit under this 14133
section, an unclaimed funds audit for the purpose of administering 14134
another state's unclaimed or abandoned property laws, the person, 14135
prior to commencing the audit, shall provide written notice to the 14136
director of the person's intent to conduct such an audit, along 14137
with documentation evidencing the person's express authorization 14138
from the other state to conduct the audit on behalf of that state. 14139

(6) Prior to the commencement of an audit conducted pursuant 14140
to division (F) of this section, the director shall notify the 14141
holder of unclaimed funds of the director's intent to audit the 14142
holder's records. If the audit will be conducted in conjunction 14143
with an audit for one or more other states, the director shall 14144
provide the holder with the name or names of those states. 14145

(7) Any holder of unclaimed funds may appeal the findings of 14146
an audit conducted pursuant to division (F) of this section to the 14147
director. Pursuant to the authority granted by section 169.09 of 14148
the Revised Code, the director shall adopt rules establishing 14149
procedures for considering such an appeal. 14150

(G) All holders shall make sufficient investigation of their 14151
records to ensure that the funds reported to the director are 14152
unclaimed as set forth in division (B) of section 169.01 and 14153
section 169.02 of the Revised Code. 14154

(H) The expiration of any period of limitations on or after 14155
March 1, 1968, within which a person entitled to any moneys, 14156

rights to moneys, or intangible property could have commenced an 14157
action or proceeding to obtain these items shall not prevent these 14158
items from becoming unclaimed funds or relieve the holder of them 14159
of any duty to report and give notice as provided in this section 14160
and deliver them in the manner provided in section 169.05 of the 14161
Revised Code, provided that the holder may comply with this 14162
section and section 169.05 of the Revised Code with respect to any 14163
moneys, rights to moneys, or intangible property as to which the 14164
applicable statute of limitations has run prior to March 1, 1968, 14165
and in that event the holder shall be entitled to the protective 14166
provisions of section 169.07 of the Revised Code. 14167

(I) No social security number contained in a report made 14168
pursuant to this section shall be used by the department of 14169
commerce for any purpose other than to enable the division of 14170
unclaimed funds to carry out the purposes of this chapter ~~and~~, for 14171
child support purposes in response to a request made by the office 14172
of child support in the department of job and family services made 14173
pursuant to section 3123.88 of the Revised Code, and for response 14174
to a request from the attorney general under section 131.024 of 14175
the Revised Code. 14176

Sec. 169.05. (A) Every holder required to file a report under 14177
section 169.03 of the Revised Code shall, at the time of filing, 14178
pay to the director of commerce ten per cent of the aggregate 14179
amount of unclaimed funds as shown on the report, except for 14180
aggregate amounts of fifty dollars or less in which case one 14181
hundred per cent shall be paid. The funds may be deposited by the 14182
director in the state treasury to the credit of the unclaimed 14183
funds trust fund, which is hereby created, or placed with a 14184
financial organization. Any interest earned on money in the trust 14185
fund shall be credited to the trust fund. The remainder of the 14186
aggregate amount of unclaimed funds as shown on the report, plus 14187
earnings accrued to date of payment to the director, shall, at the 14188

option of the director, be retained by the holder or paid to the 14189
director for deposit as agent for the mortgage funds with a 14190
financial organization as defined in section 169.01 of the Revised 14191
Code, with the funds to be in income-bearing accounts to the 14192
credit of the mortgage funds, or the holder may enter into an 14193
agreement with the director specifying the obligations of the 14194
United States in which funds are to be invested, and agree to pay 14195
the interest on the obligations to the state. Holders retaining 14196
any funds not in obligations of the United States shall enter into 14197
an agreement with the director specifying the classification of 14198
income-bearing account in which the funds will be held and pay the 14199
state interest on the funds at a rate equal to the prevailing 14200
market rate for similar funds. Moneys that the holder is required 14201
to pay to the director rather than to retain may be deposited with 14202
the treasurer of state, or placed with a financial organization. 14203

Securities and other intangible property transferred to the 14204
director shall, within a reasonable time, be converted to cash and 14205
the proceeds deposited as provided for other funds. 14206

One-half of the funds evidenced by agreements, in 14207
income-bearing accounts, or on deposit with the treasurer of state 14208
shall be allocated on the records of the director to the mortgage 14209
insurance fund created by section 122.561 of the Revised Code. Out 14210
of the remaining half, after allocation of sufficient moneys to 14211
the minority business bonding fund to meet the provisions of 14212
division (B) of this section, the remainder shall be allocated on 14213
the records of the director to the housing development fund 14214
created by division (A) of section 175.11 of the Revised Code. 14215

(B) The director shall serve as agent for the director of 14216
development services and as agent for the Ohio housing finance 14217
agency in making deposits and withdrawals and maintaining records 14218
pertaining to the minority business bonding fund created by 14219
section 122.88 of the Revised Code, the mortgage insurance fund, 14220

and the housing development fund created by section 175.11 of the Revised Code. Funds from the mortgage insurance fund are available to the director of development services when those funds are to be disbursed to prevent or cure, or upon the occurrence of, a default of a mortgage insured pursuant to section 122.451 of the Revised Code. Funds from the housing development fund are available upon request to the Ohio housing finance agency, in an amount not to exceed the funds allocated on the records of the director, for the purposes of section 175.05 of the Revised Code. Funds from the minority business bonding fund are available to the director of development services upon request to pay obligations on bonds the director writes pursuant to section 122.88 of the Revised Code; except that, unless the general assembly authorizes additional amounts, the total maximum amount of moneys that may be allocated to the minority business bonding fund under this division is ten million dollars.

When funds are to be disbursed, the appropriate agency shall call upon the director to transfer the necessary funds to it. The director shall first withdraw the funds paid by the holders and deposited with the treasurer of state or in a financial institution as agent for the funds. Whenever these funds are inadequate to meet the request, the director shall provide for a withdrawal of funds, within a reasonable time and in the amount necessary to meet the request, from financial institutions in which the funds were retained or placed by a holder and from other holders who have retained funds, in an equitable manner as the director prescribes. In the event that the amount to be withdrawn from any one holder is less than five hundred dollars, the amount to be withdrawn is at the director's discretion. The director shall then transfer to the agency the amount of funds requested.

Funds deposited in the unclaimed funds trust fund are subject to call by the director when necessary to pay claims the director

allows under section 169.08 of the Revised Code, in accordance 14253
with the director's rules, to defray the necessary costs of making 14254
publications this chapter requires and to pay other operating and 14255
administrative expenses the department of commerce incurs in the 14256
administration and enforcement of this chapter. 14257

The unclaimed funds trust fund shall be assessed a 14258
proportionate share of the administrative costs of the department 14259
of commerce in accordance with procedures the director of commerce 14260
prescribes and the director of budget and management approves. The 14261
assessment shall be paid from the unclaimed funds trust fund to 14262
the division of administration fund. 14263

(C) Earnings on the accounts in financial organizations to 14264
the credit of the mortgage funds shall, at the option of the 14265
financial organization, be credited to the accounts at times and 14266
at rates as earnings are paid on other accounts of the same 14267
classification held in the financial organization or paid to the 14268
director. The director shall be notified annually, and at other 14269
times as the director may request, of the amount of the earnings 14270
credited to the accounts. Interest on unclaimed funds a holder 14271
retains shall be paid to the director or credited as specified in 14272
the agreement under which the organization retains the funds. 14273
Interest payable to the director under an agreement to invest 14274
unclaimed funds ~~and~~ in income-bearing accounts or obligations of 14275
the United States shall be paid annually by the holder to the 14276
director. Any earnings or interest the director receives under 14277
this division shall be deposited in and credited to the mortgage 14278
funds. 14279

Sec. 169.06. (A) Before the first day of November of each 14280
year immediately following the calendar year in which the filing 14281
of reports is required by section 169.03 of the Revised Code, the 14282
director of commerce shall cause notice to be published once in an 14283

English language newspaper of general circulation in the county in 14284
this state in which is located the last known address of any 14285
person to be named in the notice required by this section. If no 14286
address is listed, the notice shall be published in the county in 14287
which the holder of the unclaimed funds has its principal place of 14288
business within this state; or if the holder has no principal 14289
place of business within this state or the owner's address is 14290
outside this state, publication shall be made ~~as the director~~ 14291
~~determines most effective~~. If the address is outside this state, 14292
~~notice shall be published in a newspaper of general circulation in~~ 14293
~~the county or parish of any state in the United States in which~~ 14294
~~such last known address is located~~. If the last known address is 14295
in a foreign country, publication shall be made ~~as the director~~ 14296
~~determines most effective~~ on the department's internet web site, 14297
or on the state public notice web site established under section 14298
125.182 of the Revised Code, for a reasonable period of time as 14299
determined by the director. 14300

If the name of the owner is not available, the director may 14301
publish notice by class, identifying number, or as the director 14302
determines most effective. 14303

(B) The published notice shall be entitled "Notice of Names 14304
of Persons Appearing to be Owners of Unclaimed Funds," and shall 14305
contain: 14306

(1) The names in alphabetical order and last known addresses, 14307
if any, of each person appearing from the records of the holder to 14308
be the owner of unclaimed funds of a value of fifty dollars or 14309
more and entitled to notice as specified in division (A) of this 14310
section; 14311

(2) A statement that information concerning the amount of the 14312
funds and any necessary information concerning the presentment of 14313
a claim therefor may be obtained by any persons possessing a 14314
property interest in the unclaimed funds by addressing an inquiry 14315

to the director. 14316

(C) With respect to items of unclaimed funds each having a 14317
value of ~~ten~~ fifty dollars or more, the director shall have 14318
available in ~~his~~ the director's office during business hours an 14319
alphabetical list of owners and where a holder is a person 14320
providing life insurance coverage, beneficiaries, and their last 14321
known addresses, if any, whose funds are being held by the state 14322
pursuant to this chapter. 14323

(D) The director may give any additional notice ~~he~~ the 14324
director deems necessary to inform the owner of the whereabouts of 14325
~~his~~ the owner's funds. 14326

Sec. 169.07. (A) Upon the payment of unclaimed funds to the 14327
director of commerce under section 169.05 of the Revised Code the 14328
holder will be relieved of further responsibility for the 14329
safe-keeping thereof and will be held harmless by the state from 14330
any and all liabilities for any claim arising out of the transfer 14331
of such funds to the state. 14332

(B) If legal proceedings are instituted against a holder 14333
which has paid unclaimed funds to the director or entered into an 14334
agreement as provided in section 169.05 of the Revised Code in 14335
respect to such funds, such holder shall notify the director in 14336
writing of the pendency of such proceedings and the director shall 14337
intervene and assume the defense of such proceedings. Failure to 14338
give such notice shall absolve the state from any and all 14339
liability which it may have with regard to such funds. If judgment 14340
is entered against such holder, the director shall, upon proof of 14341
satisfaction of such judgment, forthwith reimburse such 14342
organization for the amount of the judgment or enter into an 14343
agreement modified to reflect the satisfaction of such judgment, 14344
if the holder retained such funds, and shall reimburse such holder 14345
for any legal fees, costs and other expenses incurred in such 14346

proceedings in the manner provided for the payment of claims under 14347
~~division~~ divisions (D) and (E) of section 169.08 of the Revised 14348
Code. 14349

Sec. 169.08. (A) Subject to division (I) of this section, the 14350
director shall pay to the owner or other person who has 14351
established the right to payment under this section, funds from 14352
the unclaimed funds trust fund in an amount equal to the amount of 14353
property delivered or reported to the director, or equal to the 14354
net proceeds if the securities or other property have been sold, 14355
together with interest earned by the state if required to be paid 14356
under division (D) of this section. Any person claiming a property 14357
interest in unclaimed funds delivered or reported to the state 14358
under Chapter 169. of the Revised Code, including the office of 14359
child support in the department of job and family services, 14360
pursuant to section 3123.88 of the Revised Code, and the attorney 14361
general, pursuant to section 131.024 of the Revised Code, may file 14362
a claim thereto on the form prescribed by the director of 14363
commerce. 14364

(B) The director shall consider matters relevant to any claim 14365
filed under division (A) of this section and shall hold a formal 14366
hearing if requested or considered necessary and receive evidence 14367
concerning such claim. A finding and decision in writing on each 14368
claim filed shall be prepared, stating the substance of any 14369
evidence received or heard and the reasons for allowance or 14370
disallowance of the claim. The evidence and decision shall be a 14371
public record. No statute of limitations shall bar the allowance 14372
of a claim. 14373

(C) For the purpose of conducting any hearing, the director 14374
may require the attendance of such witnesses and the production of 14375
such books, records, and papers as the director desires, and the 14376
director may take the depositions of witnesses residing within or 14377

without this state in the same manner as is prescribed by law for 14378
the taking of depositions in civil actions in the court of common 14379
pleas, and for that purpose the director may issue a subpoena for 14380
any witness or a subpoena duces tecum to compel the production of 14381
any books, records, or papers, directed to the sheriff of the 14382
county where such witness resides or is found, which shall be 14383
served and returned. The fees of the sheriff shall be the same as 14384
that allowed in the court of common pleas in criminal cases. 14385
Witnesses shall be paid the fees and mileage provided for under 14386
section 119.094 of the Revised Code. Fees and mileage shall be 14387
paid from the unclaimed funds trust fund. 14388

(D) Interest ~~is not~~ earned by the state shall be payable to 14389
claimants of unclaimed funds held by the state in accordance with 14390
final court orders derived from the *Sogg v. Zurz*, 121 Ohio St.3d 14391
449 (2009), line of cases and final settlement agreement 14392
determining payment of interest on unclaimed funds. For properties 14393
received by the state on or before July 26, 1991, interest shall 14394
be paid at a rate of six per cent per annum from the date the 14395
state received the property up to and including July 26, 1991. No 14396
interest shall be payable on any properties for the period from 14397
July 27, 1991, up to and including August 2, 2000. For properties 14398
held by the state on August 3, 2000, or after, interest shall be 14399
paid at the applicable required rate per annum for the period held 14400
from August 3, 2000, or the date of receipt, whichever is later, 14401
up to and including the date the claim is paid. Claims 14402

(E) Claims shall be paid from the trust fund. If the amount 14403
available in the trust fund is not sufficient to pay pending 14404
claims, or other amounts disbursable from the trust fund, the 14405
treasurer of state shall certify such fact to the director, who 14406
shall then withdraw such amount of funds from the mortgage 14407
accounts as the director determines necessary to reestablish the 14408
trust fund to a level required to pay anticipated claims but not 14409

more than ten per cent of the net unclaimed funds reported to 14410
date. 14411

The director may withdraw the funds paid to the director by 14412
the holders and deposited by the director with the treasurer of 14413
state or in a financial institution as agent for such funds. 14414
Whenever these funds are inadequate to meet the requirements for 14415
the trust fund, the director shall provide for a withdrawal of 14416
funds, within a reasonable time, in such amount as is necessary to 14417
meet the requirements, from financial institutions in which such 14418
funds were retained or placed by a holder and from other holders 14419
who have retained funds, in an equitable manner as prescribed by 14420
the director. In the event that the amount to be withdrawn from 14421
any one such holder is less than five hundred dollars, the amount 14422
to be withdrawn shall be at the discretion of the director. Such 14423
funds may be reimbursed in the amounts withdrawn when the trust 14424
fund has a surplus over the amount required to pay anticipated 14425
claims. Whenever the trust fund has a surplus over the amount 14426
required to pay anticipated claims, the director may transfer such 14427
surplus to the mortgage accounts. 14428

~~(E)~~(F) If a claim which is allowed under this section relates 14429
to funds which have been retained by the reporting holder, and if 14430
the funds, on deposit with the treasurer of state pursuant to this 14431
chapter, are insufficient to pay claims, the director may notify 14432
such holder in writing of the payment of the claim and such holder 14433
shall immediately reimburse the state in the amount of such claim. 14434
The reimbursement shall be credited to the unclaimed funds trust 14435
fund. 14436

~~(F)~~(G) Any person, including the office of child support, 14437
adversely affected by a decision of the director may appeal such 14438
decision in the manner provided in Chapter 119. of the Revised 14439
Code. 14440

In the event the claimant prevails, the claimant shall be 14441

reimbursed for reasonable attorney's fees and costs. 14442

~~(G)~~(H) Notwithstanding anything to the contrary in this 14443
chapter, any holder who has paid moneys to or entered into an 14444
agreement with the director pursuant to section 169.05 of the 14445
Revised Code on certified checks, cashiers' checks, bills of 14446
exchange, letters of credit, drafts, money orders, or travelers' 14447
checks, may make payment to any person entitled thereto, including 14448
the office of child support, and upon surrender of the document, 14449
except in the case of travelers' checks, and proof of such 14450
payment, the director shall reimburse the holder for such payment 14451
without interest. 14452

(I) Before payment of any claim or order of attachment, order 14453
in aid of execution, and any other legal process issued for 14454
payment of a claim under this section, the director shall deduct, 14455
for the purpose of setoff, amounts determined due by the attorney 14456
general under section 131.024 of the Revised Code or the director 14457
of job and family services under section 3123.88 of the Revised 14458
Code. If the director has received notice that an owner or 14459
claimant owes both child support under section 3123.88 and an 14460
amount certified under section 131.024 of the Revised Code, the 14461
setoff against child support shall take priority and be applied 14462
first, and any remaining amount shall be applied next to the 14463
payment of delinquent state taxes, penalties or interest, or other 14464
amounts certified to the attorney general under section 131.024 of 14465
the Revised Code. 14466

Sec. 169.13. (A)(1) All agreements to pay a fee, 14467
compensation, commission, or other remuneration to locate, 14468
deliver, recover, or assist in the recovery of unclaimed funds 14469
reported under section 169.03 of the Revised Code, entered into 14470
within two years immediately after the date a report is filed 14471
under division (C) of section 169.03 of the Revised Code, are 14472

invalid. 14473

(2) A person interested in entering into an agreement to 14474
locate, deliver, recover, or assist in the recovery of unclaimed 14475
funds for remuneration shall not initiate any contact with an 14476
owner during the two-year period immediately after the date a 14477
report is filed under division (C) of section 169.03 of the 14478
Revised Code. Failure to comply with this requirement is grounds 14479
for the invalidation of any such agreement between the person and 14480
the owner. 14481

(B) An agreement entered into any time after such two-year 14482
period is valid only if all of the following conditions are met: 14483

(1) The aggregate fee, compensation, commission, or other 14484
remuneration agreed upon is not in excess of ten per cent of the 14485
amount recovered and paid to the owner by the director of budget 14486
and management; 14487

(2) The agreement is in writing, signed by the owner, and 14488
notarized and discloses all of the following items: 14489

(a) The name, address, and telephone number of the owner, as 14490
shown by the records of the person or entity in possession of the 14491
unclaimed funds or contents of a safe deposit box; 14492

(b) The name, address, and telephone number of the owner if 14493
the owner's name, address, or telephone number are different from 14494
the name, address, or telephone number of the owner as shown by 14495
the records of the person or entity in possession of the unclaimed 14496
funds or contents of a safe deposit box; 14497

(c) The nature and value of the unclaimed funds or contents 14498
of a safe deposit box; 14499

(d) The amount the owner will receive after the fee or 14500
compensation has been subtracted; 14501

(e) The name and address of the person or entity in 14502

possession of the unclaimed funds or contents of a safe deposit box; 14503
14504

(f) That the ~~auditor of state~~ director of budget and management will pay the unclaimed funds directly to the owner or the director of commerce shall deliver the contents of a safe deposit box directly to the owner; 14505
14506
14507
14508

(g) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box is not an employee or agent of the director of commerce; 14509
14510
14511
14512

(h) That the director of commerce is not a party to the agreement; 14513
14514

(i) That the person agreeing to locate, deliver, recover, or assist in the recovery of the unclaimed funds or contents of a safe deposit box holds a valid certificate of registration issued by the director under section 169.16 of the Revised Code; 14515
14516
14517
14518

(j) The number designated on that certificate of registration and the date the certificate of registration expires. 14519
14520

(3) No agreement described in division (B)(2) of this section shall include a power of attorney for the payment of the unclaimed funds or delivery of the contents of a safe deposit box to any person other than the owner of the unclaimed funds or contents of a safe deposit box. 14521
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(4) If the agreement involves recovery of the contents of a safe deposit box, the agreement stipulates that the person receiving any fee, compensation, commission, or other remuneration for engaging in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or other items stored in a safe deposit box on behalf of any other person shall do all of the following: 14526
14527
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(a) Make arrangements to have an appraiser and the director 14533
of commerce view the contents of the safe deposit box together, at 14534
a time mutually agreeable to the appraiser and director; 14535

(b) State that the value of the property in the safe deposit 14536
box is the amount established by the appraiser who viewed the safe 14537
deposit box contents; 14538

(c) Base the fee, compensation, commission, or other 14539
remuneration for locating, delivering, recovering, or assisting in 14540
the recovery of unclaimed funds or other items stored in a safe 14541
deposit box on the appraised value established by the appraiser 14542
who viewed the safe deposit box contents. 14543

(C) No person shall receive a fee, compensation, commission, 14544
or other remuneration, or engage in any activity for the purpose 14545
of locating, delivering, recovering, or assisting in the recovery 14546
of unclaimed funds or contents of a safe deposit box, under an 14547
agreement that is invalid under this section. 14548

(D) A person who receives any fee, compensation, commission, 14549
or other remuneration for engaging in any activity for the purpose 14550
of locating, delivering, recovering, or assisting in the recovery 14551
of unclaimed funds or other items stored in a safe deposit box on 14552
behalf of any other person cannot function as an appraiser of the 14553
contents of the safe deposit box for purposes of division (B)(4) 14554
of this section. 14555

(E) The director of commerce shall not recognize or make any 14556
delivery and the ~~auditor of state~~ director of budget and 14557
management shall not make any payment pursuant to any power of 14558
attorney between an owner of the unclaimed funds or contents of a 14559
safe deposit box and the person with whom the owner entered into 14560
an agreement pursuant to division (B)(2) of this section to 14561
locate, deliver, recover, or assist in the recovery of the 14562
unclaimed funds or contents of a safe deposit box if that power of 14563

attorney is entered into on or after ~~the effective date of this~~ 14564
~~amendment~~ March 23, 2007, and that power of attorney specifically 14565
provides for the payment of unclaimed funds or delivery of the 14566
contents of a safe deposit box to any person other than the owner 14567
of the unclaimed funds or contents of a safe deposit box. Nothing 14568
in this section shall be construed as prohibiting the payment of 14569
~~unclaimed~~ funds due the owner under division (D) of section 169.08 14570
of the Revised Code or delivery of the contents of a safe deposit 14571
box to the legal representative of the owner of the unclaimed 14572
funds or contents of the safe deposit box. Notwithstanding the 14573
definition of "owner" specified in division (C) of section 169.01 14574
of the Revised Code, for purposes of the payment of unclaimed 14575
funds or delivery of the contents of the safe deposit box, a 14576
person with whom an owner entered into an agreement under division 14577
(B)(2) of this section is not a legal representative. 14578

Sec. 169.14. (A) Each person that files a claim with the 14579
director of commerce, pursuant to an agreement entered into under 14580
division (B) of section 169.13 of the Revised Code, shall include 14581
with that claim the number designated on the certificate of 14582
registration that is issued to the person under section 169.16 of 14583
the Revised Code. 14584

(B) The division of unclaimed funds shall not process any 14585
claim described in division (A) of this section that does not 14586
include the required certificate of registration number. 14587

Sec. 169.16. (A) No person, on behalf of any other person, 14588
shall engage in any activity for the purpose of locating, 14589
delivering, recovering, or assisting in the recovery of unclaimed 14590
funds or contents of a safe deposit box, and receive a fee, 14591
compensation, commission, or other remuneration for such activity, 14592
without first having obtained a certificate of registration from 14593
the director of commerce in accordance with this section. 14594

(B) An application for a certificate of registration shall be 14595
in writing and in the form prescribed by the director. The 14596
application shall be accompanied by a recent full-face color 14597
photograph of the applicant and notarized character reference 14598
letters from two reputable character witnesses. The application 14599
shall, at a minimum, provide all of the following: 14600

(1) The applicant's full name, home address, and work 14601
address; 14602

(2) The name, address, and telephone number of the two 14603
character witnesses who have provided the character reference 14604
letters; 14605

(3) A statement that the applicant has not, during the 14606
ten-year period immediately preceding the submission of the 14607
application, violated division (A) of this section on or after the 14608
effective date of this section, or division (C) of section 169.13 14609
of the Revised Code, or been convicted of, or pleaded guilty to, 14610
any felony or any offense involving moral turpitude, including 14611
theft, attempted theft, falsification, tampering with records, 14612
securing writings by deception, fraud, forgery, and perjury; 14613

(4) The notarized signature of the applicant immediately 14614
following an acknowledgment that any false or perjured statement 14615
subjects the applicant to criminal liability under section 2921.13 14616
of the Revised Code. 14617

(C) Upon the filing of the application with the division of 14618
unclaimed funds, the division may investigate the applicant to 14619
verify the information provided in the application and to 14620
determine the applicant's eligibility for a certificate of 14621
registration under this section. The superintendent of unclaimed 14622
funds shall request the superintendent of the bureau of criminal 14623
identification and investigation, or a vendor approved by the 14624
bureau, to conduct a criminal records check based on the 14625

applicant's fingerprints in accordance with division (A)(8) of 14626
section 109.572 of the Revised Code. Notwithstanding division (K) 14627
of section 121.08 of the Revised Code, the superintendent of 14628
unclaimed funds shall request that criminal record information 14629
from the federal bureau of investigation be obtained as part of 14630
the criminal records check. Any fee required under division (C)(3) 14631
of section 109.572 of the Revised Code shall be paid by the 14632
applicant. False information on an application is grounds for the 14633
denial or revocation of the applicant's certificate of 14634
registration. 14635

(D) The director shall issue a certificate of registration to 14636
an applicant if the director finds that the following conditions 14637
are met: 14638

(1) The applicant has not, during the ten-year period 14639
immediately preceding the submission of the application, violated 14640
division (A) of this section on or after the effective date of 14641
this section, or division (C) of section 169.13 of the Revised 14642
Code, or been convicted of, or pleaded guilty to, any felony or 14643
any offense involving moral turpitude, including theft, attempted 14644
theft, falsification, tampering with records, securing writings by 14645
deception, fraud, forgery, and perjury. 14646

(2) The applicant's character and general fitness command the 14647
confidence of the public and warrant the belief that the 14648
applicant's business will be conducted honestly and fairly. 14649

(E) The certificate of registration issued pursuant to 14650
division (D) of this section may be renewed annually if the 14651
director finds that the following conditions are met: 14652

(1) The applicant submits a renewal application form 14653
prescribed by the director. 14654

(2) The applicant meets the conditions set forth in division 14655
(D) of this section. 14656

(3) The applicant's certificate of registration is not 14657
subject to an order of revocation by the director. 14658

Sec. 173.03. (A) There is hereby created the Ohio advisory 14659
council for the aging, which shall consist of twelve members to be 14660
appointed by the governor with the advice and consent of the 14661
senate. Two ex officio members of the council shall be members of 14662
the house of representatives appointed by the speaker of the house 14663
of representatives and shall be members of two different political 14664
parties. Two ex officio members of the council shall be members of 14665
the senate appointed by the president of the senate and shall be 14666
members of two different political parties. The medicaid director 14667
and directors of ~~mental health~~ mental health and addiction 14668
services, developmental disabilities, health, and job and family 14669
services, or their designees, shall serve as ex officio members of 14670
the council. The council shall carry out its role as defined under 14671
the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C. 3001, 14672
as amended. 14673

At the first meeting of the council, and annually thereafter, 14674
the members shall select one of their members to serve as 14675
chairperson and one of their members to serve as vice-chairperson. 14676

(B) Members of the council shall be appointed for a term of 14677
three years, except that for the first appointment members of the 14678
Ohio commission on aging who were serving on the commission 14679
immediately prior to July 26, 1984, shall become members of the 14680
council for the remainder of their unexpired terms. Thereafter, 14681
appointment to the council shall be for a three-year term by the 14682
governor. Each member shall hold office from the date of 14683
appointment until the end of the term for which the member was 14684
appointed. Any member appointed to fill a vacancy occurring prior 14685
to the expiration of the term for which the member's predecessor 14686
was appointed shall hold office for the remainder of the term. No 14687

member shall continue in office subsequent to the expiration date 14688
of the member's term unless reappointed under the provisions of 14689
this section, and no member shall serve more than three 14690
consecutive terms on the council. 14691

(C) Membership of the council shall represent all areas of 14692
Ohio and shall be as follows: 14693

(1) A majority of members of the council shall have attained 14694
the age of sixty and have a knowledge of and continuing interest 14695
in the affairs and welfare of the older citizens of Ohio. The 14696
fields of business, labor, health, law, and human services shall 14697
be represented in the membership. 14698

(2) No more than seven members shall be of the same political 14699
party. 14700

(D) Any member of the council may be removed from office by 14701
the governor for neglect of duty, misconduct, or malfeasance in 14702
office after being informed in writing of the charges and afforded 14703
an opportunity for a hearing. Two consecutive unexcused absences 14704
from regularly scheduled meetings constitute neglect of duty. 14705

(E) The director of aging may reimburse a member for actual 14706
and necessary traveling and other expenses incurred in the 14707
discharge of official duties. But reimbursement shall be made in 14708
the manner and at rates that do not exceed those prescribed by the 14709
director of budget and management for any officer, member, or 14710
employee of, or consultant to, any state agency. 14711

(F) Council members are not limited as to the number of terms 14712
they may serve. 14713

(G)(1) The department of aging may award grants to or enter 14714
into contracts with a member of the advisory council or an entity 14715
that the member represents if any of the following apply: 14716

(a) The department determines that the member or the entity 14717

the member represents is capable of providing the goods or 14718
services specified under the terms of the grant or contract. 14719

(b) The member has not taken part in any discussion or vote 14720
of the council related to whether the council should recommend 14721
that the department of aging award the grant to or enter into the 14722
contract with the member of the advisory council or the entity 14723
that the member represents. 14724

(2) A member of the advisory council is not in violation of 14725
Chapter 102. or section 2921.42 of the Revised Code with regard to 14726
receiving a grant or entering into a contract under this section 14727
if the conditions of division (G)(1)(a) and (b) of this section 14728
have been met. 14729

Sec. 173.14. As used in sections 173.14 to 173.27 of the 14730
Revised Code: 14731

(A)(1) Except as otherwise provided in division (A)(2) of 14732
this section, "long-term care facility" includes any residential 14733
facility that provides personal care services for more than 14734
twenty-four hours for one or more unrelated adults, including all 14735
of the following: 14736

(a) A "nursing home," "residential care facility," or "home 14737
for the aging" as defined in section 3721.01 of the Revised Code; 14738

(b) A facility authorized to provide extended care services 14739
under Title XVIII of the "Social Security Act," 49 Stat. 620 14740
(1935), 42 U.S.C. 301, as amended, including a long-term acute 14741
care hospital that provides medical and rehabilitative care to 14742
patients who require an average length of stay greater than 14743
twenty-five days and is classified by the centers for medicare and 14744
medicaid services as a long-term care hospital pursuant to 42 14745
C.F.R. 412.23(e); 14746

(c) A county home or district home operated pursuant to 14747

Chapter 5155. of the Revised Code;	14748
(d) A residential facility licensed under section 5119.22	14749
<u>5119.34</u> of the Revised Code that provides accommodations,	14750
supervision, and personal care services for three to sixteen	14751
unrelated adults or accommodations and personal care services for	14752
only one or two adults who are recipients under the <u>receiving</u>	14753
residential state supplement program;	14754
(e) A facility approved by the veterans administration under	14755
section 104(a) of the "Veterans Health Care Amendments of 1983,"	14756
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for	14757
the placement and care of veterans.	14758
(2) "Long-term care facility" does not include a residential	14759
facility licensed under section 5123.19 of the Revised Code.	14760
(B) "Resident" means a resident of a long-term care facility	14761
and, where appropriate, includes a prospective, previous, or	14762
deceased resident of a long-term care facility.	14763
(C) "Community-based long-term care services" means health	14764
and social services provided to persons in their own homes or in	14765
community care settings, and includes any of the following:	14766
(1) Case management;	14767
(2) Home health care;	14768
(3) Homemaker services;	14769
(4) Chore services;	14770
(5) Respite care;	14771
(6) Adult day care;	14772
(7) Home-delivered meals;	14773
(8) Personal care;	14774
(9) Physical, occupational, and speech therapy;	14775

(10) Transportation;	14776
(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.	14777 14778 14779
(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.	14780 14781 14782 14783
(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.	14784 14785 14786
(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.	14787 14788
(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.	14789 14790 14791 14792
(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.	14793 14794 14795 14796 14797
(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.	14798 14799 14800
Sec. 173.20. (A) If consent is given and unless otherwise prohibited by law, a representative of the office of the state long-term care ombudsman <u>ombudsperson</u> program shall have access to any records, including medical records, of a resident or a recipient that are reasonably necessary for investigation of a	14801 14802 14803 14804 14805

complaint. Consent may be given in any of the following ways: 14806

(1) In writing by the resident or recipient; 14807

(2) Orally by the resident or recipient, witnessed in writing 14808
at the time it is given by one other person, and, if the records 14809
involved are being maintained by a long-term care provider, also 14810
by an employee of the long-term care provider designated under 14811
division (E)(1) of this section; 14812

(3) In writing by the guardian of the resident or recipient; 14813

(4) In writing by the attorney in fact of the resident or 14814
recipient, if the resident or recipient has authorized the 14815
attorney in fact to give such consent; 14816

(5) In writing by the executor or administrator of the estate 14817
of a deceased resident or recipient. 14818

(B) If consent to access to records is not refused by a 14819
resident or recipient or ~~his~~ the resident's or recipient's legal 14820
representative but cannot be obtained and any of the following 14821
circumstances exist, a representative of the office of the state 14822
long-term care ~~ombudsman~~ ombudsperson program, on approval of the 14823
state long-term care ~~ombudsman~~ ombudsperson, may inspect the 14824
records of a resident or a recipient, including medical records, 14825
that are reasonably necessary for investigation of a complaint: 14826

(1) The resident or recipient is unable to express written or 14827
oral consent and there is no guardian or attorney in fact; 14828

(2) There is a guardian or attorney in fact, but ~~he~~ the 14829
guardian or attorney in fact cannot be contacted within three 14830
working days; 14831

(3) There is a guardianship or durable power of attorney, but 14832
its existence is unknown by the long-term care provider and the 14833
representative of the office at the time of the investigation; 14834

(4) There is no executor or administrator of the estate of a 14835

deceased resident or recipient. 14836

(C) If a representative of the office of the state long-term 14837
care ~~ombudsman~~ ombudsperson program has been refused access to 14838
records by a guardian or attorney in fact, but has reasonable 14839
cause to believe that the guardian or attorney in fact is not 14840
acting in the best interests of the resident or recipient, the 14841
representative may, on approval of the state long-term care 14842
~~ombudsman~~ ombudsperson, inspect the records of the resident or 14843
recipient, including medical records, that are reasonably 14844
necessary for investigation of a complaint. 14845

(D) A representative of the office of the state long-term 14846
care ~~ombudsman~~ ombudsperson program shall have access to any 14847
records of a long-term care provider reasonably necessary to an 14848
investigation conducted under this section, including but not 14849
limited to: incident reports, dietary records, policies and 14850
procedures of a facility required to be maintained under section 14851
~~5111.21~~ 5165.06 of the Revised Code, admission agreements, 14852
staffing schedules, any document depicting the actual staffing 14853
pattern of the provider, any financial records that are matters of 14854
public record, resident council and grievance committee minutes, 14855
and any waiting list maintained by a facility in accordance with 14856
section ~~5111.31~~ 5165.08 of the Revised Code, or any similar 14857
records or lists maintained by a provider of community-based 14858
long-term care services. Pursuant to division (E)(2) of this 14859
section, a representative shall be permitted to make or obtain 14860
copies of any of these records after giving the long-term care 14861
provider twenty-four hours' notice. A long-term care provider may 14862
impose a charge for providing copies of records under this 14863
division that does not exceed the actual and necessary expense of 14864
making the copies. 14865

The state ~~ombudsman~~ ombudsperson shall take whatever action 14866
is necessary to ensure that any copy of a record made or obtained 14867

under this division is returned to the long-term care provider no 14868
later than three years after the date the investigation for which 14869
the copy was made or obtained is completed. 14870

(E)(1) Each long-term care provider shall designate one or 14871
more of its employees to be responsible for witnessing the giving 14872
of oral consent under division (A) of this section. In the event 14873
that a designated employee is not available when a resident or 14874
recipient attempts to give oral consent, the provider shall 14875
designate another employee to witness the consent. 14876

(2) Each long-term care provider shall designate one or more 14877
of its employees to be responsible for releasing records for 14878
copying to representatives of the office of the long-term care 14879
~~ombudsman~~ ombudsperson program who request permission to make or 14880
obtain copies of records specified in division (D) of this 14881
section. In the event that a designated employee is not available 14882
when a representative of the office makes the request, the 14883
long-term care provider shall designate another employee to 14884
release the records for copying. 14885

(F) A long-term care provider or any employee of such a 14886
provider is immune from civil or criminal liability or action 14887
taken pursuant to a professional disciplinary procedure for the 14888
release or disclosure of records to a representative of the office 14889
pursuant to this section. 14890

(G) A state or local government agency or entity with records 14891
relevant to a complaint or investigation being conducted by a 14892
representative of the office shall provide the representative 14893
access to the records. 14894

(H) The state ~~ombudsman~~ ombudsperson, with the approval of 14895
the director of aging, may issue a subpoena to compel any person 14896
~~he~~ the ombudsperson reasonably believes may be able to provide 14897
information to appear before ~~him~~ the ombudsperson or ~~his~~ the 14898

ombudsperson's designee and give sworn testimony and to produce 14899
documents, books, records, papers, or other evidence the state 14900
~~ombudsman~~ ombudsperson believes is relevant to the investigation. 14901
On the refusal of a witness to be sworn or to answer any question 14902
put to ~~him~~ the witness, or if a person disobeys a subpoena, the 14903
~~ombudsman~~ ombudsperson shall apply to the Franklin county court of 14904
common pleas for a contempt order, as in the case of disobedience 14905
of the requirements of a subpoena issued from the court, or a 14906
refusal to testify in the court. 14907

(I) The state ~~ombudsman~~ ombudsperson may petition the court 14908
of common pleas in the county in which a long-term care facility 14909
is located to issue an injunction against any long-term care 14910
facility in violation of sections 3721.10 to 3721.17 of the 14911
Revised Code. 14912

(J) Any suspected violation of Chapter 3721. of the Revised 14913
Code discovered during the course of an investigation may be 14914
reported to the department of health. Any suspected criminal 14915
violation discovered during the course of an investigation shall 14916
be reported to the attorney general or other appropriate law 14917
enforcement authorities. 14918

(K) The department of aging shall adopt rules in accordance 14919
with Chapter 119. of the Revised Code for referral by the state 14920
~~ombudsman~~ ombudsperson and regional long-term care ~~ombudsman~~ 14921
ombudsperson programs of complaints to other public agencies or 14922
entities. A public agency or entity to which a complaint is 14923
referred shall keep the state ~~ombudsman~~ ombudsperson or regional 14924
program handling the complaint advised and notified in writing in 14925
a timely manner of the disposition of the complaint to the extent 14926
permitted by law. 14927

Sec. 173.21. (A) The office of the state long-term care 14928
ombudsperson program, through the state long-term care 14929

ombudsperson and the regional long-term care ombudsperson 14930
programs, shall require each representative of the office to 14931
complete a training and certification program in accordance with 14932
this section and to meet the continuing education requirements 14933
established under this section. 14934

(B) The department of aging shall adopt rules under Chapter 14935
119. of the Revised Code specifying the content of training 14936
programs for representatives of the office of the state long-term 14937
care ombudsperson program. Training for representatives other than 14938
those who are volunteers providing services through regional 14939
long-term care ombudsperson programs shall include instruction 14940
regarding federal, state, and local laws, rules, and policies on 14941
long-term care facilities and community-based long-term care 14942
services; investigative techniques; and other topics considered 14943
relevant by the department and shall consist of the following: 14944

(1) A minimum of forty clock hours of basic instruction, 14945
which shall be completed before the trainee is permitted to handle 14946
complaints without the supervision of a representative of the 14947
office certified under this section; 14948

(2) An additional sixty clock hours of instruction, which 14949
shall be completed within the first fifteen months of employment; 14950

(3) An internship of twenty clock hours, which shall be 14951
completed within the first twenty-four months of employment, 14952
including instruction in, and observation of, basic nursing care 14953
and long-term care provider operations and procedures. The 14954
internship shall be performed at a site that has been approved as 14955
an internship site by the state long-term care ombudsperson. 14956

(4) One of the following, which shall be completed within the 14957
first twenty-four months of employment: 14958

(a) Observation of a survey conducted by the director of 14959
health to certify a nursing facility to ~~receive funds under~~ 14960

~~sections 5111.20 to 5111.32 of the Revised Code participate in the~~ 14961
~~medicaid program;~~ 14962

(b) Observation of an inspection conducted by the director of 14963
~~mental health~~ mental health and addiction services to license a 14964
residential facility under section ~~5119.22~~ 5119.34 of the Revised 14965
Code that provides accommodations, supervision, and personal care 14966
services for three to sixteen unrelated adults. 14967

(5) Any other training considered appropriate by the 14968
department. 14969

(C) Persons who for a period of at least six months prior to 14970
June 11, 1990, served as ombudsmen through the long-term care 14971
ombudsperson program established by the department of aging under 14972
division (M) of section 173.01 of the Revised Code shall not be 14973
required to complete a training program. These persons and persons 14974
who complete a training program shall take an examination 14975
administered by the department of aging. On attainment of a 14976
passing score, the person shall be certified by the department as 14977
a representative of the office. The department shall issue the 14978
person an identification card, which the representative shall show 14979
at the request of any person with whom the representative deals 14980
while performing the representative's duties and which shall be 14981
surrendered at the time the representative separates from the 14982
office. 14983

(D) The state ombudsperson and each regional program shall 14984
conduct training programs for volunteers on their respective 14985
staffs in accordance with the rules of the department of aging 14986
adopted under division (B) of this section. Training programs may 14987
be conducted that train volunteers to complete some, but not all, 14988
of the duties of a representative of the office. Each regional 14989
office shall bear the cost of training its representatives who are 14990
volunteers. On completion of a training program, the 14991
representative shall take an examination administered by the 14992

department of aging. On attainment of a passing score, a volunteer 14993
shall be certified by the department as a representative 14994
authorized to perform services specified in the certification. The 14995
department shall issue an identification card, which the 14996
representative shall show at the request of any person with whom 14997
the representative deals while performing the representative's 14998
duties and which shall be surrendered at the time the 14999
representative separates from the office. Except as a supervised 15000
part of a training program, no volunteer shall perform any duty 15001
unless he is certified as a representative having received 15002
appropriate training for that duty. 15003

(E) The state ombudsperson shall provide technical assistance 15004
to regional programs conducting training programs for volunteers 15005
and shall monitor the training programs. 15006

(F) Prior to scheduling an observation of a certification 15007
survey or licensing inspection for purposes of division (B)(4) of 15008
this section, the state ombudsperson shall obtain permission to 15009
have the survey or inspection observed from both the director of 15010
health and the long-term care facility at which the survey or 15011
inspection is to take place. 15012

(G) The department of aging shall establish continuing 15013
education requirements for representatives of the office. 15014

Sec. 173.26. (A) Each of the following facilities shall 15015
annually pay to the department of aging six dollars for each bed 15016
~~maintained by the facility for use by a resident~~ was licensed or 15017
otherwise authorized to maintain during any part of the previous 15018
year: 15019

(1) Nursing homes, and residential care facilities, ~~and homes~~ 15020
~~for the aging~~ as defined in section 3721.01 of the Revised Code; 15021

(2) Facilities authorized to provide extended care services 15022

under Title XVIII of the "Social Security Act," 49 Stat. 620 15023
(1935), 42 U.S.C. 301, as amended, including a long-term acute 15024
care hospital that provides medical and rehabilitative care to 15025
patients who require an average length of stay greater than 15026
twenty-five days and is classified by the centers for medicare and 15027
medicaid services as a long-term care hospital pursuant to 42 15028
C.F.R. 412.23(e); 15029

(3) County homes and district homes operated pursuant to 15030
Chapter 5155. of the Revised Code; 15031

(4) Residential facilities licensed under section ~~5119.22~~ 15032
5119.34 of the Revised Code that provide accommodations, 15033
supervision, and personal care services for three to sixteen 15034
unrelated adults; 15035

(5) Facilities approved by the Veterans Administration under 15036
Section 104(a) of the "Veterans Health Care Amendments of 1983," 15037
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 15038
the placement and care of veterans. 15039

The department shall, by rule adopted in accordance with 15040
Chapter 119. of the Revised Code, establish deadlines for payments 15041
required by this section. A facility that fails, within ninety 15042
days after the established deadline, to pay a payment required by 15043
this section shall be assessed at two times the original invoiced 15044
payment. 15045

(B) All money collected under this section shall be deposited 15046
in the state treasury to the credit of the office of the state 15047
long-term care ombudsperson program fund, which is hereby created. 15048
Money credited to the fund shall be used solely to pay the costs 15049
of operating the regional long-term care ombudsperson programs. 15050

(C) The state long-term care ombudsperson and the regional 15051
programs may solicit and receive contributions to support the 15052
operation of the office or a regional program, except that no 15053

contribution shall be solicited or accepted that would interfere 15054
with the independence or objectivity of the office or program. 15055

Sec. 173.27. (A) As used in this section: 15056

(1) "Applicant" means a person who is under final 15057
consideration for employment ~~with the office of the state~~ 15058
~~long-term care ombudsperson program~~ by a responsible party in a 15059
full-time, part-time, or temporary position that involves 15060
providing ombudsperson services to residents and recipients. 15061
"Applicant" includes a person who is under final consideration for 15062
employment as the state long-term care ombudsperson or the head of 15063
a regional long-term care ombudsperson program. "Applicant" does 15064
not include a person seeking to provide ombudsperson services to 15065
residents and recipients as a volunteer without receiving or 15066
expecting to receive any form of remuneration other than 15067
reimbursement for actual expenses. 15068

(2) "Criminal records check" has the same meaning as in 15069
section 109.572 of the Revised Code. 15070

(3) "Disqualifying offense" means any of the offenses listed 15071
or described in divisions (A)(3)(a) to (e) of section 109.572 of 15072
the Revised Code. 15073

(4) "Employee" means a person employed by ~~the office of the~~ 15074
~~state long-term care ombudsperson program~~ a responsible party in a 15075
full-time, part-time, or temporary position that involves 15076
providing ombudsperson services to residents and recipients. 15077
"Employee" includes the person employed as the state long-term 15078
care ombudsperson and a person employed as the head of a regional 15079
long-term care ombudsperson program. "Employee" does not include a 15080
person who provides ombudsperson services to residents and 15081
recipients as a volunteer without receiving or expecting to 15082
receive any form of remuneration other than reimbursement for 15083
actual expenses. 15084

- (5) "Responsible ~~entity~~ party" means the following: 15085
- (a) In the case of an applicant who is under final 15086
consideration for employment as the state long-term care 15087
ombudsperson or the person employed as the state long-term care 15088
ombudsperson, the director of aging; 15089
- (b) In the case of any other applicant who is under final 15090
consideration for employment with the state long-term care 15091
ombudsperson program or any other employee of the state long-term 15092
care ombudsperson program, the state long-term care ombudsperson 15093
~~or the ombudsperson's designee;~~ 15094
- (c) In the case of an applicant who is under final 15095
consideration for employment with a regional long-term care 15096
ombudsperson program (including as the head of the regional 15097
program) or an employee of a regional long-term care ombudsperson 15098
program (including the head of a regional program), the regional 15099
long-term care ombudsperson program. 15100
- (B) ~~The office of the state long-term care ombudsperson~~ 15101
~~program~~ A responsible party may not employ an applicant or 15102
continue to employ an employee in a position that involves 15103
providing ombudsperson services to residents and recipients if any 15104
of the following apply: 15105
- (1) A review of the databases listed in division (D) of this 15106
section reveals any of the following: 15107
- (a) That the applicant or employee is included in one or more 15108
of the databases listed in divisions (D)(1) to (5) of this 15109
section; 15110
- (b) That there is in the state nurse aide registry 15111
established under section 3721.32 of the Revised Code a statement 15112
detailing findings by the director of health that the applicant or 15113
employee neglected or abused a long-term care facility or 15114
residential care facility resident or misappropriated property of 15115

such a resident; 15116

(c) That the applicant or employee is included in one or more 15117
of the databases, if any, specified in rules adopted under this 15118
section and the rules prohibit the ~~office~~ responsible party from 15119
employing an applicant or continuing to employ an employee 15120
included in such a database in a position that involves providing 15121
ombudsperson services to residents and recipients. 15122

(2) After the applicant or employee is provided, pursuant to 15123
division (E)(2)(a) of this section, a copy of the form prescribed 15124
pursuant to division (C)(1) of section 109.572 of the Revised Code 15125
and the standard impression sheet prescribed pursuant to division 15126
(C)(2) of that section, the applicant or employee fails to 15127
complete the form or provide the applicant's or employee's 15128
fingerprint impressions on the standard impression sheet. 15129

(3) ~~Except as provided~~ Unless the applicant or employee meets 15130
standards specified in rules adopted under this section, the 15131
applicant or employee is found by a criminal records check 15132
required by this section to have been convicted of, pleaded guilty 15133
to, or been found eligible for intervention in lieu of conviction 15134
for a disqualifying offense. 15135

(C) ~~The~~ A responsible entity party or a responsible party's 15136
designee shall inform each applicant of both of the following at 15137
the time of the applicant's initial application for employment in 15138
a position that involves providing ombudsperson services to 15139
residents and recipients: 15140

(1) That a review of the databases listed in division (D) of 15141
this section will be conducted to determine whether the ~~office of~~ 15142
~~the state long term care ombudsperson program~~ responsible party is 15143
prohibited by division (B)(1) of this section from employing the 15144
applicant in the position; 15145

(2) That, unless the database review reveals that the 15146

applicant may not be employed in the position, a criminal records 15147
check of the applicant will be conducted and the applicant is 15148
required to provide a set of the applicant's fingerprint 15149
impressions as part of the criminal records check. 15150

(D) As a condition of any applicant's being employed by ~~the~~ 15151
~~office of the state long term care ombudsperson program a~~ 15152
responsible party in a position that involves providing 15153
ombudsperson services to residents and recipients, the responsible 15154
~~entity party or designee~~ shall conduct a database review of the 15155
applicant in accordance with rules adopted under this section. If 15156
rules adopted under this section so require, the responsible 15157
~~entity party or designee~~ shall conduct a database review of an 15158
employee in accordance with the rules as a condition of the 15159
~~office's~~ responsible party continuing to employ the employee in a 15160
position that involves providing ombudsperson services to 15161
residents and recipients. A database review shall determine 15162
whether the applicant or employee is included in any of the 15163
following: 15164

(1) The excluded parties list system that is maintained by 15165
the United States general services administration pursuant to 15166
subpart 9.4 of the federal acquisition regulation and available at 15167
the federal web site known as the system for award management; 15168

(2) The list of excluded individuals and entities maintained 15169
by the office of inspector general in the United States department 15170
of health and human services pursuant to section 1128 of the 15171
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 15172
amended, and section 1156 of the "Social Security Act," 96 Stat. 15173
388 (1982), 42 U.S.C. 1320c-5, as amended; 15174

(3) The registry of MR/DD employees established under section 15175
5123.52 of the Revised Code; 15176

(4) The internet-based sex offender and child-victim offender 15177

database established under division (A)(11) of section 2950.13 of the Revised Code; 15178
15179

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code; 15180
15181

(6) The state nurse aide registry established under section 3721.32 of the Revised Code; 15182
15183

(7) Any other database, if any, specified in rules adopted under this section. 15184
15185

(E)(1) As a condition of any applicant's being employed by the office of the state long term care ombudsperson program a responsible party in a position that involves providing ombudsperson services to residents and recipients, the responsible entity party or designee shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the responsible entity party or designee shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of the ~~office's~~ responsible party continuing to employ the employee in a position that involves providing ombudsperson services to residents and recipients. However, the responsible entity party or designee is not required to request the criminal records check of the applicant or employee if the ~~office~~ responsible party is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing ombudsperson services to residents and recipients. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information 15186
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about the applicant or employee from the federal bureau of 15210
investigation in a criminal records check, the responsible ~~entity~~ 15211
party or designee shall request that the superintendent obtain 15212
information from the federal bureau of investigation as part of 15213
the criminal records check. Even if an applicant or employee for 15214
whom a criminal records check request is required by this section 15215
presents proof of having been a resident of this state for the 15216
five-year period, the responsible ~~entity~~ party or designee may 15217
request that the superintendent include information from the 15218
federal bureau of investigation in the criminal records check. 15219

(2) ~~The~~ A responsible ~~entity~~ party or designee shall do all 15220
of the following: 15221

(a) Provide to each applicant and employee for whom a 15222
criminal records check request is required by this section a copy 15223
of the form prescribed pursuant to division (C)(1) of section 15224
109.572 of the Revised Code and a standard impression sheet 15225
prescribed pursuant to division (C)(2) of that section; 15226

(b) Obtain the completed form and standard impression sheet 15227
from the applicant or employee; 15228

(c) Forward the completed form and standard impression sheet 15229
to the superintendent. 15230

(3) ~~The office of the state long-term care ombudsman~~ 15231
~~program~~ A responsible party shall pay to the bureau of criminal 15232
identification and investigation the fee prescribed pursuant to 15233
division (C)(3) of section 109.572 of the Revised Code for each 15234
criminal records check the responsible ~~entity~~ party or the 15235
responsible party's designee requests under this section. The 15236
~~office~~ responsible party may charge an applicant a fee not 15237
exceeding the amount the ~~office~~ responsible party pays to the 15238
bureau under this section if the responsible ~~entity~~ party or 15239
designee notifies the applicant at the time of initial application 15240

for employment of the amount of the fee. 15241

~~(F)(1) The office of the state long term care ombudsperson~~ 15242
~~program~~ A responsible party may employ conditionally an applicant 15243
for whom a criminal records check is required by this section 15244
prior to obtaining the results of the criminal records check if 15245
both of the office following apply: 15246

(a) The responsible party is not prohibited by division 15247
(B)(1) of this section from employing the applicant in a position 15248
that involves providing ombudsperson services to residents and 15249
recipients ~~and the;~~ 15250

(b) The responsible entity party or designee requests the 15251
criminal records check in accordance with division (E) of this 15252
section not later than five business days after the applicant 15253
begins conditional employment. 15254

(2) ~~The office of the state long term care ombudsperson~~ 15255
~~program~~ A responsible party shall terminate the employment of an 15256
applicant employed conditionally under division (F)(1) of this 15257
section if the results of the criminal records check, other than 15258
the results of any request for information from the federal bureau 15259
of investigation, are not obtained within the period ending sixty 15260
days after the date the request for the criminal records check is 15261
made. Regardless of when the results of the criminal records check 15262
are obtained, if the results indicate that the applicant has been 15263
convicted of, pleaded guilty to, or been found eligible for 15264
intervention in lieu of conviction for a disqualifying offense, 15265
the ~~office~~ responsible party shall terminate the applicant's 15266
employment unless ~~circumstances~~ the applicant meets standards 15267
specified in rules adopted under this section that permit the 15268
~~office~~ responsible party to employ the applicant ~~exist~~ and the 15269
~~office~~ responsible party chooses to employ the applicant. 15270
Termination of employment under this division shall be considered 15271
just cause for discharge for purposes of division (D)(2) of 15272

section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the ~~office~~ responsible party or designee about the applicant's criminal record.

(G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The responsible ~~entity~~ party or ~~the responsible entity's~~ representative designee;

(3) ~~If the state long-term care ombudsperson designates the head or other employee of~~ In the case of a criminal records check conducted for an applicant who is under final consideration for employment with a regional long-term care ombudsperson program ~~to request a criminal records check under this section (including as the head of the regional program) or an employee of a regional long-term care ombudsperson program (including the head of a regional program), the state long-term care ombudsperson or a~~ representative of the office of the state long-term care ombudsperson program who is responsible for monitoring the regional program's compliance with this section;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program

or a program the department of aging administers. 15303

(H) In a tort or other civil action for damages that is 15304
brought as the result of an injury, death, or loss to person or 15305
property caused by an applicant or employee who ~~the office of the~~ 15306
~~state long term care ombudsperson program~~ a responsible party 15307
employs in a position that involves providing ombudsperson 15308
services to residents and recipients, all of the following shall 15309
apply: 15310

(1) If the ~~office~~ responsible party employed the applicant or 15311
employee in good faith and reasonable reliance on the report of a 15312
criminal records check requested under this section, the ~~office~~ 15313
responsible party shall not be found negligent solely because of 15314
its reliance on the report, even if the information in the report 15315
is determined later to have been incomplete or inaccurate. 15316

(2) If the ~~office~~ responsible party employed the applicant in 15317
good faith on a conditional basis pursuant to division (F) of this 15318
section, the ~~office~~ responsible party shall not be found negligent 15319
solely because it employed the applicant prior to receiving the 15320
report of a criminal records check requested under this section. 15321
15322

(3) If the ~~office~~ responsible party in good faith employed 15323
the applicant or employee ~~according to~~ because the ~~personal~~ 15324
~~character~~ applicant or employee meets standards established 15325
specified in rules adopted under this section, the ~~office~~ 15326
responsible party shall not be found negligent solely because the 15327
applicant or employee has been convicted of, pleaded guilty to, or 15328
been found eligible for intervention in lieu of conviction for a 15329
disqualifying offense. 15330

(I) The state long-term care ombudsperson may not act as the 15331
director of aging's designee for the purpose of this section. The 15332
head of a regional long-term care ombudsperson program may not act 15333

as the regional program's designee for the purpose of this section 15334
if the head is the employee for whom a database review or criminal 15335
records check is being conducted. 15336

(J) The director of aging shall adopt rules in accordance 15337
with Chapter 119. of the Revised Code to implement this section. 15338

(1) The rules may do the following: 15339

(a) Require employees to undergo database reviews and 15340
criminal records checks under this section; 15341

(b) If the rules require employees to undergo database 15342
reviews and criminal records checks under this section, exempt one 15343
or more classes of employees from the requirements; 15344

(c) For the purpose of division (D)(7) of this section, 15345
specify other databases that are to be checked as part of a 15346
database review conducted under this section. 15347

(2) The rules shall specify all of the following: 15348

(a) The procedures for conducting database reviews under this 15349
section; 15350

(b) If the rules require employees to undergo database 15351
reviews and criminal records checks under this section, the times 15352
at which the database reviews and criminal records checks are to 15353
be conducted; 15354

(c) If the rules specify other databases to be checked as 15355
part of the database reviews, the circumstances under which ~~the~~ 15356
~~office of the state long term care ombudsperson program a~~ 15357
responsible party is prohibited from employing an applicant or 15358
continuing to employ an employee who is found by a database review 15359
to be included in one or more of those databases; 15360

(d) ~~Circumstances under which the office of the state~~ 15361
~~long term care ombudsperson program may employ~~ Standards that an 15362
applicant or employee ~~who~~ must meet for a responsible party to be 15363

permitted to employ the applicant or continue to employ the 15364
employee in a position that involves providing ombudsperson 15365
services to residents and recipients if the applicant or employee 15366
is found by a criminal records check required by this section to 15367
have been convicted of, pleaded guilty to, or been found eligible 15368
for intervention in lieu of conviction for a disqualifying offense 15369
~~but meets personal character standards.~~ 15370

Sec. ~~173.394~~ 173.38. (A) As used in this section: 15371

(1) "Applicant" means a person who is under final 15372
consideration for employment with a ~~community-based long-term care~~ 15373
~~agency~~ responsible party in a full-time, part-time, or temporary 15374
direct-care position that involves providing direct care to an 15375
individual or is referred to a ~~community-based long-term care~~ 15376
~~agency~~ responsible party by an employment service for such a 15377
position. "Applicant" does not include a person ~~who provides~~ 15378
~~direct care to an individual~~ being considered for a direct-care 15379
position as a volunteer ~~without receiving or expecting to receive~~ 15380
~~any form of remuneration other than reimbursement for actual~~ 15381
~~expenses.~~ 15382

(2) "Area agency on aging" has the same meaning as in section 15383
173.14 of the Revised Code. 15384

(3) "Community-based long-term care services" means 15385
community-based long-term care services, as defined in section 15386
173.14 of the Revised Code, that are provided under a program the 15387
department of aging administers. 15388

(4) "Consumer" means an individual who receives 15389
community-based long-term care services. 15390

(5) "Criminal records check" has the same meaning as in 15391
section 109.572 of the Revised Code. 15392

(6) "Direct-care position" means an employment position in 15393

<u>which an employee has either or both of the following:</u>	15394
<u>(i) In-person contact with one or more consumers;</u>	15395
<u>(ii) Access to one or more consumers' personal property or records.</u>	15396 15397
<u>(7) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.</u>	15398 15399 15400
<u>(8) "Employee" means a person employed by a community based long term care agency responsible party in a full-time, part-time, or temporary <u>direct-care</u> position that involves providing direct care to an individual and a person who works in such a position due to being referred to a community based long term care agency <u>responsible party</u> by an employment service. "Employee" does not include a person who provides direct care to an individual <u>works in a direct-care position</u> as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.</u>	15401 15402 15403 15404 15405 15406 15407 15408 15409 15410
<u>(9) "PASSPORT administrative agency" has the same meaning as in section 173.42 of the Revised Code.</u>	15411 15412
<u>(10) "Provider" has the same meaning as in section 173.39 of the Revised Code.</u>	15413 15414
<u>(11) "Responsible party" means the following:</u>	15415
<u>(a) An area agency on aging in the case of either of the following:</u>	15416 15417
<u>(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;</u>	15418 15419 15420 15421
<u>(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary</u>	15422 15423

direct-care position or works in such a position due to being 15424
referred to the agency by an employment service. 15425

(b) A PASSPORT administrative agency in the case of either of 15426
the following: 15427

(i) A person who is an applicant because the person is under 15428
final consideration for employment with the agency in a full-time, 15429
part-time, or temporary direct-care position or is referred to the 15430
agency by an employment service for such a position; 15431

(ii) A person who is an employee because the person is 15432
employed by the agency in a full-time, part-time, or temporary 15433
direct-care position or works in such a position due to being 15434
referred to the agency by an employment service. 15435

(c) A provider in the case of either of the following: 15436

(i) A person who is an applicant because the person is under 15437
final consideration for employment with the provider in a 15438
full-time, part-time, or temporary direct-care position or is 15439
referred to the provider by an employment service for such a 15440
position; 15441

(ii) A person who is an employee because the person is 15442
employed by the provider in a full-time, part-time, or temporary 15443
direct-care position or works in such a position due to being 15444
referred to the provider by an employment service. 15445

(d) A subcontractor in the case of either of the following: 15446

(i) A person who is an applicant because the person is under 15447
final consideration for employment with the subcontractor in a 15448
full-time, part-time, or temporary direct-care position or is 15449
referred to the subcontractor by an employment service for such a 15450
position; 15451

(ii) A person who is an employee because the person is 15452
employed by the subcontractor in a full-time, part-time, or 15453

temporary direct-care position or works in such a position due to 15454
being referred to the subcontractor by an employment service. 15455

(12) "Subcontractor" has the meaning specified in rules 15456
adopted under this section. 15457

(13) "Volunteer" means a person who serves in a direct-care 15458
position without receiving or expecting to receive any form of 15459
remuneration other than reimbursement for actual expenses. 15460

(14) "Waiver agency" has the same meaning as in section 15461
5111.033 5164.342 of the Revised Code. 15462

(B) This section does not apply to any individual who is 15463
subject to a database review or criminal records check under 15464
section 3701.881 of the Revised Code. If a ~~community-based~~ 15465
~~long-term care agency provider or subcontractor~~ also is a waiver 15466
agency, the ~~agency provider or subcontractor~~ may provide for 15467
applicants and employees to undergo database reviews and criminal 15468
records checks in accordance with section ~~5111.033~~ 5164.342 of the 15469
Revised Code rather than this section. 15470

(C) No ~~community-based long-term care agency~~ responsible 15471
party shall employ an applicant or continue to employ an employee 15472
in a direct-care position ~~that involves providing direct care to~~ 15473
~~an individual~~ if any of the following apply: 15474

(1) A review of the databases listed in division (E) of this 15475
section reveals any of the following: 15476

(a) That the applicant or employee is included in one or more 15477
of the databases listed in divisions (E)(1) to (5) of this 15478
section; 15479

(b) That there is in the state nurse aide registry 15480
established under section 3721.32 of the Revised Code a statement 15481
detailing findings by the director of health that the applicant or 15482
employee neglected or abused a long-term care facility or 15483

residential care facility resident or misappropriated property of 15484
such a resident; 15485

(c) That the applicant or employee is included in one or more 15486
of the databases, if any, specified in rules adopted under this 15487
section and the rules prohibit the ~~agency~~ responsible party from 15488
employing an applicant or continuing to employ an employee 15489
included in such a database in a direct-care position ~~that~~ 15490
~~involves providing direct care to an individual.~~ 15491

(2) After the applicant or employee is provided, pursuant to 15492
division (F)(2)(a) of this section, a copy of the form prescribed 15493
pursuant to division (C)(1) of section 109.572 of the Revised Code 15494
and the standard impression sheet prescribed pursuant to division 15495
(C)(2) of that section, the applicant or employee fails to 15496
complete the form or provide the applicant's or employee's 15497
fingerprint impressions on the standard impression sheet. 15498

(3) ~~Except as provided~~ Unless the applicant or employee meets 15499
standards specified in rules adopted under this section, the 15500
applicant or employee is found by a criminal records check 15501
required by this section to have been convicted of, pleaded guilty 15502
to, or been found eligible for intervention in lieu of conviction 15503
for a disqualifying offense. 15504

(D) Except as provided by division (G) of this section, the 15505
chief administrator of a ~~community based long term care agency~~ 15506
responsible party shall inform each applicant of both of the 15507
following at the time of the applicant's initial application for 15508
employment or referral to the ~~agency~~ responsible party by an 15509
employment service for a direct-care position ~~that involves~~ 15510
~~providing direct care to an individual:~~ 15511

(1) That a review of the databases listed in division (E) of 15512
this section will be conducted to determine whether the ~~agency~~ 15513
responsible party is prohibited by division (C)(1) of this section 15514

from employing the applicant in the direct-care position; 15515

(2) That, unless the database review reveals that the 15516
applicant may not be employed in the direct-care position, a 15517
criminal records check of the applicant will be conducted and the 15518
applicant is required to provide a set of the applicant's 15519
fingerprint impressions as part of the criminal records check. 15520

(E) As a condition of employing any applicant in a 15521
~~direct-care~~ position ~~that involves providing direct care to an~~ 15522
~~individual~~, the chief administrator of a ~~community based long term~~ 15523
~~care agency~~ responsible party shall conduct a database review of 15524
the applicant in accordance with rules adopted under this section. 15525
If rules adopted under this section so require, the chief 15526
administrator of a ~~community based long term care agency~~ 15527
responsible party shall conduct a database review of an employee 15528
in accordance with the rules as a condition of continuing to 15529
employ the employee in a direct-care position ~~that involves~~ 15530
~~providing direct care to an individual~~. However, a chief 15531
administrator is not required to conduct a database review of an 15532
applicant or employee if division (G) of this section applies. A 15533
database review shall determine whether the applicant or employee 15534
is included in any of the following: 15535

(1) The excluded parties list system that is maintained by 15536
the United States general services administration pursuant to 15537
subpart 9.4 of the federal acquisition regulation and available at 15538
the federal web site known as the system for award management; 15539

(2) The list of excluded individuals and entities maintained 15540
by the office of inspector general in the United States department 15541
of health and human services pursuant to ~~section 1128 of the~~ 15542
"Social Security Act," ~~94 Stat. 2619 (1980)~~ sections 1128 and 15543
1156, 42 U.S.C. 1320a-7, ~~as amended~~, and ~~section 1156 of the~~ 15544
~~"Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as~~ 15545
~~amended;~~ 15546

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;	15547 15548
(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;	15549 15550 15551
(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;	15552 15553
(6) The state nurse aide registry established under section 3721.32 of the Revised Code;	15554 15555
(7) Any other database, if any, specified in rules adopted under this section.	15556 15557
(F)(1) As a condition of employing any applicant in a <u>direct-care</u> position that involves providing direct care to an individual, the chief administrator of a <u>community based long term care agency</u> <u>responsible party</u> shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a <u>community based long term care agency</u> <u>responsible party</u> shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a <u>direct-care</u> position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or employee if division (G) of this section applies or the <u>agency</u> <u>responsible party</u> is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a <u>direct-care</u> position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required by this section does not present	15558 15559 15560 15561 15562 15563 15564 15565 15566 15567 15568 15569 15570 15571 15572 15573 15574 15575 15576 15577

proof of having been a resident of this state for the five-year 15578
period immediately prior to the date the criminal records check is 15579
requested or provide evidence that within that five-year period 15580
the superintendent has requested information about the applicant 15581
or employee from the federal bureau of investigation in a criminal 15582
records check, the chief administrator shall request that the 15583
superintendent obtain information from the federal bureau of 15584
investigation as part of the criminal records check. Even if an 15585
applicant or employee for whom a criminal records check request is 15586
required by this section presents proof of having been a resident 15587
of this state for the five-year period, the chief administrator 15588
may request that the superintendent include information from the 15589
federal bureau of investigation in the criminal records check. 15590

(2) The chief administrator shall do all of the following: 15591

(a) Provide to each applicant and employee for whom a 15592
criminal records check request is required by this section a copy 15593
of the form prescribed pursuant to division (C)(1) of section 15594
109.572 of the Revised Code and a standard impression sheet 15595
prescribed pursuant to division (C)(2) of that section; 15596

(b) Obtain the completed form and standard impression sheet 15597
from the applicant or employee; 15598

(c) Forward the completed form and standard impression sheet 15599
to the superintendent. 15600

(3) A ~~community based long term care agency~~ responsible party 15601
shall pay to the bureau of criminal identification and 15602
investigation the fee prescribed pursuant to division (C)(3) of 15603
section 109.572 of the Revised Code for each criminal records 15604
check the ~~agency~~ responsible party requests under this section. ~~An~~ 15605
~~agency~~ A responsible party may charge an applicant a fee not 15606
exceeding the amount the ~~agency~~ responsible party pays to the 15607
bureau under this section if both of the following apply: 15608

(a) The ~~agency~~ responsible party notifies the applicant at 15609
the time of initial application for employment of the amount of 15610
the fee and that, unless the fee is paid, the applicant will not 15611
be considered for employment. 15612

(b) The medicaid program ~~established under Chapter 5111. of~~ 15613
~~the Revised Code~~ does not ~~reimburse~~ pay the ~~agency~~ responsible 15614
party for the fee it pays to the bureau under this section. 15615

(G) Divisions (D) to (F) of this section do not apply with 15616
regard to an applicant or employee if the applicant or employee is 15617
referred to a ~~community based long term agency~~ responsible party 15618
by an employment service that supplies full-time, part-time, or 15619
temporary staff for direct-care positions ~~that involve providing~~ 15620
~~direct care to an individual~~ and both of the following apply: 15621

(1) The chief administrator of the ~~agency~~ responsible party 15622
receives from the employment service confirmation that a review of 15623
the databases listed in division (E) of this section was conducted 15624
of the applicant or employee. 15625

(2) The chief administrator of the ~~agency~~ responsible party 15626
receives from the employment service, applicant, or employee a 15627
report of the results of a criminal records check of the applicant 15628
or employee that has been conducted by the superintendent within 15629
the one-year period immediately preceding the following: 15630

(a) In the case of an applicant, the date of the applicant's 15631
referral by the employment service to the ~~agency~~ responsible 15632
party; 15633

(b) In the case of an employee, the date by which the ~~agency~~ 15634
responsible party would otherwise have to request a criminal 15635
records check of the employee under division (F) of this section. 15636

(H)(1) A ~~community based long term care agency~~ responsible 15637
party may employ conditionally an applicant for whom a criminal 15638
records check request is required by this section prior to 15639

obtaining the results of the criminal records check if the ~~agency~~ responsible party is not prohibited by division (C)(1) of this section from employing the applicant in a direct-care position ~~that involves providing direct care to an individual~~ and either of the following applies:

(a) The chief administrator of the ~~agency~~ responsible party requests the criminal records check in accordance with division (F) of this section not later than five business days after the applicant begins conditional employment.

(b) The applicant is referred to the ~~agency~~ responsible party by an employment service, the employment service or the applicant provides the chief administrator of the ~~agency~~ responsible party a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the ~~agency~~ responsible party when the employment service receives the results.

(2) If a ~~community based long term care agency~~ responsible

party employs an applicant conditionally pursuant to division 15671
(H)(1)(b) of this section, the employment service, on its receipt 15672
of the results of the criminal records check, promptly shall send 15673
a copy of the results to the chief administrator of the ~~agency~~ 15674
responsible party. 15675

(3) A ~~community based long term care agency~~ responsible party 15676
that employs an applicant conditionally pursuant to division 15677
(H)(1)(a) or (b) of this section shall terminate the applicant's 15678
employment if the results of the criminal records check, other 15679
than the results of any request for information from the federal 15680
bureau of investigation, are not obtained within the period ending 15681
sixty days after the date the request for the criminal records 15682
check is made. Regardless of when the results of the criminal 15683
records check are obtained, if the results indicate that the 15684
applicant has been convicted of, pleaded guilty to, or been found 15685
eligible for intervention in lieu of conviction for a 15686
disqualifying offense, the ~~agency~~ responsible party shall 15687
terminate the applicant's employment unless ~~circumstances the~~ 15688
applicant meets standards specified in rules adopted under this 15689
section that permit the ~~agency~~ responsible party to employ the 15690
applicant ~~exist~~ and the ~~agency~~ responsible party chooses to employ 15691
the applicant. Termination of employment under this division shall 15692
be considered just cause for discharge for purposes of division 15693
(D)(2) of section 4141.29 of the Revised Code if the applicant 15694
makes any attempt to deceive the ~~agency~~ responsible party about 15695
the applicant's criminal record. 15696

(I) The report of any criminal records check conducted 15697
pursuant to a request made under this section is not a public 15698
record for the purposes of section 149.43 of the Revised Code and 15699
shall not be made available to any person other than the 15700
following: 15701

(1) The applicant or employee who is the subject of the 15702

criminal records check or the applicant's or employee's representative; 15703
15704

(2) The chief administrator of the ~~community-based long-term care agency~~ responsible party requesting the criminal records check or the administrator's representative; 15705
15706
15707

(3) The administrator of any other facility, agency, or program that provides ~~direct care to individuals~~ community-based long-term care services that is owned or operated by the same entity that owns or operates the ~~community-based long-term care agency~~ responsible party that requested the criminal records check; 15708
15709
15710
15711
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(4) The employment service that requested the criminal records check; 15714
15715

(5) The director of aging or a person authorized by the director to monitor a ~~community-based long-term care agency's~~ responsible party's compliance with this section; 15716
15717
15718

(6) The medicaid director ~~of job and family services~~ and the staff of the department of ~~job and family services~~ medicaid who are involved in the administration of the medicaid program if either of the following apply: 15719
15720
15721
15722

(a) In the case of a criminal records check requested by a ~~community-based long-term care agency provider or subcontractor~~, the ~~agency~~ provider or subcontractor also is a waiver agency; 15723
15724
15725

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a ~~community-based long-term care agency provider or subcontractor~~ that also is a waiver agency. 15726
15727
15728
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(7) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following: 15731
15732

(a) A denial of employment of the applicant or employee; 15733

(b) Employment or unemployment benefits of the applicant or 15734
employee; 15735

(c) A civil or criminal action regarding the medicaid program 15736
or a program the department of aging administers. 15737

(J) In a tort or other civil action for damages that is 15738
brought as the result of an injury, death, or loss to person or 15739
property caused by an applicant or employee who a ~~community-based~~ 15740
~~long-term care agency~~ responsible party employs in a direct-care 15741
position ~~that involves providing direct care to individuals~~, all 15742
of the following shall apply: 15743

(1) If the ~~agency~~ responsible party employed the applicant or 15744
employee in good faith and reasonable reliance on the report of a 15745
criminal records check requested under this section, the ~~agency~~ 15746
responsible party shall not be found negligent solely because of 15747
its reliance on the report, even if the information in the report 15748
is determined later to have been incomplete or inaccurate. 15749

(2) If the ~~agency~~ responsible party employed the applicant in 15750
good faith on a conditional basis pursuant to division (H) of this 15751
section, the ~~agency~~ responsible party shall not be found negligent 15752
solely because it employed the applicant prior to receiving the 15753
report of a criminal records check requested under this section. 15754
15755

(3) If the ~~agency~~ responsible party in good faith employed 15756
the applicant or employee ~~according to~~ because the ~~personal~~ 15757
~~character~~ applicant or employee meets standards ~~established~~ 15758
specified in rules adopted under this section, the ~~agency~~ 15759
responsible party shall not be found negligent solely because the 15760
applicant or employee has been convicted of, pleaded guilty to, or 15761
been found eligible for intervention in lieu of conviction for a 15762
disqualifying offense. 15763

(K) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The meaning of the term "subcontractor";

(b) The procedures for conducting database reviews under this section;

~~(b)~~(c) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

~~(e)~~(d) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a ~~community based long term care agency~~ responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

~~(d) Circumstances under which a community based long term care agency may employ~~ (e) Standards that an applicant or employee who must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a direct-care position if the applicant or employee is found by a criminal

records check required by this section to have been convicted of, 15794
pleaded guilty to, or been found eligible for intervention in lieu 15795
of conviction for a disqualifying offense ~~but meets personal~~ 15796
~~character standards.~~ 15797

Sec. 173.39. (A) As used in sections 173.39 to ~~173.394~~ 15798
173.393 of the Revised Code: 15799

(1) "~~Community-based long-term care agency~~ Provider" means a 15800
person or ~~government~~ governmental entity that provides 15801
community-based long-term care services under a program the 15802
department of aging administers, ~~regardless of whether the person~~ 15803
~~or government entity is certified under section 173.391 or~~ 15804
~~authorized to receive payment for the services from the department~~ 15805
~~under section 173.392 of the Revised Code.~~ "Community based 15806
~~long-term care agency~~ Provider" includes a person or ~~government~~ 15807
governmental entity that provides home and community-based 15808
services to older adults through the PASSPORT program ~~created~~ 15809
~~under~~ as defined in section ~~173.40~~ 173.51 of the Revised Code. 15810

(2) "Community-based long-term care services" has the same 15811
meaning as in section 173.14 of the Revised Code. 15812

(B) Except as provided in section 173.392 of the Revised 15813
Code, the department of aging may not pay a ~~person or government~~ 15814
~~entity~~ provider for providing community-based long-term care 15815
services under a program the department administers unless the 15816
~~person or government entity~~ provider is certified under section 15817
173.391 of the Revised Code and provides the services. 15818

Sec. 173.391. (A) The department of aging or its designee 15819
shall do all of the following in accordance with Chapter 119. of 15820
the Revised Code: 15821

(1) Certify a ~~person or government entity~~ provider to provide 15822
community-based long-term care services under a program the 15823

department administers if the ~~person or government entity~~ provider 15824
satisfies the requirements for certification established by rules 15825
adopted under division (B) of this section and pays the fee, if 15826
any, established by rules adopted under division (G) of this 15827
section; 15828

(2) When required to do so by rules adopted under division 15829
(B) of this section, take one or more of the following 15830
disciplinary actions against a ~~person or government entity~~ 15831
provider certified under division (A)(1) of this section: 15832

(a) Issue a written warning; 15833

(b) Require the submission of a plan of correction or 15834
evidence of compliance with requirements identified by the 15835
department; 15836

(c) Suspend referrals; 15837

(d) Remove clients; 15838

(e) Impose a fiscal sanction such as a civil monetary penalty 15839
or an order that unearned funds be repaid; 15840

(f) Suspend the certification; 15841

(g) Revoke the certification; 15842

(h) Impose another sanction. 15843

(3) Except as provided in division (E) of this section, hold 15844
hearings when there is a dispute between the department or its 15845
designee and a ~~person or government entity~~ provider concerning 15846
actions the department or its designee takes regarding a decision 15847
not to certify the ~~person or government entity~~ provider under 15848
division (A)(1) of this section or a disciplinary action under 15849
divisions (A)(2)(e) to (h) of this section. 15850

(B) The director of aging shall adopt rules in accordance 15851
with Chapter 119. of the Revised Code establishing certification 15852
requirements and standards for determining which type of 15853

disciplinary action to take under division (A)(2) of this section 15854
in individual situations. The rules shall establish procedures for 15855
all of the following: 15856

(1) Ensuring that ~~community-based long-term care agencies~~ 15857
providers comply with section ~~173.394~~ 173.38 of the Revised Code; 15858

(2) Evaluating the services provided by the ~~agencies~~ 15859
providers to ensure that the services are provided in a quality 15860
manner advantageous to the individual receiving the services; 15861

(3) Determining when to take disciplinary action under 15862
division (A)(2) of this section and which disciplinary action to 15863
take; 15864

(4) Determining what constitutes another sanction for 15865
purposes of division (A)(2)(h) of this section. 15866

(C) The procedures established in rules adopted under 15867
division (B)(2) of this section shall require that all of the 15868
following be considered as part of an evaluation described in 15869
division (B)(2) of this section: 15870

(1) The ~~community-based long-term care agency's~~ provider's 15871
experience and financial responsibility; 15872

(2) The ~~agency's~~ provider's ability to comply with standards 15873
for the community-based long-term care services that the ~~agency~~ 15874
provider provides under a program the department administers; 15875

(3) The ~~agency's~~ provider's ability to meet the needs of the 15876
individuals served; 15877

(4) Any other factor the director considers relevant. 15878

(D) The rules adopted under division (B)(3) of this section 15879
shall specify that the reasons disciplinary action may be taken 15880
under division (A)(2) of this section include good cause, 15881
including misfeasance, malfeasance, nonfeasance, confirmed abuse 15882
or neglect, financial irresponsibility, or other conduct the 15883

director determines is injurious, or poses a threat, to the health 15884
or safety of individuals being served. 15885

(E) Subject to division (F) of this section, the department 15886
is not required to hold hearings under division (A)(3) of this 15887
section if any of the following conditions apply: 15888

(1) Rules adopted by the director of aging pursuant to this 15889
chapter require the ~~community-based long-term care agency~~ provider 15890
to be a party to a provider agreement; hold a license, 15891
certificate, or permit; or maintain a certification, any of which 15892
is required or issued by a state or federal government entity 15893
other than the department of aging, and either of the following is 15894
the case: 15895

(a) The provider agreement has not been entered into or the 15896
license, certificate, permit, or certification has not been 15897
obtained or maintained. 15898

(b) The provider agreement, license, certificate, permit, or 15899
certification has been denied, revoked, not renewed, or suspended 15900
or has been otherwise restricted. 15901

(2) The ~~agency's~~ provider's certification under this section 15902
has been denied, suspended, or revoked for any of the following 15903
reasons: 15904

(a) A ~~government~~ governmental entity of this state, other 15905
than the department of aging, has terminated or refused to renew 15906
any of the following held by, or has denied any of the following 15907
sought by, a ~~community-based long-term care agency~~ provider: a 15908
provider agreement, license, certificate, permit, or 15909
certification. Division (E)(2)(a) of this section applies 15910
regardless of whether the ~~agency~~ provider has entered into a 15911
provider agreement in, or holds a license, certificate, permit, or 15912
certification issued by, another state. 15913

(b) The ~~agency~~ provider or a principal owner or manager of 15914

the ~~agency~~ provider who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program.

(c) The ~~agency~~ provider or a principal owner or manager of the ~~agency~~ provider who provides direct care has entered a guilty plea for, been convicted of, or been found eligible for intervention in lieu of conviction for an offense listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code, but only if ~~none of the personal character~~ the provider, principal owner, or manager does not meet standards established specified by the director in rules adopted under section ~~173.394~~ 173.38 of the Revised Code ~~apply~~.

(d) The United States department of health and human services has taken adverse action against the ~~agency~~ provider and that action impacts the ~~agency's~~ provider's participation in the medicaid program.

(e) The ~~agency~~ provider has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the ~~agency~~ provider is certified to provide services.

(f) The ~~agency~~ provider has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The ~~agency~~ provider denied or failed to provide the department or its designee access to the ~~agency's~~ provider's facilities during the ~~agency's~~ provider's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The ~~agency~~ provider has ceased doing business.

(i) The ~~agency~~ provider has voluntarily relinquished its certification for any reason. 15946
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(3) The ~~agency's~~ provider's provider agreement with the department of ~~job and family services~~ medicaid has been suspended under division (C) of section ~~5111.031~~ 5164.37 of the Revised Code. 15948
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(4) The ~~agency's~~ provider's provider agreement with the department of ~~job and family services~~ medicaid is denied or revoked because the ~~agency~~ provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section ~~5111.031~~ 5164.37 of the Revised Code. 15952
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(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the ~~agency~~ provider describing a decision not to certify the ~~agency~~ provider under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the ~~agency's~~ provider's address that is on record with the department and may be sent by regular mail. 15958
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(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section. 15966
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All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used to pay for community-based long-term care services, administrative costs associated with ~~community-based long-term care~~ agency provider certification under this section, and administrative costs related 15970
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to the publication of the Ohio long-term care consumer guide. 15977

Sec. 173.392. (A) The department of aging may pay a ~~person or~~ 15978
~~government entity~~ provider for providing community-based long-term 15979
care services under a program the department administers, even 15980
though the ~~person or government entity~~ provider is not certified 15981
under section 173.391 of the Revised Code, if all of the following 15982
are the case: 15983

(1) The ~~person or government entity~~ provider has a contract 15984
with the department of aging or the department's designee to 15985
provide the services in accordance with the contract or has 15986
received a grant from the department or its designee to provide 15987
the services in accordance with a grant agreement; 15988

(2) The contract or grant agreement includes detailed 15989
conditions of participation for ~~providers of services under a~~ 15990
~~program the department administers~~ the provider and service 15991
standards that the ~~person or government entity~~ provider is 15992
required to satisfy; 15993

(3) The ~~person or government entity~~ provider complies with 15994
the contract or grant agreement; 15995

(4) The contract or grant is not for medicaid-funded 15996
services, other than services provided under the PACE program 15997
administered by the department of aging under section 173.50 of 15998
the Revised Code. 15999

(B) The director of aging shall adopt rules in accordance 16000
with Chapter 119. of the Revised Code governing both of the 16001
following: 16002

(1) Contracts and grant agreements between the department of 16003
aging or its designee and ~~persons and government entities~~ 16004
~~regarding community based long term care services provided under a~~ 16005
~~program the department administers~~ providers; 16006

(2) The department's payment for community-based long-term care services under this section. 16007
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Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised Code: 16009
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(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging. 16011
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(2) "Department of aging-administered medicaid waiver component" means each of the following: 16014
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(a) The medicaid-funded component of the PASSPORT program created under section ~~173.40~~ 173.52 of the Revised Code; 16016
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(b) The choices program created under section ~~173.403~~ 173.53 of the Revised Code; 16018
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(c) The medicaid-funded component of the assisted living program created under section ~~5111.89~~ 173.54 of the Revised Code; 16020
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(d) Any other medicaid waiver component, as defined in section ~~5111.85~~ 5166.01 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code. 16022
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(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following: 16027
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(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component; 16030
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(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section ~~5111.02~~ 5164.02 of the Revised Code: 16032
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(i) Home health services;	16036
(ii) Private duty nursing services;	16037
(iii) Durable medical equipment;	16038
(iv) Services of a clinical nurse specialist;	16039
(v) Services of a certified nurse practitioner.	16040
(c) Services available to a participant of the PACE program.	16041
(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.	16042 16043 16044 16045
(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.	16046 16047
(6) "Nursing facility" has the same meaning as in section 5111.20 <u>5165.01</u> of the Revised Code.	16048 16049
(7) <u>(6)</u> "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.	16050 16051 16052
(8) <u>(7)</u> "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.	16053 16054 16055
(9) <u>(8)</u> "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.	16056 16057 16058 16059
(10) <u>(9)</u> "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.	16060 16061 16062 16063 16064

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations shall be

provided by individuals certified by the department under section 16096
173.422 of the Revised Code. 16097

(E) The information provided through a long-term care 16098
consultation shall be appropriate to the individual's needs and 16099
situation and shall address all of the following: 16100

(1) The availability of any long-term care options open to 16101
the individual; 16102

(2) Sources and methods of both public and private payment 16103
for long-term care services; 16104

(3) Factors to consider when choosing among the available 16105
programs, services, and benefits; 16106

(4) Opportunities and methods for maximizing independence and 16107
self-reliance, including support services provided by the 16108
individual's family, friends, and community. 16109

(F) An individual's long-term care consultation may include 16110
an assessment of the individual's functional capabilities. The 16111
consultation may incorporate portions of the determinations 16112
required under sections ~~5111.202, 5119.061~~ 5119.40, ~~and~~ 5123.021, 16113
and 5165.03 of the Revised Code and may be provided concurrently 16114
with the assessment required under section ~~5111.204~~ 173.546 or 16115
5165.04 of the Revised Code. 16116

(G)(1) Unless an exemption specified in division (I) of this 16117
section is applicable, each of the following shall be provided 16118
with a long-term care consultation: 16119

(a) An individual who applies or indicates an intention to 16120
apply for admission to a nursing facility, regardless of the 16121
source of payment to be used for the individual's care in a 16122
nursing facility; 16123

(b) An individual who requests a long-term care consultation; 16124

(c) An individual identified by the department or a program 16125

administrator as being likely to benefit from a long-term care
consultation. 16126
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(2) In addition to the individuals specified in division 16128
(G)(1) of this section, a long-term care consultation may be 16129
provided to a nursing facility resident regardless of the source 16130
of payment being used for the resident's care in the nursing 16131
facility. 16132

(H)(1) Except as provided in division (H)(2) or (3) of this 16133
section, a long-term care consultation provided pursuant to 16134
division (G) of this section shall be provided as follows: 16135

(a) If the individual for whom the consultation is being 16136
provided has applied for medicaid and the consultation is being 16137
provided concurrently with the assessment required under section 16138
~~5111.204~~ 5165.04 of the Revised Code, the consultation shall be 16139
completed in accordance with the applicable time frames specified 16140
in that section for providing a level of care determination based 16141
on the assessment. 16142

(b) In all other cases, the consultation shall be provided 16143
not later than five calendar days after the department or program 16144
administrator receives notice of the reason for which the 16145
consultation is to be provided pursuant to division (G) of this 16146
section. 16147

(2) An individual or the individual's representative may 16148
request that a long-term care consultation be provided on a date 16149
that is later than the date required under division (H)(1)(a) or 16150
(b) of this section. 16151

(3) If a long-term care consultation cannot be completed 16152
within the number of days required by division (H)(1) or (2) of 16153
this section, the department or program administrator may do any 16154
of the following: 16155

(a) In the case of an individual specified in division (G)(1) 16156

of this section, exempt the individual from the consultation 16157
pursuant to rules that may be adopted under division (L) of this 16158
section; 16159

(b) In the case of an applicant for admission to a nursing 16160
facility, provide the consultation after the individual is 16161
admitted to the nursing facility; 16162

(c) In the case of a resident of a nursing facility, provide 16163
the consultation as soon as practicable. 16164

(I) An individual is not required to be provided a long-term 16165
care consultation under division (G)(1) of this section if any of 16166
the following apply: 16167

(1) The department or program administrator has attempted to 16168
provide the consultation, but the individual or the individual's 16169
representative refuses to cooperate; 16170

(2) The individual is to receive care in a nursing facility 16171
under a contract for continuing care as defined in section 173.13 16172
of the Revised Code; 16173

(3) The individual has a contractual right to admission to a 16174
nursing facility operated as part of a system of continuing care 16175
in conjunction with one or more facilities that provide a less 16176
intensive level of services, including a residential care facility 16177
licensed under Chapter 3721. of the Revised Code, a residential 16178
facility licensed under section ~~5119.22~~ 5119.34 of the Revised 16179
Code that provides accommodations, supervision, and personal care 16180
services for three to sixteen unrelated adults, or an independent 16181
living arrangement; 16182

(4) The individual is to receive continual care in a home for 16183
the aged exempt from taxation under section 5701.13 of the Revised 16184
Code; 16185

(5) The individual is seeking admission to a facility that is 16186

not a nursing facility with a provider agreement under section 16187
~~5111.22~~ 5165.07, ~~5111.671~~ 5165.511, or ~~5111.672~~ 5165.512 of the 16188
Revised Code; 16189

(6) The individual is exempted from the long-term care 16190
consultation requirement by the department or the program 16191
administrator pursuant to rules that may be adopted under division 16192
(L) of this section. 16193

(J) As part of the long-term care consultation program, the 16194
department or program administrator shall assist an individual or 16195
individual's representative in accessing all sources of care and 16196
services that are appropriate for the individual and for which the 16197
individual is eligible, including all available home and 16198
community-based services covered by medicaid components the 16199
department of aging administers. The assistance shall include 16200
providing for the conduct of assessments or other evaluations and 16201
the development of individualized plans of care or services under 16202
section 173.424 of the Revised Code. 16203

(K) No nursing facility for which an operator has a provider 16204
agreement under section ~~5111.22~~ 5165.07, ~~5111.671~~ 5165.511, or 16205
~~5111.672~~ 5165.512 of the Revised Code shall admit any individual 16206
as a resident, unless the nursing facility has received evidence 16207
that a long-term care consultation has been completed for the 16208
individual or division (I) of this section is applicable to the 16209
individual. 16210

(L) The director of aging may adopt any rules the director 16211
considers necessary for the implementation and administration of 16212
this section. The rules shall be adopted in accordance with 16213
Chapter 119. of the Revised Code and may specify any or all of the 16214
following: 16215

(1) Procedures for providing long-term care consultations 16216
pursuant to this section; 16217

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;	16218 16219 16220
(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;	16221 16222 16223
(4) Criteria for exempting individuals from the long-term care consultation requirement;	16224 16225
(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;	16226 16227 16228 16229
(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;	16230 16231
(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;	16232 16233 16234
(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;	16235 16236 16237 16238
(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.	16239 16240
(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under <u>authorized</u> by section 5111.02 <u>5165.191</u> of the Revised Code for purposes of	16241 16242 16243 16244 16245 16246 16247

the medicaid program. Except when prohibited by state or federal 16248
law, the department of health, department of ~~job and family~~ 16249
~~services~~ medicaid, or nursing facility holding the data shall 16250
grant access to the data on receipt of the request from the 16251
department of aging or program administrator. 16252

(N)(1) The director of aging, after providing notice and an 16253
opportunity for a hearing, may fine a nursing facility an amount 16254
determined by rules the director shall adopt in accordance with 16255
Chapter 119. of the Revised Code for any of the following reasons: 16256

(a) The nursing facility admits an individual, without 16257
evidence that a long-term care consultation has been provided, as 16258
required by this section; 16259

(b) The nursing facility denies a person attempting to 16260
provide a long-term care consultation access to the facility or a 16261
resident of the facility; 16262

(c) The nursing facility denies the department of aging or 16263
program administrator access to the facility or a resident of the 16264
facility, as the department or administrator considers necessary 16265
to administer the program. 16266

(2) In accordance with section ~~5111.62~~ 5162.66 of the Revised 16267
Code, all fines collected under division (N)(1) of this section 16268
shall be deposited into the state treasury to the credit of the 16269
residents protection fund. 16270

Sec. 173.43. (A) ~~Subject to section 173.433 of the Revised~~ 16271
~~Code, the~~ The department of aging shall enter into an interagency 16272
agreement with the department of ~~job and family services~~ medicaid 16273
under section ~~5111.91~~ 5162.35 of the Revised Code under which the 16274
department of aging is required to establish for each biennium a 16275
unified long-term care budget for home and community-based 16276
services covered by medicaid components the department of aging 16277

administers. The interagency agreement shall require the 16278
department of aging to do all of the following: 16279

(1) Administer the unified long-term care budget in 16280
accordance with sections 173.43 to 173.434 of the Revised Code and 16281
the general assembly's appropriations for home and community-based 16282
services covered by medicaid components the department of aging 16283
administers for the applicable biennium; 16284

(2) Contract with each PASSPORT administrative agency for 16285
assistance in the administration of the unified long-term care 16286
budget; 16287

(3) Provide individuals who are eligible for home and 16288
community-based services covered by medicaid components the 16289
department of aging administers a choice of services that meet the 16290
individuals' needs and improve their quality of life; 16291

(4) Provide a continuum of services that meet the life-long 16292
needs of individuals who are eligible for home and community-based 16293
services covered by medicaid components the department of aging 16294
administers. 16295

(B) The director of budget and management shall create new 16296
appropriation items as necessary for establishment of the unified 16297
long-term care budget. 16298

Sec. 173.431. ~~Subject to section 173.433 of the Revised Code,~~ 16299
~~the~~ The department of aging shall ensure that the unified 16300
long-term care budget established under section 173.43 of the 16301
Revised Code is administered in a manner that provides medicaid 16302
coverage of and expands access to all of the following as 16303
necessary to meet the needs of individuals receiving home and 16304
community-based services covered by medicaid components the 16305
department of aging administers: 16306

(A) To the extent permitted by the medicaid waivers 16307

authorizing department of aging-administered medicaid waiver	16308
components, all of the following medicaid waiver services provided	16309
under department of aging-administered medicaid waiver components:	16310
(1) Personal care services;	16311
(2) Home-delivered meals;	16312
(3) Adult day-care;	16313
(4) Homemaker services;	16314
(5) Emergency response services;	16315
(6) Medical equipment and supplies;	16316
(7) Chore services;	16317
(8) Social work counseling;	16318
(9) Nutritional counseling;	16319
(10) Independent living assistance;	16320
(11) Medical transportation;	16321
(12) Nonmedical transportation;	16322
(13) Home care attendant services;	16323
(14) Assisted living services;	16324
(15) Community transition services;	16325
(16) Enhanced community living services;	16326
(17) All other medicaid waiver services provided under	16327
department of aging-administered medicaid waiver components.	16328
(B) All of the following state medicaid plan services as	16329
specified in rules adopted under section 5111.02 <u>5164.02</u> of the	16330
Revised Code:	16331
(1) Home health services;	16332
(2) Private duty nursing services;	16333
(3) Durable medical equipment;	16334

- (4) Services of a clinical nurse specialist; 16335
- (5) Services of a certified nurse practitioner. 16336
- (C) The services that the PACE program provides. 16337

Sec. 173.432. ~~Subject to section 173.433 of the Revised Code,~~ 16338
~~the~~ The department of aging or its designee shall provide care 16339
management and authorization services with regard to the state 16340
plan services specified in division (B) of section 173.431 of the 16341
Revised Code that are provided to participants of department of 16342
aging-administered medicaid waiver components. The department or 16343
its designee shall ensure that no person providing the care 16344
management and authorization services performs an activity that 16345
may not be performed without a valid certificate or license issued 16346
by an agency of this state unless the person holds the valid 16347
certificate or license. 16348

Sec. 173.434. ~~The director of job and family services shall~~ 16349
~~adopt~~ To the extent authorized by rules under authorized by 16350
section ~~5111.85~~ 5162.021 of the Revised Code ~~to authorize,~~ the 16351
director of aging ~~to~~ shall adopt rules that are needed to 16352
implement sections 173.43 to 173.432 of the Revised Code. The 16353
~~director of aging's~~ rules shall be adopted in accordance with 16354
Chapter 119. of the Revised Code. 16355

Sec. 173.45. As used in this section and in sections 173.46 16356
to 173.49 of the Revised Code: 16357

(A) "Residential facility" means a residential facility 16358
licensed under section ~~5119.22~~ 5119.34 of the Revised Code that 16359
provides accommodations, supervision, and personal care services 16360
for three to sixteen unrelated adults. 16361

(B) "Community-based long-term care services" has the same 16362
meaning as in section 173.14 of the Revised Code. 16363

(C) "Long-term care facility" means a nursing home or residential care facility. 16364
16365

(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 16366
16367

(E) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code. 16368
16369

Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both. A survey that is to include information obtained from nursing facility residents shall include the questions specified in divisions (C)(7)(a) and (b) and (18) and (D)(7)(a) and (b) of section ~~5111.244~~ 5165.25 of the Revised Code. A survey that is to include information obtained from the families of nursing facility residents shall include the questions specified in divisions (C)(8)(a) and (b) and (19) and (D)(8)(a) and (b) of section ~~5111.244~~ 5165.25 of the Revised Code. 16370
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(B) Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey. 16383
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Sec. 173.50. (A) Pursuant to a contract entered into with the department of ~~job and family services~~ medicaid as an interagency agreement under section ~~5111.91~~ 5162.35 of the Revised Code, the department of aging shall carry out the day-to-day administration of the component of the medicaid program ~~established under Chapter 5111. of the Revised Code~~ known as the program of all-inclusive care for the elderly or PACE. The department of aging shall carry out its PACE administrative duties in accordance with the provisions of the interagency agreement and all applicable federal 16385
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laws, including the "Social Security Act," ~~79 Stat. 286 (1965)~~ 16394
section 1934, 42 U.S.C. 1396u-4, ~~as amended.~~ 16395

(B) ~~The department~~ To the extent authorized by rules 16396
authorized by section 5162.021 of the Revised Code, the director 16397
of aging may adopt rules in accordance with Chapter 119. of the 16398
Revised Code regarding the PACE program, including rules 16399
establishing priorities for enrolling in the program pursuant to 16400
section 173.501 of the Revised Code. ~~The department's~~ rules are 16401
~~subject to both of the following:~~ 16402

~~(1) The rules shall be authorized by rules adopted by the~~ 16403
~~department of job and family services.~~ 16404

~~(2) The rules~~ shall address only those issues that are not 16405
addressed in rules adopted by the ~~department of job and family~~ 16406
~~services~~ medicaid director for the PACE program. 16407

Sec. 173.501. (A) As used in this section: 16408

"Nursing facility" has the same meaning as in section ~~5111.20~~ 16409
5165.01 of the Revised Code. 16410

"PACE provider" has the same meaning as in the "Social 16411
Security Act," section 1934(a)(3), 42 U.S.C. 1396u-4(a)(3). 16412

(B) The department of aging shall establish a home first 16413
component of the PACE program under which eligible individuals may 16414
be enrolled in the PACE program in accordance with this section. 16415
An individual is eligible for the PACE program's home first 16416
component if both of the following apply: 16417

(1) The individual has been determined to be eligible for the 16418
PACE program. 16419

(2) At least one of the following applies: 16420

(a) The individual has been admitted to a nursing facility. 16421

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PACE program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual should be admitted to a nursing facility.

(C) Each month, the department of aging shall identify individuals who are eligible for the home first component of the PACE program. When the department identifies such an individual, the department shall notify the PACE provider serving the area in which the individual resides. The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility. If the PACE provider determines that the PACE program is appropriate

for the individual and the individual would rather participate in 16453
the PACE program than continue or begin to reside in a nursing 16454
facility, the PACE provider shall so notify the department of 16455
aging. On receipt of the notice from the PACE provider, the 16456
department of aging shall approve the individual's enrollment in 16457
the PACE program in accordance with priorities established in 16458
rules adopted under section 173.50 of the Revised Code. 16459

Sec. 173.51. As used in sections 173.51 to 173.56 of the 16460
Revised Code: 16461

"Area agency on aging" has the same meaning as in section 16462
173.14 of the Revised Code. 16463

"Assisted living program" means the program that consists of 16464
a medicaid-funded component created under section 173.54 of the 16465
Revised Code and a state-funded component created under section 16466
173.543 of the Revised Code and provides assisted living services 16467
to individuals who meet the program's applicable eligibility 16468
requirements. 16469

"Assisted living services" means the following home and 16470
community-based services: personal care, homemaker, chore, 16471
attendant care, companion, medication oversight, and therapeutic 16472
social and recreational programming. 16473

"Assisted living waiver" means the federal medicaid waiver 16474
granted by the United States secretary of health and human 16475
services that authorizes the medicaid-funded component of the 16476
assisted living program. 16477

"Choices program" means the program created under section 16478
173.53 of the Revised Code. 16479

"County or district home" means a county or district home 16480
operated under Chapter 5155. of the Revised Code. 16481

"Long-term care consultation program" means the program the 16482

department of aging is required to develop under section 173.42 of 16483
the Revised Code. 16484

"Long-term care consultation program administrator" or 16485
"administrator" means the department of aging or, if the 16486
department contracts with an area agency on aging or other entity 16487
to administer the long-term care consultation program for a 16488
particular area, that agency or entity. 16489

"Medicaid waiver component" has the same meaning as in 16490
section 5166.01 of the Revised Code. 16491

"Nursing facility" has the same meaning as in section 5165.01 16492
of the Revised Code. 16493

"PASSPORT program" means the preadmission screening system 16494
providing options and resources today program (PASSPORT) that 16495
consists of a medicaid-funded component created under section 16496
173.52 of the Revised Code and a state-funded component created 16497
under section 173.522 of the Revised Code and provides home and 16498
community-based services as an alternative to nursing facility 16499
placement for individuals who are aged and disabled and meet the 16500
program's applicable eligibility requirements. 16501

"PASSPORT waiver" means the federal medicaid waiver granted 16502
by the United States secretary of health and human services that 16503
authorizes the medicaid-funded component of the PASSPORT program. 16504

"Representative" means a person acting on behalf of an 16505
applicant for the medicaid-funded component or state-funded 16506
component of the assisted living program. A representative may be 16507
a family member, attorney, hospital social worker, or any other 16508
person chosen to act on behalf of an applicant. 16509

"Residential care facility" has the same meaning as in 16510
section 3721.01 of the Revised Code. 16511

"Unified long-term services and support medicaid waiver 16512

component" means the medicaid waiver component authorized by 16513
section 5166.14 of the Revised Code. 16514

~~Sec. 173.40 173.52.~~ (A) ~~As used in sections 173.40 to 173.402~~ 16515
~~of the Revised Code:~~ 16516

~~"Medicaid waiver component" has the same meaning as in~~ 16517
~~section 5111.85 of the Revised Code.~~ 16518

~~"PASSPORT program" means the program created under this~~ 16519
~~section.~~ 16520

~~"PASSPORT waiver" means the federal medicaid waiver granted~~ 16521
~~by the United States secretary of health and human services that~~ 16522
~~authorizes the medicaid funded component of the PASSPORT program.~~ 16523

~~"Unified long term services and support medicaid waiver~~ 16524
~~component" means the medicaid waiver component authorized by~~ 16525
~~section 5111.864 of the Revised Code.~~ 16526

~~(B) There is hereby created~~ The department of medicaid shall 16527
create the medicaid-funded component of the preadmission screening 16528
system providing options and resources today program, or PASSPORT 16529
program. ~~The PASSPORT program shall provide home and~~ 16530
~~community based services as an alternative to nursing facility~~ 16531
~~placement for individuals who are aged and disabled and meet the~~ 16532
~~program's applicable eligibility requirements. Subject to division~~ 16533
~~(C) of this section, the program shall have a medicaid-funded~~ 16534
~~component and a state funded component.~~ In creating the 16535
medicaid-funded component, the department of medicaid shall 16536
collaborate with the department of aging. 16537

~~(C)(1)(B)~~ Unless the medicaid-funded component of the 16538
PASSPORT program is terminated under division (C)(2) of this 16539
section, all of the following apply: 16540

~~(a)(1)~~ The department of aging shall administer the 16541
medicaid-funded component through a contract entered into with the 16542

department of ~~job and family services~~ medicaid under section 16543
~~5111.91~~ 5162.35 of the Revised Code. 16544

~~(b)(2)~~ The medicaid-funded component shall be operated as a 16545
separate medicaid waiver component. 16546

~~(e)(3)~~ For an individual to be eligible for the 16547
medicaid-funded component, the individual must be a medicaid 16548
recipient and meet the additional eligibility requirements 16549
applicable to the individual established in rules adopted under 16550
division ~~(C)(1)(d)~~ (B)(4) of this section. 16551

~~(d)~~ The director of ~~job and family services~~ shall adopt (4) 16552
To the extent authorized by rules under authorization by section 16553
~~5111.85~~ 5162.021 of the Revised Code and, the director of aging 16554
shall adopt rules in accordance with Chapter 119. of the Revised 16555
Code to implement the medicaid-funded component. 16556

~~(2)(C)~~ If the unified long-term services and support medicaid 16557
waiver component is created, the departments of aging and ~~job and~~ 16558
~~family services~~ medicaid shall work together to determine whether 16559
the medicaid-funded component of the PASSPORT program should 16560
continue to operate as a separate medicaid waiver component or be 16561
terminated. If the departments determine that the medicaid-funded 16562
component of the PASSPORT program should be terminated, the 16563
medicaid-funded component shall cease to exist on a date the 16564
departments shall specify. 16565

~~(D)(1)~~ The department of aging shall administer the 16566
~~state funded component of the PASSPORT program. The state funded~~ 16567
~~component shall not be administered as part of the medicaid~~ 16568
~~program.~~ 16569

~~(2)~~ For an individual to be eligible for the state funded 16570
component, the individual must meet one of the following 16571
requirements and meet the additional eligibility requirements 16572
applicable to the individual established in rules adopted under 16573

~~division (D)(4) of this section:~~ 16574

~~(a) The individual must have been enrolled in the 16575
state-funded component on September 1, 1991, (as the state-funded 16576
component was authorized by uncodified law in effect at that time) 16577
and have had one or more applications for enrollment in the 16578
medicaid-funded component (or, if the medicaid-funded component is 16579
terminated under division (C)(2) of this section, the unified 16580
long term services and support medicaid waiver component) denied. 16581~~

~~(b) The individual must have had the individual's enrollment 16582
in the medicaid-funded component (or, if the medicaid-funded 16583
component is terminated under division (C)(2) of this section, the 16584
unified long term services and support medicaid waiver component) 16585
terminated and the individual must still need the home and 16586
community-based services provided under the PASSPORT program to 16587
protect the individual's health and safety. 16588~~

~~(c) The individual must have an application for the 16589
medicaid-funded component (or, if the medicaid-funded component is 16590
terminated under division (C)(2) of this section, the unified 16591
long term services and support medicaid waiver component) pending 16592
and the department or the department's designee must have 16593
determined that the individual meets the nonfinancial eligibility 16594
requirements of the medicaid-funded component (or, if the 16595
medicaid-funded component is terminated under division (C)(2) of 16596
this section, the unified long term services and support medicaid 16597
waiver component) and not have reason to doubt that the individual 16598
meets the financial eligibility requirements of the 16599
medicaid-funded component (or, if the medicaid-funded component is 16600
terminated under division (C)(2) of this section, the unified 16601
long term services and support medicaid waiver component). 16602~~

~~(3) An individual who is eligible for the state-funded 16603
component because the individual meets the requirement of division 16604
(D)(2)(c) of this section may participate in the component on that 16605~~

~~basis for not more than ninety days.~~ 16606

~~(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.~~ 16607
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Sec. ~~173.401~~ 173.521. (A) ~~As used in this section:~~ 16613

~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~ 16614
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~~"Long term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.~~ 16616
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~~"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.~~ 16619
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~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 16624
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~~(B) Subject Unless the medicaid-funded component of the PASSPORT program is terminated pursuant to division (C)(2) of section 173.40 173.52 of the Revised Code, the department shall establish a home first component of the PASSPORT program under which eligible individuals may be enrolled in the medicaid-funded component of the PASSPORT program in accordance with this section. An individual is eligible for the PASSPORT program's home first component if both of the following apply:~~ 16626
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~~(1) The individual has been determined to be eligible for the medicaid-funded component of the PASSPORT program.~~ 16634
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(2) At least one of the following applies: 16636

(a) The individual has been admitted to a nursing facility. 16637

(b) A physician has determined and documented in writing that 16638
the individual has a medical condition that, unless the individual 16639
is enrolled in home and community-based services such as the 16640
PASSPORT program, will require the individual to be admitted to a 16641
nursing facility within thirty days of the physician's 16642
determination. 16643

(c) The individual has been hospitalized and a physician has 16644
determined and documented in writing that, unless the individual 16645
is enrolled in home and community-based services such as the 16646
PASSPORT program, the individual is to be transported directly 16647
from the hospital to a nursing facility and admitted. 16648

(d) Both of the following apply: 16649

(i) The individual is the subject of a report made under 16650
section 5101.61 of the Revised Code regarding abuse, neglect, or 16651
exploitation or such a report referred to a county department of 16652
job and family services under section 5126.31 of the Revised Code 16653
or has made a request to a county department for protective 16654
services as defined in section 5101.60 of the Revised Code. 16655

(ii) A county department of job and family services and an 16656
area agency on aging have jointly documented in writing that, 16657
unless the individual is enrolled in home and community-based 16658
services such as the PASSPORT program, the individual should be 16659
admitted to a nursing facility. 16660

~~(C)~~(B) Each month, each area agency on aging shall identify 16661
individuals residing in the area that the agency serves who are 16662
eligible for the home first component of the PASSPORT program. 16663
When an area agency on aging identifies such an individual, the 16664
agency shall notify the long-term care consultation program 16665
administrator serving the area in which the individual resides. 16666

The administrator shall determine whether the PASSPORT program is 16667
appropriate for the individual and whether the individual would 16668
rather participate in the PASSPORT program than continue or begin 16669
to reside in a nursing facility. If the administrator determines 16670
that the PASSPORT program is appropriate for the individual and 16671
the individual would rather participate in the PASSPORT program 16672
than continue or begin to reside in a nursing facility, the 16673
administrator shall so notify the department of aging. On receipt 16674
of the notice from the administrator, the department shall approve 16675
the individual's enrollment in the medicaid-funded component of 16676
the PASSPORT program regardless of the unified waiting list 16677
established under section ~~173.404~~ 173.55 of the Revised Code, 16678
unless the enrollment would cause the component to exceed any 16679
limit on the number of individuals who may be enrolled in the 16680
component as set by the United States secretary of health and 16681
human services in the PASSPORT waiver. 16682

Sec. 173.522. (A) The department of aging shall create and 16683
administer the state-funded component of the PASSPORT program. The 16684
state-funded component shall not be administered as part of the 16685
medicaid program. 16686

(B) For an individual to be eligible for the state-funded 16687
component of the PASSPORT program, the individual must meet one of 16688
the following requirements and meet the additional eligibility 16689
requirements applicable to the individual established in rules 16690
adopted under division (D) of this section: 16691

(1) The individual must have been enrolled in the 16692
state-funded component on September 1, 1991, (as the state-funded 16693
component was authorized by uncodified law in effect at that time) 16694
and have had one or more applications for enrollment in the 16695
medicaid-funded component of the PASSPORT program (or, if the 16696
medicaid-funded component is terminated under division (C) of 16697

section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) denied. 16698
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(2) The individual must have had the individual's enrollment in the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety. 16700
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(3) The individual must have an application for the medicaid-funded component of the PASSPORT program (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component). 16708
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(C) An individual who is eligible for the state-funded component of the PASSPORT program because the individual meets the requirement of division (B)(3) of this section may participate in the component on that basis for not more than ninety days. 16723
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(D) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component of the PASSPORT program. The additional 16727
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eligibility requirements established in the rules may vary for the 16730
different groups of individuals specified in divisions (B)(1), 16731
(2), and (3) of this section. 16732

Sec. 173.523. (A) An individual who is an applicant for or 16733
participant or former participant in the state-funded component of 16734
the PASSPORT program may appeal an adverse action taken or 16735
proposed to be taken by the department of aging or an entity 16736
designated by the department concerning participation in or 16737
services provided under the component if the action will result in 16738
any of the following: 16739

(1) Denial of enrollment or continued enrollment in the 16740
component; 16741

(2) Denial of or reduction in the amount of services 16742
requested by or offered to the individual under the component; 16743

(3) Assessment of any patient liability payment pursuant to 16744
rules adopted by the department under this section. 16745

The appeal shall be made in accordance with section 173.56 of 16746
the Revised Code and rules adopted pursuant to that section. 16747

(B) An individual who is an applicant for or participant or 16748
former participant in the state-funded component of the PASSPORT 16749
program may not bring an appeal under this or any other section of 16750
the Revised Code if any of the following is the case: 16751

(1) The individual has voluntarily withdrawn the application 16752
for enrollment in the component; 16753

(2) The individual has voluntarily terminated enrollment in 16754
the component; 16755

(3) The individual agrees with the action being taken or 16756
proposed; 16757

(4) The individual fails to submit a written request for a 16758

hearing to the director of aging within the time specified in the 16759
rules adopted pursuant to section 173.56 of the Revised Code; 16760

(5) The individual has received services under the component 16761
for the maximum time permitted by this section. 16762

Sec. ~~173.402~~ 173.524. An individual enrolled in the PASSPORT 16763
program may request that home-delivered meals provided to the 16764
individual under the PASSPORT program be kosher. If such a request 16765
is made, the department of aging or the department's designee 16766
shall ensure that each home-delivered meal provided to the 16767
individual under the PASSPORT program is kosher. In complying with 16768
this requirement, the department or department's designee shall 16769
require each entity that provides home-delivered meals to the 16770
individual to provide the individual with meals that meet, as much 16771
as possible, the requirements established in rules adopted under 16772
~~section 173.40~~ sections 173.52 and 173.522 of the Revised Code 16773
governing the home-delivered meal service while complying with 16774
kosher practices for meal preparation and dietary restrictions. 16775

An entity that provides a kosher home-delivered meal to a 16776
PASSPORT program enrollee pursuant to this section shall be 16777
reimbursed for the meal at a rate equal to the rate for 16778
home-delivered meals furnished to PASSPORT program enrollees 16779
requiring a therapeutic diet. 16780

Sec. ~~173.403~~ 173.53. (A) ~~As used in this section:~~ 16781

~~"Choices program" means the program created under this~~ 16782
~~section.~~ 16783

~~"Medicaid waiver component" has the same meaning as in~~ 16784
~~section 5111.85 of the Revised Code.~~ 16785

~~"Unified long term services and support medicaid waiver~~ 16786
~~component" means the medicaid waiver component authorized by~~ 16787
~~section 5111.864 of the Revised Code.~~ 16788

~~(B) Subject to division (C) of this section, there is hereby~~ 16789
~~created~~ The department of medicaid shall create the choices 16790
~~program.~~ In creating the choices program, the department of 16791
medicaid shall collaborate with the department of aging. Subject 16792
to division (B) of this section: 16793

(1) The choices program shall provide home and 16794
community-based services.~~The;~~ 16795

(2) The department of aging shall administer the choices 16796
program through a contract entered into with the department of job 16797
and family services medicaid under section 5111.91 5162.35 of the 16798
Revised Code.~~Subject to federal approval, the;~~ 16799

(3) The choices program shall be available statewide. 16800

~~(C)~~(B) If the unified long-term services and support medicaid 16801
waiver component is created, the departments of aging and job 16802
and family services medicaid shall work together collaborate to 16803
determine whether the choices program should continue to operate 16804
as a separate medicaid waiver component or be terminated. If the 16805
departments determine that the choices program should be 16806
terminated, the program shall cease to exist on a date the 16807
departments shall specify. 16808

(C) If the choices program is terminated pursuant to division 16809
(B) of this section or for another reason, not sooner than six 16810
months before the date on which the program ceases to exist, the 16811
director of aging may do both of the following: 16812

(1) Suspend new enrollments in the choices program; 16813

(2) Transfer participants of the choices program to the 16814
following: 16815

(a) Except as provided in division (C)(2)(b) of this section, 16816
the medicaid-funded component of the PASSPORT program created 16817
under section 173.52 of the Revised Code; 16818

(b) If the medicaid-funded component of the PASSPORT program is terminated pursuant to division (C) of section 173.52 of the Revised Code, the unified long-term services and support medicaid waiver component. 16819
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~~Sec. 5111.89 173.54. (A) As used in sections 5111.89 to 5111.894 of the Revised Code:~~ 16823
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~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~ 16825
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~~"Assisted living program" means the program created under this section.~~ 16827
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~~"Assisted living services" means the following home and community based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.~~ 16829
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~~"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.~~ 16833
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~~"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.~~ 16837
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~~"Long term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.~~ 16839
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~~"Long term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long term care consultation program for a particular area, that agency or entity.~~ 16842
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~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 16847
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~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 16849
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~~"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.~~ 16851
16852

~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~ 16853
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~~(B) There is hereby created~~ The department of medicaid shall create the medicaid-funded component of the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid funded component and a state funded component In creating the medicaid-funded component, the department of medicaid shall collaborate with the department of aging. 16856
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~~(C)(1)(B)~~ Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply: 16865
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16867

~~(a)(1)~~ The department of aging shall administer the medicaid-funded component through a contract entered into with the department of ~~job and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the Revised Code. 16868
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~~(b)(2)~~ The contract shall include an estimate of the medicaid-funded component's costs. 16872
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~~(e)(3)~~ The medicaid-funded component shall be operated as a separate medicaid waiver component. 16874
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~~(d)(4)~~ The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver. 16876
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~~(e) The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the medicaid-funded component.~~

~~(f) The (5) To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of aging may adopt rules under Chapter 119. of the Revised Code regarding the medicaid-funded component that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt.~~

~~(2)(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and ~~job and family services~~ medicaid shall ~~work together~~ collaborate to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.~~

~~(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.~~

~~An individual who is eligible for the state-funded component may participate in the component for not more than ninety days.~~

~~The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.~~

Sec. ~~5111.891~~ 173.541. To be eligible for the medicaid-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined ~~under~~ 16909
~~rule 5101:3-3-06~~ by an assessment conducted under section 173.546 16910
of the ~~Administrative~~ Revised Code; 16911

(B) While receiving assisted living services under the 16912
medicaid-funded component, reside in a residential care facility 16913
that is authorized by a valid medicaid provider agreement to 16914
participate in the component, including both of the following: 16915

(1) A residential care facility that is owned or operated by 16916
a metropolitan housing authority that has a contract with the 16917
United States department of housing and urban development to 16918
receive an operating subsidy or rental assistance for the 16919
residents of the facility; 16920

(2) A county or district home licensed as a residential care 16921
facility. 16922

(C) Meet all other eligibility requirements for the 16923
medicaid-funded component established in rules adopted ~~pursuant to~~ 16924
~~division (C) of~~ under section ~~5111.89~~ 173.54 of the Revised Code. 16925

Sec. ~~5111.894~~ 173.542. (A) ~~Subject~~ Unless the medicaid-funded 16926
component of the assisted living program is terminated pursuant to 16927
division (C)~~(2)~~ of section ~~5111.89~~ 173.54 of the Revised Code, the 16928
department of aging shall establish a home first component of the 16929
assisted living program under which eligible individuals may be 16930
enrolled in the medicaid-funded component of the assisted living 16931
program in accordance with this section. An individual is eligible 16932
for the assisted living program's home first component if both of 16933
the following apply: 16934

(1) The individual has been determined to be eligible for the 16935
medicaid-funded component of the assisted living program. 16936

(2) At least one of the following applies: 16937

(a) The individual has been admitted to a nursing facility. 16938

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the assisted living program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual should be admitted to a nursing facility.

(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care

consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the assisted living program regardless of the unified waiting list established under section ~~173.404~~ 173.55 of the Revised Code, unless the enrollment would cause the component to exceed any limit on the number of individuals who may participate in the component as set by the United States secretary of health and human services in the assisted living waiver.

Sec. 173.543. The department of aging shall create and administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for not more than ninety days.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.

Sec. ~~5111.892~~ 173.544. To be eligible for the state-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) The individual must need an intermediate level of care as 17000
determined ~~under rule 5101:3-3-06~~ by an assessment conducted under 17001
section 173.546 of the ~~Administrative Revised Code~~. 17002

(B) The individual must have an application for the 17003
medicaid-funded component of the assisted living program (or, if 17004
the medicaid-funded component is terminated under division (C)~~(2)~~ 17005
of section ~~5111.89~~ 173.54 of the Revised Code, the unified 17006
long-term services and support medicaid waiver component) pending 17007
and the department or the department's designee must have 17008
determined that the individual meets the nonfinancial eligibility 17009
requirements of the medicaid-funded component (or, if the 17010
medicaid-funded component is terminated under division (C)~~(2)~~ of 17011
section ~~5111.89~~ 173.54 of the Revised Code, the unified long-term 17012
services and support medicaid waiver component) and not have 17013
reason to doubt that the individual meets the financial 17014
eligibility requirements of the medicaid-funded component (or, if 17015
the medicaid-funded component is terminated under division (C)~~(2)~~ 17016
of section ~~5111.89~~ 173.54 of the Revised Code, the unified 17017
long-term services and support medicaid waiver component). 17018

(C) While receiving assisted living services under the 17019
state-funded component, the individual must reside in a 17020
residential care facility that is authorized by a valid provider 17021
agreement to participate in the component, including both of the 17022
following: 17023

(1) A residential care facility that is owned or operated by 17024
a metropolitan housing authority that has a contract with the 17025
United States department of housing and urban development to 17026
receive an operating subsidy or rental assistance for the 17027
residents of the facility; 17028

(2) A county or district home licensed as a residential care 17029
facility. 17030

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under ~~division (D) of section 5111.89~~ 173.54 of the Revised Code.

Sec. 173.545. (A) An individual who is an applicant for or participant or former participant in the state-funded component of the assisted living program may appeal an adverse action taken or proposed to be taken by the department of aging or an entity designated by the department concerning participation in or services provided under the component if the action will result in any of the following:

(1) Denial of enrollment or continued enrollment in the component;

(2) Denial of or reduction in the amount of services requested by or offered to the individual under the component;

(3) Assessment of any patient liability payment pursuant to rules adopted by the department under this section.

The appeal shall be made in accordance with section 173.56 of the Revised Code and rules adopted pursuant to that section.

(B) An individual who is an applicant for or participant or former participant in the state-funded component of the assisted living program may not bring an appeal under this or any other section of the Revised Code if any of the following is the case:

(1) The individual has voluntarily withdrawn the application for enrollment in the component;

(2) The individual has voluntarily terminated enrollment in the component;

(3) The individual agrees with the action being taken or proposed;

(4) The individual fails to submit a written request for a hearing to the director of aging within the time specified in the rules adopted pursuant to section 173.56 of the Revised Code; 17060
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(5) The individual has received services under the component for the maximum time permitted by this section. 17063
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Sec. 173.546. (A) Each applicant for the assisted living program shall undergo an assessment to determine whether the applicant needs an intermediate level of care. The department of medicaid or an agency under contract pursuant to division (C) of this section shall conduct the assessment. The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code. 17065
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(B) An applicant or applicant's representative has the right to appeal an assessment's findings. Section 5160.31 of the Revised Code applies to appeals regarding the medicaid-funded component of the assisted living program. The department or an agency under contract to conduct the assessment shall provide written notice of this right to the applicant or applicant's representative and the residential care facility in which the applicant intends to reside if enrolled in the assisted living program. The notice shall include an explanation of the appeal procedures. The department or agency under contract to conduct the assessment shall represent the state in any appeal of an assessment's findings. 17072
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(C) The department may contract with one or more agencies to perform assessments under this section. A contract shall specify the agency's responsibilities regarding the assessments. 17083
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Sec. ~~5111.893~~ 173.547. A residential care facility providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 17086
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(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence;

(B) Provide supervision services for those individuals;

(C) Help keep the individuals safe and secure.

Sec. ~~173.404~~ 173.55. (A) As used in this section:

(1) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program ~~created under section 173.40 of the Revised Code;~~

(b) The choices program ~~created under section 173.403 of the Revised Code;~~

(c) The medicaid-funded component of the assisted living program ~~created under section 5111.89 of the Revised Code.~~

(2) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(B) If the department of aging determines that there are insufficient funds to enroll all individuals who have applied and been determined eligible for department of aging-administered medicaid waiver components and the PACE program, the department shall establish a unified waiting list for the components and program. Only individuals eligible for a department of aging-administered medicaid waiver component or the PACE program may be placed on the unified waiting list. An individual who may be enrolled in a department of aging-administered medicaid waiver component or the PACE program through a home first component established under section ~~173.401~~, 173.501, 173.521 or ~~5111.894~~ 173.542 of the Revised Code may be so enrolled without being placed on the unified waiting list.

Sec. 173.56. (A) The department of aging shall adopt rules in accordance with section 111.15 of the Revised Code governing appeals brought under section 173.523 or 173.545 of the Revised Code. The rules shall require notice and the opportunity for a hearing. The rules may allow an appeal hearing to be conducted by telephone and permit the department to record hearings conducted by telephone. Chapter 119. of the Revised Code applies to a hearing under section 173.523 or 173.545 of the Revised Code only to the extent provided in rules the department adopts under this section.

(B) An appeal shall be commenced by submission of a written request for a hearing to the director of aging within the time specified in the rules adopted under this section. The hearing may be recorded, but neither the recording nor a transcript of the recording is part of the official record of the proceeding. The director shall notify the individual bringing the appeal of the director's decision and of the procedure for appealing the decision.

(C) The director's decision may be appealed to a court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by that section except as follows:

(1) The appeal shall be in the court of common pleas of the county in which the individual who brings the appeal resides or, if the individual does not reside in this state, to the Franklin county court of common pleas.

(2) The notice of appeal must be mailed to the department and filed with the court not later than thirty days after the department mails notice of the director's decision. For good cause shown, the court may extend the time for mailing and filing the notice of appeal, but the time cannot exceed six months from the date the department mails the notice of the director's decision.

(3) If an individual applies to the court for designation as an indigent and the court grants the application, the individual shall not be required to furnish the costs of the appeal. 17151
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(4) The department is required to file a transcript of the testimony of the state hearing with the court only if the court orders that the transcript be filed. The court shall make such an order only if it finds that the department and the individual bringing the appeal are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after such an order is issued. 17154
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Sec. 173.60. (A) As used in this section: 17162

(1) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code. 17163
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(2) "Person-centered care" means a relationship-based approach to care that honors and respects the opinions of individuals receiving care and those working closely with them. 17165
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(B) The department of aging shall implement a nursing home quality initiative to improve person-centered care that nursing homes provide. The office of the state long-term care ombudsperson program shall assist the department with the initiative. The initiative shall include quality improvement projects that provide nursing homes with resources and on-site education promoting person-centered strategies and positive resident outcomes, as well as other assistance designed to improve the quality of nursing home services. 17168
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(C) The department shall make available a list of quality improvement projects offered by the following entities that may be used by nursing homes in meeting the requirements of section 3721.072 of the Revised Code: 17177
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<u>(1) The department;</u>	17181
<u>(2) A quality improvement organization under contract with the United States secretary of health and human services to carry out the state functions described in section 1154 of the "Social Security Act," 42 U.S.C. 1320c-3;</u>	17182 17183 17184 17185
<u>(3) Other state agencies;</u>	17186
<u>(4) The Ohio person-centered care coalition;</u>	17187
<u>(5) Any other academic, research, or health care entity identified by the department.</u>	17188 17189
<u>(D) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.</u>	17190 17191 17192
Sec. 191.01. As used in this chapter:	17193
(A) "Administrative safeguards," "availability," "confidentiality," "integrity," "physical safeguards," and "technical safeguards" have the same meanings as in 45 C.F.R. 164.304.	17194 17195 17196 17197
(B) "Business associate," "covered entity," "health plan," "individually identifiable health information," and "protected health information" have the same meanings as in 45 C.F.R. 160.103.	17198 17199 17200 17201
(C) "Executive director of the office of health transformation" or "executive director" means the executive director of the office of health transformation or the chief administrative officer of a successor governmental entity responsible for health system oversight in this state.	17202 17203 17204 17205 17206
(D) "Government program providing public benefits" means any program administered by a state agency that has been identified, pursuant to section 191.02 of the Revised Code, by the executive	17207 17208 17209

director of the office of health transformation in consultation with the individuals specified in that section. 17210
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(E) "Office of health transformation" means the office of health transformation created by executive order 2011-02K. 17212
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(F) "Operating protocol" means a protocol adopted by the executive director of the office of health transformation or the executive director's designee under division (D) of section 191.06 of the Revised Code. 17214
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(G) "Participating agency" means a state agency that participates in a health transformation initiative as specified in the one or more operating protocols adopted for the initiative under division (D) of section 191.06 of the Revised Code. 17218
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(H) "Personally identifiable information" means information that meets both of the following criteria: 17222
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(1) It identifies an individual or there is a reasonable basis to believe that it may be used to identify an individual; 17224
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(2) It relates to an individual's eligibility for, application for, or receipt of public benefits from a government program providing public benefits. 17226
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(I) "State agency" means each of the following: 17229

(1) The department of aging; 17230

(2) ~~The department of alcohol and drug addiction services;~~ 17231

~~(3)~~ The department of development services agency; 17232

~~(4)~~(3) The department of developmental disabilities; 17233

~~(5)~~(4) The department of education; 17234

~~(6)~~(5) The department of health; 17235

~~(7)~~(6) The department of insurance; 17236

~~(8)~~(7) The department of job and family services; 17237

(9) (8) <u>The department of medicaid;</u>	17238
(9) The department of mental health <u>mental health and</u> <u>addiction services;</u>	17239 17240
(10) The department of rehabilitation and correction;	17241
(11) The department of taxation;	17242
(12) The department of veterans services;	17243
(13) The department of youth services.	17244
(J) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.	17245
Sec. 191.02. The executive director of the office of health transformation, in consultation with all of the following individuals, shall identify each government program administered by a state agency that is to be considered a government program providing public benefits for purposes of section 191.04 of the Revised Code:	17246 17247 17248 17249 17250 17251
(A) The director of aging;	17252
(B) The director of alcohol and drug addiction services;	17253
(C) The director of development <u>services;</u>	17254
(D) (C) The director of developmental disabilities;	17255
(E) (D) The director of health;	17256
(F) (E) The director <u>of</u> job and family services;	17257
(G) (F) <u>The director of medicaid;</u>	17258
(G) The director of mental health <u>mental health and addiction</u> <u>services;</u>	17259 17260
(H) The director of rehabilitation and correction;	17261
(I) The director of veterans services;	17262
(J) The director of youth services;	17263
(K) The administrator <u>executive director</u> of the	17264

rehabilitation services commission <u>opportunities for Ohioans with</u>	17265
<u>disabilities agency;</u>	17266
(L) The administrator of workers' compensation;	17267
(M) The superintendent of insurance;	17268
(N) The superintendent of public instruction;	17269
(O) The tax commissioner.	17270
Sec. 191.04. (A) In accordance with federal laws governing	17271
the confidentiality of individually identifiable health	17272
information, including the "Health Insurance Portability and	17273
Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021,	17274
42 U.S.C. 1320d et seq., as amended, and regulations promulgated	17275
by the United States department of health and human services to	17276
implement the act, a state agency may exchange protected health	17277
information with another state agency relating to eligibility for	17278
or enrollment in a health plan or relating to participation in a	17279
government program providing public benefits if the exchange of	17280
information is necessary for either or both of the following:	17281
(1) Operating a health plan;	17282
(2) Coordinating, or improving the administration or	17283
management of, the health care-related functions of at least one	17284
government program providing public benefits.	17285
(B) For fiscal year <u>years 2013, 2014, and 2015</u> only, a state	17286
agency also may exchange personally identifiable information with	17287
another state agency for purposes related to and in support of a	17288
health transformation initiative identified by the executive	17289
director of the office of health transformation pursuant to	17290
division (C) of section 191.06 of the Revised Code.	17291
(C) With respect to a state agency that uses or discloses	17292
personally identifiable information, all of the following	17293
conditions apply:	17294

(1) The state agency shall use or disclose the information 17295
only as permitted or required by state and federal law. In 17296
addition, if the information is obtained during fiscal year 2013 17297
from an exchange of personally identifiable information permitted 17298
under division (B) of this section, the agency shall also use or 17299
disclose the information in accordance with all operating 17300
protocols that apply to the use or disclosure. 17301

(2) If the state agency is a state agency other than the 17302
department of ~~job and family services~~ medicaid and it uses or 17303
discloses protected health information that is related to a 17304
medicaid recipient and obtained from the department of ~~job and~~ 17305
~~family services~~ medicaid or another agency operating a component 17306
of the medicaid program, the state agency shall comply with all 17307
state and federal laws that apply to the department of ~~job and~~ 17308
~~family services~~ medicaid when that department, as the state's 17309
single state agency to supervise the medicaid program ~~as specified~~ 17310
~~in section 5111.01 of the Revised Code~~, uses or discloses 17311
protected health information. 17312

(3) A state agency shall implement administrative, physical, 17313
and technical safeguards for the purpose of protecting the 17314
confidentiality, integrity, and availability of personally 17315
identifiable information the creation, receipt, maintenance, or 17316
transmittal of which is affected or governed by this section. 17317

(4) If a state agency discovers an unauthorized use or 17318
disclosure of unsecured protected health information or unsecured 17319
individually identifiable health information, the state agency 17320
shall, not later than seventy-two hours after the discovery, do 17321
all of the following: 17322

(a) Identify the individuals who are the subject of the 17323
protected health information or individually identifiable health 17324
information; 17325

(b) Report the discovery and the names of all individuals 17326
identified pursuant to division (C)(4)(a) of this section to all 17327
other state agencies and the executive director of the office of 17328
health transformation or the executive director's designee; 17329

(c) Mitigate, to the extent reasonably possible, any 17330
potential adverse effects of the unauthorized use or disclosure. 17331

(5) A state agency shall make available to the executive 17332
director of the office of health transformation or the executive 17333
director's designee, and to any other state or federal 17334
governmental entity required by law to have access on that 17335
entity's request, all internal practices, records, and 17336
documentation relating to personally identifiable information it 17337
receives, uses, or discloses that is affected or governed by this 17338
section. 17339

(6) On termination or expiration of an operating protocol and 17340
if feasible, a state agency shall return or destroy all personally 17341
identifiable information received directly from or received on 17342
behalf of another state agency. If the personally identifiable 17343
information is not returned or destroyed, the state agency 17344
maintaining the information shall extend the protections set forth 17345
in this section for as long as it is maintained. 17346

(7) If a state agency enters into a subcontract or, when 17347
required by 45 C.F.R. 164.502(e)(2), a business associate 17348
agreement, the subcontract or business associate agreement shall 17349
require the subcontractor or business associate to comply with the 17350
terms of this section as if the subcontractor or business 17351
associate were a state agency. 17352

Sec. 191.06. (A) The provisions of this section shall apply 17353
only for fiscal ~~year~~ years 2013, 2014, and 2015. 17354

(B) The executive director of the office of health 17355

transformation or the executive director's designee may facilitate 17356
the coordination of operations and exchange of information between 17357
state agencies. The purpose of the executive director's authority 17358
under this section is to support agency collaboration for health 17359
transformation purposes, including modernization of the medicaid 17360
program, streamlining of health and human services programs in 17361
this state, and improving the quality, continuity, and efficiency 17362
of health care and health care support systems in this state. 17363

(C) In furtherance of the authority of the executive director 17364
of the office of health transformation under division (B) of this 17365
section, the executive director or the executive director's 17366
designee shall identify each health transformation initiative in 17367
this state that involves the participation of two or more state 17368
agencies and that permits or requires an interagency agreement to 17369
be entered into for purposes of specifying each participating 17370
agency's role in coordinating, operating, or funding the 17371
initiative, or facilitating the exchange of data or other 17372
information for the initiative. The executive director shall 17373
publish a list of the identified health transformation initiatives 17374
on the internet web site maintained by the office of health 17375
transformation. 17376

(D) For each health transformation initiative that is 17377
identified under division (C) of this section, the executive 17378
director or the executive director's designee shall, in 17379
consultation with each participating agency, adopt one or more 17380
operating protocols. Notwithstanding any law enacted by the 17381
general assembly or rule adopted by a state agency, the provisions 17382
in a protocol shall supersede any provisions in an interagency 17383
agreement, including an interagency agreement entered into under 17384
section 5101.10 or ~~5111.91~~ 5162.35 of the Revised Code, that 17385
differ from the provisions of the protocol. 17386

(E)(1) An operating protocol adopted under division (D) of 17387

this section shall include both of the following: 17388

(a) All terms necessary to meet the requirements of "other 17389
arrangements" between a covered entity and a business associate 17390
that are referenced in 45 C.F.R. 164.314(a)(2)(ii); 17391

(b) If known, the date on which the protocol will terminate 17392
or expire. 17393

(2) In addition, a protocol may specify the extent to which 17394
each participating agency is responsible and accountable for 17395
completing the tasks necessary for successful completion of the 17396
initiative, including tasks relating to the following components 17397
of the initiative: 17398

(a) Workflow; 17399

(b) Funding; 17400

(c) Exchange of data or other information that is 17401
confidential pursuant to state or federal law. 17402

(F) An operating protocol adopted under division (D) of this 17403
section shall have the same force and effect as an interagency 17404
agreement or data sharing agreement, and each participating agency 17405
shall comply with it. 17406

~~(G) The director of job and family services shall determine 17407
whether a waiver of federal medicaid requirements or a medicaid 17408
state plan amendment is necessary to fulfill the requirements of 17409
this section. If the director determines a waiver or medicaid 17410
state plan amendment is necessary, the director shall apply to the 17411
United States secretary of health and human services for the 17412
waiver or amendment. 17413~~

Sec. 191.061. (A) As used in this section: 17414

(1) "Core competencies" means the minimum standards a direct 17415
care worker must meet when providing direct care services and 17416

engaging in any one or more of the following activities associated with care for a medicaid recipient: maintaining a clean and safe environment, ensuring recipient-centered care, promoting the recipient's development, assisting the recipient with activities of daily living, communicating with the recipient, completing administrative tasks, and participating in professional development activities. 17417
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(2) "Direct care services" means health care services, ancillary services, or services related to or in support of the provision of health care or ancillary services. 17424
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(3) "Direct care worker" means an individual who, for direct or indirect payment, provides direct care services to a medicaid recipient in the recipient's home, place of residence, or other setting as specified in rules adopted under section 5164.02 of the Revised Code. 17427
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(B) Not later than June 30, 2014, the executive director of the office of health transformation or the executive director's designee, in consultation with the medicaid director and the directors of aging, developmental disabilities, health, and mental health and addiction services, shall execute an operating protocol in accordance with division (D) of section 191.06 of the Revised Code documenting the manner in which each of the directors' departments determine that direct care workers associated with programs administered by the departments demonstrate core competencies. The executive director or the executive director's designee and any one or more of the directors may decide that core competencies are demonstrated by a direct care worker attaining certification through the direct care worker certification program established by the director of health under section 3701.95 of the Revised Code. A decision to this effect does not preclude a director from specifying additional requirements a direct care worker must meet to participate in a program administered by the 17432
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<u>director's department.</u>	17449
Sec. 307.674. (A) As used in this section:	17450
(1) "Bonds" means:	17451
(a) Revenue bonds of the port authority described in division	17452
(B)(2)(a) of this section;	17453
(b) Securities as defined in division (KK) of section 133.01	17454
of the Revised Code issued by the host municipal corporation,	17455
described in division (B)(3)(a) of this section;	17456
(c) Any bonds issued to refund any of those revenue bonds or	17457
securities.	17458
(2) "Corporation" means a nonprofit corporation that is	17459
organized under the laws of this state and that includes within	17460
the purposes for which it is incorporated the authorization to	17461
lease and operate facilities such as a port authority educational	17462
and cultural performing arts facility.	17463
(3) "Cost," as applied to a port authority educational and	17464
cultural performing arts facility, means the cost of acquiring,	17465
constructing, renovating, rehabilitating, equipping, or improving	17466
the facility, or any combination of those purposes, collectively	17467
referred to in this section as "construction," and the cost of	17468
acquisition of all land, rights of way, property rights,	17469
easements, franchise rights, and interests required for those	17470
purposes, the cost of demolishing or removing any buildings or	17471
structures on land so acquired, including the cost of acquiring	17472
any land to which those buildings or structures may be moved, the	17473
cost of public utility and common carrier relocation or	17474
duplication, the cost of all machinery, furnishings, and	17475
equipment, financing charges, interest prior to and during	17476
construction and for not more than three years after completion of	17477
construction, costs arising under guaranty agreements,	17478

reimbursement agreements, or other credit enhancement agreements 17479
relating to bonds, engineering, expenses of research and 17480
development with respect to such facility, legal expenses, plans, 17481
specifications, surveys, studies, estimates of costs and revenues, 17482
other expenses necessary or incident to determining the 17483
feasibility or practicability of acquiring or constructing the 17484
facility, administrative expense, and other expenses as may be 17485
necessary or incident to that acquisition or construction and the 17486
financing of such acquisition or construction, including, with 17487
respect to the revenue bonds of a port authority, amounts to be 17488
paid into any special funds from the proceeds of those bonds, and 17489
repayments to the port authority, host county, host municipal 17490
corporation, or corporation of any amounts advanced for the 17491
foregoing purposes. 17492

(4) "Debt service charges" means, for any period or payable 17493
at any time, the principal of and interest and any premium due on 17494
bonds for that period or payable at that time whether due at 17495
maturity or upon mandatory redemption, together with any required 17496
deposits to reserves for the payment of principal of and interest 17497
on those bonds, and includes any payments required by the port 17498
authority to satisfy any of its obligations under or arising from 17499
any guaranty agreements, reimbursement agreements, or other credit 17500
enhancement agreements described in division (C) of this section. 17501

(5) "Host county" means the county within the boundaries of 17502
which the port authority educational and cultural performing arts 17503
facility is or will be located. 17504

(6) "Host municipal corporation" means the municipal 17505
corporation within the boundaries of which the port authority 17506
educational and cultural performing arts facility is or will be 17507
located. 17508

(7) "Port authority" means a port authority created pursuant 17509
to section 4582.22 of the Revised Code. 17510

(8) "Port authority educational and cultural performing arts facility" means a facility that consists of a center for music or other performing arts, a theater or other facilities to provide programs of an educational, recreational, or cultural nature, or any combination of those purposes as determined by the parties to the cooperative agreement for which provision is made in division (B) of this section to fulfill the public educational, recreational, and cultural purposes set forth therein, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(B) A host county, a host municipal corporation, and a port authority may enter into a cooperative agreement with a corporation under which, as further provided for in that agreement:

(1) The host county may agree to do any or all of the following:

(a) Levy and collect a tax under division (E) and division (F) of section 5739.09 of the Revised Code for the purposes, and in an amount sufficient for those purposes, described in divisions (B)(1)(b) and (c) of this section;

(b) Pay to the port authority all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be used to pay a portion of the costs of acquiring, constructing, renovating, rehabilitating, equipping, or improving the port authority educational and cultural performing arts facility;

(c) Pledge and pay to the corporation all or such portion as provided for in the cooperative agreement of the revenue from the tax, together with any investment earnings on that revenue, to be

used to pay a portion of the costs to the corporation of leasing 17542
the port authority educational and cultural performing arts 17543
facility from the port authority. 17544

(2) The port authority may agree to do any or all of the 17545
following: 17546

(a) Issue its revenue bonds pursuant to section 4582.48 of 17547
the Revised Code for the purpose of paying all or a portion of the 17548
costs of the port authority educational and cultural performing 17549
arts facility; 17550

(b) Acquire, construct, renovate, rehabilitate, equip, and 17551
improve the port authority educational and cultural performing 17552
arts facility; 17553

(c) Lease the port authority educational and cultural 17554
performing arts facility to the corporation; 17555

(d) To the extent provided for in the cooperative agreement 17556
or the lease to the corporation, authorize the corporation to 17557
administer on behalf of the port authority the contracts for 17558
acquiring, constructing, renovating, rehabilitating, or equipping 17559
the port authority educational and cultural performing arts 17560
facility; 17561

(e) Use the revenue derived from the lease of the port 17562
authority educational and cultural performing arts facility to the 17563
corporation solely to pay debt service charges on revenue bonds of 17564
the port authority issued pursuant to division (B)(2)(a) of this 17565
section and to pay its obligations under or arising from any 17566
guaranty agreements, reimbursement agreements, or other credit 17567
enhancement agreements provided for in this section. 17568

(3) The host municipal corporation may agree to do either or 17569
both of the following: 17570

(a) Issue its bonds for the purpose of paying all or a 17571

portion of the costs of the port authority educational and 17572
cultural performing arts facility, and pay the proceeds from the 17573
issuance to the port authority for that purpose; 17574

(b) Enter into a guaranty agreement, a reimbursement 17575
agreement, or other credit enhancement agreement with the port 17576
authority to provide a guaranty or other credit enhancement of the 17577
port authority revenue bonds referred to in division (B)(2)(a) of 17578
this section pledging taxes, other than ad valorem property taxes, 17579
or other revenues for the purpose of providing the funds required 17580
to satisfy the host municipal corporation's obligations under that 17581
agreement. 17582

The cooperative agreement may provide that the proceeds of 17583
such securities or of such guaranty agreement, reimbursement 17584
agreement, or other credit enhancement agreement be deposited with 17585
and administered by the trustee pursuant to the trust agreement 17586
authorized in division (C) of this section. 17587

(4) The corporation may agree to do any or all of the 17588
following: 17589

(a) Lease the port authority educational and cultural 17590
performing arts facility from the port authority; 17591

(b) Operate and maintain the port authority educational and 17592
cultural performing arts facility pursuant to the lease; 17593

(c) To the extent provided for in the cooperative agreement 17594
or the lease from the port authority, administer on behalf of the 17595
port authority the contracts for acquiring, constructing, 17596
renovating, rehabilitating, or equipping the port authority 17597
educational and cultural performing arts facility. 17598

(C) The pledge and payments referred to in divisions 17599
(B)(1)(b) and (c) of this section and provided for in the 17600
cooperative agreement shall be for the period stated in the 17601
cooperative agreement but shall not extend longer than the period 17602

necessary to provide for the final retirement of the port 17603
authority revenue bonds referred to in division (B)(2)(a) of this 17604
section, and for the satisfaction by the port authority of any of 17605
its obligations under or arising from any guaranty agreements, 17606
reimbursement agreements, or other credit enhancement agreements 17607
relating to those bonds or to the revenues pledged to them. The 17608
cooperative agreement shall provide for the termination of the 17609
cooperative agreement, including the pledge and payment referred 17610
to in division (B)(1)(c) of this section, if the port authority 17611
revenue bonds referred to in division (B)(2)(a) of this section 17612
have not been issued, sold, and delivered within five years of the 17613
effective date of the cooperative agreement. 17614

The cooperative agreement shall provide that any port 17615
authority revenue bonds shall be secured by a trust agreement 17616
between the port authority and a corporate trustee that is a trust 17617
company or bank having the powers of a trust company within or 17618
outside the state but authorized to exercise trust powers within 17619
the state. The host county may be a party to that trust agreement 17620
for the purpose of better securing the pledge by the host county 17621
of its payment to the corporation pursuant to division (B)(1)(c) 17622
of this section. A tax levied pursuant to section 5739.09 of the 17623
Revised Code for the purposes specified in division (B)(1)(b) or 17624
(c) of this section is not subject to diminution by initiative or 17625
referendum or diminution by statute, unless provision is made for 17626
an adequate substitute reasonably satisfactory to the trustee 17627
under the trust agreement that secures the port authority revenue 17628
bonds. 17629

(D) A pledge of money by a host county under this section 17630
shall not be net indebtedness of the host county for purposes of 17631
section 133.07 of the Revised Code. A guaranty or other credit 17632
enhancement by a host municipal corporation under this section 17633
shall not be net indebtedness of the host municipal corporation 17634

for purposes of section 133.05 of the Revised Code. 17635

(E) If the terms of the cooperative agreement so provide, any 17636
contract for the acquisition, construction, renovation, 17637
rehabilitation, equipping, or improving of a port authority 17638
educational and cultural performing arts facility shall be made in 17639
such manner as is determined by the board of directors of the port 17640
authority, and unless the cooperative agreement provides 17641
otherwise, such a contract is not subject to division (R)(2) of 17642
section 4582.31 of the Revised Code. The port authority may take 17643
the assignment of and assume any contracts for the acquisition, 17644
construction, renovation, rehabilitation, equipping, or improving 17645
of a port authority educational and cultural performing arts 17646
facility that had previously been authorized by any of the host 17647
county, the host municipality, or the corporation. Such contracts 17648
are not subject to division (R)(2) of section 4582.31 of the 17649
Revised Code. 17650

Any contract for the acquisition, construction, renovation, 17651
rehabilitation, equipping, or improving of a port authority 17652
educational and cultural performing arts facility entered into, 17653
assigned, or assumed pursuant to this division shall provide that 17654
all laborers and mechanics employed for the acquisition, 17655
construction, renovation, rehabilitation, equipping, or improving 17656
of that facility shall be paid at the prevailing rates of wages of 17657
laborers and mechanics for the class of work called for by the 17658
port authority educational and cultural performing arts facility, 17659
which wages shall be determined in accordance with the 17660
requirements of Chapter 4115. of the Revised Code for the 17661
determination of prevailing wage rates. 17662

Notwithstanding any provisions to the contrary in section 17663
~~3383.07~~ 123.281 of the Revised Code, construction services and 17664
general building services for a port authority educational and 17665
cultural performing arts facility funded completely or in part 17666

with money appropriated by the state to the Ohio ~~cultural~~ 17667
facilities construction commission may be provided by a port 17668
authority or a corporation that occupies, will occupy, or is 17669
responsible for that facility, as determined by the commission. 17670
The construction services and general building services to be 17671
provided by the port authority or the corporation shall be 17672
specified in an agreement between the commission and the port 17673
authority or corporation. That agreement, or any actions taken 17674
under it, are not subject to Chapters 123. or 153. of the Revised 17675
Code, but are subject to Chapter 4115. of the Revised Code. 17676

Sec. 307.86. Anything to be purchased, leased, leased with an 17677
option or agreement to purchase, or constructed, including, but 17678
not limited to, any product, structure, construction, 17679
reconstruction, improvement, maintenance, repair, or service, 17680
except the services of an accountant, architect, attorney at law, 17681
physician, professional engineer, construction project manager, 17682
consultant, surveyor, or appraiser, by or on behalf of the county 17683
or contracting authority, as defined in section 307.92 of the 17684
Revised Code, at a cost in excess of fifty thousand dollars, 17685
except as otherwise provided in division (D) of section 713.23 and 17686
in sections 9.48, 125.04, 125.60 to 125.6012, 307.022, 307.041, 17687
307.861, 339.05, 340.03, ~~340.033~~, 4115.31 to 4115.35, ~~5119.16~~ 17688
5119.44, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised 17689
Code, shall be obtained through competitive bidding. However, 17690
competitive bidding is not required when any of the following 17691
applies: 17692

(A) The board of county commissioners, by a unanimous vote of 17693
its members, makes a determination that a real and present 17694
emergency exists, and that determination and the reasons for it 17695
are entered in the minutes of the proceedings of the board, when 17696
either of the following applies: 17697

(1) The estimated cost is less than one hundred thousand 17698
dollars. 17699

(2) There is actual physical disaster to structures, radio 17700
communications equipment, or computers. 17701

For purposes of this division, "unanimous vote" means all 17702
three members of a board of county commissioners when all three 17703
members are present, or two members of the board if only two 17704
members, constituting a quorum, are present. 17705

Whenever a contract of purchase, lease, or construction is 17706
exempted from competitive bidding under division (A)(1) of this 17707
section because the estimated cost is less than one hundred 17708
thousand dollars, but the estimated cost is fifty thousand dollars 17709
or more, the county or contracting authority shall solicit 17710
informal estimates from no fewer than three persons who could 17711
perform the contract, before awarding the contract. With regard to 17712
each such contract, the county or contracting authority shall 17713
maintain a record of such estimates, including the name of each 17714
person from whom an estimate is solicited. The county or 17715
contracting authority shall maintain the record for the longer of 17716
at least one year after the contract is awarded or the amount of 17717
time the federal government requires. 17718

(B)(1) The purchase consists of supplies or a replacement or 17719
supplemental part or parts for a product or equipment owned or 17720
leased by the county, and the only source of supply for the 17721
supplies, part, or parts is limited to a single supplier. 17722

(2) The purchase consists of services related to information 17723
technology, such as programming services, that are proprietary or 17724
limited to a single source. 17725

(C) The purchase is from the federal government, the state, 17726
another county or contracting authority of another county, or a 17727
board of education, educational service center, township, or 17728

municipal corporation. 17729

(D) The purchase is made by a county department of job and 17730
family services under section 329.04 of the Revised Code and 17731
consists of family services duties or workforce development 17732
activities or is made by a county board of developmental 17733
disabilities under section 5126.05 of the Revised Code and 17734
consists of program services, such as direct and ancillary client 17735
services, child care, case management services, residential 17736
services, and family resource services. 17737

(E) The purchase consists of criminal justice services, 17738
social services programs, family services, or workforce 17739
development activities by the board of county commissioners from 17740
nonprofit corporations or associations under programs funded by 17741
the federal government or by state grants. 17742

(F) The purchase consists of any form of an insurance policy 17743
or contract authorized to be issued under Title XXXIX of the 17744
Revised Code or any form of health care plan authorized to be 17745
issued under Chapter 1751. of the Revised Code, or any combination 17746
of such policies, contracts, plans, or services that the 17747
contracting authority is authorized to purchase, and the 17748
contracting authority does all of the following: 17749

(1) Determines that compliance with the requirements of this 17750
section would increase, rather than decrease, the cost of the 17751
purchase; 17752

(2) Requests issuers of the policies, contracts, plans, or 17753
services to submit proposals to the contracting authority, in a 17754
form prescribed by the contracting authority, setting forth the 17755
coverage and cost of the policies, contracts, plans, or services 17756
as the contracting authority desires to purchase; 17757

(3) Negotiates with the issuers for the purpose of purchasing 17758
the policies, contracts, plans, or services at the best and lowest 17759

price reasonably possible. 17760

(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government. 17761
17762
17763
17764
17765

(H) Child care services are purchased for provision to county employees. 17766
17767

(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply: 17768
17769
17770

(a) The contracting authority is authorized by the Revised Code to lease the property. 17771
17772

(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property. 17773
17774
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(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code. 17777
17778
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17781

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect. 17782
17783
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17785
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(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this 17787
17788
17789

division. 17790

(J) The purchase is made pursuant to section 5139.34 or 17791
sections 5139.41 to 5139.46 of the Revised Code and is of programs 17792
or services that provide case management, treatment, or prevention 17793
services to any felony or misdemeanor delinquent, unruly youth, 17794
or status offender under the supervision of the juvenile court, 17795
including, but not limited to, community residential care, day 17796
treatment, services to children in their home, or electronic 17797
monitoring. 17798

(K) The purchase is made by a public children services agency 17799
pursuant to section 307.92 or 5153.16 of the Revised Code and 17800
consists of family services, programs, or ancillary services that 17801
provide case management, prevention, or treatment services for 17802
children at risk of being or alleged to be abused, neglected, or 17803
dependent children. 17804

(L) The purchase is to obtain the services of emergency 17805
medical service organizations under a contract made by the board 17806
of county commissioners pursuant to section 307.05 of the Revised 17807
Code with a joint emergency medical services district. 17808

(M) The county contracting authority determines that the use 17809
of competitive sealed proposals would be advantageous to the 17810
county and the contracting authority complies with section 307.862 17811
of the Revised Code. 17812

Any issuer of policies, contracts, plans, or services listed 17813
in division (F) of this section and any prospective lessor under 17814
division (I) of this section may have the issuer's or prospective 17815
lessor's name and address, or the name and address of an agent, 17816
placed on a special notification list to be kept by the 17817
contracting authority, by sending the contracting authority that 17818
name and address. The contracting authority shall send notice to 17819
all persons listed on the special notification list. Notices shall 17820

state the deadline and place for submitting proposals. The 17821
contracting authority shall mail the notices at least six weeks 17822
prior to the deadline set by the contracting authority for 17823
submitting proposals. Every five years the contracting authority 17824
may review this list and remove any person from the list after 17825
mailing the person notification of that action. 17826

Any contracting authority that negotiates a contract under 17827
division (F) of this section shall request proposals and negotiate 17828
with issuers in accordance with that division at least every three 17829
years from the date of the signing of such a contract, unless the 17830
parties agree upon terms for extensions or renewals of the 17831
contract. Such extension or renewal periods shall not exceed six 17832
years from the date the initial contract is signed. 17833

Any real estate appraiser employed pursuant to division (I) 17834
of this section shall disclose any fees or compensation received 17835
from any source in connection with that employment. 17836

Sec. 317.08. (A) Except as provided in divisions (C), (D), 17837
and (E) of this section, the county recorder shall keep six 17838
separate sets of records as follows: 17839

(1) A record of deeds, in which shall be recorded all deeds 17840
and other instruments of writing for the absolute and 17841
unconditional sale or conveyance of lands, tenements, and 17842
hereditaments; all notices as provided in sections 5301.47 to 17843
5301.56 of the Revised Code; all judgments or decrees in actions 17844
brought under section 5303.01 of the Revised Code; all 17845
declarations and bylaws, and all amendments to declarations and 17846
bylaws, as provided in Chapter 5311. of the Revised Code; 17847
affidavits as provided in sections 5301.252 and 5301.56 of the 17848
Revised Code; all certificates as provided in section 5311.17 of 17849
the Revised Code; all articles dedicating archaeological preserves 17850
accepted by the director of the Ohio historical society under 17851

section 149.52 of the Revised Code; all articles dedicating nature preserves accepted by the director of natural resources under section 1517.05 of the Revised Code; all agreements for the registration of lands as archaeological or historic landmarks under section 149.51 or 149.55 of the Revised Code; all conveyances of conservation easements and agricultural easements under section 5301.68 of the Revised Code; all instruments extinguishing agricultural easements under section 901.21 or 5301.691 of the Revised Code or pursuant to terms of such an easement granted to a charitable organization under section 5301.68 of the Revised Code; all instruments or orders described in division (B)(2)(b) of section 5301.56 of the Revised Code; all no further action letters issued under section 122.654 or 3746.11 of the Revised Code; all covenants not to sue issued under section 3746.12 of the Revised Code, including all covenants not to sue issued pursuant to section 122.654 of the Revised Code; any restrictions on the use of property contained in a no further action letter issued under section 122.654 of the Revised Code, any restrictions on the use of property identified pursuant to division (C)(3)(a) of section 3746.10 of the Revised Code, and any restrictions on the use of property contained in a deed or other instrument as provided in division (E) or (F) of section 3737.882 of the Revised Code; any easement executed or granted under section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code; any environmental covenant entered into in accordance with sections 5301.80 to 5301.92 of the Revised Code; all memoranda of trust, as described in division (A) of section 5301.255 of the Revised Code, that describe specific real property; and all agreements entered into under division (A) of section 1506.44 of the Revised Code;

(2) A record of mortgages, in which shall be recorded all of the following:

(a) All mortgages, including amendments, supplements,	17884
modifications, and extensions of mortgages, or other instruments	17885
of writing by which lands, tenements, or hereditaments are or may	17886
be mortgaged or otherwise conditionally sold, conveyed, affected,	17887
or encumbered;	17888
(b) All executory installment contracts for the sale of land	17889
executed after September 29, 1961, that by their terms are not	17890
required to be fully performed by one or more of the parties to	17891
them within one year of the date of the contracts;	17892
(c) All options to purchase real estate, including	17893
supplements, modifications, and amendments of the options, but no	17894
option of that nature shall be recorded if it does not state a	17895
specific day and year of expiration of its validity;	17896
(d) Any tax certificate sold under section 5721.33 of the	17897
Revised Code, or memorandum of it, that is presented for filing of	17898
record.	17899
(3) A record of powers of attorney, including all memoranda	17900
of trust, as described in division (A) of section 5301.255 of the	17901
Revised Code, that do not describe specific real property;	17902
(4) A record of plats, in which shall be recorded all plats	17903
and maps of town lots, of the subdivision of town lots, and of	17904
other divisions or surveys of lands, any center line survey of a	17905
highway located within the county, the plat of which shall be	17906
furnished by the director of transportation or county engineer,	17907
and all drawings and amendments to drawings, as provided in	17908
Chapter 5311. of the Revised Code;	17909
(5) A record of leases, in which shall be recorded all	17910
leases, memoranda of leases, and supplements, modifications, and	17911
amendments of leases and memoranda of leases <u>and all assignments</u>	17912
<u>or transfers of interests in oil and gas leases under section</u>	17913
<u>1509.31 of the Revised Code;</u>	17914

(6) A record of declarations executed pursuant to section 17915
2133.02 of the Revised Code and durable powers of attorney for 17916
health care executed pursuant to section 1337.12 of the Revised 17917
Code. 17918

(B) All instruments or memoranda of instruments entitled to 17919
record shall be recorded in the proper record in the order in 17920
which they are presented for record. The recorder may index, keep, 17921
and record in one volume unemployment compensation liens, internal 17922
revenue tax liens and other liens in favor of the United States as 17923
described in division (A) of section 317.09 of the Revised Code, 17924
personal tax liens, mechanic's liens, agricultural product liens, 17925
notices of liens, certificates of satisfaction or partial release 17926
of estate tax liens, discharges of recognizances, excise and 17927
franchise tax liens on corporations, broker's liens, and liens 17928
provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.022~~ 17929
5164.56, and 5311.18 of the Revised Code. 17930

The recording of an option to purchase real estate, including 17931
any supplement, modification, and amendment of the option, under 17932
this section shall serve as notice to any purchaser of an interest 17933
in the real estate covered by the option only during the period of 17934
the validity of the option as stated in the option. 17935

(C) In lieu of keeping the six separate sets of records 17936
required in divisions (A)(1) to (6) of this section and the 17937
records required in divisions (D) and (E) of this section, a 17938
county recorder may record all the instruments required to be 17939
recorded by this section in two separate sets of record books. One 17940
set shall be called the "official records" and shall contain the 17941
instruments listed in divisions (A)(1), (2), (3), (5), and (6) and 17942
(D) and (E) of this section. The second set of records shall 17943
contain the instruments listed in division (A)(4) of this section. 17944

(D) Except as provided in division (C) of this section, the 17945
county recorder shall keep a separate set of records containing 17946

all corrupt activity lien notices filed with the recorder pursuant 17947
to section 2923.36 of the Revised Code and a separate set of 17948
records containing all medicaid fraud lien notices filed with the 17949
recorder pursuant to section 2933.75 of the Revised Code. 17950

(E)(1) The county recorder shall keep a separate set of 17951
records containing all transfers, conveyances, or assignments of 17952
any type of tangible or intangible personal property or any rights 17953
or interests in that property if and to the extent that any person 17954
wishes to record that personal property transaction and if the 17955
applicable instrument is acknowledged before a notary public. If 17956
the transferor is a natural person, the notice of personal 17957
property transfer shall be recorded in the county in this state in 17958
which the transferor maintains the transferor's principal 17959
residence. If the transferor is not a natural person, the notice 17960
of personal property transfer shall be recorded in the county in 17961
this state in which the transferor maintains its principal place 17962
of business. If the transferor does not maintain a principal 17963
residence or a principal place of business in this state and the 17964
transfer is to a trustee of a legacy trust formed pursuant to 17965
Chapter 5816. of the Revised Code, the notice of personal property 17966
transfer shall be recorded in the county in this state where that 17967
trustee maintains a principal residence or principal place of 17968
business. In all other instances, the notice of personal property 17969
transfer shall be recorded in the county in this state where the 17970
property described in the notice is located. 17971

(2) The records described in division (E)(1) of this section 17972
shall be maintained in or as part of the "official records" under 17973
division (C) of this section. 17974

Sec. 317.36. (A) The county recorder shall collect the low- 17975
and moderate-income housing trust fund fee as specified in 17976
sections 317.114, 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 17977

4509.60, ~~5111.022~~ 5164.56, 5310.15, 5703.93, 5719.07, 5727.56, 17978
5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code. The 17979
amount of any housing trust fund fee the recorder is authorized to 17980
collect is equal to the amount of any base fee the recorder is 17981
authorized to collect for services. The housing trust fund fee 17982
shall be collected in addition to the base fee. 17983

(B) The recorder shall certify the amounts collected as 17984
housing trust fund fees pursuant to division (A) of this section 17985
into the county treasury as housing trust fund fees to be paid to 17986
the treasurer of state pursuant to section 319.63 of the Revised 17987
Code. 17988

Sec. 321.44. (A)(1) A county probation services fund shall be 17989
established in the county treasury of each county. The fund a 17990
county establishes under this division shall contain all moneys 17991
paid to the treasurer of the county under section 2951.021 of the 17992
Revised Code for deposit into the fund. The moneys paid into the 17993
fund shall be deposited by the treasurer of the county into the 17994
appropriate account established under divisions (A)(1)(a) to (d) 17995
of this section. Separate accounts shall be maintained in 17996
accordance with the following criteria in the fund a county 17997
establishes under this division: 17998

(a) If a county department of probation is established in the 17999
county, a separate account shall be maintained in the fund for the 18000
county department of probation. 18001

(b) If the judges of the court of common pleas of the county 18002
have affiliated with the judges of the court of common pleas of 18003
one or more other counties and have established a multicounty 18004
department of probation, a separate account shall be maintained in 18005
the fund for the multicounty department of probation. 18006

(c) If a department of probation is established in a 18007

county-operated municipal court that has jurisdiction within the 18008
county, a separate account shall be maintained in the fund for the 18009
municipal court department of probation. 18010

(d) If a county department of probation has not been 18011
established in the county and if the court of common pleas of the 18012
county, pursuant to section 2301.32 of the Revised Code, has 18013
entered into an agreement with the adult parole authority under 18014
which the court may place defendants under a community control 18015
sanction in charge of the authority, a separate account shall be 18016
maintained in the fund for the court of common pleas. 18017

(2) For any county, if a county department of probation is 18018
established in the county or if a department of probation is 18019
established in a county-operated municipal court that has 18020
jurisdiction within the county, the board of county commissioners 18021
of the county shall appropriate to the county department of 18022
probation or municipal court department of probation all money 18023
that is contained in the department's account in the county 18024
probation services fund established in the county for use only for 18025
specialized staff, purchase of equipment, purchase of services, 18026
reconciliation programs for offenders and victims, other treatment 18027
programs, including ~~alcohol and drug~~ community addiction programs 18028
services providers certified under section ~~3793.06~~ 5119.36 of the 18029
Revised Code, determined to be appropriate by the chief probation 18030
officer of the department of probation, and other similar expenses 18031
related to placing offenders under a community control sanction. 18032

For any county, if the judges of the court of common pleas of 18033
the county have affiliated with the judges of the court of common 18034
pleas of one or more other counties and have established a 18035
multicounty department of probation to serve the counties, the 18036
board of county commissioners of the county shall appropriate and 18037
the county treasurer shall transfer to the multicounty probation 18038
services fund established for the multicounty department of 18039

probation under division (B) of this section all money that is 18040
contained in the multicounty department of probation account in 18041
the county probation services fund established in the county for 18042
use in accordance with that division. 18043

For any county, if a county department of probation has not 18044
been established in the county and if the court of common pleas of 18045
the county, pursuant to section 2301.32 of the Revised Code, has 18046
entered into an agreement with the adult parole authority under 18047
which the court may place defendants under a community control 18048
sanction in charge of the authority, the board of county 18049
commissioners of the county shall appropriate to the court all 18050
money that is contained in the court's account in the county 18051
probation services fund established in the county for use only for 18052
specialized staff, purchase of equipment, purchase of services, 18053
reconciliation programs for offenders and victims, other treatment 18054
and recovery support services, including properly credentialed 18055
treatment and recovery support services program providers or those 18056
certified under section ~~3793.06~~ 5119.36 of the Revised Code, 18057
determined to be appropriate by the authority, and other similar 18058
uses related to placing offenders under a community control 18059
sanction. 18060

(B) If the judges of the courts of common pleas of two or 18061
more counties have established a multicounty department of 18062
probation, a multicounty probation services fund shall be 18063
established in the county treasury of the county whose treasurer, 18064
in accordance with section 2301.27 of the Revised Code, is 18065
designated by the judges of the courts of common pleas as the 18066
treasurer to whom monthly supervision fees are to be appropriated 18067
and transferred under division (A)(2) of this section for deposit 18068
into the fund. The fund shall contain all moneys that are paid to 18069
the treasurer of any member county under section 2951.021 of the 18070
Revised Code for deposit into the county's probation services fund 18071

and that subsequently are appropriated and transferred to the 18072
multicounty probation services fund under division (A)(2) of this 18073
section. The board of county commissioners of the county in which 18074
the multicounty probation services fund is established shall 18075
appropriate the money contained in that fund to the multicounty 18076
department of probation, for use only for specialized staff, 18077
purchase of equipment, purchase of services, reconciliation 18078
programs for offenders and victims, other treatment programs, 18079
including ~~alcohol and drug~~ community addiction programs services 18080
providers certified under section ~~3793.06~~ 5119.36 of the Revised 18081
Code, determined to be appropriate by the chief probation officer, 18082
and for other similar expenses related to placing offenders under 18083
a community control sanction. 18084

(C) Any money in a county or multicounty probation services 18085
fund at the end of a fiscal year shall not revert to the general 18086
fund of the county but shall be retained in the fund. 18087

(D) As used in this section: 18088

(1) "County-operated municipal court" has the same meaning as 18089
in section 1901.03 of the Revised Code. 18090

(2) "Multicounty department of probation" means a probation 18091
department established under section 2301.27 of the Revised Code 18092
to serve more than one county. 18093

(3) "Community control sanction" has the same meaning as in 18094
section 2929.01 of the Revised Code. 18095

Sec. 321.49. A county treasurer who receives the fee required 18096
under division (L) of section 1509.06 of the Revised Code shall 18097
create in the county treasury an oil and gas escrow fund. The 18098
treasurer shall deposit any money received by the treasurer under 18099
that division into the fund. The treasurer shall notify the county 18100
auditor whenever the treasurer deposits money into the fund. 18101

Within ten days after receiving such a notice from the 18102
treasurer, the auditor shall schedule a hearing of the county 18103
budget commission and notify applicable taxing authorities as 18104
provided in section 5705.27 of the Revised Code. 18105

Sec. 329.04. (A) The county department of job and family 18106
services shall have, exercise, and perform the following powers 18107
and duties: 18108

(1) Perform any duties assigned by the state department of 18109
job and family services or department of medicaid regarding the 18110
provision of public family services, including the provision of 18111
the following services to prevent or reduce economic or personal 18112
dependency and to strengthen family life: 18113

(a) Services authorized by a Title IV-A program, as defined 18114
in section 5101.80 of the Revised Code; 18115

(b) Social services authorized by Title XX of the "Social 18116
Security Act" and provided for by section 5101.46 or 5101.461 of 18117
the Revised Code; 18118

(c) If the county department is designated as the child 18119
support enforcement agency, services authorized by Title IV-D of 18120
the "Social Security Act" and provided for by Chapter 3125. of the 18121
Revised Code. The county department may perform the services 18122
itself or contract with other government entities, and, pursuant 18123
to division (C) of section 2301.35 and section 2301.42 of the 18124
Revised Code, private entities, to perform the Title IV-D 18125
services. 18126

(d) Duties assigned under section ~~5111.98~~ 5162.031 of the 18127
Revised Code. 18128

(2) Administer disability financial assistance, as required 18129
by the state department of job and family services under section 18130
5115.03 of the Revised Code; 18131

- (3) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law; 18132
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- (4) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities; 18135
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- (5) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services and department of medicaid at the close of each fiscal year; 18138
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- (6) Exercise any powers and duties relating to family services duties or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace; 18142
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- ~~(7) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";~~ 18148
18149
- ~~(8) If assigned by the state director of job and family services under section 5101.515 or 5101.525 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II or part III;~~ 18150
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- ~~(9)~~ Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department; 18154
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- ~~(10)~~(8) For the purpose of complying with a grant agreement 18162

the board of county commissioners enters into under sections 18163
307.98 and 5101.21 of the Revised Code, exercise the powers and 18164
perform the duties the grant agreement assigns to the county 18165
department; 18166

~~(11)~~(9) If the county department is designated as the 18167
workforce development agency, provide the workforce development 18168
activities specified in the contract required by section 330.05 of 18169
the Revised Code. 18170

(B) The powers and duties of a county department of job and 18171
family services are, and shall be exercised and performed, under 18172
the control and direction of the board of county commissioners. 18173
The board may assign to the county department any power or duty of 18174
the board regarding family services duties and workforce 18175
development activities. If the new power or duty necessitates the 18176
state department of job and family services or department of 18177
medicaid changing its federal cost allocation plan, the county 18178
department may not implement the power or duty unless the United 18179
States department of health and human services approves the 18180
changes. 18181

Sec. 329.051. The county department of job and family 18182
services shall make voter registration applications as prescribed 18183
by the secretary of state under section 3503.10 of the Revised 18184
Code available to persons who are applying for, receiving 18185
assistance from, or participating in any of the following: 18186

(A) The disability financial assistance program established 18187
under Chapter 5115. of the Revised Code; 18188

(B) The ~~medical assistance~~ medicaid program established under 18189
~~Chapter 5111. of the Revised Code;~~ 18190

(C) The Ohio works first program established under Chapter 18191
5107. of the Revised Code; 18192

(D) The prevention, retention, and contingency program 18193
established under Chapter 5108. of the Revised Code. 18194

Sec. 329.06. (A) Except as provided in division (C) of this 18195
section and section 6301.08 of the Revised Code, the board of 18196
county commissioners shall establish a county family services 18197
planning committee. The board shall appoint a member to represent 18198
the county department of job and family services; an employee in 18199
the classified civil service of the county department of job and 18200
family services, if there are any such employees; and a member to 18201
represent the public. The board shall appoint other individuals to 18202
the committee in such a manner that the committee's membership is 18203
broadly representative of the groups of individuals and the public 18204
and private entities that have an interest in the family services 18205
provided in the county. The board shall make appointments in a 18206
manner that reflects the ethnic and racial composition of the 18207
county. The following groups and entities may be represented on 18208
the committee: 18209

(1) Consumers of family services; 18210

(2) The public children services agency; 18211

(3) The child support enforcement agency; 18212

(4) The county family and children first council; 18213

(5) Public and private colleges and universities; 18214

(6) Public entities that provide family services, including 18215
boards of health, boards of education, the county board of 18216
developmental disabilities, and the board of alcohol, drug 18217
addiction, and mental health services that serves the county; 18218

(7) Private nonprofit and for-profit entities that provide 18219
family services in the county or that advocate for consumers of 18220
family services in the county, including entities that provide 18221
services to or advocate for victims of domestic violence; 18222

(8) Labor organizations;	18223
(9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.	18224 18225 18226 18227
(B) The county family services planning committee shall do all of the following:	18228 18229
(1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;	18230 18231 18232 18233 18234 18235
(2) At least once a year, review and analyze the county department of job and family services' implementation of the programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:	18236 18237 18238 18239 18240
(a) Return of assistance groups to participation in either program after ceasing to participate;	18241 18242
(b) Teen pregnancy rates among the programs' participants;	18243
(c) The other types of assistance the programs' participants receive, including medicaid under Chapter 5111. of the Revised Code, publicly funded child care under Chapter 5104. of the Revised Code, supplemental nutrition assistance program benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code;	18244 18245 18246 18247 18248 18249
(d) Other issues the committee considers appropriate.	18250
The committee shall make recommendations to the board of county commissioners and county department of job and family	18251 18252

services regarding the committee's findings.	18253
(3) Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code;	18254 18255 18256
(4) At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;	18257 18258 18259
(5) At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:	18260 18261 18262 18263
(a) Implementation and administration of family service programs;	18264 18265
(b) Use of federal, state, and local funds available for family service programs;	18266 18267
(c) Establishment of goals to be achieved by family service programs;	18268 18269
(d) Evaluation of the outcomes of family service programs;	18270
(e) Any other matter the board considers relevant to the provision of family services.	18271 18272
(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning committee and the committee shall serve in that capacity.	18273 18274 18275 18276 18277 18278
Sec. 329.14. (A) An individual whose household income does not exceed two hundred per cent of the federal poverty line is eligible to participate in an individual development account	18279 18280 18281

program established by the county department of job and family 18282
services of the county in which the individual resides. An 18283
eligible individual seeking to be a participant in the program 18284
shall enter into an agreement with the fiduciary organization 18285
administering the program. The agreement shall specify the terms 18286
and conditions of uses of funds deposited, financial documentation 18287
required to be maintained by the participant, expectations and 18288
responsibilities of the participant, and services to be provided 18289
by the fiduciary organization. 18290

(B) A participant may deposit earned income, as defined in 26 18291
U.S.C. 911(d)(2), as amended, into the account. The fiduciary 18292
organization may deposit into the account an amount not exceeding 18293
four times the amount deposited by the participant except that a 18294
fiduciary organization may not, pursuant to an agreement with an 18295
employer, deposit an amount into an account held by a participant 18296
who is employed by the employer. An account may have no more than 18297
ten thousand dollars in it at any time. 18298

(C) Notwithstanding eligibility requirements established in 18299
or pursuant to Chapter 5107.7 or 5108.7 ~~or 5111.~~ of the Revised 18300
Code, to the extent permitted by federal statutes and regulations, 18301
money in an individual development account, including interest, is 18302
exempt from consideration in determining whether the participant 18303
or a member of the participant's assistance group is eligible for 18304
assistance under Chapter 5107.7 or 5108.7 ~~or 5111.~~ of the Revised 18305
Code and the amount of assistance the participant or assistance 18306
group is eligible to receive. 18307

(D)(1) Except as provided in division (D)(2) of this section, 18308
an individual development account program participant may use 18309
money in the account only for the following purposes: 18310

(a) Postsecondary educational expenses paid directly from the 18311
account to an eligible education institution or vendor; 18312

(b) Qualified acquisition expenses of a principal residence, 18313
as defined in 26 U.S.C. 1034, as amended, paid directly from the 18314
account to the person or government entity to which the expenses 18315
are due; 18316

(c) Qualified business capitalization expenses made in 18317
accordance with a qualified business plan that has been approved 18318
by a financial institution or by a nonprofit microenterprise 18319
program having demonstrated business expertise and paid directly 18320
from the account to the person to whom the expenses are due. 18321

(2) A fiduciary organization shall permit a participant to 18322
withdraw money deposited by the participant if it is needed to 18323
deal with a personal emergency of the participant or a member of 18324
the participant's family or household. Withdrawal shall result in 18325
the loss of any matching funds in an amount equal to the amount of 18326
the withdrawal. 18327

(3) Regardless of the reason for the withdrawal, a withdrawal 18328
from an individual development account may be made only with the 18329
approval of the fiduciary organization. 18330

Sec. 333.01. As used in this chapter: 18331

(A) "County sales and use tax" means the tax levied by a 18332
county under ~~division (A) of~~ section 5739.021 or ~~division (A) of~~ 18333
~~section~~ 5741.021 of the Revised Code that is returned or 18334
distributed to the county under section 5739.21 or 5741.03 of the 18335
Revised Code. 18336

(B) "Impact facility" means a permanent structure, including 18337
all interior or exterior square footage used for educational or 18338
exhibition activities, that meets all of the following criteria: 18339

(1) It is used for the sale of tangible personal property or 18340
services; 18341

(2) At least ten per cent of the facility's total square 18342

footage is dedicated to educational or exhibition activities; 18343

(3) At least fifty million dollars is invested in land, 18344
buildings, infrastructure, and equipment for the facility at the 18345
site of the facility over a period of not more than two years; 18346

(4) An annualized average of at least one hundred fifty new 18347
full-time equivalent positions will be created and maintained at 18348
the facility; 18349

(5) More than fifty per cent of the visitors to the facility 18350
are reasonably anticipated to live at least one hundred miles from 18351
the facility. 18352

(C) "Qualifying investment" means a person's investment in 18353
land, buildings, infrastructure, and equipment for creating an 18354
impact facility. 18355

(D) "Full-time equivalent positions" means the total number 18356
of hours worked at a facility in a work week, divided by forty 18357
hours per week. 18358

Sec. 339.02. (A) As used in this section, "area served by the 18359
hospital" means the geographic area, whether or not included 18360
within the county, from which a county hospital regularly draws 18361
patients. 18362

(B) Unless a board of county hospital trustees for the county 18363
is in existence in accordance with this section, such board shall 18364
be created pursuant to this section after the board of county 18365
commissioners first determines by resolution to establish a county 18366
hospital. Copies of such resolution shall be certified to the 18367
probate judge of the county senior in point of service and to the 18368
judge, other than a probate judge, of the court of common pleas of 18369
the county senior in point of service. The board of county 18370
commissioners together with the probate judge of the county senior 18371
in point of service and the judge of the court of common pleas of 18372

the county senior in point of service shall, within ten days after 18373
such certification, appoint a board of county hospital trustees. 18374

(C) In making appointments to a board of county hospital 18375
trustees, ~~all~~ both of the following apply with respect to the 18376
individuals who may be appointed: 18377

(1) Members shall be electors and representative of the area 18378
served by the hospital, except that not more than two members may 18379
be electors of the area served by the hospital that is outside the 18380
county in which the hospital is located. 18381

(2) ~~In no case shall more than one half of the members be 18382
independents or be members of any one political party.~~ 18383

~~(3)~~ A physician may serve as a member, including a physician 18384
who is authorized to admit and treat patients at the hospital, 18385
except as follows: 18386

(a) Not more than two physicians may serve as members at the 18387
same time; 18388

(b) No physician who is employed by the hospital may serve as 18389
a member. 18390

(D) A board of county hospital trustees shall be composed of 18391
six members, unless the board of county commissioners determines 18392
that the board of trustees can more effectively function with 18393
eight or ten members in which case there may be eight or ten 18394
members, as designated by the board of county commissioners. 18395

(E) With respect to the initial appointment of members to a 18396
board of county hospital trustees, all of the following apply: 18397

(1) When the board is composed of six members, their terms of 18398
office shall be one for one year, one for two years, one for three 18399
years, one for four years, one for five years, and one for six 18400
years from the first Monday of March thereafter. 18401

(2) When the board is composed of eight members, their terms 18402

of office shall be one for one year, one for two years, two for 18403
three years, one for four years, one for five years, and two for 18404
six years from the first Monday of March thereafter. 18405

(3) When the board is composed of ten members, their terms of 18406
office shall be two for one year, one for two years, two for three 18407
years, two for four years, one for five years, and two for six 18408
years from the first Monday of March thereafter. 18409

(F) Except as provided in division (G)(2) of this section, 18410
all of the following apply with respect to vacancies on a board of 18411
county hospital trustees: 18412

(1) Annually, on the first Monday of March, the board of 18413
county commissioners together with the probate judge of the county 18414
senior in point of service and the judge of the court of common 18415
pleas of the county senior in point of service shall appoint or 18416
reappoint for a term of six years a sufficient number of members 18417
to replace those members whose terms have expired. 18418

(2) The appointing authority shall fill a vacancy not later 18419
than six months after the vacancy occurs. If the vacancy remains 18420
unfilled on that date, the remaining members of the board, by 18421
majority vote, shall appoint an individual to fill the vacancy. 18422

(3) The appointing authority may fill a vacancy by seeking 18423
nominations from a selection committee consisting of one county 18424
commissioner designated by the board of county commissioners, the 18425
chair of the board of county hospital trustees, and the county 18426
hospital administrator. If nominations for filling a vacancy are 18427
sought from a selection committee, the committee shall nominate at 18428
least three individuals for the vacancy. The appointing authority 18429
may fill the vacancy by appointing one of the nominated 18430
individuals or by appointing another individual selected by the 18431
appointing authority. 18432

(4) Any member appointed to fill a vacancy occurring prior to 18433

the expiration date of the term for which the member's predecessor 18434
was appointed shall hold office as a member for the remainder of 18435
that term. 18436

(G)(1) The board of county commissioners together with the 18437
probate judge senior in point of service and the judge of the 18438
court of common pleas senior in point of service in any county in 18439
which a board of county hospital trustees has been appointed may 18440
expand the number of members to eight or to ten. When the number 18441
of members is increased to eight, one shall be appointed for a 18442
three-year and one for a six-year term from the first Monday of 18443
March thereafter. When the number of members is increased from six 18444
to ten, the term for additional members shall be: one for one 18445
year, one for three years, one for four years, and one for six 18446
years from the first Monday of March thereafter. When the number 18447
of members is increased from eight to ten, the term for additional 18448
members shall be: one for one year and one for four years from the 18449
first Monday of March thereafter. Thereafter except as provided in 18450
division (G)(2) of this section, upon the expiration of the term 18451
of office of each member, the vacancy shall be filled in the 18452
manner specified in division (F) of this section. 18453

(2) The board of county commissioners together with the 18454
probate judge senior in point of service and the judge of the 18455
court of common pleas senior in point of service may reduce the 18456
number of members of a board of county hospital trustees to eight 18457
or to six. The reduction shall occur on expiration of a member's 18458
term of office, at which time no appointment shall be made. While 18459
the board of county commissioners and the judges are in the 18460
process of reducing the number of members, the board of county 18461
hospital trustees may consist of nine or seven members for one 18462
year. 18463

(H) Any member of a board of county hospital trustees may be 18464
removed from office by the appointing authority for neglect of 18465

duty, misconduct, or malfeasance in office. The member shall be 18466
informed in writing of the charges and afforded an opportunity for 18467
a hearing before the appointing authority. The appointing 18468
authority shall not remove a member from office for political 18469
reasons. 18470

(I) The board of county commissioners may provide members of 18471
a board of county hospital trustees ~~shall a stipend for their~~ 18472
service or require the members to serve without compensation, but, 18473
The members shall be allowed their necessary and reasonable 18474
expenses incurred in the performance of their duties, including 18475
the cost of their participation in any continuing education 18476
programs or developmental programs that the members consider 18477
necessary. Allowable stipends and expenses shall be paid out of 18478
the funds provided for the county hospital. 18479

(J) The persons selected to be members of a board of county 18480
hospital trustees shall forthwith be notified, by mail, of their 18481
appointment. When a board is initially appointed, the notice shall 18482
state a time, not more than ten days later, when such board shall 18483
meet at the county seat of such county to organize. On the date 18484
stated, the board shall meet and organize. 18485

(K) A board of county hospital trustees shall organize by 18486
electing one of its number as chairperson and such other officers 18487
as specified in the board's rules. Four members of a six-member 18488
board constitute a quorum, five members constitute a quorum of an 18489
eight-member board, and six members constitute a quorum of a 18490
ten-member board. 18491

A board of county hospital trustees shall hold meetings at 18492
least ~~once a month~~ quarterly, shall adopt necessary rules of 18493
procedure, and shall keep a record of its proceedings and a strict 18494
account of all its receipts, disbursements, and expenditures. On 18495
completion of the construction and equipping of a county hospital, 18496
the board shall file such account with the board of county 18497

commissioners and make final settlement with the board of county 18498
commissioners for the construction and equipping of the hospital. 18499

Sec. 339.05. (A) A board of county hospital trustees may 18500
adopt, annually, bidding procedures and purchasing or leasing 18501
policies ~~for services~~ provided through a joint purchasing 18502
arrangement sponsored by a nonprofit organization, ~~and~~ for 18503
services, supplies, and equipment, that are routinely used in the 18504
operation of the hospital and that cost in excess of the amount 18505
specified in section 307.86 of the Revised Code as the amount 18506
above which purchases must be competitively bid. If a board of 18507
county hospital trustees adopts those policies and procedures, and 18508
if the board of county commissioners approves them, the board of 18509
county hospital trustees may follow those policies and procedures 18510
in lieu of following the competitive bidding procedures of 18511
sections 307.86 to 307.92 of the Revised Code. 18512

(B) Notwithstanding section 307.86 of the Revised Code, the 18513
board of county hospital trustees is exempt from competitive 18514
bidding as required under that section if the board, by a 18515
unanimous vote of its members, makes a determination that a real 18516
and present emergency exists, and either of the following applies: 18517

(1) The estimated cost is less than one hundred thousand 18518
dollars. 18519

(2) There is actual physical damage to structures or 18520
equipment. 18521

The board shall enter the determination of emergency and the 18522
reasons for it in the minutes of its proceedings. 18523

For purposes of this section, a vote is unanimous if all 18524
members of a board of county hospital trustees are present, or a 18525
lesser number of members of the board if not all members are 18526
present, provided that the number of members present constitutes a 18527

quorum. 18528

Whenever a contract of purchase, lease, or construction is 18529
exempted from competitive bidding because the estimated cost is 18530
less than one hundred thousand dollars, but the estimated cost is 18531
fifty thousand dollars or more, the board shall solicit informal 18532
estimates from not fewer than three persons who could perform the 18533
contract, before awarding the contract. With regard to each such 18534
contract, the board shall maintain a record of the informal 18535
estimates, including the name of each person from whom an informal 18536
estimate was solicited. The board shall maintain the record for 18537
the longer of at least one year after the contract is awarded or 18538
an amount of time required by the federal government. 18539

Sec. 339.06. (A) The board of county hospital trustees, upon 18540
completion of construction or leasing and equipping of a county 18541
hospital, shall assume and continue the operation of the hospital. 18542

(B) The board of county hospital trustees shall have the 18543
entire management and control of the county hospital. The board 18544
may in writing delegate its management and control of the county 18545
hospital to the administrator of the county hospital employed 18546
under section 339.07 of the Revised Code. The board shall 18547
establish such rules for the hospital's government, management, 18548
control, and the admission of persons as are expedient. 18549

(C) The board of county hospital trustees has control of the 18550
property of the county hospital, including management and disposal 18551
of surplus property other than real estate or an interest in real 18552
estate. 18553

(D) With respect to the use of funds by the board of county 18554
hospital trustees and its accounting for the use of funds, all of 18555
the following apply: 18556

(1) The board of county hospital trustees has control of all 18557

funds used in the county hospital's operation, including moneys 18558
received from the operation of the hospital, moneys appropriated 18559
for its operation by the board of county commissioners, and moneys 18560
resulting from special levies submitted by the board of county 18561
commissioners as provided for in section 5705.22 of the Revised 18562
Code. 18563

(2) Of the funds used in the county hospital's operation, all 18564
or part of any amount determined not to be necessary to meet 18565
current demands on the hospital may be invested by the board of 18566
county hospital trustees or its designee in any classifications of 18567
securities and obligations eligible for deposit or investment of 18568
county moneys pursuant to section 135.35 of the Revised Code, 18569
subject to the approval of the board's written investment policy 18570
by the county investment advisory committee established pursuant 18571
to section 135.341 of the Revised Code. 18572

(3) Annually, not later than sixty days before the end of the 18573
fiscal year used by the county hospital, the board of county 18574
hospital trustees shall submit its proposed budget for the ensuing 18575
fiscal year to the board of county commissioners for that board's 18576
review. The board of county commissioners shall review and approve 18577
the proposed budget by the first day of the fiscal year to which 18578
the budget applies. If the board of county commissioners has not 18579
approved the budget by the first day of the fiscal year to which 18580
the budget applies, the budget is deemed to have been approved by 18581
the board on the first day of that fiscal year. 18582

(4) The board of county hospital trustees shall not expend 18583
funds received from taxes collected pursuant to any tax levied 18584
under section 5705.22 of the Revised Code or the amount 18585
appropriated to the county hospital by the board of county 18586
commissioners in the annual appropriation measure for the county 18587
until its budget for the applicable fiscal year is approved in 18588
accordance with division (C)(3) of this section. At any time the 18589

amount received from those sources differs from the amount shown 18590
in the approved budget, the board of county commissioners may 18591
require the board of county hospital trustees to revise the county 18592
hospital budget accordingly. 18593

(5) Funds under the control of the board of county hospital 18594
trustees may be disbursed by the board, consistent with the 18595
approved budget, for the uses and purposes of the county hospital; 18596
for the replacement of necessary equipment; for the acquisition, 18597
leasing, or construction of permanent improvements to county 18598
hospital property; or for making a donation authorized by division 18599
(E) of this section. Each disbursement of funds shall be made on a 18600
voucher signed by signatories designated and approved by the board 18601
of county hospital trustees. 18602

(6) The head of a board of county hospital trustees is not 18603
required to file an estimate of contemplated revenue and 18604
expenditures for the ensuing fiscal year under section 5705.28 of 18605
the Revised Code unless the board of county commissioners levies a 18606
tax for the county hospital, or such a tax is proposed, or the 18607
board of county hospital trustees desires that the board of county 18608
commissioners make an appropriation to the county hospital for the 18609
ensuing fiscal year. 18610

(7) All moneys appropriated by the board of county 18611
commissioners or from special levies by the board of county 18612
commissioners for the operation of the hospital, when collected 18613
shall be paid to the board of county hospital trustees on a 18614
warrant of the county auditor and approved by the board of county 18615
commissioners. 18616

(8) The board of county hospital trustees shall provide for 18617
the conduct of an annual financial audit of the county hospital. 18618
Not later than thirty days after it receives the final report of 18619
an annual financial audit, the board shall file a copy of the 18620
report with the board of county commissioners. 18621

(E) For the public purpose of improving the health, safety, and general welfare of the community, the board of county hospital trustees may donate to a nonprofit entity any of the following:

(1) Moneys and other financial assets determined not to be necessary to meet current demands on the hospital;

(2) Surplus hospital property, including supplies, equipment, office facilities, and other property that is not real estate or an interest in real estate;

(3) Services rendered by the hospital.

(F)(1) For purposes of division (F)(2) of this section:

(a) "Bank" has the same meaning as in section 1101.01 of the Revised Code.

(b) "Savings and loan association" has the same meaning as in section 1151.01 of the Revised Code.

(c) "Savings bank" has the same meaning as in section 1161.01 of the Revised Code.

(2) The board of county hospital trustees may enter into a contract for a secured line of credit with a bank, savings and loan association, or savings bank if the contract meets all of the following requirements:

(a) The term of the contract does not exceed one year, except that the contract may provide for the automatic renewal of the contract for up to four additional one-year periods if, on the date of automatic renewal, the aggregate outstanding draws remaining unpaid under the secured line of credit do not exceed fifty per cent of the maximum amount that can be drawn under the secured line of credit.

(b) The contract provides that the bank, savings and loan association, or savings bank shall not commence a civil action against the board of county commissioners, any member of the

board, or the county to recover the principal, interest, or any charges or other amounts that remain outstanding on the secured line of credit at the time of any default by the board of county hospital trustees. 18652
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(c) The contract provides that no assets other than those of the county hospital can be used to secure the line of credit. 18656
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(d) The terms and conditions of the contract comply with all state and federal statutes and rules governing the extension of a secured line of credit. 18658
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(3) Any obligation incurred by a board of county hospital trustees under division (F)(2) of this section is an obligation of that board only and not a general obligation of the board of county commissioners or the county within the meaning of division (Q) of section 133.01 of the Revised Code. 18661
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(4) Notwithstanding anything to the contrary in the Revised Code, the board of county hospital trustees may secure the line of credit authorized under division (F)(2) of this section by the grant of a security interest in any part or all of its tangible personal property and intangible personal property, including its deposit accounts, accounts receivable, or both. 18666
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(5) No board of county hospital trustees shall at any time have more than one secured line of credit under division (F)(2) of this section. 18672
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(G) The board of county hospital trustees shall establish a schedule of charges for all services and treatment rendered by the county hospital. It may provide for the free treatment in the hospital of soldiers, sailors, and marines of the county, under such conditions and rules as it prescribes. 18675
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(H) The board of county hospital trustees may designate the amounts and forms of insurance protection to be provided, and the board of county commissioners shall assist in obtaining such 18680
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protection. The expense of providing the protection shall be paid 18683
from hospital operating funds. 18684

(I) The board of county hospital trustees may authorize a 18685
county hospital and each of its units, hospital board members, 18686
designated hospital employees, and medical staff members to be a 18687
member of and maintain membership in any local, state, or national 18688
group or association organized and operated for the promotion of 18689
the public health and welfare or advancement of the efficiency of 18690
hospital administration and in connection therewith to use tax 18691
funds for the payment of dues and fees and related expenses but 18692
nothing in this section prohibits the board from using receipts 18693
from hospital operation, other than tax funds, for the payment of 18694
such dues and fees. 18695

(J) The following apply to the board of county hospital 18696
trustees in relation to its employees and the employees of the 18697
county hospital: 18698

(1) The board shall adopt the wage and salary schedule for 18699
employees. 18700

(2) The board may employ the hospital's administrator 18701
pursuant to section 339.07 of the Revised Code, and the 18702
administrator may employ individuals for the hospital in 18703
accordance with that section. 18704

(3) The board may employ assistants as necessary to perform 18705
its clerical work, superintend properly the construction of the 18706
county hospital, and pay the hospital's expenses. Such employees 18707
may be paid from funds provided for the county hospital. 18708

(4) The board may hire, by contract or as salaried employees, 18709
such management consultants, accountants, attorneys, engineers, 18710
architects, construction managers, and other professional advisors 18711
as it determines are necessary and desirable to assist in the 18712
management of the programs and operation of the county hospital. 18713

Such professional advisors may be paid from county hospital operating funds.	18714 18715
(5) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees any fringe benefits the board determines to be customary and usual in the nonprofit hospital field in its community, including, but not limited to:	18716 18717 18718 18719
(a) Additional vacation leave with full pay for full-time employees, including full-time hourly rate employees, after service of one year;	18720 18721 18722
(b) Vacation leave and holiday pay for part-time employees on a pro rata basis;	18723 18724
(c) Leave with full pay due to death in the employee's immediate family, which shall not be deducted from the employee's accumulated sick leave;	18725 18726 18727
(d) Premium pay for working on holidays listed in section 325.19 of the Revised Code;	18728 18729
(e) Moving expenses for new employees;	18730
(f) Discounts on hospital supplies and services.	18731
(6) The board may provide holiday leave by observing Martin Luther King day, Washington-Lincoln day, Columbus day, and Veterans' day on days other than those specified in section 1.14 of the Revised Code.	18732 18733 18734 18735
(7) The board may grant to employees the insurance benefits authorized by section 339.16 of the Revised Code.	18736 18737
(8) Notwithstanding section 325.19 of the Revised Code, the board may grant to employees, including hourly rate employees, such personal holidays as the board determines to be customary and usual in the hospital field in its community.	18738 18739 18740 18741
(9) The board may provide employee recognition awards and hold employee recognition dinners.	18742 18743

(10) The board may grant to employees the recruitment and retention benefits specified under division (K) of this section.

(K) Notwithstanding sections 325.191 and 325.20 of the Revised Code, the board of county hospital trustees may provide, without the prior authorization of the board of county commissioners, scholarships for education in the health care professions, tuition reimbursement, and other staff development programs to enhance the skills of health care professionals for the purpose of recruiting or retaining qualified employees.

The board of county hospital trustees may pay reasonable expenses for recruiting or retaining physicians and other appropriate health care practitioners.

(L) The board of county hospital trustees may retain counsel and institute legal action in its own name for the collection of delinquent accounts. The board may also employ any other lawful means for the collection of delinquent accounts.

Sec. 339.07. (A) The board of county hospital trustees shall provide for the administration of the county hospital by directly employing a hospital administrator or by entering into a contract for the management of the hospital under which an administrator is provided. When an administrator is employed directly, the board shall adopt a job description delineating the administrator's powers and duties and the board may pay the administrator's salary and other benefits from funds provided for the hospital.

(B) During the construction and equipping of the hospital, the administrator shall act in an advisory capacity to the board of county hospital trustees. After the hospital is completed, the administrator shall serve as the chief executive officer and shall carry out the administration of the county hospital according to the policies set forth by the board and any written delegation.

The administrator shall administer the county hospital, make 18774
reports, and take any other action that the administrator 18775
determines is necessary for the operation of the hospital. 18776

At the end of each fiscal year, the administrator shall 18777
submit to the board a complete financial statement showing the 18778
receipts, revenues, and expenditures in detail for the entire 18779
fiscal year. 18780

The administrator shall ensure that the hospital has such 18781
physicians, nurses, and other employees as are necessary for the 18782
proper care, control, and management of the county hospital and 18783
its patients. The physicians, nurses, and other employees may be 18784
suspended or removed by the administrator at any time the welfare 18785
of the hospital warrants suspension or removal. The administrator 18786
may obtain physicians, nurses, and other employees by direct 18787
employment, entering into contracts, or granting authority to 18788
practice in the hospital. Persons employed directly shall be in 18789
the unclassified civil service, pursuant to section 124.11 of the 18790
Revised Code. 18791

Sec. 340.01. (A) As used in this chapter, "addiction," 18792
"addiction services," "alcohol and drug addiction services," ~~and~~ 18793
"community addiction services provider," "community mental health 18794
services provider," "~~alcohol and drug addiction programs gambling~~ 18795
addiction services," "mental health services," and "mental 18796
illness" have the same meanings as in section ~~3793.01~~ 5119.01 of 18797
the Revised Code. 18798

(B) An alcohol, drug addiction, and mental health service 18799
district shall be established in any county or combination of 18800
counties having a population of at least fifty thousand to provide 18801
~~alcohol and drug~~ addiction services and mental health services. 18802
With the approval of the ~~directors~~ director of ~~mental health and~~ 18803
~~alcohol and drug addiction services~~ mental health and addiction 18804

services, any county or combination of counties having a 18805
population of less than fifty thousand may establish such a 18806
district. Districts comprising more than one county shall be known 18807
as joint-county districts. 18808

The board of county commissioners of any county participating 18809
in a joint-county district may submit a resolution requesting 18810
withdrawal from the district together with a comprehensive plan or 18811
plans that are in compliance with rules adopted by the director of 18812
~~mental health~~ mental health and addiction services under ~~section~~ 18813
~~5119.61~~ section 5119.22 of the Revised Code ~~and rules adopted by~~ 18814
~~the department of alcohol and drug addiction services under~~ 18815
~~section 3793.05 of the Revised Code~~, and that provide for the 18816
equitable adjustment and division of all services, assets, 18817
property, debts, and obligations, if any, of the joint-county 18818
district to the board of alcohol, drug addiction, and mental 18819
health services, to the boards of county commissioners of each 18820
county in the district, and to the directors. No county 18821
participating in a joint-county service district may withdraw from 18822
the district without the consent of the ~~directors~~ director of 18823
~~mental health and alcohol and drug addiction services~~ mental 18824
health and addiction services nor earlier than one year after the 18825
submission of such resolution unless all of the participating 18826
counties agree to an earlier withdrawal. Any county withdrawing 18827
from a joint-county district shall continue to have levied against 18828
its tax list and duplicate any tax levied by the district during 18829
the period in which the county was a member of the district until 18830
such time as the levy expires or is renewed or replaced. 18831

Sec. 340.011. (A) This chapter shall be interpreted to 18832
accomplish all of the following: 18833

(1) Establish a unified system of treatment for mentally ill 18834
persons and persons with addictions; 18835

(2) Establish a community support system available for every alcohol, drug addiction, and mental health service district;	18836 18837
(3) Protect the personal liberty of mentally ill persons so that they may be treated in the least restrictive environment;	18838 18839
(4) Encourage the development of high quality, cost effective, and comprehensive services, including culturally sensitive services;	18840 18841 18842
(5) Foster the development of comprehensive community mental health services, based on recognized local needs, especially for severely mentally disabled children, adolescents, and adults;	18843 18844 18845
(6) Ensure that services provided meet minimum standards established by the director of mental health or the department of alcohol and drug addiction services <u>mental health and addiction services</u> ;	18846 18847 18848 18849
(7) Promote the delivery of high quality and cost-effective alcohol and drug addiction <u>and mental health</u> services;	18850 18851
(8) Promote the participation of consumers of <u>persons receiving</u> mental health services and alcohol and drug addiction services in the planning, delivery, and evaluation of these services.	18852 18853 18854 18855
(B) Nothing in Chapter 340., 3793.7 , 5119., or 5122. of the Revised Code shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a community <u>budget and statement of services to be provided by the alcohol, drug addiction, and mental health plan services board</u> , as developed and submitted under section 340.03 <u>340.08</u> of the Revised Code, to provide the services listed in section 340.09 of the Revised Code, and nothing in those chapters shall be construed as requiring a board of county commissioners to provide resources beyond the total amount set forth in a plan for alcohol and drug addiction services, prepared and submitted in	18856 18857 18858 18859 18860 18861 18862 18863 18864 18865 18866

~~accordance with sections 340.033 and 3793.05 of the Revised Code,~~ 18867
~~to provide alcohol and drug addiction services.~~ 18868

~~Sec. 340.02. As used in this section, "mental health~~ 18869
~~professional" means a person who is qualified to work with~~ 18870
~~mentally ill persons, pursuant to standards established by the~~ 18871
~~director of mental health under section 5119.611 of the Revised~~ 18872
~~Code.~~ 18873

(A) For each alcohol, drug addiction, and mental health 18874
service district, there shall be appointed a board of alcohol, 18875
drug addiction, and mental health services consisting of eighteen 18876
members or fourteen members, at the election of the board. Not 18877
later than January 1, 2014, each board of alcohol, drug addiction, 18878
and mental health services shall notify the department of mental 18879
health and addiction services of its election to continue to 18880
operate as an eighteen-member board or to transition to operation 18881
as a fourteen-member board. The election shall be final. Failure 18882
to provide notice of its election to the department on or before 18883
January 1, 2014, shall constitute an election to continue to 18884
operate as an eighteen-member board. If an existing board provides 18885
timely notice of its election to transition to operate as a 18886
fourteen-member board, the number of board members may decline 18887
from eighteen to fourteen by attrition as current members' terms 18888
expire. However, the composition of the board must reflect the 18889
requirements set forth in this section for fourteen-member boards. 18890
~~Nine~~ For all boards, half of the members shall be interested in 18891
mental health ~~programs and facilities~~ services and ~~nine other half~~ 18892
of the members shall be interested in alcohol ~~or,~~ drug, or 18893
gambling addiction ~~programs~~ services. All members shall be 18894
residents of the service district. The membership shall, as nearly 18895
as possible, reflect the composition of the population of the 18896
service district as to race and sex. 18897

~~The (B) For boards operating as eighteen-member boards, the~~ 18898
director of ~~mental health~~ mental health and addiction services 18899
shall appoint ~~four~~ eight members of the board, ~~the director of~~ 18900
~~alcohol and drug addiction services shall appoint four members,~~ 18901
and the board of county commissioners shall appoint ten members. 18902
For boards operating as fourteen-member boards, the director of 18903
mental health and addiction services shall appoint six members of 18904
the board and the board of county commissioners shall appoint 18905
eight members. In a joint-county district, the county 18906
commissioners of each participating county shall appoint members 18907
in as nearly as possible the same proportion as that county's 18908
population bears to the total population of the district, except 18909
that at least one member shall be appointed from each 18910
participating county. 18911

(C) The director of ~~mental health~~ mental health and addiction 18912
services shall ensure that at least one member of the board is a 18913
~~psychiatrist and one member of the board is a mental health~~ 18914
~~professional. If the appointment of a psychiatrist is not~~ 18915
~~possible, as determined under rules adopted by the director, a~~ 18916
~~licensed physician may be appointed in place of the psychiatrist.~~ 18917
~~If the appointment of a licensed physician is not possible, the~~ 18918
~~director of mental health may waive the requirement that the~~ 18919
~~psychiatrist or licensed physician be a resident of the service~~ 18920
~~district and appoint a psychiatrist or licensed physician from a~~ 18921
~~contiguous county. The director of mental health shall ensure that~~ 18922
clinician with experience in the delivery of mental health 18923
services, at least one member of the board is a person who has 18924
received or is receiving mental health services paid for by public 18925
funds ~~and,~~ at least one member of the board is a parent or other 18926
relative of such a person. 18927

~~The director of alcohol and drug addiction services shall~~ 18928
~~ensure that at least one member of the board is a professional in~~ 18929

~~the field of alcohol or drug addiction services and one member of~~ 18930
~~the board is an advocate for persons receiving treatment for~~ 18931
~~alcohol or drug addiction. Of the members appointed by the~~ 18932
~~director of alcohol and drug addiction services, at least one~~ 18933
~~member of the board is a clinician with experience in the delivery~~ 18934
~~of addiction services, at least one shall be member of the board~~ 18935
~~is a person who has received or is receiving services for alcohol~~ 18936
~~or drug addiction services paid for by public funds, and at least~~ 18937
~~one shall be member of the board is a parent or other relative of~~ 18938
~~such a person. A single member who meets both qualifications may~~ 18939
~~fulfill the requirement for a clinician with experience in the~~ 18940
~~delivery of mental health services and a clinician with experience~~ 18941
~~in the delivery of addiction services.~~ 18942

(D) No member or employee of a board of alcohol, drug 18943
addiction, and mental health services shall serve as a member of 18944
the board of any ~~agency provider~~ with which the board of alcohol, 18945
drug addiction, and mental health services has entered into a 18946
contract for the provision of services or facilities. No member of 18947
a board of alcohol, drug addiction, and mental health services 18948
shall be an employee of any ~~agency provider~~ with which the board 18949
has entered into a contract for the provision of services or 18950
facilities, ~~unless the board member's employment duties with the~~ 18951
~~agency consist of providing, only outside the district the board~~ 18952
~~serves, services for which the medicaid program pays. No person~~ 18953
shall be an employee of a board and such ~~an agency a provider~~ 18954
unless the board and ~~agency provider~~ both agree in writing. 18955

(E) No person shall serve as a member of the board of 18956
alcohol, drug addiction, and mental health services whose spouse, 18957
child, parent, brother, sister, grandchild, stepparent, stepchild, 18958
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 18959
daughter-in-law, brother-in-law, or sister-in-law serves as a 18960
member of the board of any ~~agency provider~~ with which the board of 18961

alcohol, drug addiction, and mental health services has entered 18962
into a contract for the provision of services or facilities. No 18963
person shall serve as a member or employee of the board whose 18964
spouse, child, parent, brother, sister, stepparent, stepchild, 18965
stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, 18966
daughter-in-law, brother-in-law, or sister-in-law serves as a 18967
county commissioner of a county or counties in the alcohol, drug 18968
addiction, and mental health service district. 18969

~~(F) Each year each board member shall attend at least one 18970
inservice training session provided or approved by the department 18971
of mental health or the department of alcohol and drug addiction 18972
services mental health and addiction services. Such training 18973
sessions shall not be considered to be regularly scheduled 18974
meetings of the board. 18975~~

~~Each (G) For boards operating as eighteen-member boards, each 18976
member shall be appointed for a term of four years, commencing the 18977
first day of July, except that one-third of initial appointments 18978
to a newly established board, and to the extent possible to 18979
expanded boards, shall be for terms of two years, one-third of 18980
initial appointments shall be for terms of three years, and 18981
one-third of initial appointments shall be for terms of four 18982
years. For boards operating as fourteen-member boards, each member 18983
shall be appointed for a term of four years, commencing the first 18984
day of July, except that four of the initial appointments to a 18985
newly established board, and to the extent possible to expanded 18986
boards, shall be for terms of two years, five initial appointments 18987
shall be for terms of three years, and five initial appointments 18988
shall be for terms of four years. No member shall serve more than 18989
two consecutive four-year terms under the same appointing 18990
authority. A member may serve for three consecutive terms under 18991
the same appointing authority only if one of the terms is for less 18992
than two years. A member who has served two consecutive four-year 18993~~

terms or three consecutive terms totaling less than ten years is 18994
eligible for reappointment by the same appointing authority one 18995
year following the end of the second or third term, respectively. 18996

When a vacancy occurs, appointment for the expired or 18997
unexpired term shall be made in the same manner as an original 18998
appointment. The appointing authority shall be notified by 18999
certified mail of any vacancy and shall fill the vacancy within 19000
sixty days following that notice. 19001

Any member of the board may be removed from office by the 19002
appointing authority for neglect of duty, misconduct, or 19003
malfeasance in office, and shall be removed by the appointing 19004
authority if the member is barred by this section from serving as 19005
a board member. The member shall be informed in writing of the 19006
charges and afforded an opportunity for a hearing. Upon the 19007
absence of a member within one year from either four board 19008
meetings or from two board meetings without prior notice, the 19009
board shall notify the appointing authority, which may vacate the 19010
appointment and appoint another person to complete the member's 19011
term. 19012

Members of the board shall serve without compensation, but 19013
shall be reimbursed for actual and necessary expenses incurred in 19014
the performance of their official duties, as defined by rules of 19015
the ~~departments~~ department of mental health and alcohol and drug 19016
~~addiction services~~ mental health and addiction services. 19017

Sec. 340.021. (A) In an alcohol, drug addiction, and mental 19018
health service district ~~comprised of a county with a population of~~ 19019
~~two hundred fifty thousand or more on October 10, 1989, the board~~ 19020
~~of county commissioners shall, within thirty days of October 10,~~ 19021
~~1989, establish an alcohol and drug addiction services board as~~ 19022
~~the entity responsible for providing alcohol and drug addiction~~ 19023
~~services in the county, unless, prior to that date, the board~~ 19024

~~adopts a resolution providing that the entity responsible for~~ 19025
~~providing the services is a board of alcohol, drug addiction, and~~ 19026
~~mental health services. If where the board of county commissioners~~ 19027
~~establishes~~ has established an alcohol and drug addiction services 19028
board, the community mental health board established under former 19029
section 340.02 of the Revised Code shall serve as the entity 19030
responsible for providing mental health services in the county. A 19031
community mental health board has all the powers, duties, and 19032
obligations of a board of alcohol, drug addiction, and mental 19033
health services with regard to mental health services. An alcohol 19034
and drug addiction services board has all the powers, duties, and 19035
obligations of a board of alcohol, drug addiction, and mental 19036
health services with regard to ~~alcohol and drug~~ addiction 19037
services. Any provision of the Revised Code that refers to a board 19038
of alcohol, drug addiction, and mental health services with regard 19039
to mental health services also refers to a community mental health 19040
board and any provision that refers to a board of alcohol, drug 19041
addiction, and mental health services with regard to alcohol and 19042
drug addiction services also refers to an alcohol and drug 19043
addiction services board. 19044

An alcohol and drug addiction services board shall consist of 19045
eighteen members or fourteen members, six of whom at the election 19046
of the board. Not later than January 1, 2014, each alcohol and 19047
drug addiction services board shall notify the department of 19048
mental health and addiction services of its election to operate as 19049
an eighteen-member board or to operate as a fourteen-member board. 19050
The election shall be final. Failure to provide notice of its 19051
election to the department on or before January 1, 2014, shall 19052
constitute an election to continue to operate as an 19053
eighteen-member board. If an existing board provides timely notice 19054
of its election to operate as a fourteen-member board, the number 19055
of board members may decline from eighteen to fourteen by 19056
attrition as current members' terms expire. However, the 19057

composition of the board must reflect the requirements set forth 19058
in this section and in applicable provisions of section 340.02 of 19059
the Revised Code for fourteen-member boards. For boards operating 19060
as eighteen-member boards, eight members shall be appointed by the 19061
director of alcohol and drug addiction services mental health and 19062
addiction services and twelve of whom ten members shall be 19063
appointed by the board of county commissioners. Of the members 19064
appointed by the The director, one shall be of mental health and 19065
addiction services shall ensure that at least one member of the 19066
board is a person who has received or is receiving services for 19067
alcohol or, drug, or gambling addiction, at least one shall be 19068
member is a parent or relative of such a person, and at least one 19069
shall be member is a professional in the field of alcohol or drug 19070
clinician with experience in the delivery of addiction services, 19071
and one shall be an advocate for persons receiving treatment for 19072
alcohol or drug addiction. The membership of the board shall, as 19073
nearly as possible, reflect the composition of the population of 19074
the service district as to race and sex. Members shall be 19075
residents of the service district and shall be interested in 19076
alcohol and, drug, or gambling addiction services. Requirements 19077
for membership, including prohibitions against certain family and 19078
business relationships, and terms of office shall be the same as 19079
those for members of boards of alcohol, drug addiction, and mental 19080
health services. 19081

A community mental health board shall consist of eighteen 19082
members or fourteen members, at the election of the board. Not 19083
later than January 1, 2014, each community mental health board 19084
shall notify the department of mental health and addiction 19085
services of its election to operate as an eighteen-member board or 19086
to operate as a fourteen-member board. The election shall be 19087
final. Failure to provide notice of its election to the department 19088
on or before January 1, 2014, shall constitute an election to 19089
continue to operate as an eighteen-member board. If an existing 19090

board provides timely notice of its election to operate as a 19091
fourteen-member board, the number of board members may decline 19092
from eighteen to fourteen by attrition as current members' terms 19093
expire. However, the composition of the board must reflect the 19094
requirements set forth in this section and in applicable 19095
provisions of section 340.02 of the Revised Code for 19096
fourteen-member boards. For boards operating as eighteen-member 19097
boards, six of whom eight members shall be appointed by the 19098
director of ~~mental health~~ mental health and addiction services and 19099
~~twelve of whom~~ ten members shall be appointed by the board of 19100
county commissioners. ~~Of the members appointed by the~~ The 19101
director, ~~one shall be~~ of mental health and addiction services 19102
shall ensure that at least one member of the board is a person who 19103
has received or is receiving mental health services, at least one 19104
~~shall be member is~~ a parent or relative of such a person, and at 19105
least one shall be member is a psychiatrist or a physician, and 19106
~~one shall be a~~ clinician with experience in the delivery of mental 19107
health ~~professional~~ services. The membership of the board as 19108
nearly as possible shall reflect the composition of the population 19109
of the service district as to race and sex. Members shall be 19110
residents of the service district and shall be interested in 19111
mental health services. Requirements for membership, including 19112
prohibitions against certain family and business relationships, 19113
and terms of office shall be the same as those for members of 19114
boards of alcohol, drug addiction, and mental health services. 19115

(B) ~~If a board of county commissioners subject to division~~ 19116
~~(A) of this section did not adopt a resolution providing for a~~ 19117
~~board of alcohol, drug addiction, and mental health services, the~~ 19118
~~board of county commissioners may establish such a board in~~ 19119
~~accordance with the following procedures:~~ 19120

~~(1) Not later than January 1, 2007, the board of county~~ 19121
~~commissioners shall adopt a resolution expressing its intent to~~ 19122

~~establish a board of alcohol, drug addiction, and mental health services.~~ 19123
19124

~~(2) After adopting a resolution under division (B)(1) of this section, the board of county commissioners shall instruct the county's community mental health board and alcohol and drug addiction services board to prepare a report on the feasibility, process, and proposed plan to establish a board of alcohol, drug addiction, and mental health services. The board of county commissioners shall specify the date by which the report must be submitted to the board for its review.~~ 19125
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~~(3) After reviewing the report prepared under division (B)(2) of this section, the board may adopt a final resolution establishing a board of alcohol, drug addiction, and mental health services. A final resolution establishing such a board shall be adopted not later than July 1, 2007.~~ 19133
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~~(C)(1) If a board of county commissioners subject to division (A) of this section did not adopt a final resolution providing for a board of alcohol, drug addiction, and mental health services and did not establish such a board under division (B) of this section on or before July 1, 2007, the board of county commissioners may establish a board of alcohol, drug addiction, and mental health services on or after the effective date of this amendment. To establish the board, the board of county commissioners shall adopt a resolution providing for the board's establishment. The composition of the board, the procedures for appointing members, and all other matters related to the board and its members are subject to section 340.02 of the Revised Code, with the following exceptions:~~ 19138
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~~(a) For initial appointments to the board, the county's community mental health board and alcohol and drug addiction services board shall jointly recommend members of those boards for reappointment and shall submit the recommendations to the board of~~ 19151
19152
19153
19154

county commissioners, ~~director of mental health,~~ and the director 19155
of ~~alcohol and drug addiction services~~ mental health and addiction 19156
services. 19157

(b) To the greatest extent possible, the appointing 19158
authorities shall appoint the initial members from among the 19159
members jointly recommended under division ~~(C)~~(B)(1)(a) of this 19160
section. 19161

(2) If a board of alcohol, drug addiction, and mental health 19162
services is established pursuant to division ~~(C)~~(B)(1) of this 19163
section, the board has the same rights, privileges, immunities, 19164
powers, and duties that were possessed by the county's community 19165
mental health board and alcohol and drug addiction services board. 19166
When the board is established, all property and obligations of the 19167
community mental health board and alcohol and drug addiction 19168
services board shall be transferred to the board of alcohol, drug 19169
addiction, and mental health services. 19170

Sec. 340.03. (A) Subject to rules issued by the director of 19171
~~mental health~~ mental health and addiction services after 19172
consultation with relevant constituencies as required by division 19173
~~(H)~~(A)(10) of section ~~5119.06~~ 5119.21 of the Revised Code, ~~with~~ 19174
~~regard to mental health services,~~ the board of alcohol, drug 19175
addiction, and mental health services shall: 19176

(1) Serve as the community addiction and mental health 19177
services planning agency for the county or counties under its 19178
jurisdiction, and in so doing it shall: 19179

(a) Evaluate the need for facilities and community addiction 19180
and mental health services; 19181

(b) In cooperation with other local and regional planning and 19182
funding bodies and with relevant ethnic organizations, assess the 19183
community addiction and mental health needs, evaluate strengths 19184

~~and challenges, and set priorities, and develop plans for the~~ 19185
~~operation of facilities and community addiction and mental health~~ 19186
~~services, including treatment and prevention. When the board sets~~ 19187
~~priorities for the operation of addiction services, the board~~ 19188
~~shall consult with the county commissioners of the counties in the~~ 19189
~~board's service district regarding the services described in~~ 19190
~~section 340.15 of the Revised Code and shall give priority to~~ 19191
~~those services, except that those services shall not have a~~ 19192
~~priority over services provided to pregnant women under programs~~ 19193
~~developed in relation to the mandate established in section~~ 19194
~~5119.17 of the Revised Code;~~ 19195

(c) In accordance with guidelines issued by the director of 19196
~~mental health~~ mental health and addiction services after 19197
consultation with board representatives, annually develop and 19198
submit to the department of ~~mental health~~ mental health and 19199
addiction services a community addiction and mental health 19200
services plan listing community addiction and mental health 19201
services needs, including the needs of all residents of the 19202
district ~~now residing in state mental institutions and severely~~ 19203
~~mentally disabled adults, children, and adolescents;~~ currently 19204
receiving inpatient services in state-operated hospitals, the 19205
needs of other populations as required by state or federal law or 19206
programs, the needs of all children subject to a determination 19207
made pursuant to section 121.38 of the Revised Code~~;~~, and ~~all the~~ 19208
priorities for facilities and community addiction and mental 19209
health services ~~that are or will be in operation or provided~~ 19210
during the period for which the plan will be in ~~operation in the~~ 19211
~~service district to meet such needs~~ effect. 19212

In alcohol, drug addiction, and mental health service 19213
districts that have separate alcohol and drug addiction services 19214
and community mental health services boards, the alcohol and drug 19215
addiction services board shall submit a community addiction 19216

services plan and the community mental health services board shall 19217
submit a community mental health services plan. Each board shall 19218
consult with its counterpart in developing its plan and address 19219
the interaction between the local addiction services and mental 19220
health services systems and populations with regard to needs and 19221
priorities in developing its plan. 19222

~~The plan shall include, but not be limited to, a statement of~~ 19223
~~which of the services listed in section 340.09 of the Revised Code~~ 19224
~~the board intends to make available. The board must include crisis~~ 19225
~~intervention services for individuals in an emergency situation in~~ 19226
~~the plan and explain how the board intends to make such services~~ 19227
~~available. The plan must also include a statement of the inpatient~~ 19228
~~and community based services the board proposes that the~~ 19229
~~department operate, an assessment of the number and types of~~ 19230
~~residential facilities needed, such other information as the~~ 19231
~~department requests, and a budget for moneys the board expects to~~ 19232
~~receive. The department shall approve or disapprove the plan, in~~ 19233
~~whole or in part, according to the criteria developed pursuant to~~ 19234
~~section 5119.61 5119.22 of the Revised Code. The department's~~ 19235
~~statement of approval or disapproval shall specify the inpatient~~ 19236
~~and the community based services that the department will operate~~ 19237
~~for the board. Eligibility for state and federal funding shall be~~ 19238
~~contingent upon an approved plan or relevant part of a plan.~~ 19239

If a board determines that it is necessary to amend a plan ~~or~~ 19240
~~an allocation request~~ that has been approved under division 19241
(A)(1)(c) of this section, the board shall submit a proposed 19242
amendment to the director. The director may approve or disapprove 19243
all or part of the amendment. The director shall inform the board 19244
of the reasons for disapproval of all or part of an amendment and 19245
of the criteria that must be met before the amendment may be 19246
approved. The director shall provide the board an opportunity to 19247
present its case on behalf of the amendment. The director shall 19248

give the board a reasonable time in which to meet the criteria, 19249
and shall offer the board technical assistance to help it meet the 19250
criteria. 19251

The board shall ~~implement~~ operate in accordance with the plan 19252
approved by the department. 19253

(d) Promote, arrange, and implement working agreements with 19254
social agencies, both public and private, and with judicial 19255
agencies. 19256

(2) Investigate, or request another agency to investigate, 19257
any complaint alleging abuse or neglect of any person receiving 19258
services from a community addiction or mental health ~~agency as~~ 19259
~~defined in section 5122.01 of the Revised Code~~ services provider 19260
certified under section 5119.36 of the Revised Code or alleging 19261
abuse or neglect of a ~~person~~ resident receiving addiction services 19262
or with mental illness or severe mental disability residing in a 19263
residential facility licensed under section ~~5119.22~~ 5119.34 of the 19264
Revised Code. If the investigation substantiates the charge of 19265
abuse or neglect, the board shall take whatever action it 19266
determines is necessary to correct the situation, including 19267
notification of the appropriate authorities. Upon request, the 19268
board shall provide information about such investigations to the 19269
department. 19270

(3) For the purpose of section ~~5119.611~~ 5119.36 of the 19271
Revised Code, cooperate with the director of ~~mental health~~ mental 19272
health and addiction services in visiting and evaluating whether 19273
the services of a community addiction or mental health ~~agency~~ 19274
services provider satisfy the certification standards established 19275
by rules adopted under that section; 19276

(4) In accordance with criteria established under division 19277
(E) of section ~~5119.61~~ 5119.22 of the Revised Code, conduct 19278
program audits that review and evaluate the quality, 19279

effectiveness, and efficiency of services provided through its 19280
community addiction and mental health plan contracted services and 19281
submit its findings and recommendations to the department of 19282
~~mental health~~ mental health and addiction services; 19283

(5) In accordance with section ~~5119.22~~ 5119.34 of the Revised 19284
Code, review an application for a residential facility license and 19285
provide to the department of ~~mental health~~ mental health and 19286
addiction services any information about the applicant or facility 19287
that the board would like the department to consider in reviewing 19288
the application; 19289

(6) Audit, in accordance with rules adopted by the auditor of 19290
state pursuant to section 117.20 of the Revised Code, at least 19291
annually all ~~programs and~~ services provided under contract with 19292
the board. In so doing, the board may contract for or employ the 19293
services of private auditors. A copy of the fiscal audit report 19294
shall be provided to the director of ~~mental health~~ mental health 19295
and addiction services, the auditor of state, and the county 19296
auditor of each county in the board's district. 19297

(7) Recruit and promote local financial support for addiction 19298
and mental health programs services from private and public 19299
sources; 19300

(8)(a) Enter into contracts with public and private 19301
facilities for the operation of facility services ~~included in the~~ 19302
~~board's community mental health plan~~ and enter into contracts with 19303
public and private community addiction and mental health agencies 19304
service providers for the provision of community addiction and 19305
mental health services ~~that are listed in section 340.09 of the~~ 19306
~~Revised Code and included in the board's community mental health~~ 19307
~~plan~~. The board may not contract with a residential facility 19308
subject to section 5119.34 of the Revised Code unless the facility 19309
is licensed by the director of mental health and addiction 19310
services and may not contract with a community addiction or mental 19311

health ~~agency~~ services provider to provide community addiction or 19312
mental health services ~~included in the board's community mental~~ 19313
~~health plan~~ unless the services are certified by the director of 19314
~~mental health~~ mental health and addiction services under section 19315
~~5119.611~~ 5119.36 of the Revised Code. Section 307.86 of the 19316
Revised Code does not apply to contracts entered into under this 19317
division. In contracting with a community addiction or mental 19318
health ~~agency~~ services provider, a board shall consider the cost 19319
effectiveness of services provided by that ~~agency~~ provider and the 19320
quality and continuity of care, and may review cost elements, 19321
including salary costs, of the services to be provided. A 19322
utilization review process ~~shall~~ may be established as part of the 19323
contract for services entered into between a board and a community 19324
addiction or mental health ~~agency~~ services provider. The board may 19325
establish this process in a way that is most effective and 19326
efficient in meeting local needs. ~~Until July 1, 2012, a contract~~ 19327
~~with a community mental health agency or facility, as defined in~~ 19328
~~section 5111.023 of the Revised Code, to provide services listed~~ 19329
~~in division (B) of that section shall provide for the agency or~~ 19330
~~facility to be paid in accordance with the contract entered into~~ 19331
~~between the departments of job and family services and mental~~ 19332
~~health under section 5111.91 of the Revised Code and any rules~~ 19333
~~adopted under division (A) of section 5119.61 of the Revised Code.~~ 19334

If either the board or a facility or community addiction or 19335
mental health ~~agency~~ services provider with which the board 19336
contracts under division (A)(8)(a) of this section proposes not to 19337
renew the contract or proposes substantial changes in contract 19338
terms, the other party shall be given written notice at least one 19339
hundred twenty days before the expiration date of the contract. 19340
During the first sixty days of this one hundred twenty-day period, 19341
both parties shall attempt to resolve any dispute through good 19342
faith collaboration and negotiation in order to continue to 19343
provide services to persons in need. If the dispute has not been 19344

resolved sixty days before the expiration date of the contract, 19345
either party may notify the department of ~~mental health~~ mental 19346
health and addiction services of the unresolved dispute. The 19347
director may require both parties to submit the dispute to a third 19348
party with the cost to be shared by the board and the facility or 19349
~~community mental health agency~~ provider. The third party shall 19350
issue to the board, the facility or ~~agency~~ provider, and the 19351
department recommendations on how the dispute may be resolved 19352
twenty days prior to the expiration date of the contract, unless 19353
both parties agree to a time extension. The director shall adopt 19354
rules establishing the procedures of this dispute resolution 19355
process. 19356

(b) With the prior approval of the director of ~~mental health~~ 19357
mental health and addiction services, a board may operate a 19358
facility or provide a community addiction or mental health service 19359
as follows, if there is no other qualified private or public 19360
facility or community addiction or mental health ~~agency~~ services 19361
provider that is immediately available and willing to operate such 19362
a facility or provide the service: 19363

(i) In an emergency situation, any board may operate a 19364
facility or provide a community addiction or mental health service 19365
in order to provide essential services for the duration of the 19366
emergency; 19367

(ii) In a service district with a population of at least one 19368
hundred thousand but less than five hundred thousand, a board may 19369
operate a facility or provide a community addiction or mental 19370
health service for no longer than one year; 19371

(iii) In a service district with a population of less than 19372
one hundred thousand, a board may operate a facility or provide a 19373
community addiction or mental health service for no longer than 19374
one year, except that such a board may operate a facility or 19375
provide a community addiction or mental health service for more 19376

than one year with the prior approval of the director and the 19377
prior approval of the board of county commissioners, or of a 19378
majority of the boards of county commissioners if the district is 19379
a joint-county district. 19380

The director shall not give a board approval to operate a 19381
facility or provide a community addiction or mental health service 19382
under division (A)(8)(b)(ii) or (iii) of this section unless the 19383
director determines that it is not feasible to have the department 19384
operate the facility or provide the service. 19385

The director shall not give a board approval to operate a 19386
facility or provide a community addiction or mental health service 19387
under division (A)(8)(b)(iii) of this section unless the director 19388
determines that the board will provide greater administrative 19389
efficiency and more or better services than would be available if 19390
the board contracted with a private or public facility or 19391
community addiction or mental health agency services provider. 19392

The director shall not give a board approval to operate a 19393
facility previously operated by a person or other government 19394
entity unless the board has established to the director's 19395
satisfaction that the person or other government entity cannot 19396
effectively operate the facility or that the person or other 19397
government entity has requested the board to take over operation 19398
of the facility. The director shall not give a board approval to 19399
provide a community addiction or mental health service previously 19400
provided by a community addiction or mental health agency services 19401
provider unless the board has established to the director's 19402
satisfaction that the agency provider cannot effectively provide 19403
the service or that the agency provider has requested the board 19404
take over providing the service. 19405

The director shall review and evaluate a board's operation of 19406
a facility and provision of community addiction or mental health 19407
service under division (A)(8)(b) of this section. 19408

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community addiction or mental health agency services provider, but a facility or agency provider may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency provider.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community addiction or mental health agencies services providers in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs services under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a community support system, which provides for prevention, treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section ~~5119.06~~ 5119.21 of the Revised Code:

(a) To locate persons in need of addiction or mental health services to inform them of available services and benefits ~~mechanisms~~;

(b) Assistance for ~~clients~~ persons receiving services to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) ~~Mental~~ Addiction and mental health care services, including, but not limited to, outpatient, residential, partial

hospitalization, and, where appropriate, inpatient care;	19440
(d) Emergency services and crisis intervention;	19441
(e) Assistance for clients <u>persons receiving services</u> to obtain vocational services and opportunities for jobs;	19442 19443
(f) The provision of services designed to develop social, community, and personal living skills;	19444 19445
(g) Access to a wide range of housing and the provision of residential treatment and support;	19446 19447
(h) Support, assistance, consultation, and education for families, friends, consumers of <u>persons receiving addiction or mental health services</u> , and others;	19448 19449 19450
(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and <u>meaningful community</u> employment as natural supports for consumers of <u>persons receiving addiction or mental health services</u> ;	19451 19452 19453 19454 19455
(j) Grievance procedures and protection of the rights of consumers of <u>persons receiving addiction or mental health services</u> ;	19456 19457 19458
(k) Case management <u>Community psychiatric supportive treatment services</u> , which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.	19459 19460 19461 19462
(12) <u>Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;</u>	19463 19464 19465 19466 19467 19468 19469

(13) Designate the treatment ~~program~~ services, agency 19470
provider, or facility, or other placement for each person 19471
involuntarily committed to the board pursuant to Chapter 5122. of 19472
the Revised Code ~~and authorize payment for such treatment.~~ The 19473
board shall provide the least restrictive and most appropriate 19474
alternative that is available for any person involuntarily 19475
committed to it and shall assure that the listed services listed 19476
~~in~~ submitted and approved in accordance with division (B) of 19477
section ~~340.09~~ 340.08 of the Revised Code are available to 19478
severely mentally disabled persons residing within its service 19479
district. The board shall establish the procedure for authorizing 19480
payment for services, which may include prior authorization in 19481
appropriate circumstances. The board may provide for services 19482
directly to a severely mentally disabled person when life or 19483
safety is endangered and when no community mental health ~~agency~~ 19484
services provider is available to provide the service. 19485

~~(13) Establish a method for evaluating referrals for~~ 19486
~~involuntary commitment and affidavits filed pursuant to section~~ 19487
~~5122.11 of the Revised Code in order to assist the probate~~ 19488
~~division of the court of common pleas in determining whether there~~ 19489
~~is probable cause that a respondent is subject to involuntary~~ 19490
~~hospitalization and what alternative treatment is available and~~ 19491
~~appropriate, if any;~~ 19492

(14) Ensure that apartments or rooms built, subsidized, 19493
renovated, rented, owned, or leased by the board or a community 19494
addiction or mental health agency services provider have been 19495
approved as meeting minimum fire safety standards and that persons 19496
residing in the rooms or apartments are receiving appropriate and 19497
necessary services, including culturally relevant services, from a 19498
community addiction or mental health agency services provider. 19499
This division does not apply to residential facilities licensed 19500
pursuant to section ~~5119.22~~ 5119.34 of the Revised Code. 19501

(15) Establish a mechanism for obtaining advice and 19502
involvement of ~~consumer recommendation and advice~~ persons 19503
receiving publicly funded addiction or mental health services on 19504
matters pertaining to addiction and mental health services in the 19505
alcohol, drug addiction, and mental health service district; 19506

(16) Perform the duties required by rules adopted under 19507
section ~~5119.61~~ 5119.22 of the Revised Code regarding referrals by 19508
the board or mental health ~~agencies~~ services providers under 19509
contract with the board of individuals with mental illness or 19510
severe mental disability to residential facilities as defined in 19511
division (A)(9)(b)(iii) of section ~~5119.22~~ 5119.34 of the Revised 19512
Code and effective arrangements for ongoing mental health services 19513
for the individuals. The board is accountable in the manner 19514
specified in the rules for ensuring that the ongoing mental health 19515
services are effectively arranged for the individuals. 19516

(B) The board shall establish such rules, operating 19517
procedures, standards, and bylaws, and perform such other duties 19518
as may be necessary or proper to carry out the purposes of this 19519
chapter. 19520

(C) A board of alcohol, drug addiction, and mental health 19521
services may receive by gift, grant, devise, or bequest any 19522
moneys, lands, or property for the benefit of the purposes for 19523
which the board is established, and may hold and apply it 19524
according to the terms of the gift, grant, or bequest. All money 19525
received, including accrued interest, by gift, grant, or bequest 19526
shall be deposited in the treasury of the county, the treasurer of 19527
which is custodian of the alcohol, drug addiction, and mental 19528
health services funds to the credit of the board and shall be 19529
available for use by the board for purposes stated by the donor or 19530
grantor. 19531

(D) No board member or employee of a board of alcohol, drug 19532
addiction, and mental health services shall be liable for injury 19533

or damages caused by any action or inaction taken within the scope 19534
of the board member's official duties or the employee's 19535
employment, whether or not such action or inaction is expressly 19536
authorized by this section, ~~section 340.033~~, or any other section 19537
of the Revised Code, unless such action or inaction constitutes 19538
willful or wanton misconduct. Chapter 2744. of the Revised Code 19539
applies to any action or inaction by a board member or employee of 19540
a board taken within the scope of the board member's official 19541
duties or employee's employment. For the purposes of this 19542
division, the conduct of a board member or employee shall not be 19543
considered willful or wanton misconduct if the board member or 19544
employee acted in good faith and in a manner that the board member 19545
or employee reasonably believed was in or was not opposed to the 19546
best interests of the board and, with respect to any criminal 19547
action or proceeding, had no reasonable cause to believe the 19548
conduct was unlawful. 19549

(E) The meetings held by any committee established by a board 19550
of alcohol, drug addiction, and mental health services shall be 19551
considered to be meetings of a public body subject to section 19552
121.22 of the Revised Code. 19553

Sec. 340.031. A board of alcohol, drug addiction, and mental 19554
health services may: 19555

(A) Inspect any residential facility licensed under section 19556
~~5119.22~~ 5119.34 of the Revised Code and located in its district, 19557
~~pursuant to a contract with the department of mental health;~~ 19558

(B) Acquire, convey, lease, or enter into a contract to 19559
purchase, lease, or sell property for community addiction and 19560
mental health ~~and alcohol and drug addiction~~ services and related 19561
purposes, and enter into loan agreements, including mortgages, for 19562
the acquisition of such property. 19563

Sec. 340.032. The board of alcohol, drug addiction, and 19564
mental health services shall employ a qualified mental health or 19565
~~alcohol or drug~~ addiction services professional with experience in 19566
administration or a professional administrator with experience in 19567
mental health or ~~alcohol or drug~~ addiction services to serve as 19568
executive director of the board and shall prescribe the director's 19569
duties. 19570

The board shall fix the compensation of the executive 19571
director. In addition to such compensation, the director shall be 19572
reimbursed for actual and necessary expenses incurred in the 19573
performance of ~~his~~ the director's official duties. The board, by 19574
majority vote of the full membership, may remove the director for 19575
cause, upon written charges, after an opportunity has been 19576
afforded ~~him~~ the director for a hearing before the board on 19577
request. 19578

The board may delegate to its executive director the 19579
authority to act in its behalf in the performance of its 19580
administrative duties. 19581

As used in this section, "mental health professional" and 19582
"addiction services professional" mean an individual who is 19583
qualified to work with mentally ill persons or persons receiving 19584
addiction services, pursuant to standards established by the 19585
director of mental health and addiction services under Chapter 19586
5119. of the Revised Code. 19587

Sec. 340.04. In addition to such other duties as may be 19588
lawfully imposed, the executive director of a board of alcohol, 19589
drug addiction, and mental health services shall: 19590

(A) Serve as executive officer of the board and subject to 19591
the prior approval of the board for each contract, execute 19592
contracts on its behalf; 19593

(B) Supervise services and facilities provided, operated, 19594
contracted, or supported by the board to the extent of determining 19595
that ~~programs~~ services and facilities are being administered in 19596
conformity with this chapter and rules of the director of ~~mental~~ 19597
~~health and the department of alcohol and drug addiction services~~ 19598
mental health and addiction services; 19599

(C) Provide consultation to ~~agencies, associations, or~~ 19600
~~individuals~~ addiction and mental health services providers 19601
providing services supported by the board; 19602

(D) Recommend to the board the changes necessary to increase 19603
the effectiveness of addiction and mental health services ~~and~~ 19604
~~alcohol and drug addiction services~~ and other matters necessary or 19605
desirable to carry out this chapter; 19606

(E) Employ and remove from office such employees and 19607
consultants in the classified civil service and, subject to the 19608
approval of the board, employ and remove from office such other 19609
employees and consultants as may be necessary for the work of the 19610
board, and fix their compensation and reimbursement within the 19611
limits set by the salary schedule and the budget approved by the 19612
board; 19613

(F) Encourage the development and expansion of preventive, 19614
treatment, rehabilitative, and consultative ~~programs~~ services in 19615
the field of addiction and mental health services with emphasis on 19616
continuity of care; 19617

(G) Prepare for board approval an annual report of the 19618
~~programs~~ services and facilities under the jurisdiction of the 19619
board, including a fiscal accounting of all services; 19620

(H) Conduct such studies as may be necessary and practicable 19621
for the promotion of mental health, promotion of addiction 19622
services, and the prevention of mental illness, emotional 19623
disorders, and addiction ~~to alcohol and drugs~~; 19624

(I) Authorize the county auditor, or in a joint-county district the county auditor designated as the auditor for the district, to issue warrants for the payment of board obligations approved by the board, provided that all payments are in accordance with the ~~comprehensive community mental health plan budget submitted pursuant to section 340.08 of the Revised Code,~~ as approved by the department of ~~mental health, or with the alcohol and drug addiction services plan as approved by the department of alcohol and drug addiction services~~ mental health and addiction services.

Sec. 340.05. A community addiction or mental health agency services provider that receives a complaint alleging abuse or neglect of an individual with mental illness or severe mental disability, or an individual receiving addiction services, who resides in a residential facility as defined in division (A)(9)(b) of section ~~5119.22~~ 5119.34 of the Revised Code shall report the complaint to the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the residential facility is located. A board of alcohol, drug addiction, and mental health services that receives such a complaint or a report from a community addiction or mental health agency services provider of such a complaint shall report the complaint to the director of ~~mental health~~ mental health and addiction services for the purpose of the director conducting an investigation under section ~~5119.22~~ 5119.34 of the Revised Code. The board may enter the facility with or without the director and, if the health and safety of a resident is in immediate danger, take any necessary action to protect the resident. The board's action shall not violate any resident's rights specified in rules adopted by the department of ~~mental health~~ mental health and addiction services under section ~~5119.22~~ 5119.34 of the Revised Code. The board shall immediately

report to the director regarding the board's actions under this 19657
section. 19658

Sec. 340.07. The board of county commissioners of any county 19659
participating in an alcohol, drug addiction, and mental health 19660
service district or joint-county district, upon receipt from the 19661
board of alcohol, drug addition, and mental health services of a 19662
resolution so requesting, may appropriate money to such board for 19663
the operation, lease, acquisition, construction, renovation, and 19664
maintenance of addiction or mental health services, ~~programs,~~ 19665
providers and facilities ~~for mentally ill and emotionally~~ 19666
~~disturbed persons~~ in accordance with the comprehensive community 19667
addiction and mental health ~~plan or for alcohol and drug addiction~~ 19668
~~programs in accordance with the alcohol and drug addiction~~ 19669
~~services plan~~ services budget approved by the department of mental 19670
health and addiction services pursuant to section 340.08 of the 19671
Revised Code. 19672

Sec. 340.08. In accordance with rules or guidelines issued by 19673
the director of mental health and addiction services, each board 19674
of alcohol, drug addiction, and mental health services shall do 19675
all of the following: 19676

(A) Submit to the department a report of receipts and 19677
expenditures for all federal, state, and local moneys the board 19678
expects to receive; 19679

(1) The report shall identify funds the board and public 19680
children services agencies in the board's service district have 19681
available to fund jointly the services described in section 340.15 19682
of the Revised Code. 19683

(2) The board's proposed budget for expenditures of state and 19684
federal funds distributed to the board by the department shall be 19685
deemed an application for funds, and the department shall approve 19686

or disapprove the budget for these expenditures. The department shall inform the board of the reasons for disapproval of the budget for the expenditure of state and federal funds and of the criteria that must be met before the budget may be approved. The director shall provide the board an opportunity to present its case on behalf of the submitted budget. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

If a board determines that it is necessary to amend a budget that has been approved under this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. The director shall inform the board of the reasons for disapproval of all or part of the amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria and shall offer the board technical assistance to help it meet the criteria.

(3) The director of mental health and addiction services, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under Chapter 5119. of the Revised Code if the board's use of state and federal funds fails to comply with the approved budget, as it may be amended with the approval of the department.

(B) Submit to the department a statement identifying the services described in section 340.09 of the Revised Code the board intends to make available. The board shall include crisis intervention services for individuals in emergency situations and services required pursuant to section 340.15 of the Revised Code, and the board shall explain the manner in which the board intends

to make such services available. The list of services shall be 19719
compatible with the budget submitted pursuant to division (A) of 19720
this section. The department shall approve or disapprove the 19721
proposed listing of services to be made available. The department 19722
shall inform the board of the reasons for disapproval of the 19723
listing of proposed services and of the criteria that must be met 19724
before listing of proposed services may be approved. The director 19725
shall provide the board an opportunity to present its case on 19726
behalf of the submitted listing of proposed services. The director 19727
shall give the board a reasonable time in which to meet the 19728
criteria and shall offer the board technical assistance to help it 19729
meet the criteria. 19730

(C) Enter into a continuity of care agreement with the state 19731
institution operated by the department of mental health and 19732
addiction services and designated as the institution serving the 19733
district encompassing the board's service district. The continuity 19734
of care agreement shall outline the department's and the board's 19735
responsibilities to plan for and coordinate with the institution 19736
to address the needs of board residents who are patients in the 19737
institution, with an emphasis on managing appropriate hospital bed 19738
day use and discharge planning. 19739

(D) In conjunction with the department of mental health and 19740
addiction services, operate a coordinated system for tracking and 19741
monitoring persons found not guilty by reason of insanity and 19742
committed pursuant to section 2945.40 of the Revised Code who have 19743
been granted a conditional release and persons found incompetent 19744
to stand trial and committed pursuant to section 2945.39 of the 19745
Revised Code who have been granted a conditional release. The 19746
system shall do all of the following: 19747

(1) Centralize responsibility for the tracking of those 19748
persons; 19749

(2) Provide for uniformity in monitoring those persons; 19750

(3) Provide a mechanism to allow prompt rehospitalization, reinstitutionalization, or detention when a violation of the conditional release or decompensation occurs. 19751
19752
19753

(E) Submit to the department a report summarizing complaints and grievances received by the board concerning the rights of persons seeking or receiving services, investigations of complaints and grievances, and outcomes of the investigations. 19754
19755
19756
19757

(F) Provide to the department information to be submitted to the community addiction and mental health information system or systems established by the department under Chapter 5119. of the Revised Code. 19758
19759
19760
19761

(G) Annually, and upon any change in membership, submit to the department a list of all current members of the board of alcohol, drug addiction, and mental health services, including the appointing authority for each member, and the member's specific qualification for appointment pursuant to section 340.02 or 340.021 of the Revised Code, if applicable. 19762
19763
19764
19765
19766
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(H) Submit to the department other information as is reasonably required for purposes of the department's operations, service evaluation, reporting activities, research, system administration, and oversight. 19768
19769
19770
19771

Sec. 340.09. (A) The department of ~~mental health~~ mental health and addiction services shall provide assistance to any county for the operation of boards of alcohol, drug addiction, and mental health services and, the provision of ~~the following~~ services approved by the department within the continuum of care, and the provision of approved support functions from funds appropriated for that purpose by the general assembly+. 19772
19773
19774
19775
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19778

~~(A) Outpatient;~~ 19779

(B) Categories in the continuum of care may include all of 19780

<u>the following:</u>	19781
<u>(1) Inpatient;</u>	19782
(C) Partial hospitalization <u>(2) Residential;</u>	19783
(D) Rehabilitation <u>(3) Outpatient treatment;</u>	19784
(E) <u>(4) Intensive and other supports;</u>	19785
<u>(5) Recovery support;</u>	19786
<u>(6) Prevention and wellness management.</u>	19787
<u>(C) Support functions may include all of the following:</u>	19788
<u>(1) Consultation;</u>	19789
(F) Mental health education and other preventive services;	19790
(G) Emergency;	19791
(H) Crisis intervention;	19792
(I) <u>(2) Research;</u>	19793
(J) <u>(3) Administrative;</u>	19794
(K) <u>(4) Referral and information;</u>	19795
(L) Residential;	19796
(M) <u>(5) Training;</u>	19797
(N) Substance abuse;	19798
(O) <u>(6) Service and program evaluation;</u>	19799
(P) Community support system;	19800
(Q) Case management;	19801
(R) Residential housing;	19802
(S) Other services approved by the board and the director of	19803
mental health.	19804
 Sec. 340.091. Each board of alcohol, drug addiction, and	19805

mental health services shall contract with a community mental 19806
health ~~agency services provider~~ under division (A)~~(7)~~(8)(a) of 19807
section 340.03 of the Revised Code for the ~~agency~~ provider to do 19808
all of the following in accordance with rules adopted under 19809
section ~~5119.61~~ 5119.22 of the Revised Code for an individual 19810
referred to the ~~agency~~ provider under division (D)(2) of section 19811
~~5119.69~~ 5119.41 of the Revised Code: 19812

(A) Assess the individual and, if the ~~agency~~ provider 19813
determines that the environment in which the individual will be 19814
living while receiving residential state supplement payments is 19815
appropriate for the individual's needs, issue a recommendation to 19816
the referring residential state supplement administrative agency 19817
that the referring agency should conclude that the living 19818
environment is appropriate when it makes its determination 19819
regarding the appropriateness of the environment; 19820

(B) Provide ongoing monitoring to ensure that listed services 19821
~~provided under~~ submitted and approved under division (B) of 19822
section ~~340.09~~ 340.08 of the Revised Code are available to the 19823
individual; 19824

(C) Provide discharge planning to ensure the individual's 19825
earliest possible transition to a less restrictive environment. 19826

Sec. 340.10. The county auditor or, in a joint-county 19827
alcohol, drug addiction, and mental health service district, the 19828
auditor of the county, the treasurer of which has been designated 19829
in the agreement between the counties of the district as custodian 19830
of the community addiction and mental health services funds ~~and~~ 19831
~~alcohol and drug addiction services funds~~, is hereby designated as 19832
the auditor and fiscal officer of an alcohol, drug addiction, and 19833
mental health service district or joint-county district. State 19834
funds allocated for the support of a service district shall be 19835
paid to the county treasurer or, in a joint-county district, to 19836

the treasurer of that county designated in the agreement as 19837
custodian of the community addiction and mental health services 19838
funds and authorized to make payments from such funds on order of 19839
the county auditor and on recommendation of the board of alcohol, 19840
drug addiction, and mental health services, or the executive 19841
director of the board when authorized by the board. The auditor 19842
shall submit to the board a detailed monthly statement of all 19843
receipts, disbursements, and ending balances for the community 19844
addiction and mental health services funds. 19845

Sec. 340.11. A board of alcohol, drug addiction, and mental 19846
health services may procure a policy or policies of insurance 19847
insuring board members or employees of the board or ~~agencies~~ 19848
providers with which the board contracts against liability arising 19849
from the performance of their official duties. If the liability 19850
insurance is unavailable or the amount a board has procured or is 19851
able to procure is insufficient to cover the amount of a claim, 19852
the board may indemnify a board member or employee as follows: 19853

(A) For any action or inaction in the capacity of board 19854
member or employee or at the request of the board, whether or not 19855
the action or inaction is expressly authorized by this or any 19856
other section of the Revised Code, if both of the following apply: 19857

(1) The board member or employee acted in good faith and in a 19858
manner that the board member or employee reasonably believed was 19859
in or was not opposed to the best interests of the board; ~~and~~ 19860

(2) With respect to any criminal action or proceeding, the 19861
board member or employee had no reason to believe the board 19862
member's or employee's conduct was unlawful. 19863

(B) Against any expenses, including attorneys' fees, the 19864
board member or employee actually and reasonably incurs as a 19865
result of a suit or other proceeding involving the defense of any 19866
action or inaction in the capacity of board member or employee or 19867

at the request of the board, or in defense of any claim, issue, or 19868
matter raised in connection with the defense of such an action or 19869
inaction, to the extent that the board member or employee is 19870
successful on the merits or otherwise. 19871

Sec. 340.12. No board of alcohol, drug addiction, and mental 19872
health services or any ~~agency, corporation, or association~~ 19873
addiction or mental health services provider under contract with 19874
such a board shall discriminate in the provision of services under 19875
its authority, in employment, or contract on the basis of race, 19876
color, religion, sex, ~~ereed~~ age, ancestry, national origin, 19877
disability, ~~or national origin~~ sexual orientation, military 19878
status, or genetic information. 19879

Each board, and each community addiction or mental health 19880
~~agency, and each alcohol and drug addiction program~~ services 19881
provider shall have a written affirmative action program. The 19882
affirmative action program shall include goals for the employment 19883
and effective utilization of, including contracts with, members of 19884
economically disadvantaged groups as defined in division (E)(1) of 19885
section 122.71 of the Revised Code in percentages reflecting as 19886
nearly as possible the composition of the alcohol, drug addiction, 19887
and mental health service district served by the board. Each 19888
board, ~~agency,~~ and ~~program~~ provider shall file a description of 19889
the affirmative action program and a progress report on its 19890
implementation with the department of ~~mental health or the~~ 19891
~~department of alcohol and drug addiction services~~ mental health 19892
and addiction services. 19893

Sec. 340.13. (A) As used in this section, ~~"minority:~~ 19894

(1) "Minority business enterprise" has the same meaning as in 19895
~~division (E)(1) of~~ section 122.71 of the Revised Code. 19896

(2) "EDGE business enterprise" has the same meaning as in 19897

section 123.152 of the Revised Code. 19898

(B) Any minority business enterprise that desires to bid on a 19899
contract under division (C) ~~or (D)~~ of this section shall first 19900
apply to the equal employment opportunity coordinator in the 19901
department of administrative services for certification as a 19902
minority business enterprise. Any EDGE business enterprise that 19903
desires to bid on a contract under division (D) of this section 19904
shall first apply to the equal employment opportunity coordinator 19905
of the department of administrative services for certification as 19906
an EDGE business enterprise. The coordinator shall approve the 19907
application of any minority business enterprise or EDGE business 19908
enterprise that complies with the rules adopted under section 19909
122.71 or 123.152 of the Revised Code, respectively. The 19910
coordinator shall prepare and maintain a list of minority business 19911
enterprises and EDGE business enterprises certified under ~~this~~ 19912
~~section~~ those sections. 19913

(C) From the contracts to be awarded for the purchases of 19914
equipment, materials, supplies, or services, other than contracts 19915
entered into under section 340.03 ~~or 340.033~~ of the Revised Code, 19916
each board of alcohol, drug addiction, and mental health services 19917
shall select a number of contracts with an aggregate value of 19918
approximately fifteen per cent of the total estimated value of 19919
contracts to be awarded in the current fiscal year. The board 19920
shall set aside the contracts so selected for bidding by minority 19921
business enterprises only. The bidding procedures for such 19922
contracts shall be the same as for all other contracts awarded 19923
under section 307.86 of the Revised Code, except that only 19924
minority business enterprises certified and listed ~~under~~ pursuant 19925
to division (B) of this section shall be qualified to submit bids. 19926

(D) To the extent that a board is authorized to enter into 19927
contracts for construction, the board shall ~~set aside a number of~~ 19928
~~contracts~~ strive to attain a yearly contract dollar procurement 19929

~~goal~~ the aggregate value of which equals approximately five per 19930
cent of the aggregate value of construction contracts for the 19931
current fiscal year for ~~bidding by minority~~ EDGE business 19932
enterprises only. ~~The bidding procedures for the contracts set~~ 19933
~~aside for minority business enterprises shall be the same as for~~ 19934
~~all other contracts awarded by the board, except that only~~ 19935
~~minority business enterprises certified and listed under division~~ 19936
~~(B) of this section shall be qualified to submit bids.~~ 19937

(E)(1) In the case of contracts set aside under ~~divisions~~ 19938
division (C) and (D) of this section, if no bid is submitted by a 19939
minority business enterprise, the contract shall be awarded 19940
according to normal bidding procedures. The board shall from time 19941
to time set aside such additional contracts as are necessary to 19942
replace those contracts previously set aside on which no minority 19943
business enterprise bid. 19944

(2) If a board, after having made a good faith effort, is 19945
unable to comply with the goal of procurement for contracting with 19946
EDGE business enterprises pursuant to division (D) of this 19947
section, the board may apply in writing, on a form prescribed by 19948
the department of administrative services, to the director of 19949
mental health and addiction services for a waiver or modification 19950
of the goal. 19951

(F) This section does not preclude any minority business 19952
enterprise or EDGE business enterprise from bidding on any other 19953
contract not specifically set aside for minority business 19954
enterprises or subject to procurement goals for EDGE business 19955
enterprises. 19956

(G) Within ninety days after the beginning of each fiscal 19957
year, each board shall file a report with the department of ~~mental~~ 19958
~~health~~ mental health and addiction services that shows for that 19959
fiscal year the name of each minority business enterprise and EDGE 19960
business enterprise with which the board entered into a contract, 19961

the value and type of each such contract, the total value of 19962
contracts awarded under divisions (C) and (D) of this section, the 19963
total value of contracts awarded for the purchases of equipment, 19964
materials, supplies, or services, other than contracts entered 19965
into under section 340.03 of the Revised Code, and the total value 19966
of contracts entered into for construction. 19967

(H) Any person who intentionally misrepresents ~~himself~~ self 19968
as owning, controlling, operating, or participating in a minority 19969
business enterprise or an EDGE business enterprise for the purpose 19970
of obtaining contracts or any other benefits under this section 19971
shall be guilty of theft by deception as provided for in section 19972
2913.02 of the Revised Code. 19973

Sec. 340.15. (A) A public children services agency that 19974
identifies a child by a risk assessment conducted pursuant to 19975
section 5153.16 of the Revised Code as being at imminent risk of 19976
being abused or neglected because of an addiction of a parent, 19977
guardian, or custodian of the child to a drug of abuse or alcohol 19978
shall refer the child's addicted parent, guardian, or custodian 19979
and, if the agency determines that the child needs alcohol or 19980
other drug addiction services, the child to ~~an alcohol and drug a~~ 19981
community addiction program services provider certified by the 19982
department of ~~alcohol and drug addiction services~~ mental health 19983
and addiction services under section ~~3793.06~~ 5119.36 of the 19984
Revised Code. A public children services agency that is sent a 19985
court order issued pursuant to division (B) of section 2151.3514 19986
of the Revised Code shall refer the addicted parent or other 19987
caregiver of the child identified in the court order to ~~an alcohol~~ 19988
~~and drug a community~~ addiction program services provider certified 19989
by the department of ~~alcohol and drug addiction services~~ mental 19990
health and addiction services under section ~~3793.06~~ 5119.36 of the 19991
Revised Code. On receipt of a referral under this division and to 19992
the extent funding identified under division (A)(1) of section 19993

~~340.033~~ 340.08 of the Revised Code is available, the ~~program~~ 19994
provider shall provide the following services to the addicted 19995
parent, guardian, custodian, or caregiver and child in need of 19996
~~alcohol or other drug~~ addiction services: 19997

(1) If it is determined pursuant to an initial screening to 19998
be needed, assessment and appropriate treatment; 19999

(2) Documentation of progress in accordance with a treatment 20000
plan developed for the addicted parent, guardian, custodian, 20001
caregiver, or child; 20002

(3) If the referral is based on a court order issued pursuant 20003
to division (B) of section 2151.3514 of the Revised Code and the 20004
order requires the specified parent or other caregiver of the 20005
child to submit to alcohol or other drug testing during, after, or 20006
both during and after, treatment, testing in accordance with the 20007
court order. 20008

(B) The services described in division (A) of this section 20009
shall have a priority as provided in the ~~alcohol and drug~~ 20010
addiction and mental health services plan and budget established 20011
pursuant to ~~section 340.033~~ sections 340.03 and 340.08 of the 20012
Revised Code. Once a referral has been received pursuant to this 20013
section, the public children services agency and the ~~alcohol or~~ 20014
~~drug~~ addiction ~~program~~ services provider shall, in accordance with 20015
42 C.F.R. Part 2, share with each other any information concerning 20016
the persons and services described in that division that the 20017
agency and ~~program~~ provider determine are necessary to share. If 20018
the referral is based on a court order issued pursuant to division 20019
(B) of section 2151.3514 of the Revised Code, the results and 20020
recommendations of the ~~alcohol and drug~~ addiction ~~program~~ services 20021
provider also shall be provided and used as described in division 20022
(D) of that section. Information obtained or maintained by the 20023
agency or ~~program~~ provider pursuant to this section that could 20024
enable the identification of any person described in division (A) 20025

of this section is not a public record subject to inspection or 20026
copying under section 149.43 of the Revised Code. 20027

Sec. 340.16. ~~Not later than ninety days after September 5,~~ 20028
~~2001, the~~ The department of ~~mental health~~ mental health and 20029
addiction services and the department of ~~job and family services~~ 20030
medicaid shall adopt rules that establish requirements and 20031
procedures for prior notification and service coordination between 20032
public children services agencies and boards of alcohol, drug 20033
addiction, and mental health services when a public children 20034
services agency refers a child in its custody to a board for 20035
services funded by the board. The rules shall be adopted in 20036
accordance with Chapter 119. of the Revised Code. 20037

~~The department of mental health and department of job and~~ 20038
~~family services shall collaborate in formulating a plan that~~ 20039
~~delineates the funding responsibilities of public children~~ 20040
~~services agencies and boards of alcohol, drug addiction, and~~ 20041
~~mental health services for services provided under section~~ 20042
~~5111.023 of the Revised Code to children in the custody of public~~ 20043
~~children services agencies. The departments shall complete the~~ 20044
~~plan not later than ninety days after September 5, 2001.~~ 20045

Sec. 341.192. (A) As used in this section: 20046

(1) "Jail" means a county jail, or a multicounty, 20047
municipal-county, or multicounty-municipal correctional center. 20048

(2) ~~"Medical assistance program" has the same meaning as in~~ 20049
~~section 2913.40 of the Revised Code.~~ 20050

~~(3)~~ "Medical provider" means a physician, hospital, 20051
laboratory, pharmacy, or other health care provider that is not 20052
employed by or under contract to a county, municipal corporation, 20053
township, the department of youth services, or the department of 20054
rehabilitation and correction to provide medical services to 20055

persons confined in a jail or state correctional institution, or 20056
is in the custody of a law enforcement officer. 20057

~~(4)~~(3) "Necessary care" means medical care of a nonelective 20058
nature that cannot be postponed until after the period of 20059
confinement of a person who is confined in a jail or state 20060
correctional institution, or is in the custody of a law 20061
enforcement officer without endangering the life or health of the 20062
person. 20063

(B) If a physician employed by or under contract to a county, 20064
municipal corporation, township, the department of youth services, 20065
or the department of rehabilitation and correction to provide 20066
medical services to persons confined in a jail or state 20067
correctional institution determines that a person who is confined 20068
in the jail or state correctional institution or who is in the 20069
custody of a law enforcement officer prior to the person's 20070
confinement in a jail or state correctional institution requires 20071
necessary care that the physician cannot provide, the necessary 20072
care shall be provided by a medical provider. The county, 20073
municipal corporation, township, the department of youth services, 20074
or the department of rehabilitation and correction shall pay a 20075
medical provider for necessary care an amount not exceeding the 20076
authorized reimbursement rate for the same service established by 20077
the department of ~~job and family services~~ medicaid under the 20078
~~medical assistance~~ medicaid program. 20079

Sec. 351.12. As used in this section, "private enterprise" 20080
means a person whose ownership and use of the property leased to 20081
it or used exclusively by it would not qualify such property for 20082
exemption from taxation. 20083

The exercise of the powers granted by this chapter will be 20084
for the benefit of the people of the state, for the improvement of 20085
their health, safety, convenience, and welfare, and for the 20086

enhancement of their convention and recreational opportunities and 20087
is a public purpose. As the operation and maintenance of 20088
facilities will constitute the performance of essential 20089
governmental functions, a convention facilities authority shall 20090
not be required to pay any taxes or assessments upon any facility 20091
to which it holds title, or upon any property acquired or used by 20092
it under this chapter, or upon the income therefrom, provided that 20093
any part of such a facility or property leased to, or exclusively 20094
used by, a private enterprise, and the income therefrom, shall be 20095
subject to appropriate taxes and assessments, and the listing of 20096
such a facility or property shall be split as provided in section 20097
5713.04 of the Revised Code. The transfer to or from a convention 20098
facilities authority of title or possession of any facility, part 20099
thereof, or item included or to be included in any such facility 20100
and the receipt or sale by the authority of any services ~~included~~ 20101
~~in division (B)(3) of section 5739.01 of the Revised Code~~ shall 20102
not be subject to the taxes levied pursuant to Chapters 5739. and 20103
5741. of the Revised Code. The bonds and notes issued under this 20104
chapter, their transfer, and the income therefrom, shall at all 20105
times be free from taxation within the state. 20106

Sec. 737.41. (A) The legislative authority of a municipal 20107
corporation in which is established a municipal court, other than 20108
a county-operated municipal court, that has a department of 20109
probation shall establish in the municipal treasury a municipal 20110
probation services fund. The fund shall contain all moneys paid to 20111
the treasurer of the municipal corporation under section 2951.021 20112
of the Revised Code for deposit into the fund. The treasurer of 20113
the municipal corporation shall disburse the money contained in 20114
the fund at the request of the municipal court department of 20115
probation, for use only by that department for specialized staff, 20116
purchase of equipment, purchase of services, reconciliation 20117
programs for offenders and victims, other treatment programs, 20118

including ~~alcohol and drug~~ community addiction ~~programs~~ services 20119
providers certified under section ~~3793.06~~ 5119.36 of the Revised 20120
Code, determined to be appropriate by the chief probation officer, 20121
and other similar expenses related to placing offenders under a 20122
community control sanction. 20123

(B) Any money in a municipal probation services fund at the 20124
end of a fiscal year shall not revert to the treasury of the 20125
municipal corporation but shall be retained in the fund. 20126

(C) As used in this section: 20127

(1) "County-operated municipal court" has the same meaning as 20128
in section 1901.03 of the Revised Code. 20129

(2) "Community control sanction" has the same meaning as in 20130
section 2929.01 of the Revised Code. 20131

Sec. 742.14. (A) The board of trustees of the Ohio police and 20132
fire pension fund shall have prepared annually by or under the 20133
supervision of an actuary an actuarial valuation of the pension 20134
assets, liabilities, and funding requirements of the Ohio police 20135
and fire pension fund as established pursuant to sections 742.01 20136
to 742.61 of the Revised Code. The actuary shall complete the 20137
valuation in accordance with actuarial standards of practice 20138
promulgated by the actuarial standards board of the American 20139
academy of actuaries and prepare a report of the valuation. The 20140
report shall include all of the following: 20141

(1) A summary of the benefit provisions evaluated; 20142

(2) A summary of the census data and financial information 20143
used in the valuation; 20144

(3) A description of the actuarial assumptions, actuarial 20145
cost method, and asset valuation method used in the valuation, 20146
including a statement of the assumed rate of payroll growth and 20147
assumed rate of growth or decline in the number of members of the 20148

fund contributing to the pension fund; 20149

(4) A summary of findings that includes a statement of the 20150
actuarial accrued pension liabilities and unfunded actuarial 20151
accrued pension liabilities; 20152

(5) A schedule showing the effect of any changes in the 20153
benefit provisions, actuarial assumptions, or cost methods since 20154
the last annual actuarial valuation; 20155

(6) A statement of whether contributions to the pension fund 20156
are expected to be sufficient to satisfy the funding objectives 20157
established by the board. 20158

The board shall submit the report to the Ohio retirement 20159
study council, the director of budget and management, and the 20160
standing committees of the house of representatives and the senate 20161
with primary responsibility for retirement legislation immediately 20162
upon its availability and not later than the first day of November 20163
following the year for which the valuation was made. 20164

(B) The board shall annually thereafter have prepared by an 20165
actuary a report showing the adequacy of the rate of the police 20166
officer employers' contribution provided for by section 742.33 of 20167
the Revised Code, and the adequacy of the rate of the firefighter 20168
employers' contribution provided for by section 742.34 of the 20169
Revised Code. 20170

(C) At such times as the board determines, and at least once 20171
in each quinquennial period, the board shall have prepared by or 20172
under the supervision of an actuary an actuarial investigation of 20173
the mortality, service, and other experience of the members of the 20174
fund and of other system retirants, as defined in section 742.26 20175
of the Revised Code, who are members of a police department or a 20176
fire department to update the actuarial assumptions used in the 20177
actuarial valuation required by division (A) of this section. The 20178
actuary shall prepare a report of the actuarial investigation. The 20179

report shall be prepared and any recommended changes in actuarial 20180
assumptions shall be made in accordance with the actuarial 20181
standards of practice promulgated by the actuarial standards board 20182
of the American academy of actuaries. The report shall include all 20183
of the following: 20184

(1) A summary of relevant decrement and economic assumption 20185
experience observed over the period of the investigation; 20186

(2) Recommended changes in actuarial assumptions to be used 20187
in subsequent actuarial valuations required by division (A) of 20188
this section; 20189

(3) A measurement of the financial effect of the recommended 20190
changes in actuarial assumptions; 20191

(4) If the investigation required by this division includes 20192
the investigation required by division (F) of this section, a 20193
report of the result of that investigation. 20194

The board shall submit the report to the Ohio retirement 20195
study council and the standing committees of the house of 20196
representatives and the senate with primary responsibility for 20197
retirement legislation not later than the first day of November 20198
following the last fiscal year of the period the report covers. 20199

(D) The board shall have prepared by or under the supervision 20200
of an actuary an actuarial analysis of any introduced legislation 20201
expected to have a measurable financial impact on the pension 20202
fund. The actuarial analysis shall be completed in accordance with 20203
the actuarial standards of practice promulgated by the actuarial 20204
standards board of the American academy of actuaries. The actuary 20205
shall prepare a report of the actuarial analysis, which shall 20206
include all of the following: 20207

(1) A summary of the statutory changes that are being 20208
evaluated; 20209

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	20210 20211
(3) A description of the participant group or groups included in the report;	20212 20213
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members of the fund over a period not to exceed thirty years;	20214 20215 20216 20217 20218 20219 20220
(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	20221 20222 20223 20224
Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.	20225 20226 20227 20228 20229 20230
(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 742.45 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:	20231 20232 20233 20234 20235 20236
(1) A description of the statutory authority for the benefits provided;	20237 20238
(2) A summary of the benefits;	20239

(3) A summary of the eligibility requirements for the benefits;	20240 20241
(4) A statement of the number of participants eligible for the benefits;	20242 20243
(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;	20244 20245
(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;	20246 20247
(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;	20248 20249 20250 20251 20252
(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;	20253 20254 20255 20256
(9) A description of any significant changes that affect the comparability of the report required under this division;	20257 20258
(10) A statement of the amount paid under division (B) of section 742.45 of the Revised Code.	20259 20260
The board shall submit the report to the Ohio retirement study council, <u>the director of budget and management</u> , and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation <u>immediately upon its availability and</u> not later than the thirtieth day of June following the year for which the report was made.	20261 20262 20263 20264 20265 20266
(F) At least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the deferred retirement option plan	20267 20268 20269

established under section 742.43 of the Revised Code. The 20270
investigation shall include an examination of the financial 20271
impact, if any, on the fund of offering the plan to members. 20272

The actuary shall prepare a report of the actuarial 20273
investigation. The report shall include a determination of whether 20274
the plan, as established or modified, has a negative financial 20275
impact on the fund and, if so, recommendations on how to modify 20276
the plan to eliminate the negative financial impact. If the 20277
actuarial report indicates that the plan has a negative financial 20278
impact on the fund, the board may modify the plan or cease to 20279
allow members who have not already done so to elect to participate 20280
in the plan. The firefighter and police officers employers' 20281
contributions shall not be increased to offset any negative 20282
financial impact of the plan. 20283

If the board ceases to allow members to elect to participate 20284
in the plan, the rights and obligations of members who have 20285
already elected to participate shall not be altered. 20286

The board may include the actuarial investigation required 20287
under this division as part of the actuarial investigation 20288
required under division (C) of this section. If the report of the 20289
actuarial investigation required by this division is not included 20290
in the report required by division (C) of this section, the board 20291
shall submit the report required by this division to the Ohio 20292
retirement study council and the standing committees of the house 20293
of representatives and the senate with primary responsibility for 20294
retirement legislation not later than the first day of November 20295
following the last fiscal year of the period the report covers. 20296

Sec. 901.21. (A) As used in this section and section 901.22 20297
of the Revised Code: 20298

(1) "Agricultural easement" has the same meaning as in 20299
section 5301.67 of the Revised Code. 20300

(2) "Agriculture" means those activities occurring on land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, or on land that constitutes a homestead.

(3) "Homestead" means the portion of a farm on which is located a dwelling house, yard, or outbuildings such as a barn or garage.

(B) The director of agriculture may acquire real property used predominantly in agriculture and agricultural easements by gift, devise, or bequest if, at the time an easement is granted, such an easement is on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. The director, by any such means or by purchase or lease, may acquire, or acquire the use of, stationary personal property or equipment that is located on land acquired in fee by the director under this section and that is necessary or appropriate for the use of the land predominantly in agriculture.

(C) The director may include, in an agricultural easement acquired under division (B) of this section, a provision to preserve a unique natural or physical feature on the land so long as the use of the land remains predominantly agricultural.

(D) The director may do all things necessary or appropriate to retain the use of real property acquired in fee under division (B) of this section predominantly in agriculture, including, without limitation, performing any of the activities described in division (A)(1) or (2) of section 5713.30 of the Revised Code or

entering into contracts to lease or rent the real property so 20333
acquired to persons or governmental entities that will use the 20334
land predominantly in agriculture. 20335

~~(D)~~(E)(1) When the director considers it to be necessary or 20336
appropriate, the director may sell real property acquired in fee, 20337
and stationary personal property or equipment acquired by gift, 20338
devise, bequest, or purchase, under division (B) of this section 20339
on such terms as the director considers to be advantageous to this 20340
state. 20341

(2) An agricultural easement acquired under division (B) of 20342
this section may be extinguished under the circumstances 20343
prescribed, and in accordance with the terms and conditions set 20344
forth, in the instrument conveying the agricultural easement. 20345

~~(E)~~(F) There is hereby created in the state treasury the 20346
agricultural easement purchase fund. The fund shall consist of the 20347
proceeds received from the sale of real and personal property 20348
under division ~~(D)~~(E) of this section; moneys received due to the 20349
extinguishment of agricultural easements acquired by the director 20350
under division (B) of this section or section 5301.691 of the 20351
Revised Code; moneys received due to the extinguishment of 20352
agricultural easements purchased with the assistance of matching 20353
grants made under section 901.22 of the Revised Code; gifts, 20354
bequests, devises, and contributions received by the director for 20355
the purpose of acquiring agricultural easements; and grants 20356
received from public or private sources for the purpose of 20357
purchasing agricultural easements. The fund shall be administered 20358
by the director, and moneys in the fund shall be used by the 20359
director exclusively to purchase agricultural easements under 20360
division (A) of section 5301.691 of the Revised Code and provide 20361
matching grants under section 901.22 of the Revised Code to 20362
municipal corporations, counties, townships, soil and water 20363
conservation districts established under Chapter 1515. of the 20364

Revised Code, and charitable organizations described in division 20365
(B) of section 5301.69 of the Revised Code for the purchase of 20366
agricultural easements. Money in the fund shall be used only to 20367
purchase agricultural easements on land that is valued for 20368
purposes of real property taxation at its current value for 20369
agricultural use under section 5713.31 of the Revised Code or that 20370
constitutes a homestead when the easement is purchased. 20371

~~(F)~~(G) There is hereby created in the state treasury the 20372
clean Ohio agricultural easement fund. Twelve and one-half per 20373
cent of net proceeds of obligations issued and sold pursuant to 20374
sections 151.01 and 151.09 of the Revised Code shall be deposited 20375
into the fund. The fund shall be used by the director for the 20376
purposes of this section, section 901.22 of the Revised Code, and 20377
the provisions of sections 5301.67 to 5301.70 of the Revised Code 20378
governing agricultural easements. Investment earnings of the fund 20379
shall be credited to the fund and may be used to pay costs 20380
incurred by the director in administering those sections and 20381
provisions. 20382

~~(G)~~(H) The term of an agricultural easement purchased wholly 20383
or in part with money from the clean Ohio agricultural easement 20384
fund or the agricultural easement purchase fund shall be perpetual 20385
and shall run with the land. 20386

Sec. 901.22. (A) The director of agriculture, in accordance 20387
with Chapter 119. of the Revised Code, shall adopt rules that do 20388
all of the following: 20389

(1) Establish procedures and eligibility criteria for making 20390
matching grants to municipal corporations, counties, townships, 20391
soil and water conservation districts established under Chapter 20392
1515. of the Revised Code, and charitable organizations described 20393
in division (B) of section 5301.69 of the Revised Code for the 20394
purchase of agricultural easements. With respect to agricultural 20395

easements that are purchased or proposed to be purchased with such 20396
matching grants that consist in whole or in part of moneys from 20397
the clean Ohio agricultural easement fund created in section 20398
901.21 of the Revised Code, the rules shall establish all of the 20399
following: 20400

(a) Procedures for all of the following: 20401

(i) Soliciting and accepting applications for matching 20402
grants; 20403

(ii) Participation by local governments and by the public in 20404
the process of making matching grants to charitable organizations; 20405

(iii) Notifying local governments, charitable organizations, 20406
and organizations that represent the interests of farmers of the 20407
ranking system established in rules adopted under division 20408
(A)(1)(b) of this section. 20409

(b) A ranking system for applications for the matching grants 20410
that is based on the soil type, proximity of the land or other 20411
land that is conducive to agriculture as defined by rules adopted 20412
under this section and that is the subject of an application to 20413
other agricultural land or other land that is conducive to 20414
agriculture as defined by rules adopted under this section and 20415
that is already or is in the process of becoming permanently 20416
protected from development, farm stewardship, development 20417
pressure, and, if applicable, a local comprehensive land use plan 20418
involved with a proposed agricultural easement. The rules shall 20419
require that preference be given to proposed agricultural 20420
easements that involve the greatest proportion of all of the 20421
following: 20422

(i) Prime soils, unique or locally important soils, 20423
microclimates, or similar features; 20424

(ii) Land that is adjacent to or that is in close proximity 20425
to other agricultural land or other land that is conducive to 20426

agriculture as defined by rules adopted under this section and 20427
that is already or is in the process of becoming permanently 20428
protected from development, by agricultural easement or otherwise, 20429
so that a buffer would exist between the land involving the 20430
proposed agricultural easement and areas that have been developed 20431
or likely will be developed for purposes other than agriculture; 20432

(iii) The use of best management practices, including 20433
federally or state approved conservation plans, and a history of 20434
substantial compliance with applicable federal and state laws; 20435

(iv) Development pressure that is imminent, but not a result 20436
of current location in the direct path of urban development; 20437

(v) Areas identified for agricultural protection in local 20438
comprehensive land use plans. 20439

(c) Any other criteria that the director determines are 20440
necessary for selecting applications for matching grants; 20441

(d) Requirements regarding the information that must be 20442
included in the annual monitoring report that must be prepared for 20443
an agricultural easement under division (E)(2) of section 5301.691 20444
of the Revised Code, procedures for submitting a copy of the 20445
report to the office of farmland preservation in the department of 20446
agriculture, and requirements and procedures governing corrective 20447
actions that may be necessary to enforce the terms of the 20448
agricultural easement. 20449

(2) Establish provisions that shall be included in the 20450
instrument conveying to a municipal corporation, county, township, 20451
soil and water conservation district, or charitable organization 20452
any agricultural easement purchased with matching grant funds 20453
provided by the director under this section, including, without 20454
limitation, all of the following provisions: 20455

(a) A provision stating that an easement so purchased may be 20456
extinguished only if an unexpected change in the conditions of or 20457

surrounding the land that is subject to the easement makes 20458
impossible or impractical the continued use of the land for the 20459
purposes described in the easement, or if the requirements of the 20460
easement are extinguished by judicial proceedings; 20461

(b) A provision requiring that, upon the sale, exchange, or 20462
involuntary conversion of the land subject to the easement, the 20463
holder of the easement shall be paid an amount of money that is at 20464
least equal to the proportionate value of the easement compared to 20465
the total value of the land at the time the easement was acquired; 20466

(c) A provision requiring that, upon receipt of the portion 20467
of the proceeds of a sale, exchange, or involuntary conversion 20468
described in division (A)(2)(b) of this section, the municipal 20469
corporation, county, township, soil and water conservation 20470
district, or charitable organization remit to the director an 20471
amount of money equal to the percentage of the cost of purchasing 20472
the easement it received as a matching grant under this section. 20473

Moneys received by the director pursuant to rules adopted 20474
under division (A)(2)(c) of this section shall be credited to the 20475
agricultural easement purchase fund created in section 901.21 of 20476
the Revised Code. 20477

(3) Establish a provision that provides a charitable 20478
organization, municipal corporation, township, county, or soil and 20479
water conservation district with the option of purchasing 20480
agricultural easements either in installments or with a lump sum 20481
payment. The rules shall include a requirement that a charitable 20482
organization, municipal corporation, township, county, or soil and 20483
water conservation district negotiate with the seller of the 20484
agricultural easement concerning any installment payment terms, 20485
including the dates and amounts of payments and the interest rate 20486
on the outstanding balance. The rules also shall require the 20487
director to approve any method of payment that is undertaken in 20488
accordance with the rules adopted under division (A)(3) of this 20489

section. 20490

(4) Establish any other requirements that the director 20491
considers to be necessary or appropriate to implement or 20492
administer a program to make matching grants under this section 20493
and monitor those grants. 20494

(B) The director may develop guidelines regarding the 20495
acquisition of agricultural easements by the department of 20496
agriculture and the provisions of instruments conveying those 20497
easements. The director may make the guidelines available to 20498
public and private entities authorized to acquire and hold 20499
agricultural easements. 20500

(C) The director may provide technical assistance in 20501
developing a program for the acquisition and monitoring of 20502
agricultural easements to public and private entities authorized 20503
to hold agricultural easements. The technical assistance may 20504
include, without limitation, reviewing and providing advisory 20505
recommendations regarding draft instruments conveying agricultural 20506
easements. 20507

(D)(1) The director may make matching grants from the 20508
agricultural easement purchase fund and the clean Ohio 20509
agricultural easement fund to municipal corporations, counties, 20510
townships, soil and water conservation districts, and charitable 20511
organizations to assist those political subdivisions and 20512
charitable organizations in purchasing agricultural easements. 20513
Application for a matching grant shall be made on forms prescribed 20514
and provided by the director. The matching grants shall be made in 20515
compliance with the criteria and procedures established in rules 20516
adopted under this section. Instruments conveying agricultural 20517
easements purchased with matching grant funds provided under this 20518
section, at a minimum, shall include the mandatory provisions set 20519
forth in those rules. 20520

Matching grants made under this division using moneys from 20521
the clean Ohio agricultural easement fund created in section 20522
901.21 of the Revised Code may provide up to seventy-five per cent 20523
of the value of an agricultural easement as determined by a 20524
general real estate appraiser who is certified under Chapter 4763. 20525
of the Revised Code or as determined through a points-based 20526
appraisal system established under division (D)(2) of this 20527
section. Not less than twenty-five per cent of the value of the 20528
agricultural easement shall be provided by the recipient of the 20529
matching grant or donated by the person who is transferring the 20530
easement to the grant recipient. The amount of such a matching 20531
grant used for the purchase of a single agricultural easement 20532
shall not exceed one million dollars. 20533

(2) The director shall establish a points-based appraisal 20534
system for the purposes of division (D)(1) of this section. The 20535
director may include any or all of the following factors in the 20536
system: 20537

(a) Whether the applicable county auditor has determined that 20538
the land is land that is devoted exclusively to agriculture for 20539
the purposes of sections 5713.30 to 5713.38 of the Revised Code; 20540

(b) Changes in land values following the completion of the 20541
applicable county auditor's reappraisal or triennial update; 20542

(c) Soil types and productivity; 20543

(d) Proximity of the land to land that is already subject to 20544
an agricultural easement, conservation easement created under 20545
sections 5301.67 to 5301.70 of the Revised Code, or similar 20546
land-use limitation; 20547

(e) Proximity of the land to water and sewer lines, road 20548
interchanges, and nonagricultural development; 20549

(f) Parcel size and roadway frontage of the land; 20550

(g) Existence of an agreement entered into under division (D) 20551
of section 1515.08 of the Revised Code or of an operation and 20552
management plan developed under division (A) of section 1511.021 20553
of the Revised Code; 20554

(h) Existence of a comprehensive plan that is adopted under 20555
section 303.02 or 519.02 of the Revised Code or that is adopted by 20556
the planning commission of a municipal corporation under section 20557
713.06 of the Revised Code; 20558

(i) Any other factors that the director determines are 20559
necessary for inclusion in the system. 20560

(E) An agricultural easement acquired as a result of a 20561
matching grant awarded under division (D) of this section may 20562
include a provision to preserve a unique natural or physical 20563
feature on the land so long as the use of the land remains 20564
predominantly agricultural. 20565

(F) For any agricultural easement purchased with a matching 20566
grant that consists in whole or in part of moneys from the clean 20567
Ohio agricultural easement fund, the director shall be named as a 20568
grantee on the instrument conveying the easement, as shall the 20569
municipal corporation, county, township, soil and water 20570
conservation district, or charitable organization that receives 20571
the grant. 20572

~~(F)~~(G)(1) The director shall monitor and evaluate the 20573
effectiveness and efficiency of the agricultural easement program 20574
as a farmland preservation tool. On or before July 1, 1999, and 20575
the first day of July of each year thereafter, the director shall 20576
prepare and submit a report to the chairpersons of the standing 20577
committees of the senate and the house of representatives that 20578
consider legislation regarding agriculture. The report shall 20579
consider and address the following criteria to determine the 20580
program's effectiveness: 20581

(a) The number of agricultural easements purchased during the preceding year;	20582 20583
(b) The location of those easements;	20584
(c) The number of acres of land preserved for agricultural use;	20585 20586
(d) The amount of money used by a municipal corporation, township, county, or soil and water conservation district from any fund to purchase the agricultural easements;	20587 20588 20589
(e) The number of state matching grants given to purchase the agricultural easements;	20590 20591
(f) The amount of state matching grant moneys used to purchase the agricultural easements.	20592 20593
(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency:	20594 20595 20596
(a) The total number of acres in the county;	20597
(b) The total number of acres in current agricultural use;	20598
(c) The total number of acres preserved for agricultural use in the preceding year;	20599 20600
(d) The average cost, per acre, of land preserved for agricultural use in the preceding year.	20601 20602
Sec. 901.23. (A) There is hereby created the farmland preservation advisory board consisting of twelve voting members appointed by the director of agriculture as follows:	20603 20604 20605
(1) One member who is a county commissioner or a representative of a statewide organization that represents county commissioners;	20606 20607 20608
(2) One member who is a township trustee or a representative	20609

of a statewide organization that represents township trustees; 20610

(3) One representative of the Ohio state university; 20611

(4) One representative of a ~~national~~ nonprofit organization 20612
dedicated to the preservation of farmland; 20613

(5) One representative each of development, environmental, 20614
planning, and soil and water conservation interests; 20615

(6) One farmer from each of the state's four quadrants. 20616

Terms of office shall be staggered and shall be for three 20617
years, with each term ending on the same day of the same month as 20618
did the term that it succeeds. Each member shall hold office from 20619
the date of appointment until the end of the term for which the 20620
member was appointed, except that the term of any member who is a 20621
county commissioner or township trustee shall end when the member 20622
ceases to serve as a county commissioner or township trustee. 20623

Members may be reappointed. Vacancies shall be filled in the 20624
manner provided for original appointments. Any member appointed to 20625
fill a vacancy occurring prior to the expiration date of the term 20626
for which the member was appointed shall serve for the remainder 20627
of that term. A member shall continue to serve subsequent to the 20628
expiration date of the member's term until the member's successor 20629
takes office or until a period of sixty days has elapsed, 20630
whichever occurs first. Members shall serve at the pleasure of the 20631
director. 20632

The executive director of the office of farmland preservation 20633
in the department of agriculture or another employee of the 20634
department who is designated by the director shall serve as the 20635
nonvoting chairperson of the board. The director annually shall 20636
designate one member of the board to serve as its 20637
vice-chairperson. The board may adopt bylaws governing its 20638
operation and shall meet at a time when the director, or the 20639
director's designee, considers it appropriate in order for the 20640

board to provide advice as required under division (B) of this 20641
section. 20642

(B) The board shall provide advice to the director regarding 20643
all of the following: 20644

(1) The design and implementation of an agricultural easement 20645
purchase program; 20646

(2) The selection of applications that will be awarded 20647
matching grants under division (D) of section 901.22 of the 20648
Revised Code for the purchase of agricultural easements; 20649

(3) The design and implementation of any other statewide 20650
farmland protection measures that the director considers 20651
appropriate. 20652

(C) Serving as a member of the board does not constitute 20653
holding a public office or position of employment under the laws 20654
of this state and does not constitute grounds for removal of 20655
public officers or employees from their offices or positions of 20656
employment. 20657

(D) A board member shall be reimbursed for actual and 20658
necessary expenses incurred in the discharge of duties as a board 20659
member. 20660

Sec. 903.30. (A) No person shall violate or fail to perform 20661
any duty required by sections 903.01 to 903.08 and 903.12 of the 20662
Revised Code, violate a rule, or violate an order or term or 20663
condition of a permit issued by the director of agriculture under 20664
those sections or rules. 20665

(B) The attorney general, upon the written request of the 20666
director, shall prosecute any person who violates division (A) of 20667
this section. 20668

Sec. 903.99. (A) Whoever negligently violates division (A)~~(2)~~ 20669

of section ~~903.02~~ or division (A)(2) of section ~~903.03~~ 903.30 of 20670
the Revised Code ~~is guilty of a misdemeanor of the third degree on~~ 20671
~~a first offense, a misdemeanor of the second degree on a second~~ 20672
~~offense, and a misdemeanor of the first degree on a third or~~ 20673
~~subsequent offense. Each ten day period that the offense continues~~ 20674
shall be fined not more than ten thousand dollars or imprisoned 20675
for not more than ninety days, or both. Each day of violation 20676
constitutes a separate offense. For purposes of this division, 20677
notwithstanding division (D) of section 2901.22 of the Revised 20678
Code, a person acts negligently when, because of a lapse from due 20679
care, the person fails to perceive or avoid a risk that the 20680
person's conduct may cause a certain result or may be of a certain 20681
nature. A person is negligent with respect to circumstances when, 20682
because of a lapse from due care, the person fails to perceive or 20683
avoid a risk that such circumstances may exist. 20684

20685

(B) Whoever recklessly ~~violates the terms and conditions of a~~ 20686
~~permit to install issued under section 903.02 of the Revised Code~~ 20687
~~or of a permit to operate issued under section 903.03 of the~~ 20688
~~Revised Code, division (B)(1), (C)(1), or (M)(1) or (2) of section~~ 20689
~~903.08 of the Revised Code, or the NPDES provisions of a permit to~~ 20690
~~operate shall be fined not more than twenty five thousand dollars.~~ 20691
(A) of section 903.30 of the Revised Code shall be fined not more 20692
than ten thousand dollars or imprisoned for not more than one 20693
year, or both. Each day of violation constitutes a separate 20694
offense. 20695

(C) Whoever knowingly violates division ~~(K)~~(A) of section 20696
~~903.08~~ 903.30 of the Revised Code is guilty of a felony and shall 20697
be fined not more than twenty five at least ten thousand dollars, 20698
but not more than twenty-five thousand dollars, or imprisoned for 20699
not more than three years, or both. Each day of violation 20700
constitutes a separate offense. 20701

Sec. 909.15. All moneys from registration fees and from fines imposed and recovered under sections 909.01 to 909.18 of the Revised Code, shall be paid to the director of agriculture, who shall deposit such moneys in the state treasury to the credit of the general revenue plant pest program fund created in section 927.54 of the Revised Code.

Sec. 927.54. The plant pest program fund is hereby created in the state treasury. The fund shall consist of money credited to it under section 909.15 of the Revised Code and under this chapter and any rules adopted under it. The director of agriculture shall use money in the fund to administer this chapter and Chapter 909. of the Revised Code.

The director shall keep accurate records of all receipts into and disbursements from the fund and shall prepare, and provide upon request, an annual report classifying the receipts and disbursements that pertain to plant pests.

Sec. 955.201. (A) As used in this section and in section 955.202 of the Revised Code, "Ohio pet fund" means a nonprofit corporation organized by that name under Chapter 1702. of the Revised Code that consists of humane societies, veterinarians, animal shelters, companion animal breeders, dog wardens, or similar individuals and entities.

(B) The Ohio pet fund shall do all of the following:

(1) Establish eligibility criteria for organizations that may receive financial assistance from the Ohio pet fund. Those organizations may include any of the following:

(a) An animal shelter as defined in section 4729.01 of the Revised Code;

(b) A local nonprofit veterinary association that operates a

program for the sterilization of dogs and cats; 20731

(c) A charitable organization that is exempt from federal 20732
income taxation under subsection 501(c)(3) of the Internal Revenue 20733
Code and a purpose of which is to support programs for the 20734
sterilization of dogs and cats and educational programs concerning 20735
the proper veterinary care of those animals. 20736

(2) Establish procedures for applying for financial 20737
assistance from the Ohio pet fund. Application procedures shall 20738
require eligible organizations to submit detailed proposals that 20739
outline the intended uses of the moneys sought. 20740

(3) Establish eligibility criteria for sterilization and 20741
educational programs for which moneys from the Ohio pet fund may 20742
be used and, consistent with division (C) of this section, 20743
establish eligibility criteria for individuals who seek 20744
sterilization for their dogs and cats from eligible organizations; 20745

(4) Establish procedures for the disbursement of moneys the 20746
Ohio pet fund receives from license plate contributions pursuant 20747
to division (C) of section 4503.551 of the Revised Code; 20748

(5) Advertise or otherwise provide notification of the 20749
availability of financial assistance from the Ohio pet fund for 20750
eligible organizations; 20751

(6) Design markings to be inscribed on "pets" license plates 20752
under section 4503.551 of the Revised Code. 20753

(C)(1) The owner of a dog or cat is eligible for dog or cat 20754
sterilization services from an eligible organization when those 20755
services are subsidized in whole or in part by money from the Ohio 20756
pet fund if any of the following applies: 20757

(a) The income of the owner's family does not exceed one 20758
hundred fifty per cent of the federal poverty guideline. 20759

(b) The owner, or any member of the owner's family who 20760

resides with the owner, is a recipient or beneficiary of one of 20761
the following government assistance programs: 20762

(i) Low-income housing assistance under the "United States 20763
Housing Act of 1937," 42 U.S.C.A. 1437f, as amended, known as the 20764
federal section 8 housing program; 20765

(ii) The Ohio works first program established by Chapter 20766
5107. of the Revised Code; 20767

(iii) ~~Title XIX of the "Social Security Act," 49 Stat. 620~~ 20768
~~(1935), 42 U.S.C.A. 301, as amended, known as the medical~~ 20769
~~assistance~~ The medicaid program ~~or medicaid, provided by the~~ 20770
~~department of job and family services under Chapter 5111. of the~~ 20771
~~Revised Code;~~ 20772

(iv) A program or law administered by the United States 20773
department of veterans' affairs or veterans' administration for 20774
any service-connected disability; 20775

(v) The supplemental nutrition assistance program established 20776
under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), 20777
administered by the department of job and family services under 20778
section 5101.54 of the Revised Code; 20779

(vi) The "special supplemental nutrition program for women, 20780
infants, and children" established under the "Child Nutrition Act 20781
of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended, administered 20782
by the department of health under section 3701.132 of the Revised 20783
Code; 20784

(vii) Supplemental security income under Title XVI of the 20785
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as 20786
amended; 20787

(viii) Social security disability insurance benefits provided 20788
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 20789
42 U.S.C.A. 401, as amended. 20790

(c) The owner of the dog or cat submits to the eligible organization operating the sterilization program either of the following:

(i) A certificate of adoption showing that the dog or cat was adopted from a licensed animal shelter, a municipal, county, or regional pound, or a holding and impoundment facility that contracts with a municipal corporation;

(ii) A certificate of adoption showing that the dog or cat was adopted through a nonprofit corporation operating an animal adoption referral service whose holding facility, if any, is licensed in accordance with state law or a municipal ordinance.

(2) The Ohio pet fund shall determine the type of documentary evidence that must be presented by the owner of a dog or cat to show that the income of the owner's family does not exceed one hundred fifty per cent of the federal poverty guideline or that the owner is eligible under division (C)(1)(b) of this section.

(D) As used in division (C) of this section, "federal poverty guideline" means the official poverty guideline as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

Sec. 991.03. (A) The Ohio expositions commission shall:

(1) Conduct at least one fair or exposition annually;

(2) Maintain and manage property held by the state for the purpose of conducting fairs, expositions, and exhibits;

(3) As provided in section 109.122 of the Revised Code, provide notice of or copies of any proposed entertainment or sponsorship contracts to the attorney general.

(B) The commission may:	20821
(1) Conduct such additional fairs, expositions, or	20822
exhibitions as the commission determines are in the general public	20823
interest;	20824
(2) Accept on behalf of the state conveyances of property for	20825
the purposes of conducting fairs, expositions, and exhibits,	20826
subject to any terms and conditions agreed to by the commission	20827
and approved by the controlling board;	20828
(3) <u>Accept gifts, devises, and bequests of money, lands, and</u>	20829
<u>other property and apply the money, lands, or other property</u>	20830
<u>according to the terms of the gift, devise, or bequest. A</u>	20831
<u>political subdivision as authorized by law may make gifts and</u>	20832
<u>devises to the commission, and the commission shall apply such a</u>	20833
<u>gift or devise according to the terms of the gift or devise. All</u>	20834
<u>gifts and bequests of money accepted under this division shall be</u>	20835
<u>deposited into the state treasury to the credit of the Ohio</u>	20836
<u>expositions support fund.</u>	20837
(4) Enter into contracts that the commission considers	20838
necessary or worthwhile in the conduct of its purposes, provided	20839
that contracts made for a term exceeding two years, other than	20840
those described in division (B)(4) of this section, shall be	20841
subject to the approval of the controlling board and provided that	20842
the attorney general, pursuant to the attorney general's authority	20843
under section 109.122 of the Revised Code, has not disapproved the	20844
proposed contract;	20845
(4) (5) Enter into contracts for the mutual exchange of goods	20846
or services;	20847
(5) (6) Sell or convey all or a portion of the property, land,	20848
or buildings under its management subject to the approval of the	20849
legislature;	20850
(6) (7) Grant leases on all or any part of the property, land,	20851

or buildings under the management of the commission to private or 20852
public organizations, which appear to be in the best interests of 20853
the state, with the approval of the controlling board and director 20854
of administrative services, subject to the following conditions: 20855

(a) The lessees shall make or construct improvements on such 20856
lands or buildings at no cost to the commission or to the state, 20857
subject to prior approval by the director of administrative 20858
services of detailed plans and specifications of such 20859
improvements. 20860

(b) No person, firm, or corporation shall cause a lien to be 20861
filed against any funds or property of the state or of the 20862
commission as a result of a lessee's activities pursuant to 20863
division ~~(B)(6)~~(7)(a) of this section. 20864

(c) Leases shall be entered into subject to the sale of such 20865
property, lands, or buildings during the term of the lease. 20866

(d) No leases shall be made which interfere with a fair, 20867
exposition, or exhibition on such lands. 20868

~~(7)~~(8) Encumber appropriations for the entire amount of a 20869
contract at the time the contract is made, even though the 20870
contract will not be performed in the fiscal year for which the 20871
appropriations were made. 20872

~~(8)~~(9) Implement a credit card payment program permitting 20873
payment by means of a credit card of any fees, charges, and 20874
rentals associated with conducting fairs, expositions, and 20875
exhibits. The commission may open an account outside the state 20876
treasury in a financial institution for the purpose of depositing 20877
credit card receipts. By the end of the business day following the 20878
deposit of the receipts, the financial institution shall make 20879
available to the commission funds in the amount of the receipts. 20880
The commission shall then pay these funds into the state treasury 20881
to the credit of the Ohio expositions fund. 20882

The commission shall adopt rules as necessary to carry out 20883
the purposes of division (B)~~(8)~~(9) of this section. The rules 20884
shall include standards for determining eligible financial 20885
institutions and the manner in which funds shall be made available 20886
and shall be consistent with the standards contained in sections 20887
135.03, 135.18, and 135.181 of the Revised Code. 20888

The commission shall not adopt or enforce any rules which 20889
will prohibit livestock exhibited at the Ohio state fair from 20890
participating in county and independent fairs in the state. 20891

Sec. 991.04. There is hereby established in the state 20892
treasury the Ohio expositions fund. ~~All~~ Except for gifts and 20893
bequests of money accepted under division (B)(3) of section 991.03 20894
of the Revised Code, all moneys collected by the Ohio expositions 20895
commission pursuant to sections 991.01 to 991.07 of the Revised 20896
Code and any income generated from the investment of those moneys 20897
shall be paid into the fund and may be used to defray the costs of 20898
administration and carrying out the purposes of sections 991.01 to 20899
991.07 of the Revised Code. 20900

With the approval of the director of budget and management, 20901
provisions may be made for a cash fund to be established on the 20902
state fairgrounds during the period of activities related to the 20903
holding of the annual state fair. The purpose of such fund is to 20904
provide for payment of premiums and entertainers and for immediate 20905
payment of small amounts for obligations, including ticket 20906
refunds, of such nature as to require immediate payment. 20907

The expositions commission shall cause to be kept an accurate 20908
record of all transactions, contracts, and proceedings. The 20909
director of budget and management shall prescribe a system of 20910
accounting and reporting. Such system shall include methods and 20911
forms showing the sources from which all revenues of the 20912
expositions commission are received, the amount collected from 20913

each source, and the amount expended for each purpose. 20914

Sec. 991.041. There is in the state treasury the Ohio 20915
expositions support fund. All gifts and bequests of money accepted 20916
under division (B)(3) of section 991.03 of the Revised Code shall 20917
be deposited into the state treasury to the credit of the fund. 20918
Investment earnings of the fund shall be deposited into the fund. 20919
The Ohio expositions commission may use the fund, consistent with 20920
the terms of the gift or bequest, to defray the cost of 20921
administration and of carrying out the purposes of sections 991.01 20922
to 991.07 of the Revised Code. 20923

Sec. 991.06. Annually on or before the thirtieth day of 20924
September the Ohio expositions commission, through its general 20925
manager, shall prepare and file with the auditor of state a 20926
statement showing the total amount received from each source of 20927
revenue, the total amount disbursed for each class of 20928
expenditures, and the aggregate of all receipts and expenditures 20929
of the commission. This statement shall also include a summary of 20930
each contract for the mutual exchange of goods or services entered 20931
into by the commission under ~~division (B)(4)~~ of section 991.03 of 20932
the Revised Code. Upon receipt of such statement, the auditor of 20933
state shall have it verified and make a report of ~~his~~ the auditor 20934
of state's findings thereon to the governor. 20935

Assistant auditors of state shall conduct an audit of 20936
activities of the annual Ohio state fair on the Ohio exposition 20937
center during the period when the fair is in progress. 20938

The cost of such audit shall be included in the annual 20939
expenses of the Ohio expositions commission. 20940

Sec. 1327.46. As used in sections 1327.46 to 1327.61 of the 20941
Revised Code: 20942

(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.

(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.

(E) "Weight" as used in connection with any commodity means net weight.

(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.

(G) "Primary standards" means the physical standards of the state that serve as the legal reference from which all other

standards and weights and measures are derived. 20974

(H) "Secondary standards" means the physical standards that 20975
are traceable to the primary standards through comparisons, using 20976
acceptable laboratory procedures, and used in the enforcement of 20977
weights and measures laws and rules. 20978

(I) "Sale from bulk" means the sale of commodities when the 20979
quantity is determined at the time of sale. 20980

(J) "Net weight" means the weight of a commodity, excluding 20981
any materials, substances, or items not considered to be a part of 20982
the commodity. Materials, substances, or items not considered to 20983
be part of the commodity include, but are not limited to, 20984
containers, conveyances, bags, wrappers, packaging materials, 20985
labels, individual piece coverings, decorative accompaniments, and 20986
coupons. 20987

(K) "Random weight package" means a package that is one of a 20988
lot, shipment, or delivery of packages of the same commodity with 20989
no fixed pattern of weights. 20990

(L) "Sold" includes keeping, offering, or exposing for sale. 20991

(M) "Commercially used weighing and measuring device" means a 20992
device described in the national institute of standards and 20993
technology handbook 44 or its supplements and revisions and any 20994
other weighing and measuring device designated by rules adopted 20995
under division (C) of section 1327.50 of the Revised Code. 20996
"Commercially used weighing and measuring device" includes, but is 20997
not limited to, a livestock scale, vehicle scale, railway scale, 20998
vehicle tank meter, bulk rack meter, and LPG meter. 20999

(N) "Livestock scale" means a scale equipped with stock racks 21000
and gates that is adapted to weighing livestock standing on the 21001
scale platform. 21002

(O) "Vehicle scale" means a scale that is adapted to weighing 21003

highway, farm, or other large industrial vehicles other than 21004
railroad cars. 21005

(P) "Railway scale" means a rail scale that is designed to 21006
weigh railroad cars. 21007

(Q) "Vehicle tank meter" means a vehicle mounted device that 21008
is designed for the measurement and delivery of liquid products 21009
from a tank. 21010

(R) "Bulk rack meter" means a wholesale device, usually 21011
mounted on a rack, that is designed for the measurement and 21012
delivery of liquid products. 21013

(S) "LPG meter" means a system, including a mechanism or 21014
machine of the meter type, that is designed to measure and deliver 21015
liquefied petroleum gas in the liquid state by a definite quantity 21016
whether installed in a permanent location or mounted on a vehicle. 21017

(T) "Service person" means an individual who installs, 21018
services, repairs, reconditions, or places into service a 21019
commercially used weighing and measuring device for any type of 21020
compensation. 21021

Sec. 1327.50. The director of agriculture shall: 21022

(A) Maintain traceability of the state standards to those of 21023
the national institute of standards and technology; 21024

(B) Enforce sections 1327.46 to 1327.61 of the Revised Code; 21025

(C) Issue reasonable rules for the uniform enforcement of 21026
sections 1327.46 to 1327.61 of the Revised Code, which rules shall 21027
have the force and effect of law; 21028

(D) Establish standards of weight, measure, or count, 21029
reasonable standards of fill, and standards for the voluntary 21030
presentation of cost per unit information for any package; 21031

(E) Grant any exemptions from sections 1327.46 to 1327.61 of 21032

the Revised Code, or any rules adopted under those sections, when 21033
appropriate to the maintenance of good commercial practices in the 21034
state; 21035

(F) Conduct investigations to ensure compliance with sections 21036
1327.46 to 1327.61 of the Revised Code; 21037

(G) Delegate to appropriate personnel any of these 21038
responsibilities for the proper administration of the director's 21039
office; 21040

(H) Test as often as is prescribed by rule the standards of 21041
weight and measure used by any municipal corporation or county 21042
within the state, and approve the same when found to be correct; 21043

(I) Inspect and test weights and measures that are sold; 21044

(J) Inspect and test to ascertain if they are correct, 21045
weights and measures commercially used either: 21046

(1) In determining the weight, measure, or count of 21047
commodities or things sold on the basis of weight, measure, or 21048
count; 21049

(2) In computing the basic charge or payment for goods or 21050
services rendered on the basis of weight, measure, or count. 21051

(K) Test all weights and measures used in checking the 21052
receipt or disbursement of supplies in every institution, for the 21053
maintenance of which funds are appropriated by the general 21054
assembly; 21055

(L) Approve for use, and may mark, such weights and measures 21056
as the director finds to be correct, and shall reject and mark as 21057
rejected such weights and measures as the director finds to be 21058
incorrect. Weights and measures that have been rejected may be 21059
seized if not corrected within the time specified or if used or 21060
disposed of in a manner not specifically authorized, and may be 21061
condemned and seized if found to be incorrect and not capable of 21062

being made correct. 21063

(M) Weigh, measure, or inspect packaged commodities that are 21064
sold or in the process of delivery to determine whether they 21065
contain the amounts represented and whether they are sold in 21066
accordance with sections 1327.46 to 1327.61 of the Revised Code or 21067
rules adopted under those sections. In carrying out this section, 21068
the director shall employ recognized sampling procedures, such as 21069
those designated in the national institute of standards and 21070
technology handbook 133 "checking the net contents of packaged 21071
goods." 21072

(N) Prescribe by rule the appropriate term or unit of weight 21073
or measure to be used, whenever the director determines in the 21074
case of a specific commodity that an existing practice of 21075
declaring the quantity by weight, measure, numerical count, or 21076
combination thereof, does not facilitate value comparisons by 21077
consumers, or offers an opportunity for consumer confusion; 21078

(O) Allow reasonable variations from the stated quantity of 21079
contents, which shall include those caused by unavoidable 21080
deviations in good manufacturing practice and by loss or gain of 21081
moisture during the course of good distribution practice, only 21082
after the commodity has entered intrastate commerce; 21083

(P) Provide for the weights and measures training of 21084
inspector personnel and establish minimum training requirements, 21085
which shall be met by all inspector personnel, whether county, 21086
municipal, or state; 21087

(Q) Prescribe the methods of tests and inspections to be 21088
employed in the enforcement of sections 1327.46 to 1327.61 of the 21089
Revised Code. The director may prescribe the official test and 21090
inspection forms to be used. 21091

(R) Provide by rule for ~~voluntary~~ registration with the 21092
director of ~~private~~ service persons who are employed by 21093

commercially used weighing and measuring device servicing 21094
agencies, and personnel; 21095

(S) In conjunction with the national institute of standards 21096
and technology, operate a type evaluation program for 21097
certification of weighing and measuring devices as part of the 21098
national type evaluation program. The director shall establish a 21099
schedule of fees for services rendered by the department of 21100
agriculture for type evaluation services. The director may require 21101
any weighing or measuring instrument or device to be traceable to 21102
a national type evaluation program certificate of conformance 21103
prior to use for commercial or law enforcement purposes. 21104

(T) Verify advertised prices, price representations, and 21105
point-of-sale systems, as necessary, to determine both the 21106
accuracy of prices and computations and the correct use of the 21107
equipment and the accuracy of prices printed or recalled from a 21108
database if a system utilizes scanning or coding in lieu of manual 21109
entry. In order to implement this division, the director shall do 21110
all of the following: 21111

(1) Employ recognized procedures such as those designated in 21112
the national institute of standards and technology handbook 130, 21113
uniform laws and regulations, "examination procedures for price 21114
verification"; 21115

(2) Adopt rules establishing requirements governing the 21116
accuracy of advertised prices and point-of-sale systems and 21117
establishing requirements and procedures for the enforcement of 21118
this division; 21119

(3) Conduct necessary inspections. 21120

Sec. 1327.501. (A) No person shall operate in this state a 21121
commercially used weighing and measuring device that provides the 21122
~~final~~ quantity and ~~final~~ or cost of a final transaction and for 21123

which a fee is established in division (G) of this section unless 21124
the operator of the device obtains a permit issued by the director 21125
of agriculture or the director's designee. 21126

(B) An application for a permit shall be submitted to the 21127
director on a form that the director prescribes and provides. The 21128
applicant shall include with the application any information that 21129
is specified on the application form as well as the application 21130
fee established in this section. 21131

(C) Upon receipt of a completed application and the required 21132
fee from an applicant, the director or the director's designee 21133
shall issue or deny the permit to operate the commercially used 21134
weighing and measuring device that was the subject of the 21135
application. 21136

(D) A permit issued under this section expires on the 21137
thirtieth day of June of the year following its issuance and may 21138
be renewed annually on or before the first day of July of that 21139
year upon payment of a permit renewal fee established in this 21140
section. 21141

(E) If a permit renewal fee is more than sixty days past due, 21142
the director may assess a late penalty in an amount established 21143
under this section. 21144

(F) The director shall do both of the following: 21145

(1) Establish procedures and requirements governing the 21146
issuance or denial of permits under this section; 21147

(2) Establish late penalties to be assessed for the late 21148
payment of a permit renewal fee and fees for the replacement of 21149
lost or destroyed permits. 21150

(G) An applicant for a permit to operate under this section 21151
shall pay an application fee in the following applicable amount: 21152

(1) Seventy-five dollars for a livestock scale; 21153

- (2) Seventy-five dollars for a vehicle scale; 21154
- (3) Seventy-five dollars for a railway scale; 21155
- (4) Seventy-five dollars for a vehicle tank meter; 21156
- (5) Seventy-five dollars for a bulk rack meter; 21157
- (6) Seventy-five dollars for a an LPG meter. 21158

A person who is issued a permit under this section and who 21159
seeks to renew that permit shall pay an annual permit renewal fee. 21160
The amount of a permit renewal fee shall be equal to the 21161
application fee for that permit established in this division. 21162

(H) All money collected through the payment of fees and the 21163
imposition of penalties under this section shall be credited to 21164
the metrology and scale certification and device permitting fund 21165
created in section 1327.511 of the Revised Code. 21166

Sec. 1327.502. A service person who is employed by a 21167
commercially used weighing and measuring device servicing agency 21168
shall register with the director of agriculture in accordance with 21169
rules adopted under section 1327.50 of the Revised Code. 21170

Sec. 1327.61. No person shall do any of the following: 21171

(A) Use or have in possession for use in commerce any 21172
incorrect weight or measure; 21173

(B) Wrap, package, label, or advertise any product or service 21174
contrary to this chapter, or any rules adopted under it, or sell, 21175
offer, hold, or expose for sale any service or product wrapped, 21176
packaged, labeled, or offered for sale contrary to this chapter or 21177
any rules adopted under it, or misrepresent the quantity or price 21178
or service contrary to this chapter, or any rules adopted under 21179
it; 21180

(C) Remove any tag, seal, or mark from any weight or measure 21181

without specific written authorization from the proper authority; 21182

(D) Install for use, repair, service, or place into service a 21183
commercially used weighing and measuring device unless the 21184
installation, repair, service, or placement is performed by one of 21185
the following: 21186

(1) A department of agriculture division of weights and 21187
measures inspector; 21188

(2) A service person registered with the department; 21189

(3) A county or municipal weights and measures inspector. 21190

(E) Hinder or obstruct any weights and measures official in 21191
the performance of ~~his~~ official duties; 21192

~~(E)~~(F) Sell or offer for use in commerce any incorrect weight 21193
or measure. 21194

Sec. 1327.99. Whoever violates section 1327.501 or 1327.54 or 21195
division (A), (B), (C), or ~~(D)~~(E) of section 1327.61 of the 21196
Revised Code or a rule adopted under sections 1327.46 to 1327.61 21197
of the Revised Code is guilty of a misdemeanor of the second 21198
degree on a first offense; on each subsequent offense within seven 21199
years after the first offense, ~~such~~ the person is guilty of a 21200
misdemeanor of the first degree. 21201

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the 21202
Revised Code: 21203

(A) "Adult" means a person who is eighteen years of age or 21204
older. 21205

(B) "Attending physician" means the physician to whom a 21206
principal or the family of a principal has assigned primary 21207
responsibility for the treatment or care of the principal or, if 21208
the responsibility has not been assigned, the physician who has 21209
accepted that responsibility. 21210

(C) "Comfort care" means any of the following:	21211
(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;	21212 21213
(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;	21214 21215
(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a principal, but not to postpone death.	21216 21217 21218
(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a principal, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of sections 1337.11 to 1337.17 of the Revised Code, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.	21219 21220 21221 21222 21223 21224 21225 21226
(E) "Declaration for mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	21227 21228
(F) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.	21229 21230 21231
(G) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition or physical or mental health.	21232 21233 21234
(H) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.	21235 21236 21237
(I) "Health care facility" means any of the following:	21238
(1) A hospital;	21239
(2) A hospice care program, pediatric respite care program,	21240

or other institution that specializes in comfort care of patients	21241
in a terminal condition or in a permanently unconscious state;	21242
(3) A nursing home;	21243
(4) A home health agency;	21244
(5) An intermediate care facility for the mentally retarded	21245
<u>individuals with intellectual disabilities</u> ;	21246
(6) A regulated community mental health organization.	21247
(J) "Health care personnel" means physicians, nurses,	21248
physician assistants, emergency medical technicians-basic,	21249
emergency medical technicians-intermediate, emergency medical	21250
technicians-paramedic, medical technicians, dietitians, other	21251
authorized persons acting under the direction of an attending	21252
physician, and administrators of health care facilities.	21253
(K) "Home health agency" has the same meaning as in section	21254
3701.881 of the Revised Code.	21255
(L) "Hospice care program" and "pediatric respite care	21256
program" have the same meanings as in section 3712.01 of the	21257
Revised Code.	21258
(M) "Hospital" has the same meanings as in sections 3701.01,	21259
3727.01, and 5122.01 of the Revised Code.	21260
(N) "Hydration" means fluids that are artificially or	21261
technologically administered.	21262
(O) "Incompetent" has the same meaning as in section 2111.01	21263
of the Revised Code.	21264
(P) "Intermediate care facility for the mentally retarded	21265
<u>individuals with intellectual disabilities</u> " has the same meaning	21266
as in section 5111.20 <u>5124.01</u> of the Revised Code.	21267
(Q) "Life-sustaining treatment" means any medical procedure,	21268
treatment, intervention, or other measure that, when administered	21269

to a principal, will serve principally to prolong the process of dying.	21270 21271
(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.	21272 21273
(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	21274 21275
(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	21276 21277
(U) "Nutrition" means sustenance that is artificially or technologically administered.	21278 21279
(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:	21280 21281 21282 21283 21284 21285
(1) Irreversible unawareness of one's being and environment.	21286
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	21287 21288
(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	21289 21290 21291 21292
(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	21293 21294 21295
(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	21296 21297
(Z) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct	21298 21299

of health care personnel, including the state medical board and 21300
the board of nursing. 21301

(AA) "Regulated community mental health organization" means a 21302
residential facility as defined and licensed under section ~~5119.22~~ 21303
5119.34 of the Revised Code or a community mental health ~~agency~~ 21304
services provider as defined in section 5122.01 of the Revised 21305
Code. 21306

(BB) "Terminal condition" means an irreversible, incurable, 21307
and untreatable condition caused by disease, illness, or injury 21308
from which, to a reasonable degree of medical certainty as 21309
determined in accordance with reasonable medical standards by a 21310
principal's attending physician and one other physician who has 21311
examined the principal, both of the following apply: 21312

(1) There can be no recovery. 21313

(2) Death is likely to occur within a relatively short time 21314
if life-sustaining treatment is not administered. 21315

(CC) "Tort action" means a civil action for damages for 21316
injury, death, or loss to person or property, other than a civil 21317
action for damages for a breach of contract or another agreement 21318
between persons. 21319

Sec. 1347.08. (A) Every state or local agency that maintains 21320
a personal information system, upon the request and the proper 21321
identification of any person who is the subject of personal 21322
information in the system, shall: 21323

(1) Inform the person of the existence of any personal 21324
information in the system of which the person is the subject; 21325

(2) Except as provided in divisions (C) and (E)(2) of this 21326
section, permit the person, the person's legal guardian, or an 21327
attorney who presents a signed written authorization made by the 21328
person, to inspect all personal information in the system of which 21329

the person is the subject; 21330

(3) Inform the person about the types of uses made of the 21331
personal information, including the identity of any users usually 21332
granted access to the system. 21333

(B) Any person who wishes to exercise a right provided by 21334
this section may be accompanied by another individual of the 21335
person's choice. 21336

(C)(1) A state or local agency, upon request, shall disclose 21337
medical, psychiatric, or psychological information to a person who 21338
is the subject of the information or to the person's legal 21339
guardian, unless a physician, psychiatrist, or psychologist 21340
determines for the agency that the disclosure of the information 21341
is likely to have an adverse effect on the person, in which case 21342
the information shall be released to a physician, psychiatrist, or 21343
psychologist who is designated by the person or by the person's 21344
legal guardian. 21345

(2) Upon the signed written request of either a licensed 21346
attorney at law or a licensed physician designated by the inmate, 21347
together with the signed written request of an inmate of a 21348
correctional institution under the administration of the 21349
department of rehabilitation and correction, the department shall 21350
disclose medical information to the designated attorney or 21351
physician as provided in division (C) of section 5120.21 of the 21352
Revised Code. 21353

(D) If an individual who is authorized to inspect personal 21354
information that is maintained in a personal information system 21355
requests the state or local agency that maintains the system to 21356
provide a copy of any personal information that the individual is 21357
authorized to inspect, the agency shall provide a copy of the 21358
personal information to the individual. Each state and local 21359
agency may establish reasonable fees for the service of copying, 21360

upon request, personal information that is maintained by the 21361
agency. 21362

(E)(1) This section regulates access to personal information 21363
that is maintained in a personal information system by persons who 21364
are the subject of the information, but does not limit the 21365
authority of any person, including a person who is the subject of 21366
personal information maintained in a personal information system, 21367
to inspect or have copied, pursuant to section 149.43 of the 21368
Revised Code, a public record as defined in that section. 21369

(2) This section does not provide a person who is the subject 21370
of personal information maintained in a personal information 21371
system, the person's legal guardian, or an attorney authorized by 21372
the person, with a right to inspect or have copied, or require an 21373
agency that maintains a personal information system to permit the 21374
inspection of or to copy, a confidential law enforcement 21375
investigatory record or trial preparation record, as defined in 21376
divisions (A)(2) and (4) of section 149.43 of the Revised Code. 21377

(F) This section does not apply to any of the following: 21378

(1) The contents of an adoption file maintained by the 21379
department of health under section 3705.12 of the Revised Code; 21380

(2) Information contained in the putative father registry 21381
established by section 3107.062 of the Revised Code, regardless of 21382
whether the information is held by the department of job and 21383
family services or, pursuant to section 3111.69 of the Revised 21384
Code, the office of child support in the department or a child 21385
support enforcement agency; 21386

(3) Papers, records, and books that pertain to an adoption 21387
and that are subject to inspection in accordance with section 21388
3107.17 of the Revised Code; 21389

(4) Records listed in division (A) of section 3107.42 of the 21390
Revised Code or specified in division (A) of section 3107.52 of 21391

the Revised Code;	21392
(5) Records that identify an individual described in division	21393
(A)(1) of section 3721.031 of the Revised Code, or that would tend	21394
to identify such an individual;	21395
(6) Files and records that have been expunged under division	21396
(D)(1) or (2) of section 3721.23 of the Revised Code;	21397
(7) Records that identify an individual described in division	21398
(A)(1) of section 3721.25 of the Revised Code, or that would tend	21399
to identify such an individual;	21400
(8) Records that identify an individual described in division	21401
(A)(1) of section 5111.61 <u>5165.88</u> of the Revised Code, or that	21402
would tend to identify such an individual;	21403
(9) Test materials, examinations, or evaluation tools used in	21404
an examination for licensure as a nursing home administrator that	21405
the board of examiners <u>executives</u> of nursing home administrators	21406
<u>long-term services and supports</u> administers under section 4751.04	21407
of the Revised Code or contracts under that section with a private	21408
or government entity to administer;	21409
(10) Information contained in a database established and	21410
maintained pursuant to section 5101.13 of the Revised Code.	21411
Sec. 1501.011. (A) The <u>Except as provided in divisions (B),</u>	21412
<u>(C), and (D) of this section, the Ohio facilities construction</u>	21413
<u>commission shall supervise the design and construction of, and</u>	21414
<u>make contracts for the construction, reconstruction, improvement,</u>	21415
<u>enlargement, alteration, repair, or decoration of, any projects or</u>	21416
<u>improvements for the</u> department of natural resources has the	21417
following powers in addition to its other powers: to prepare, or	21418
contract to be prepared, surveys, general and detailed plans,	21419
specifications, bills of materials, and estimates of cost for, to	21420
enter into contracts for, and to supervise the performance of	21421

~~labor, the furnishing of materials, or the construction, repair, 21422
or maintenance of any projects, improvements, or buildings, on 21423
lands and waters under the control of the department, as that may 21424
be authorized by legislative appropriations or any other funds 21425
available therefor, the estimated cost of which amounts to two 21426
hundred thousand dollars or more or the amount determined pursuant 21427
to section 153.53 of the Revised Code or more. 21428~~

~~(B) Except as provided in division (E) of this section, the 21429
director of natural resources shall publish notice in a newspaper 21430
of general circulation in the region where the activity for which 21431
bids are submitted is to occur and in any other newspapers that 21432
the director determines are appropriate, at least once each week 21433
for four consecutive weeks, the last publication to be at least 21434
eight days preceding the day for opening bids, seeking proposals 21435
on each contract for the performance of labor, the furnishing of 21436
materials, or the construction, repair, or maintenance of 21437
projects, improvements, or buildings, as necessary for compliance 21438
with provisions of the act to make appropriations for capital 21439
improvements or the act to make general appropriations, and the 21440
director may also advertise in such trade journals as will afford 21441
adequate information to the public of the terms of the contract 21442
and the nature of the work to be performed, together with the time 21443
of the letting and place and manner of receiving proposals, and 21444
the places where plans and specifications are on file. A proposal 21445
is invalid and shall not be considered by the department unless 21446
the form for proposals specified by the department is used without 21447
change, alteration, or addition The department of natural 21448
resources shall administer the construction of improvements under 21449
an agreement with the supervisors of a soil and water conservation 21450
district pursuant to division (I) of section 1515.08 of the 21451
Revised Code. 21452~~

~~(C) Each bidder for a contract for the performance of labor, 21453~~

~~the furnishing of materials, or the maintenance, construction, 21454
demolition, alteration, repair, or reconstruction of an 21455
improvement shall meet the requirements of section 153.54 of the 21456
Revised Code. The director may require each bidder to furnish 21457
under oath, upon such printed forms as the director may prescribe, 21458
detailed information with respect to the bidder's financial 21459
resources, equipment, past performance record, organization 21460
personnel, and experience, together with such other information as 21461
the director considers necessary. 21462~~

~~(D) The director shall award the contract to the lowest 21463
responsive and responsible bidder in accordance with section 9.312 21464
of the Revised Code. The award shall be made within a reasonable 21465
time after the date on which the bids were opened, and the 21466
successful bidder shall enter into a contract within ten days from 21467
the date the successful bidder is notified that the contract has 21468
been awarded, or within any longer period that the director 21469
considers necessary. Nothing in this section shall preclude the 21470
rejection of any bid the acceptance of which is not in the best 21471
interests of the state. No contract shall be entered into until 21472
the bureau of workers' compensation has certified that the 21473
corporation, partnership, or person awarded the contract has 21474
complied with Chapter 4123. of the Revised Code and until, if the 21475
bidder awarded the contract is a foreign corporation, the 21476
secretary of state has certified that the corporation is 21477
authorized to do business in this state, and until, if the bidder 21478
so awarded the contract is a person or partnership nonresident of 21479
this state, the person or partnership has filed with the secretary 21480
of state a power of attorney designating the secretary of state as 21481
its agency for the purpose of accepting service of process. 21482~~

~~(E) With respect to the director's entering into a contract 21483
for the performance of labor, the furnishing of materials, or the 21484
construction, repair, or maintenance of any projects, 21485~~

~~improvements, or buildings on lands and waters under the control of the department, both of the following apply:~~ 21486
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~~(1) The director is not required to advertise for and receive bids if the total estimated cost of the contract is less than twenty five thousand dollars.~~ 21488
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~~(2) The director is not required to advertise for bids, regardless of the cost of the contract, if the~~ 21491
(1) The department of natural resources shall supervise the design and construction of, and make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, any of the following activities, projects, or improvements: 21492
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(a) Dam repairs administered by the division of engineering under Chapter 1507. of the Revised Code; 21497
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(b) Projects or improvements administered by the division of watercraft and funded through the waterways safety fund established in section 1547.75 of the Revised Code; 21499
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(c) Projects or improvements administered by the division of wildlife under Chapter 1531. or 1533. of the Revised Code; 21502
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(d) Activities conducted by the department pursuant to section 5511.05 of the Revised Code in order to maintain the department's roadway inventory. 21504
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(2) If a contract to be let under division (C)(1) of this section involves an exigency that concerns the public health, safety, or welfare or addresses an emergency situation in which timeliness is crucial in preventing the cost of the contract from increasing significantly. Regarding such a contract, the director may solicit bids by sending a letter to a minimum of three contractors in the region where the contract is to be let or by any other means that the director considers appropriate. 21507
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~~(F) The director may insert in any contract awarded under~~ 21515

~~this section a clause providing for value engineering change proposals, under which a contractor who has been awarded a contract may propose a change in the plans and specifications of the project that saves the department time or money on the project without impairing any of the essential functions and characteristics of the project such as service life, reliability, economy of operation, ease of maintenance, safety, and necessary standardized features. If the director adopts the value engineering proposal, the savings from the proposal shall be divided between the department and the contractor according to guidelines established by the director, provided that the contractor shall receive at least fifty per cent of the savings from the proposal. The adoption of a value engineering proposal does not invalidate the award of the contract or require the director to rebid the project.~~ 21516
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~~(G) When in the opinion of the department the work under any contract made under this section or any law of the state is neglected by the contractor, the work completed is deficient in quality or materials, or the work is not prosecuted with the diligence and force specified or intended in the contract, the department may require the contractor to provide, at no additional expense to the department, any additional labor and materials that are necessary to complete the improvements at the level of quality and within the time of performance specified in the contract. Procedures concerning such a requirement together with its format shall be specified in the contract. If the contractor fails to comply with the requirement within the period specified in the contract, the department may take action to complete the work through other means, up to and including termination of the contract.~~ 21531
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~~(H) When an exigency occurs or there is immediate danger of an exigency that would materially impair the successful bidding,~~ 21546
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~~construction, or completion of a project, improvement, or 21548
building, the director may revise related plans and specifications 21549
as necessary to address the exigency through the issuance of an 21550
addendum prior to the opening of bids or, in accordance with 21551
procedures established in section 153.62 of the Revised Code, 21552
through the issuance of a change order after the contract has been 21553
awarded, pursuant to the declaration of a public exigency, the 21554
department may award the contract without competitive bidding or 21555
selection as otherwise required by Chapter 153. of the Revised 21556
Code. 21557~~

(D) The executive director of the Ohio facilities 21558
construction commission may authorize the department of natural 21559
resources to administer any other project or improvement, the 21560
estimated cost of which, including design fees, construction, 21561
equipment, and contingency amounts, is not more than one million 21562
five hundred thousand dollars. 21563

Sec. 1501.45. (A) As used in this section: 21564

(1) "Forfeiture laws" means provisions that are established 21565
in Title XXIX of the Revised Code and that govern the forfeiture 21566
and disposition of certain property that is seized pursuant to a 21567
law enforcement investigation. 21568

(2) "Law enforcement division" means the division of 21569
forestry, the division of natural areas and preserves, the 21570
division of wildlife, the division of parks and recreation, or the 21571
division of watercraft in the department of natural resources. 21572

(3) "Law enforcement fund" means a fund created in this 21573
section. 21574

(B) Except as otherwise provided in this section and 21575
notwithstanding any provision of the Revised Code that is not in 21576
Title XV of the Revised Code to the contrary, the forfeiture laws 21577

apply to a law enforcement division that substantially conducts an investigation that results in the ordered forfeiture of property and also apply to the involved forfeiture of property, and the law enforcement division shall comply with those forfeiture laws. Accordingly, the portion of the forfeiture laws that authorizes certain proceeds from forfeited property to be distributed to the law enforcement agency that substantially conducted the investigation that resulted in the seizure of the subsequently forfeited property apply to the law enforcement divisions except as provided in division (C)(2)(a) of this section. If a law enforcement division is eligible to receive such proceeds, the proceeds shall be deposited into the state treasury to the credit of the applicable law enforcement fund.

(C)(1) There are hereby created in the state treasury ~~the division of forestry law enforcement fund, the division of natural areas and preserves law enforcement fund,~~ the division of wildlife law enforcement fund, the division of parks and recreation law enforcement fund, and the division of watercraft law enforcement fund. ~~The~~

(2) ~~The~~ funds shall consist of proceeds from forfeited property that are deposited ~~in accordance with this section~~. ~~The~~ as follows:

(a) Proceeds from forfeited property resulting from an investigation conducted by the division of forestry, the division of natural areas and preserves, or the division of parks and recreation shall be deposited in the division of parks and recreation law enforcement fund.

(b) Proceeds from forfeited property resulting from an investigation conducted by the division of wildlife shall be deposited in the division of wildlife law enforcement fund.

(c) Proceeds from forfeited property resulting from an

investigation conducted by the division of watercraft shall be 21609
deposited in the division of watercraft law enforcement fund. 21610

(3) The funds shall be used by the applicable law enforcement 21611
division for law enforcement purposes specified in the forfeiture 21612
laws; however, a as follows: 21613

(a) Money in the division of parks and recreation law 21614
enforcement fund shall be used by the division of parks and 21615
recreation. 21616

(b) Money in the division of wildlife law enforcement fund 21617
shall be used by the division of wildlife. 21618

(c) Money in the division of watercraft law enforcement fund 21619
shall be used by the division of watercraft. 21620

(4) A law enforcement division shall not use such funds its 21621
fund to pay the salaries of its employees or to provide for any 21622
other remuneration of personnel. 21623

(D) If the forfeiture laws conflict with any provisions that 21624
govern forfeitures and that are established in another section of 21625
Title XV of the Revised Code, the provisions established in the 21626
other section of Title XV apply. 21627

Sec. 1509.01. As used in this chapter: 21628

(A) "Well" means any borehole, whether drilled or bored, 21629
within the state for production, extraction, or injection of any 21630
gas or liquid mineral, excluding potable water to be used as such, 21631
but including natural or artificial brines and oil field waters. 21632

(B) "Oil" means crude petroleum oil and all other 21633
hydrocarbons, regardless of gravity, that are produced in liquid 21634
form by ordinary production methods, but does not include 21635
hydrocarbons that were originally in a gaseous phase in the 21636
reservoir. 21637

(C) "Gas" means all natural gas and all other fluid	21638
hydrocarbons that are not oil, including condensate <u>in a gaseous</u>	21639
<u>state at standard temperature and pressure.</u>	21640
(D) "Condensate" means liquid hydrocarbons separated at or	21641
near the well pad or along the gas production or gathering system	21642
prior to gas processing.	21643
(E) "Pool" means an underground reservoir containing a common	21644
accumulation of oil or gas, or both, but does not include a gas	21645
storage reservoir. Each zone of a geological structure that is	21646
completely separated from any other zone in the same structure may	21647
contain a separate pool.	21648
(F) "Field" means the general area underlaid by one or more	21649
pools.	21650
(G) "Drilling unit" means the minimum acreage on which one	21651
well may be drilled, but does not apply to a well for injecting	21652
gas into or removing gas from a gas storage reservoir.	21653
(H) "Waste" includes all of the following:	21654
(1) Physical waste, as that term generally is understood in	21655
the oil and gas industry;	21656
(2) Inefficient, excessive, or improper use, or the	21657
unnecessary dissipation, of reservoir energy;	21658
(3) Inefficient storing of oil or gas;	21659
(4) Locating, drilling, equipping, operating, or producing an	21660
oil or gas well in a manner that reduces or tends to reduce the	21661
quantity of oil or gas ultimately recoverable under prudent and	21662
proper operations from the pool into which it is drilled or that	21663
causes or tends to cause unnecessary or excessive surface loss or	21664
destruction of oil or gas;	21665
(5) Other underground or surface waste in the production or	21666
storage of oil, gas, or condensate, however caused.	21667

(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.

(L) "Royalty interest" means the fee holder's share in the production from a well.

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.

(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of oil and gas resources management.

(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.

(P) "Excavations and workings," "mine," and "pillar" have the same meanings as in section 1561.01 of the Revised Code. 21699
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(Q) "Coal bearing township" means a township designated as such by the chief of the division of mineral resources management under section 1561.06 of the Revised Code. 21701
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(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom and includes a gas storage reservoir as defined in section 1571.01 of the Revised Code. 21704
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(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts. 21709
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(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code. 21716
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(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with exploration, drilling, well stimulation, production of oil or gas, or plugging of a well. 21720
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(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with 21724
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natural surface or underground waters.	21730
(W) "Exempt Mississippian well" means a well that meets all	21731
of the following criteria:	21732
(1) Was drilled and completed before January 1, 1980;	21733
(2) Is located in an unglaciated part of the state;	21734
(3) Was completed in a reservoir no deeper than the	21735
Mississippian Big Injun sandstone in areas underlain by	21736
Pennsylvanian or Permian stratigraphy, or the Mississippian Berea	21737
sandstone in areas directly underlain by Permian stratigraphy;	21738
(4) Is used primarily to provide oil or gas for domestic use.	21739
(X) "Exempt domestic well" means a well that meets all of the	21740
following criteria:	21741
(1) Is owned by the owner of the surface estate of the tract	21742
on which the well is located;	21743
(2) Is used primarily to provide gas for the owner's domestic	21744
use;	21745
(3) Is located more than two hundred feet horizontal distance	21746
from any inhabited private dwelling house other than an inhabited	21747
private dwelling house located on the tract on which the well is	21748
located;	21749
(4) Is located more than two hundred feet horizontal distance	21750
from any public building that may be used as a place of resort,	21751
assembly, education, entertainment, lodging, trade, manufacture,	21752
repair, storage, traffic, or occupancy by the public.	21753
(Y) "Urbanized area" means an area where a well or production	21754
facilities of a well are located within a municipal corporation or	21755
within a township that has an unincorporated population of more	21756
than five thousand in the most recent federal decennial census	21757
prior to the issuance of the permit for the well or production	21758
facilities.	21759

(Z) "Well stimulation" or "stimulation of a well" means the process of enhancing well productivity, including hydraulic fracturing operations.

(AA) "Production operation" means all operations and activities and all related equipment, facilities, and other structures that may be used in or associated with the exploration and production of oil, gas, or other mineral resources that are regulated under this chapter, including operations and activities associated with site preparation, site construction, access road construction, well drilling, well completion, well stimulation, well site activities, reclamation, and plugging. "Production operation" also includes all of the following:

(1) The piping, equipment, and facilities used for the production and preparation of hydrocarbon gas or liquids for transportation or delivery;

(2) The processes of extraction and recovery, lifting, stabilization, treatment, separation, production processing, storage, waste disposal, and measurement of hydrocarbon gas and liquids, including related equipment and facilities;

(3) The processes and related equipment and facilities associated with production compression, gas lift, gas injection, fuel gas supply, well drilling, well stimulation, and well completion activities, including dikes, pits, and earthen and other impoundments used for the temporary storage of fluids and waste substances associated with well drilling, well stimulation, and well completion activities.

(BB) "Annular overpressurization" means the accumulation of fluids within an annulus with sufficient pressure to allow migration of annular fluids into underground sources of drinking water.

(CC) "Idle and orphaned well" means a well for which a bond

has been forfeited or an abandoned well for which no money is 21791
available to plug the well in accordance with this chapter and 21792
rules adopted under it. 21793

(DD) "Temporarily inactive well" means a well that has been 21794
granted temporary inactive status under section 1509.062 of the 21795
Revised Code. 21796

(EE) "Material and substantial violation" means any of the 21797
following: 21798

(1) Failure to obtain a permit to drill, reopen, convert, 21799
plugback, or plug a well under this chapter; 21800

(2) Failure to obtain, maintain, update, or submit proof of 21801
insurance coverage that is required under this chapter; 21802

(3) Failure to obtain, maintain, update, or submit proof of a 21803
surety bond that is required under this chapter; 21804

(4) Failure to plug an abandoned well or idle and orphaned 21805
well unless the well has been granted temporary inactive status 21806
under section 1509.062 of the Revised Code or the chief of the 21807
division of oil and gas resources management has approved another 21808
option concerning the abandoned well or idle and orphaned well; 21809

(5) Failure to restore a disturbed land surface as required 21810
by section 1509.072 of the Revised Code; 21811

(6) Failure to reimburse the oil and gas well fund pursuant 21812
to a final order issued under section 1509.071 of the Revised 21813
Code; 21814

(7) Failure to comply with a final nonappealable order of the 21815
chief issued under section 1509.04 of the Revised Code; 21816

(8) Failure to submit a report, test result, fee, or document 21817
that is required in this chapter or rules adopted under it. 21818

(FF) "Severer" has the same meaning as in section 5749.01 of 21819
the Revised Code. 21820

(GG) "Horizontal well" means a well that is drilled for the 21821
production of oil or gas in which the wellbore reaches a 21822
horizontal or near horizontal position in the Point Pleasant, 21823
Utica, or Marcellus formation and the well is stimulated. 21824

(HH) "Well pad" means the area that is cleared or prepared 21825
for the drilling of one or more horizontal wells. 21826

(II) "British thermal unit" means the measure of heat energy 21827
required to raise the temperature of one pound of water by one 21828
degree fahrenheit at a specified temperature. 21829

Sec. 1509.02. There is hereby created in the department of 21830
natural resources the division of oil and gas resources 21831
management, which shall be administered by the chief of the 21832
division of oil and gas resources management. The division has 21833
sole and exclusive authority to regulate the permitting, location, 21834
and spacing of oil and gas wells and production operations within 21835
the state, excepting only those activities regulated under federal 21836
laws for which oversight has been delegated to the environmental 21837
protection agency and activities regulated under sections 6111.02 21838
to ~~6111.029~~ 6111.028 of the Revised Code. The regulation of oil 21839
and gas activities is a matter of general statewide interest that 21840
requires uniform statewide regulation, and this chapter and rules 21841
adopted under it constitute a comprehensive plan with respect to 21842
all aspects of the locating, drilling, well stimulation, 21843
completing, and operating of oil and gas wells within this state, 21844
including site construction and restoration, permitting related to 21845
those activities, and the disposal of wastes from those wells. In 21846
order to assist the division in the furtherance of its sole and 21847
exclusive authority as established in this section, the chief may 21848
enter into cooperative agreements with other state agencies for 21849
advice and consultation, including visitations at the surface 21850
location of a well on behalf of the division. Such cooperative 21851

agreements do not confer on other state agencies any authority to 21852
administer or enforce this chapter and rules adopted under it. In 21853
addition, such cooperative agreements shall not be construed to 21854
dilute or diminish the division's sole and exclusive authority as 21855
established in this section. Nothing in this section affects the 21856
authority granted to the director of transportation and local 21857
authorities in section 723.01 or 4513.34 of the Revised Code, 21858
provided that the authority granted under those sections shall not 21859
be exercised in a manner that discriminates against, unfairly 21860
impedes, or obstructs oil and gas activities and operations 21861
regulated under this chapter. 21862

The chief shall not hold any other public office, nor shall 21863
the chief be engaged in any occupation or business that might 21864
interfere with or be inconsistent with the duties as chief. 21865

All moneys collected by the chief pursuant to sections 21866
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.222, 21867
1509.28, and 1509.34, ~~and 1509.50~~ of the Revised Code, ninety per 21868
cent of moneys received by the treasurer of state from the tax 21869
levied in divisions (A)(5) and (6) of section 5749.02 of the 21870
Revised Code, all civil penalties paid under section 1509.33 of 21871
the Revised Code, and, notwithstanding any section of the Revised 21872
Code relating to the distribution or crediting of fines for 21873
violations of the Revised Code, all fines imposed under divisions 21874
(A) and (B) of section 1509.99 of the Revised Code and fines 21875
imposed under divisions (C) and (D) of section 1509.99 of the 21876
Revised Code for all violations prosecuted by the attorney general 21877
and for violations prosecuted by prosecuting attorneys that do not 21878
involve the transportation of brine by vehicle shall be deposited 21879
into the state treasury to the credit of the oil and gas well 21880
fund, which is hereby created. Fines imposed under divisions (C) 21881
and (D) of section 1509.99 of the Revised Code for violations 21882
prosecuted by prosecuting attorneys that involve the 21883

transportation of brine by vehicle and penalties associated with a 21884
compliance agreement entered into pursuant to this chapter shall 21885
be paid to the county treasury of the county where the violation 21886
occurred. 21887

The fund shall be used solely and exclusively for the 21888
purposes enumerated in division (B) of section 1509.071 of the 21889
Revised Code, for the expenses of the division associated with the 21890
administration of this chapter and Chapter 1571. of the Revised 21891
Code and rules adopted under them, and for expenses that are 21892
critical and necessary for the protection of human health and 21893
safety and the environment related to oil and gas production in 21894
this state. The expenses of the division in excess of the moneys 21895
available in the fund shall be paid from general revenue fund 21896
appropriations to the department. 21897

Sec. 1509.06. (A) An application for a permit to drill a new 21898
well, drill an existing well deeper, reopen a well, convert a well 21899
to any use other than its original purpose, or plug back a well to 21900
a different source of supply, including associated production 21901
operations, shall be filed with the chief of the division of oil 21902
and gas resources management upon such form as the chief 21903
prescribes and shall contain each of the following that is 21904
applicable: 21905

(1) The name and address of the owner and, if a corporation, 21906
the name and address of the statutory agent; 21907

(2) The signature of the owner or the owner's authorized 21908
agent. When an authorized agent signs an application, it shall be 21909
accompanied by a certified copy of the appointment as such agent. 21910

(3) The names and addresses of all persons holding the 21911
royalty interest in the tract upon which the well is located or is 21912
to be drilled or within a proposed drilling unit; 21913

(4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county; 21914
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(5) Designation of the well by name and number; 21917

(6)(a) The geological formation to be tested or used and the proposed total depth of the well; 21918
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(b) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected. 21920
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(7) The type of drilling equipment to be used; 21923

(8)(a) An identification, to the best of the owner's knowledge, of each proposed source of ground water and surface water that will be used in the production operations of the well. The identification of each proposed source of water shall indicate if the water will be withdrawn from the Lake Erie watershed or the Ohio river watershed. In addition, the owner shall provide, to the best of the owner's knowledge, the proposed estimated rate and volume of the water withdrawal for the production operations. If recycled water will be used in the production operations, the owner shall provide the estimated volume of recycled water to be used. The owner shall submit to the chief an update of any of the information that is required by division (A)(8)(a) of this section if any of that information changes before the chief issues a permit for the application. 21924
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(b) Except as provided in division (A)(8)(c) of this section, for an application for a permit to drill a new well within an urbanized area, the results of sampling of water wells within three hundred feet of the proposed well prior to commencement of drilling. In addition, the owner shall include a list that identifies the location of each water well where the owner of the property on which the water well is located denied the owner 21938
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access to sample the water well. The sampling shall be conducted 21945
in accordance with the guidelines established in "Best Management 21946
Practices For Pre-drilling Water Sampling" in effect at the time 21947
that the application is submitted. The division shall furnish 21948
those guidelines upon request and shall make them available on the 21949
division's web site. If the chief determines that conditions at 21950
the proposed well site warrant a revision, the chief may revise 21951
the distance established in this division for purposes of 21952
pre-drilling water sampling. 21953

(c) For an application for a permit to drill a new horizontal 21954
well, the results of sampling of water wells within one thousand 21955
five hundred feet of the proposed horizontal wellhead prior to 21956
commencement of drilling. In addition, the owner shall include a 21957
list that identifies the location of each water well where the 21958
owner of the property on which the water well is located denied 21959
the owner access to sample the water well. The sampling shall be 21960
conducted in accordance with the guidelines established in "Best 21961
Management Practices For Pre-drilling Water Sampling" in effect at 21962
the time that the application is submitted. The division shall 21963
furnish those guidelines upon request and shall make them 21964
available on the division's web site. If the chief determines that 21965
conditions at the proposed well site warrant a revision, the chief 21966
may revise the distance established in this division for purposes 21967
of pre-drilling water sampling. 21968

(9) For an application for a permit to drill a new well 21969
within an urbanized area, a sworn statement that the applicant has 21970
provided notice by regular mail of the application to the owner of 21971
each parcel of real property that is located within five hundred 21972
feet of the surface location of the well and to the executive 21973
authority of the municipal corporation or the board of township 21974
trustees of the township, as applicable, in which the well is to 21975
be located. In addition, the notice shall contain a statement that 21976

informs an owner of real property who is required to receive the 21977
notice under division (A)(9) of this section that within five days 21978
of receipt of the notice, the owner is required to provide notice 21979
under section 1509.60 of the Revised Code to each residence in an 21980
occupied dwelling that is located on the owner's parcel of real 21981
property. The notice shall contain a statement that an application 21982
has been filed with the division of oil and gas resources 21983
management, identify the name of the applicant and the proposed 21984
well location, include the name and address of the division, and 21985
contain a statement that comments regarding the application may be 21986
sent to the division. The notice may be provided by hand delivery 21987
or regular mail. The identity of the owners of parcels of real 21988
property shall be determined using the tax records of the 21989
municipal corporation or county in which a parcel of real property 21990
is located as of the date of the notice. 21991

(10) A plan for restoration of the land surface disturbed by 21992
drilling operations. The plan shall provide for compliance with 21993
the restoration requirements of division (A) of section 1509.072 21994
of the Revised Code and any rules adopted by the chief pertaining 21995
to that restoration. 21996

(11)(a) A description by name or number of the county, 21997
township, and municipal corporation roads, streets, and highways 21998
that the applicant anticipates will be used for access to and 21999
egress from the well site; 22000

(b) For an application for a permit for a horizontal well, a 22001
copy of an agreement concerning maintenance and safe use of the 22002
roads, streets, and highways described in division (A)(11)(a) of 22003
this section entered into on reasonable terms with the public 22004
official that has the legal authority to enter into such 22005
maintenance and use agreements for each county, township, and 22006
municipal corporation, as applicable, in which any such road, 22007
street, or highway is located or an affidavit on a form prescribed 22008

by the chief attesting that the owner attempted in good faith to 22009
enter into an agreement under division (A)(11)(b) of this section 22010
with the applicable public official of each such county, township, 22011
or municipal corporation, but that no agreement was executed. 22012

(12) Such other relevant information as the chief prescribes 22013
by rule. 22014

Each application shall be accompanied by a map, on a scale 22015
not smaller than four hundred feet to the inch, prepared by an 22016
Ohio registered surveyor, showing the location of the well and 22017
containing such other data as may be prescribed by the chief. If 22018
the well is or is to be located within the excavations and 22019
workings of a mine, the map also shall include the location of the 22020
mine, the name of the mine, and the name of the person operating 22021
the mine. 22022

(B) The chief shall cause a copy of the weekly circular 22023
prepared by the division to be provided to the county engineer of 22024
each county that contains active or proposed drilling activity. 22025
The weekly circular shall contain, in the manner prescribed by the 22026
chief, the names of all applicants for permits, the location of 22027
each well or proposed well, the information required by division 22028
(A)(11) of this section, and any additional information the chief 22029
prescribes. In addition, the chief promptly shall transfer an 22030
electronic copy or facsimile, or if those methods are not 22031
available to a municipal corporation or township, a copy via 22032
regular mail, of a drilling permit application to the clerk of the 22033
legislative authority of the municipal corporation or to the clerk 22034
of the township in which the well or proposed well is or is to be 22035
located if the legislative authority of the municipal corporation 22036
or the board of township trustees has asked to receive copies of 22037
such applications and the appropriate clerk has provided the chief 22038
an accurate, current electronic mailing address or facsimile 22039
number, as applicable. 22040

(C)(1) Except as provided in division (C)(2) of this section, 22041
the chief shall not issue a permit for at least ten days after the 22042
date of filing of the application for the permit unless, upon 22043
reasonable cause shown, the chief waives that period or a request 22044
for expedited review is filed under this section. However, the 22045
chief shall issue a permit within twenty-one days of the filing of 22046
the application unless the chief denies the application by order. 22047

(2) If the location of a well or proposed well will be or is 22048
within an urbanized area, the chief shall not issue a permit for 22049
at least eighteen days after the date of filing of the application 22050
for the permit unless, upon reasonable cause shown, the chief 22051
waives that period or the chief at the chief's discretion grants a 22052
request for an expedited review. However, the chief shall issue a 22053
permit for a well or proposed well within an urbanized area within 22054
thirty days of the filing of the application unless the chief 22055
denies the application by order. 22056

(D) An applicant may file a request with the chief for 22057
expedited review of a permit application if the well is not or is 22058
not to be located in a gas storage reservoir or reservoir 22059
protective area, as "reservoir protective area" is defined in 22060
section 1571.01 of the Revised Code. If the well is or is to be 22061
located in a coal bearing township, the application shall be 22062
accompanied by the affidavit of the landowner prescribed in 22063
section 1509.08 of the Revised Code. 22064

In addition to a complete application for a permit that meets 22065
the requirements of this section and the permit fee prescribed by 22066
this section, a request for expedited review shall be accompanied 22067
by a separate nonrefundable filing fee of two hundred fifty 22068
dollars. Upon the filing of a request for expedited review, the 22069
chief shall cause the county engineer of the county in which the 22070
well is or is to be located to be notified of the filing of the 22071
permit application and the request for expedited review by 22072

telephone or other means that in the judgment of the chief will 22073
provide timely notice of the application and request. The chief 22074
shall issue a permit within seven days of the filing of the 22075
request unless the chief denies the application by order. 22076

Notwithstanding the provisions of this section governing expedited 22077
review of permit applications, the chief may refuse to accept 22078
requests for expedited review if, in the chief's judgment, the 22079
acceptance of the requests would prevent the issuance, within 22080
twenty-one days of their filing, of permits for which applications 22081
are pending. 22082

(E) A well shall be drilled and operated in accordance with 22083
the plans, sworn statements, and other information submitted in 22084
the approved application. 22085

(F) The chief shall issue an order denying a permit if the 22086
chief finds that there is a substantial risk that the operation 22087
will result in violations of this chapter or rules adopted under 22088
it that will present an imminent danger to public health or safety 22089
or damage to the environment, provided that where the chief finds 22090
that terms or conditions to the permit can reasonably be expected 22091
to prevent such violations, the chief shall issue the permit 22092
subject to those terms or conditions, including, if applicable, 22093
terms and conditions regarding subjects identified in rules 22094
adopted under section 1509.03 of the Revised Code. The issuance of 22095
a permit shall not be considered an order of the chief. 22096

The chief shall post notice of each permit that has been 22097
approved under this section on the division's web site not later 22098
than two business days after the application for a permit has been 22099
approved. 22100

(G) Each application for a permit required by section 1509.05 22101
of the Revised Code, except an application to plug back an 22102
existing well that is required by that section and an application 22103
for a well drilled or reopened for purposes of section 1509.22 of 22104

the Revised Code, also shall be accompanied by a nonrefundable fee 22105
as follows: 22106

(1) Five hundred dollars for a permit to conduct activities 22107
in a township with a population of fewer than ten thousand; 22108

(2) Seven hundred fifty dollars for a permit to conduct 22109
activities in a township with a population of ten thousand or 22110
more, but fewer than fifteen thousand; 22111

(3) One thousand dollars for a permit to conduct activities 22112
in either of the following: 22113

(a) A township with a population of fifteen thousand or more; 22114

(b) A municipal corporation regardless of population. 22115

(4) If the application is for a permit that requires 22116
mandatory pooling, an additional five thousand dollars. 22117

For purposes of calculating fee amounts, populations shall be 22118
determined using the most recent federal decennial census. 22119

Each application for the revision or reissuance of a permit 22120
shall be accompanied by a nonrefundable fee of two hundred fifty 22121
dollars. 22122

(H)(1) Prior to the commencement of well pad construction and 22123
prior to the issuance of a permit to drill a proposed horizontal 22124
well or a proposed well that is to be located in an urbanized 22125
area, the division shall conduct a site review to identify and 22126
evaluate any site-specific terms and conditions that may be 22127
attached to the permit. At the site review, a representative of 22128
the division shall consider fencing, screening, and landscaping 22129
requirements, if any, for similar structures in the community in 22130
which the well is proposed to be located. The terms and conditions 22131
that are attached to the permit shall include the establishment of 22132
fencing, screening, and landscaping requirements for the surface 22133
facilities of the proposed well, including a tank battery of the 22134

well. 22135

(2) Prior to the issuance of a permit to drill a proposed 22136
well, the division shall conduct a review to identify and evaluate 22137
any site-specific terms and conditions that may be attached to the 22138
permit if the proposed well will be located in a one-hundred-year 22139
floodplain or within the five-year time of travel associated with 22140
a public drinking water supply. 22141

(I) A permit shall be issued by the chief in accordance with 22142
this chapter. A permit issued under this section for a well that 22143
is or is to be located in an urbanized area shall be valid for 22144
twelve months, and all other permits issued under this section 22145
shall be valid for twenty-four months. 22146

(J) An applicant or a permittee, as applicable, shall submit 22147
to the chief an update of the information that is required under 22148
division (A)(8)(a) of this section if any of that information 22149
changes prior to commencement of production operations. 22150

(K) A permittee or a permittee's authorized representative 22151
shall notify an inspector from the division at least twenty-four 22152
hours, or another time period agreed to by the chief's authorized 22153
representative, prior to the commencement of well pad construction 22154
and of drilling, reopening, converting, well stimulation, or 22155
plugback operations. 22156

(L) A permittee for a horizontal well shall pay a fee of 22157
twenty-five thousand dollars to the county treasurer of the county 22158
in which the horizontal well will be located, and notify the 22159
treasurer of the parcel number of such well, before the permittee 22160
begins construction of the well pad on which the well will be 22161
situated. The permittee shall pay an additional fee of twenty-five 22162
thousand dollars to the county treasurer for each subsequent well 22163
drilled on the same well pad, which shall be paid prior to the 22164
commencement of drilling the well. The permittee shall notify the 22165

treasurer of the parcel number of the subsequent well at the time 22166
of paying the additional fee for the well. The county treasurer 22167
shall deposit the money in accordance with section 321.49 of the 22168
Revised Code. 22169

Sec. 1509.062. (A)(1) The owner of a well that has not been 22170
completed, a well that has not produced within one year after 22171
completion, ~~or~~ an existing well that is not a horizontal well and 22172
that has no reported production for two consecutive reporting 22173
periods as reported in accordance with section 1509.11 of the 22174
Revised Code, or an existing horizontal well that has no reported 22175
production for eight consecutive reporting periods as reported in 22176
accordance with section 1509.11 of the Revised Code shall plug the 22177
well in accordance with section 1509.12 of the Revised Code, 22178
obtain temporary inactive well status for the well in accordance 22179
with this section, or perform another activity regarding the well 22180
that is approved by the chief of the division of oil and gas 22181
resources management. 22182

(2) If a well has a reported annual production that is less 22183
than one hundred thousand cubic feet of natural gas or fifteen 22184
barrels of crude oil, or a combination thereof, the chief may 22185
require the owner of the well to submit an application for 22186
temporary inactive well status under this section for the well. 22187

(B) In order for the owner of a well to submit an application 22188
for temporary inactive well status for the well under this 22189
division, the owner and the well shall be in compliance with this 22190
chapter and rules adopted under it, any terms and conditions of 22191
the permit for the well, and applicable orders issued by the 22192
chief. An application for temporary inactive status for a well 22193
shall be submitted to the chief on a form prescribed and provided 22194
by the chief and shall contain all of the following: 22195

(1) The owner's name and address and, if the owner is a 22196

corporation, the name and address of the corporation's statutory agent; 22197
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(2) The signature of the owner or of the owner's authorized agent. When an authorized agent signs an application, the application shall be accompanied by a certified copy of the appointment as such agent. 22199
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(3) The permit number assigned to the well. If the well has not been assigned a permit number, the chief shall assign a permit number to the well. 22203
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(4) A map, on a scale not smaller than four hundred feet to the inch, that shows the location of the well and the tank battery, that includes the latitude and longitude of the well, and that contains all other data that are required by the chief; 22206
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(5) A demonstration that the well is of future utility and that the applicant has a viable plan to utilize the well within a reasonable period of time; 22210
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(6) A demonstration that the well poses no threat to the health or safety of persons, property, or the environment; 22213
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(7) Any other relevant information that the chief prescribes by rule. 22215
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The chief may waive any of the requirements established in divisions (B)(1) to (6) of this section if the division of oil and gas resources management possesses a current copy of the information or document that is required in the applicable division. 22217
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(C) Upon receipt of an application for temporary inactive well status, the chief shall review the application and shall either deny the application by issuing an order or approve the application. The chief shall approve the application only if the chief determines that the well that is the subject of the 22222
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application poses no threat to the health or safety of persons, 22227
property, or the environment. If the chief approves the 22228
application, the chief shall notify the applicant of the chief's 22229
approval. Upon receipt of the chief's approval, the owner shall 22230
shut in the well and empty all liquids and gases from all storage 22231
tanks, pipelines, and other equipment associated with the well. In 22232
addition, the owner shall maintain the well, other equipment 22233
associated with the well, and the surface location of the well in 22234
a manner that prevents hazards to the health and safety of people 22235
and the environment. The owner shall inspect the well at least 22236
every six months and submit to the chief within fourteen days 22237
after the inspection a record of inspection on a form prescribed 22238
and provided by the chief. 22239

(D) Not later than thirty days prior to the expiration of 22240
temporary inactive well status or a renewal of temporary inactive 22241
well status approved by the chief for a well, the owner of the 22242
well may submit to the chief an application for renewal of the 22243
temporary inactive well status on a form prescribed and provided 22244
by the chief. The application shall include a detailed plan that 22245
describes the ultimate disposition of the well, the time frames 22246
for that disposition, and any other information that the chief 22247
determines is necessary. The chief shall either deny an 22248
application by order or approve the application. If the chief 22249
approves the application, the chief shall notify the owner of the 22250
well of the chief's approval. 22251

(E) An application for temporary inactive well status shall 22252
be accompanied by a nonrefundable fee of one hundred dollars. An 22253
application for a renewal of temporary inactive well status shall 22254
be accompanied by a nonrefundable fee of two hundred fifty dollars 22255
for the first renewal and five hundred dollars for each subsequent 22256
renewal. 22257

(F) After a third renewal, the chief may require an owner to 22258

provide a surety bond in an amount not to exceed ten thousand 22259
dollars for each of the owner's wells that has been approved by 22260
the chief for temporary inactive well status. 22261

(G) Temporary inactive well status approved by the chief 22262
expires one year after the date of approval of the application for 22263
temporary inactive well status or production from the well 22264
commences, whichever occurs sooner. In addition, a renewal of a 22265
temporary inactive well status expires one year after the 22266
expiration date of the initial temporary inactive well status or 22267
one year after the expiration date of the previous renewal of the 22268
temporary inactive well status, as applicable, or production from 22269
the well commences, whichever occurs sooner. 22270

(H) The owner of a well that has been approved by the chief 22271
for temporary inactive well status may commence production from 22272
the well at any time. Not later than sixty days after the 22273
commencement of production from such a well, the owner shall 22274
notify the chief of the commencement of production. 22275

(I) This chapter and rules adopted under it, any terms and 22276
conditions of the permit for a well, and applicable orders issued 22277
by the chief apply to a well that has been approved by the chief 22278
for temporary inactive well status or renewal of that status. 22279

Sec. 1509.074. (A) With regard to material that is used in or 22280
results from the construction, operation, or plugging of a 22281
horizontal well, all of the following apply: 22282

(1) Except as provided in division (A)(2) of this section, 22283
the owner shall determine the concentration of radium-226 and of 22284
radium-228 in the material if the material is technologically 22285
enhanced naturally occurring radioactive material. The owner shall 22286
provide for the collection and analysis of representative samples 22287
of the material. The collection and analysis of the samples shall 22288
be performed in accordance with requirements approved by the 22289

director of health. The owner shall not remove the material from 22290
the location associated with the production operation of the 22291
horizontal well until the analysis is complete and the results are 22292
available. However, the owner may temporarily store the material 22293
in an area adjacent to the location associated with the production 22294
operation of the well while the results from the analysis of the 22295
samples are pending if the material is located in an area that is 22296
designated by the division of oil and gas resources management and 22297
the owner complies with all conditions imposed by the chief of the 22298
division of oil and gas resources management. 22299

(2) The owner is not required to determine the concentration 22300
of radium-226 and of radium-228 of the material that is 22301
technologically enhanced naturally occurring radioactive material 22302
if the material is reused in the horizontal well from where it 22303
originated or is transferred to another site for reuse in a 22304
horizontal well. For purposes of this division, a material is 22305
reused if the material is used in a substantially similar manner 22306
as it was originally used. 22307

(3) Except as provided in division (A)(2) of this section, 22308
the owner shall transport and dispose of material that is 22309
technologically enhanced naturally occurring radioactive material 22310
in accordance with all applicable laws. 22311

(4) If the material is not technologically enhanced naturally 22312
occurring radioactive material and the material has come in 22313
contact with a refined oil-based substance, the owner shall do one 22314
of the following: 22315

(a) If the material is removed from the location associated 22316
with the production operation of the well, dispose of the material 22317
at a solid waste facility that is authorized to accept the 22318
material in accordance with Chapter 3734. of the Revised Code and 22319
rules adopted under it; 22320

(b) If the material is removed from the location associated with the production operation of the well, beneficially use the material in accordance with rules adopted by the director of environmental protection under section 3734.125 of the Revised Code; 22321
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(c) If the material is not removed from the location associated with the production operation of the well, recycle or reuse the material with the approval of the chief. 22326
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(5) If the material is not technologically enhanced naturally occurring radioactive material and the material has not come in contact with a refined oil-based substance, the material may remain at the location associated with the production operation of the horizontal well, and the owner may utilize the material at the site of the horizontal well. 22329
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(B) An owner who has obtained results under division (A)(1) of this section shall keep and maintain the results for a period of three years. In addition, the owner shall provide a copy of the results to the chief upon request. 22335
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(C) As used in this section: 22339

(1) "Technologically enhanced naturally occurring radioactive material" has the same meaning as in section 3748.01 of the Revised Code. 22340
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(2) "Owner" includes a person that is an authorized agent of an owner. 22343
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Sec. 1509.10. (A) Any person drilling within the state shall, 22345
within sixty days after the completion of drilling operations to 22346
the proposed total depth or after a determination that a well is a 22347
dry or lost hole, file with the division of oil and gas resources 22348
management all wireline electric logs and an accurate well 22349
completion record on a form that is prescribed by the chief of the 22350

division of oil and gas resources management that designates:	22351
	22352
(1) The purpose for which the well was drilled;	22353
(2) The character, depth, and thickness of geological units encountered, including coal seams, mineral beds, associated fluids such as fresh water, brine, and crude oil, natural gas, and sour gas, if such seams, beds, fluids, or gases are known;	22354
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(3) The dates on which drilling operations were commenced and completed;	22358
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(4) The types of drilling tools used and the name of the person that drilled the well;	22360
	22361
(5) The length in feet of the various sizes of casing and tubing used in drilling the well, the amount removed after completion, the type and setting depth of each packer, all other data relating to cementing in the annular space behind such casing or tubing, and data indicating completion as a dry, gas, oil, combination oil and gas, brine injection, or artificial brine well or a stratigraphic test;	22362
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(6) The number of perforations in the casing and the intervals of the perforations;	22369
	22370
(7) The elevation above mean sea level of the point from which the depth measurements were made, stating also the height of the point above ground level at the well, the total depth of the well, and the deepest geological unit that was penetrated in the drilling of the well;	22371
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(8) If applicable, the type, volume, and concentration of acid, and the date on which acid was used in acidizing the well;	22376
	22377
(9)(a) If applicable, the trade name and the total amount of all products, fluids, and substances, and the supplier of each product, fluid, or substance, not including cement and its	22378
	22379
	22380

constituents and lost circulation materials, intentionally added 22381
to facilitate the drilling of any portion of the well until the 22382
surface casing is set and properly sealed. The owner shall 22383
identify each additive used and provide a brief description of the 22384
purpose for which the additive is used. In addition, the owner 22385
shall include a list of all chemicals, not including any 22386
information that is designated as a trade secret pursuant to 22387
division (I)(1) of this section, intentionally added to all 22388
products, fluids, or substances and include each chemical's 22389
corresponding chemical abstracts service number and the maximum 22390
concentration of each chemical. The owner shall obtain the 22391
chemical information, not including any information that is 22392
designated as a trade secret pursuant to division (I)(1) of this 22393
section, from the company that drilled the well, provided service 22394
at the well, or supplied the chemicals. If the company that 22395
drilled the well, provided service at the well, or supplied the 22396
chemicals provides incomplete or inaccurate chemical information, 22397
the owner shall make reasonable efforts to obtain the required 22398
information from the company or supplier. 22399

(b) For purposes of division (A)(9)(a) of this section, if 22400
recycled fluid was used, the total volume of recycled fluid and 22401
the well that is the source of the recycled fluid or the 22402
centralized facility that is the source of the recycled fluid. 22403

(10)(a) If applicable, the type and volume of fluid, not 22404
including cement and its constituents or information that is 22405
designated as a trade secret pursuant to division (I)(1) of this 22406
section, used to stimulate the reservoir of the well, the 22407
reservoir breakdown pressure, the method used for the containment 22408
of fluids recovered from the fracturing of the well, the methods 22409
used for the containment of fluids when pulled from the wellbore 22410
from swabbing the well, the average pumping rate of the well, and 22411
the name of the person that performed the well stimulation. In 22412

addition, the owner shall include a copy of the log from the 22413
stimulation of the well, a copy of the invoice for each of the 22414
procedures and methods described in division (A)(10) of this 22415
section that were used on a well, and a copy of the pumping 22416
pressure and rate graphs. However, the owner may redact from the 22417
copy of each invoice that is required to be included under 22418
division (A)(10) of this section the costs of and charges for the 22419
procedures and methods described in division (A)(10) of this 22420
section that were used on a well. 22421

(b) If applicable, the trade name and the total volume of all 22422
products, fluids, and substances, and the supplier of each 22423
product, fluid, or substance used to stimulate the well. The owner 22424
shall identify each additive used, provide a brief description of 22425
the purpose for which the additive is used, and include the 22426
maximum concentration of the additive used. In addition, the owner 22427
shall include a list of all chemicals, not including any 22428
information that is designated as a trade secret pursuant to 22429
division (I)(1) of this section, intentionally added to all 22430
products, fluids, or substances and include each chemical's 22431
corresponding chemical abstracts service number and the maximum 22432
concentration of each chemical. The owner shall obtain the 22433
chemical information, not including any information that is 22434
designated as a trade secret pursuant to division (I)(1) of this 22435
section, from the company that stimulated the well or supplied the 22436
chemicals. If the company that stimulated the well or supplied the 22437
chemicals provides incomplete or inaccurate chemical information, 22438
the owner shall make reasonable efforts to obtain the required 22439
information from the company or supplier. 22440

(c) For purposes of division (A)(10)(b) of this section, if 22441
recycled fluid was used, the total volume of recycled fluid and 22442
the well that is the source of the recycled fluid or the 22443
centralized facility that is the source of the recycled fluid. 22444

(11) The name of the company that performed the logging of 22445
the well and the types of wireline electric logs performed on the 22446
well. 22447

The well completion record shall be submitted in duplicate. 22448
The first copy shall be retained as a permanent record in the 22449
files of the division, and the second copy shall be transmitted by 22450
the chief to the division of geological survey. 22451

(B)(1) Not later than sixty days after the completion of the 22452
drilling operations to the proposed total depth, the owner shall 22453
file all wireline electric logs with the division of oil and gas 22454
resources management and the chief shall transmit such logs 22455
electronically, if available, to the division of geological 22456
survey. Such logs may be retained by the owner for a period of not 22457
more than six months, or such additional time as may be granted by 22458
the chief in writing, after the completion of the well 22459
substantially to the depth shown in the application required by 22460
section 1509.06 of the Revised Code. 22461

(2) If a well is not completed within sixty days after the 22462
completion of drilling operations, the owner shall file with the 22463
division of oil and gas resources management a supplemental well 22464
completion record that includes all of the information required 22465
under this section within sixty days after the completion of the 22466
well. 22467

(3) After a well is initially completed and stimulated and 22468
until the well is plugged, the owner shall report, on a form 22469
prescribed by the chief, all materials placed into the formation 22470
to refracture, restimulate, or newly complete the well. The owner 22471
shall submit the information within sixty days after completing 22472
the refracturing, restimulation, or new completion. In addition, 22473
the owner shall report the information required in divisions 22474
(A)(10)(a) to (c) of this section, as applicable, in a manner 22475
consistent with the requirements established in this section. 22476

(C) Upon request in writing by the chief of the division of geological survey prior to the beginning of drilling of the well, the person drilling the well shall make available a complete set of cuttings accurately identified as to depth.

(D) The form of the well completion record required by this section shall be one that has been prescribed by the chief of the division of oil and gas resources management and the chief of the division of geological survey. The filing of a log as required by this section fulfills the requirement of filing a log with the chief of the division of geological survey in section 1505.04 of the Revised Code.

(E) If a material listed or designated under division (A)(9) or (10) or (B)(3) of this section is a material for which the division of oil and gas resources management does not have a material safety data sheet, the owner shall provide a copy of the material safety data sheet for the material to the chief.

(F) An owner shall submit to the chief the information that is required in divisions (A)(10)(b) and (c) and (B)(3) of this section consistent with the requirements established in this section using one of the following methods:

(1) On a form prescribed by the chief;

(2) Through the chemical disclosure registry that is maintained by the ground water protection council and the interstate oil and gas compact commission;

(3) Any other means approved by the chief.

(G) The chief shall post on the division's web site each material safety data sheet obtained under division (E) of this section. In addition, the chief shall make available through the division's web site the chemical information that is required by divisions (A)(9) and (10) and (B)(3) of this section.

(H)(1) If a medical professional, in order to assist in the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well, requests the exact chemical composition of each product, fluid, or substance and of each chemical component in a product, fluid, or substance that is designated as a trade secret pursuant to division (I) of this section, the person claiming the trade secret protection pursuant to that division shall provide to the medical professional the exact chemical composition of the product, fluid, or substance and of the chemical component in a product, fluid, or substance that is requested.

(2) A medical professional who receives information pursuant to division (H)(1) of this section shall keep the information confidential and shall not disclose the information for any purpose that is not related to the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well. Nothing in division (H)(2) of this section precludes a medical professional from making any report required by law or professional ethical standards.

(I)(1) The owner of a well who is required to submit a well completion record under division (A) of this section or a report under division (B)(3) of this section or a person that provides information to the owner as described in and for purposes of division (A)(9) or (10) or (B)(3) of this section may designate without disclosing on a form prescribed by the chief and withhold from disclosure to the chief the identity, amount, concentration, or purpose of a product, fluid, or substance or of a chemical component in a product, fluid, or substance as a trade secret. The owner or person may pursue enforcement of any rights or remedies established in sections 1333.61 to 1333.69 of the Revised Code for misappropriation, as defined in section 1333.61 of the Revised Code, with respect to the identity, amount, concentration, or

purpose of a product, fluid, or substance or a chemical component 22539
in a product, fluid, or substance designated as a trade secret 22540
pursuant to division (I)(1) of this section. The division shall 22541
not disclose information regarding the identity, amount, 22542
concentration, or purpose of any product, fluid, or substance or 22543
of any chemical component in a product, fluid, or substance 22544
designated as a trade secret pursuant to division (I)(1) of this 22545
section. 22546

(2) A property owner, an adjacent property owner, or any 22547
person or agency of this state having an interest that is or may 22548
be adversely affected by a product, fluid, or substance or by a 22549
chemical component in a product, fluid, or substance may commence 22550
a civil action in the court of common pleas of Franklin county 22551
against an owner or person described in division (I)(1) of this 22552
section challenging the owner's or person's claim to entitlement 22553
to trade secret protection for the specific identity, amount, 22554
concentration, or purpose of a product, fluid, or substance or of 22555
a chemical component in a product, fluid, or substance pursuant to 22556
division (I)(1) of this section. A person who commences a civil 22557
action pursuant to division (I)(2) of this section shall provide 22558
notice to the chief in a manner prescribed by the chief. In the 22559
civil action, the court shall conduct an in camera review of 22560
information submitted by an owner or person described in division 22561
(I)(1) of this section to determine if the identity, amount, 22562
concentration, or purpose of a product, fluid, or substance or of 22563
a chemical component in a product, fluid, or substance pursuant to 22564
division (I)(1) of this section is entitled to trade secret 22565
protection. 22566

(J)(1) Except for any information that is designated as a 22567
trade secret pursuant to division (I)(1) of this section and 22568
except as provided in division (J)(2) of this section, the owner 22569
of a well shall maintain records of all chemicals placed in a well 22570

for a period of not less than two years after the date on which 22571
each such chemical was placed in the well. The chief may inspect 22572
the records at any time concerning any such chemical. 22573

(2) An owner or person who has designated the identity, 22574
amount, concentration, or purpose of a product, fluid, or 22575
substance or of a chemical component in a product, fluid, or 22576
substance as a trade secret pursuant to division (I)(1) of this 22577
section shall maintain the records for such a product, fluid, or 22578
substance or for a chemical component in a product, fluid, or 22579
substance for a period of not less than two years after the date 22580
on which each such product, fluid, or substance or each such 22581
chemical component in a product, fluid, or substance was placed in 22582
the well. Upon the request of the chief, the owner or person, as 22583
applicable, shall disclose the records to the chief if the 22584
information is necessary to respond to a spill, release, or 22585
investigation. However, the chief shall not disclose the 22586
information that is designated as a trade secret. 22587

(K)(1) For purposes of correcting inaccuracies and 22588
incompleteness in chemical information required by divisions 22589
(A)(9) and (10) and (B)(3) of this section, an owner shall be 22590
considered in substantial compliance if the owner has made 22591
reasonable efforts to obtain the required information from the 22592
supplier. 22593

(2) For purposes of reporting under this section, an owner is 22594
not required to report chemicals that occur incidentally or in 22595
trace amounts. 22596

(L) As used in this section, the term "material safety data 22597
sheet" shall conform to any revision of or change in the term by 22598
the occupational safety and health administration in the United 22599
States department of labor. 22600

Sec. 1509.11. (A)(1) The owner of any well, including except 22601

a horizontal well, that is producing or capable of producing oil 22602
or gas shall file with the chief of the division of oil and gas 22603
resources management, on or before the thirty-first day of March, 22604
a statement of production of oil, gas, and brine for the last 22605
preceding calendar year in such form as the chief may prescribe. 22606
An owner that has more than one hundred such wells in this state 22607
shall submit electronically the statement of production in a 22608
format that is approved by the chief. The chief shall include on 22609
the form, at the minimum, a request for the submittal of the 22610
information that a person who is regulated under this chapter is 22611
required to submit under the "Emergency Planning and Community 22612
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and 22613
regulations adopted under it, and that the division of oil and gas 22614
resources management does not obtain through other reporting 22615
mechanisms. 22616

(2) The owner of any horizontal well that is producing or 22617
capable of producing oil or gas shall file with the chief, on or 22618
before the fifteenth day of the month following the close of each 22619
calendar quarter, a statement of production of oil, gas, 22620
condensate, and brine for the preceding calendar quarter in a form 22621
that the chief prescribes. In addition, the statement of 22622
production shall include the api gravity of the oil according to 22623
the standards for determining density of oil as established by the 22624
American petroleum institute in the *Manual of Petroleum* 22625
Measurement Standards and the British thermal unit measurement of 22626
the gas. An owner that has more than one hundred horizontal wells 22627
in this state shall submit electronically the statement of 22628
production in a format that is approved by the chief. The chief 22629
shall include on the form, at a minimum, a request for the 22630
submittal of the information that a person who is regulated under 22631
this chapter is required to submit under the "Emergency Planning 22632
and Community Right-To-Know Act of 1986," 100 Stat. 1728, 42 22633
U.S.C. 11001, and regulations adopted under it, and that the 22634

division does not obtain through other reporting mechanisms. 22635

(B) The Except for purposes of enforcement of this chapter, 22636
the chief shall not disclose information received from the 22637
department of taxation under division (C)(12) of section 5703.21 22638
of the Revised Code ~~until the related statement of production~~ 22639
~~required by division (A) of this section is filed with the chief.~~ 22640

(C) The owner of a well shall retain records substantiating a 22641
production report required in division (A) of this section, 22642
regardless if the well is transferred to a new owner or plugged, 22643
for a period of not less than seven years after the date on which 22644
the report was filed with the chief. The records shall include, 22645
without limitation, receipts, transfer vouchers, bills of lading, 22646
or other pertinent or similar records. Upon the request of the 22647
chief, the owner shall provide the records to the chief for 22648
inspection. 22649

Sec. 1509.22. (A) Except when acting in accordance with 22650
section 1509.226 of the Revised Code or in accordance with an 22651
order issued by the chief of the division of oil and gas resources 22652
management under division (C) of this section, no person shall 22653
place or cause to be placed in ground water or in or on the land 22654
or discharge or cause to be discharged in surface water brine, 22655
crude oil, natural gas, or other fluids associated with the 22656
exploration ~~or,~~ development, production, or plugging of oil and 22657
gas resources ~~in surface or ground water or in or on the land in~~ 22658
~~such quantities or in such manner as actually causes or could~~ 22659
~~reasonably be anticipated to cause either of the following:~~ 22660

(1) ~~Water used for consumption by humans or domestic animals~~ 22661
~~to exceed the standards of the Safe Drinking Water Act;~~ 22662

(2) ~~Damage or injury to public health or safety or the~~ 22663
~~environment.~~ 22664

(B)(1) No person shall store or dispose of brine in violation of a plan approved under division (A) of section 1509.222 or section 1509.226 of the Revised Code, in violation of a resolution submitted under section 1509.226 of the Revised Code, or in violation of rules or orders applicable to those plans or resolutions.

(2) No person who treats mechanically, chemically, or by another process brine or other waste fluids or substances associated with the exploration, development, production, or plugging of oil and gas resources shall transfer the brine or other waste fluids or substances that were so treated to another person for disposal in ground water or surface water or in or on the land unless the person receiving the brine or other waste fluids or substances for disposal has been issued an order or a permit under this section or section 1509.06 or 1509.21 of the Revised Code.

(C) ~~The chief of the division of oil and gas resources management~~ shall adopt rules and issue orders regarding storage and disposal of brine and other waste substances; however, the storage and disposal of brine and other waste substances and the chief's rules relating to storage and disposal are subject to all of the following standards:

(1) Brine ~~Except as provided in division (C)(2) of this section, brine~~ from any well ~~except an exempt Mississippian well~~ shall be disposed of only by injection as follows:

(a) By injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section; ~~by~~

(b) By surface application in accordance with section 1509.226 of the Revised Code; ~~in~~

(c) In association with a method of enhanced recovery as

provided in section 1509.21 of the Revised Code; ~~or by~~ 22696

~~(d) By any other methods~~ method not specified in divisions 22697
(C)(1)(a) to (c) of this section that is approved by an order of 22698
the chief ~~for testing or implementing a new technology or method~~ 22699
~~of disposal.~~ Brine 22700

(2) Brine from exempt Mississippian wells shall not be 22701
discharged directly into the waters of the state. 22702

~~(2)(3)~~ (3) Muds, cuttings, and other waste substances shall not 22703
be disposed of in violation of this chapter or any rule adopted 22704
under it. 22705

~~(3)(4)~~ (4) Pits or steel tanks shall be used as authorized by the 22706
chief for containing brine and other waste substances resulting 22707
from, obtained from, or produced in connection with drilling, well 22708
stimulation, reworking, reconditioning, plugging back, or plugging 22709
operations. The pits and steel tanks shall be liquid tight and 22710
constructed and maintained to prevent the escape of brine and 22711
other waste substances. 22712

~~(4)(5)~~ (5) A dike or pit may be used for spill prevention and 22713
control. A dike or pit so used shall be constructed and maintained 22714
to prevent the escape of brine and crude oil, and the reservoir 22715
within such a dike or pit shall be kept reasonably free of brine, 22716
crude oil, and other waste substances. 22717

~~(5) Earthen impoundments~~ (6) Impoundments constructed 22718
utilizing a synthetic liner pursuant to the division's 22719
specifications may be used for the temporary storage of fluids 22720
used in the construction, stimulation, or plugging of a well. 22721

~~(6)(7)~~ (7) No pit, ~~earthen impoundment,~~ or dike shall be used for 22722
the temporary storage of brine or other substances except in 22723
accordance with divisions ~~(C)(3) to (4)~~ (4) and (5) of this section. 22724

~~(7)(8)~~ (8) No pit or dike shall be used for the ultimate disposal 22725

of brine or other liquid waste substances. 22726

(D)(1) No person, without first having obtained a permit from 22727
the chief, shall inject brine or other waste substances resulting 22728
from, obtained from, or produced in connection with oil or gas 22729
drilling, exploration, or production into an underground formation 22730
unless a rule of the chief expressly authorizes the injection 22731
without a permit. The permit shall be in addition to any permit 22732
required by section 1509.05 of the Revised Code, and the permit 22733
application shall be accompanied by a permit fee of one thousand 22734
dollars. The chief shall adopt rules in accordance with Chapter 22735
119. of the Revised Code regarding the injection into wells of 22736
brine and other waste substances resulting from, obtained from, or 22737
produced in connection with oil or gas drilling, exploration, or 22738
production. The rules shall include provisions regarding all of 22739
the following: 22740

(a) Applications for and issuance of the permits required by 22741
this division; 22742

(b) Entry to conduct inspections and to examine and copy 22743
records to ascertain compliance with this division and rules, 22744
orders, and terms and conditions of permits adopted or issued 22745
under it; 22746

(c) The provision and maintenance of information through 22747
monitoring, recordkeeping, and reporting. In addition, the rules 22748
shall require the owner of an injection well who has been issued a 22749
permit under division (D) of this section to quarterly submit 22750
electronically to the chief information concerning each shipment 22751
of brine or other waste substances received by the owner for 22752
injection into the well. 22753

(d) The provision and electronic reporting quarterly of 22754
information concerning brine and other waste substances from a 22755
transporter that is registered under section 1509.222 of the 22756

Revised Code prior to the injection of the transported brine or other waste substances; 22757
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(e) Any other provisions in furtherance of the goals of this section and the Safe Drinking Water Act. 22759
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(2) The chief may adopt rules in accordance with Chapter 119. of the Revised Code authorizing tests to evaluate whether fluids or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure, which shall be conducted in accordance with methods prescribed in the rules or in accordance with conditions of the permit. In addition, the chief may adopt rules that do both of the following: 22761
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(a) Establish the total depth of a well for which a permit has been applied for or issued under this division; 22768
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(b) Establish requirements and procedures to protect public health and safety. 22770
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(3) To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. 22772
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(4) The chief may issue an order to the owner of a well in existence on ~~the effective date of this amendment~~ September 10, 2012, to make changes in the operation of the well in order to correct problems or to address safety concerns. 22783
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(5) This division and rules, orders, and terms and conditions 22787

of permits adopted or issued under it shall be construed to be no 22788
more stringent than required for compliance with the Safe Drinking 22789
Water Act unless essential to ensure that underground sources of 22790
drinking water will not be endangered. 22791

(E) The owner holding a permit, or an assignee or transferee 22792
who has assumed the obligations and liabilities imposed by this 22793
chapter and any rules adopted or orders issued under it pursuant 22794
to section 1509.31 of the Revised Code, and the operator of a well 22795
shall be liable for a violation of this section or any rules 22796
adopted or orders or terms or conditions of a permit issued under 22797
it. 22798

(F) An owner shall replace the water supply of the holder of 22799
an interest in real property who obtains all or part of the 22800
holder's supply of water for domestic, agricultural, industrial, 22801
or other legitimate use from an underground or surface source 22802
where the supply has been substantially disrupted by 22803
contamination, diminution, or interruption proximately resulting 22804
from the owner's oil or gas operation, or the owner may elect to 22805
compensate the holder of the interest in real property for the 22806
difference between the fair market value of the interest before 22807
the damage occurred to the water supply and the fair market value 22808
after the damage occurred if the cost of replacing the water 22809
supply exceeds this difference in fair market values. However, 22810
during the pendency of any order issued under this division, the 22811
owner shall obtain for the holder or shall reimburse the holder 22812
for the reasonable cost of obtaining a water supply from the time 22813
of the contamination, diminution, or interruption by the operation 22814
until the owner has complied with an order of the chief for 22815
compliance with this division or such an order has been revoked or 22816
otherwise becomes not effective. If the owner elects to pay the 22817
difference in fair market values, but the owner and the holder 22818
have not agreed on the difference within thirty days after the 22819

chief issues an order for compliance with this division, within 22820
ten days after the expiration of that thirty-day period, the owner 22821
and the chief each shall appoint an appraiser to determine the 22822
difference in fair market values, except that the holder of the 22823
interest in real property may elect to appoint and compensate the 22824
holder's own appraiser, in which case the chief shall not appoint 22825
an appraiser. The two appraisers appointed shall appoint a third 22826
appraiser, and within thirty days after the appointment of the 22827
third appraiser, the three appraisers shall hold a hearing to 22828
determine the difference in fair market values. Within ten days 22829
after the hearing, the appraisers shall make their determination 22830
by majority vote and issue their final determination of the 22831
difference in fair market values. The chief shall accept a 22832
determination of the difference in fair market values made by 22833
agreement of the owner and holder or by appraisers under this 22834
division and shall make and dissolve orders accordingly. This 22835
division does not affect in any way the right of any person to 22836
enforce or protect, under applicable law, the person's interest in 22837
water resources affected by an oil or gas operation. 22838

(G) In any action brought by the state for a violation of 22839
division (A) of this section involving any well at which annular 22840
disposal is used, there shall be a rebuttable presumption 22841
available to the state that the annular disposal caused the 22842
violation if the well is located within a one-quarter-mile radius 22843
of the site of the violation. 22844

(H)(1) There is levied on the owner of an injection well who 22845
has been issued a permit under division (D) of this section the 22846
following fees: 22847

(a) Five cents per barrel of each substance that is delivered 22848
to a well to be injected in the well when the substance is 22849
produced within the division of oil and gas resources management 22850
regulatory district in which the well is located or within an 22851

adjoining oil and gas resources management regulatory district; 22852

(b) Twenty cents per barrel of each substance that is 22853
delivered to a well to be injected in the well when the substance 22854
is not produced within the division of oil and gas resources 22855
management regulatory district in which the well is located or 22856
within an adjoining oil and gas resources management regulatory 22857
district. 22858

(2) The maximum number of barrels of substance per injection 22859
well in a calendar year on which a fee may be levied under 22860
division (H) of this section is five hundred thousand. If in a 22861
calendar year the owner of an injection well receives more than 22862
five hundred thousand barrels of substance to be injected in the 22863
owner's well and if the owner receives at least one substance that 22864
is produced within the division's regulatory district in which the 22865
well is located or within an adjoining regulatory district and at 22866
least one substance that is not produced within the division's 22867
regulatory district in which the well is located or within an 22868
adjoining regulatory district, the fee shall be calculated first 22869
on all of the barrels of substance that are not produced within 22870
the division's regulatory district in which the well is located or 22871
within an adjoining district at the rate established in division 22872
(H)(2) of this section. The fee then shall be calculated on the 22873
barrels of substance that are produced within the division's 22874
regulatory district in which the well is located or within an 22875
adjoining district at the rate established in division (H)(1) of 22876
this section until the maximum number of barrels established in 22877
division (H)(2) of this section has been attained. 22878

(3) The owner of an injection well who is issued a permit 22879
under division (D) of this section shall collect the fee levied by 22880
division (H) of this section on behalf of the division of oil and 22881
gas resources management and forward the fee to the division. The 22882
chief shall transmit all money received under division (H) of this 22883

section to the treasurer of state who shall deposit the money in 22884
the state treasury to the credit of the oil and gas well fund 22885
created in section 1509.02 of the Revised Code. The owner of an 22886
injection well who collects the fee levied by this division may 22887
retain up to three per cent of the amount that is collected. 22888

(4) The chief shall adopt rules in accordance with Chapter 22889
119. of the Revised Code establishing requirements and procedures 22890
for collection of the fee levied by division (H) of this section. 22891

Sec. 1509.226. (A) If a board of county commissioners, a 22892
board of township trustees, or the legislative authority of a 22893
municipal corporation wishes to permit the surface application of 22894
brine to roads, streets, highways, and other similar land surfaces 22895
it owns or has the right to control for control of dust or ice, it 22896
may adopt a resolution permitting such application as provided in 22897
this section. If a board or legislative authority does not adopt 22898
such a resolution, then no such surface application of brine is 22899
permitted on such roads, streets, highways, and other similar 22900
surfaces. If a board or legislative authority votes on a proposed 22901
resolution to permit such surface application of brine, but the 22902
resolution fails to receive the affirmative vote of a majority of 22903
the board or legislative authority, the board or legislative 22904
authority shall not adopt such a resolution for one year following 22905
the date on which the vote was taken. A board or legislative 22906
authority shall hold at least one public hearing on any proposal 22907
to permit surface application of brine under this division and may 22908
hold additional hearings. The board or legislative authority shall 22909
publish notice of the time and place of each such public hearing 22910
in a newspaper of general circulation in the political subdivision 22911
at least five days before the day on which the hearing is to be 22912
held. 22913

(B) If a board or legislative authority adopts a resolution 22914

permitting the surface application of brine to roads, streets, 22915
highways, and other similar land surfaces under division (A) of 22916
this section, the board or legislative authority shall, within 22917
thirty days after the adoption of the resolution, prepare and 22918
submit to the chief of the division of oil and gas resources 22919
management a copy of the resolution. Any department, agency, or 22920
instrumentality of this state or the United States that wishes to 22921
permit the surface application of brine to roads, streets, 22922
highways, and other similar land surfaces it owns or has a right 22923
to control shall prepare and submit guidelines for such 22924
application, but need not adopt a resolution under division (A) of 22925
this section permitting such surface application. 22926

All resolutions and guidelines shall be subject to the 22927
following standards: 22928

(1) Brine shall not be applied: 22929

(a) To a water-saturated surface; 22930

(b) Directly to vegetation near or adjacent to surfaces being 22931
treated; 22932

(c) Within twelve feet of structures crossing bodies of water 22933
or crossing drainage ditches; 22934

(d) Between sundown and sunrise, except for ice control. 22935

(2) The discharge of brine through the spreader bar shall 22936
stop when the application stops. 22937

(3) The applicator vehicle shall be moving at least five 22938
miles per hour at all times while the brine is being applied. 22939

(4) The maximum spreader bar nozzle opening shall be 22940
three-quarters of an inch in diameter. 22941

(5) The maximum uniform application rate of brine shall be 22942
three thousand gallons per mile on a twelve-foot-wide road or 22943
three gallons per sixty square feet on unpaved lots. 22944

(6) The applicator vehicle discharge valve shall be closed 22945
between the brine collection point and the specific surfaces that 22946
have been approved for brine application. 22947

(7) Any valves that provide for tank draining other than 22948
through the spreader bar shall be closed during the brine 22949
application and transport. 22950

(8) The angle of discharge from the applicator vehicle 22951
spreader bar shall not be greater than sixty degrees from the 22952
perpendicular to the unpaved surface. 22953

(9) Only the last twenty-five per cent of an applicator 22954
vehicle's contents shall be allowed to have a pressure greater 22955
than atmospheric pressure; therefore, the first seventy-five per 22956
cent of the applicator vehicle's contents shall be discharged 22957
under atmospheric pressure. 22958

(10) Only brine that is produced from a well that is not a 22959
horizontal well shall be allowed to be spread on a road. Fluids 22960
from the drilling of a well, flowback from the stimulation of a 22961
well, and other fluids used to treat a well shall not be spread on 22962
a road. 22963

If a resolution or guidelines contain only the standards 22964
listed in divisions (B)(1) to (10) of this section, without 22965
addition or qualification, the resolution or guidelines shall be 22966
deemed effective when submitted to the chief without further 22967
action by the chief. All other resolutions and guidelines shall 22968
comply with and be no less stringent than this chapter, rules 22969
concerning surface application that the chief shall adopt under 22970
division (C) of section 1509.22 of the Revised Code, and other 22971
rules of the chief. Within fifteen days after receiving such other 22972
resolutions and guidelines, the chief shall review them for 22973
compliance with the law and rules and disapprove them if they do 22974
not comply. 22975

The board, legislative authority, or department, agency, or instrumentality may revise and resubmit any resolutions or guidelines that the chief disapproves after each disapproval, and the chief shall again review and approve or disapprove them within fifteen days after receiving them. The board, legislative authority, or department, agency, or instrumentality may amend any resolutions or guidelines previously approved by the chief and submit them, as amended, to the chief. The chief shall receive, review, and approve or disapprove the amended resolutions or guidelines on the same basis and in the same time as original resolutions or guidelines. The board, legislative authority, or department, agency, or instrumentality shall not implement amended resolutions or guidelines until they are approved by the chief under this division.

(C) Any person, other than a political subdivision required to adopt a resolution under division (A) of this section or a department, agency, or instrumentality of this state or the United States, who owns or has a legal right or obligation to maintain a road, street, highway, or other similar land surface may file with the board of county commissioners a written plan for the application of brine to the road, street, highway, or other surface. The board need not approve any such plans, but if it approves a plan, the plan shall comply with this chapter, rules adopted thereunder, and the board's resolutions, if any. Disapproved plans may be revised and resubmitted for the board's approval. Approved plans may also be revised and submitted to the board. A plan or revised plan shall do all of the following:

- (1) Identify the sources of brine to be used under the plan;
- (2) Identify by name, address, and registration certificate, if applicable, any transporters of the brine;
- (3) Specifically identify the places to which the brine will be applied;

(4) Specifically describe the method, rate, and frequency of application. 23008
23009

(D) The board may attach terms and conditions to approval of a plan, or revised plan, and may revoke approval for any violation of this chapter, rules adopted thereunder, resolutions adopted by the board, or terms or conditions attached by the board. The board shall conduct at least one public hearing before approving a plan or revised plan, publishing notice of the time and place of each such public hearing in a newspaper of general circulation in the county at least five days before the day on which the hearing is to be held. The board shall record the filings of all plans and revised plans in its journal. The board shall approve, disapprove, or revoke approval of a plan or revised plan by the adoption of a resolution. Upon approval of a plan or revised plan, the board shall send a copy of the plan to the chief. Upon revoking approval of a plan or revised plan, the board shall notify the chief of the revocation. 23010
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(E) No person shall: 23025

(1) Apply brine to a water-saturated surface; 23026

(2) Apply brine directly to vegetation adjacent to the surface of roads, streets, highways, and other surfaces to which brine may be applied. 23027
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(F) Each political subdivision that adopts a resolution under divisions (A) and (B) of this section, each department, agency, or instrumentality of this state or the United States that submits guidelines under division (B) of this section, and each person who files a plan under divisions (C) and (D) of this section shall, on or before the fifteenth day of April of each year, file a report with the chief concerning brine applied within the person's or governmental entity's jurisdiction, including the quantities transported and the sources and application points during the last 23030
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preceding calendar year and such other information in such form as 23039
the chief requires. 23040

(G) Any political subdivision or department, agency, or 23041
instrumentality of this state or the United States that applies 23042
brine under this section may do so with its own personnel, 23043
vehicles, and equipment without registration under or compliance 23044
with section 1509.222 or 1509.223 of the Revised Code and without 23045
the necessity for filing the surety bond or other security 23046
required by section 1509.225 of the Revised Code. However, each 23047
such entity shall legibly identify vehicles used to apply brine 23048
with reflective paint in letters no less than four inches in 23049
height, indicating the word "brine" and that the vehicle is a 23050
vehicle of the political subdivision, department, agency, or 23051
instrumentality. Except as stated in this division, such entities 23052
shall transport brine in accordance with sections 1509.22 to 23053
1509.226 of the Revised Code. 23054

(H) A surface application plan filed for approval under 23055
division (C) of this section shall be accompanied by a 23056
nonrefundable fee of fifty dollars, which shall be credited to the 23057
general fund of the county. An approved plan is valid for one year 23058
from the date of its approval unless it is revoked before that 23059
time. An approved revised plan is valid for the remainder of the 23060
term of the plan it supersedes unless it is revoked before that 23061
time. Any person who has filed such a plan or revised plan and had 23062
it approved may renew it by refiling it in accordance with 23063
divisions (C) and (D) of this section within thirty days before 23064
any anniversary of the date on which the original plan was 23065
approved. The board shall notify the chief of renewals and 23066
nonrenewals of plans. Even if a renewed plan is approved under 23067
those divisions, the plan is not effective until notice is 23068
received by the chief, and until notice is received, the chief 23069
shall enforce this chapter and rules adopted thereunder with 23070

regard to the affected roads, streets, highways, and other similar 23071
land surfaces as if the plan had not been renewed. 23072

(I) A resolution adopted under division (A) of this section 23073
by a board or legislative authority shall be effective for one 23074
year following the date of its adoption and from month to month 23075
thereafter until the board or legislative authority, by 23076
resolution, terminates the authority granted in the original 23077
resolution. The termination shall be effective not less than seven 23078
days after enactment of the resolution, and a copy of the 23079
resolution shall be sent to the chief. 23080

Sec. 1509.31. (A) Whenever ~~the entire~~ an interest ~~of~~ in an 23081
oil and gas lease is assigned or otherwise transferred, the 23082
assignor or transferor shall ~~notify~~ provide written notification 23083
to the lessor and to the holders of the royalty interests, and, if 23084
a well or wells exist on the lease, to the division of oil and gas 23085
resources management, of the name and address of the assignee or 23086
transferee by certified mail, return receipt requested, not later 23087
than thirty days after the date of the assignment or transfer. In 23088
addition, the assignee or transferee of the oil and gas lease 23089
shall record in the office of the county recorder of the county in 23090
which the property that is subject to the lease is located a copy 23091
of the document used to assign or otherwise transfer the interest 23092
in the oil and gas lease. When notice of any such assignment or 23093
transfer is required to be provided to the division, it shall be 23094
provided on a form prescribed and provided by the division and 23095
verified by both the assignor or transferor and by the assignee or 23096
transferee and shall be accompanied by a nonrefundable fee of one 23097
hundred dollars for each well. The notice form applicable to 23098
assignments or transfers of a well to the owner of the surface 23099
estate of the tract on which the well is located shall contain a 23100
statement informing the landowner that the well may require 23101
periodic servicing to maintain its productivity; that, upon 23102

assignment or transfer of the well to the landowner, the landowner 23103
becomes responsible for compliance with the requirements of this 23104
chapter and rules adopted under it, including, without limitation, 23105
the proper disposal of brine obtained from the well, the plugging 23106
of the well when it becomes incapable of producing oil or gas, and 23107
the restoration of the well site; and that, upon assignment or 23108
transfer of the well to the landowner, the landowner becomes 23109
responsible for the costs of compliance with the requirements of 23110
this chapter and rules adopted under it and the costs for 23111
operating and servicing the well. 23112

(B) When the entire interest of a well is proposed to be 23113
assigned or otherwise transferred to the landowner for use as an 23114
exempt domestic well, the owner who has been issued a permit under 23115
this chapter for the well shall submit to the chief of the 23116
division of oil and gas resources management an application for 23117
the assignment or transfer that contains all documents that the 23118
chief requires and a nonrefundable fee of one hundred dollars. The 23119
application for such an assignment or transfer shall be prescribed 23120
and provided by the chief. The chief may approve the application 23121
if the application is accompanied by a copy of each document that 23122
the owner used to release of all of the each oil and gas leases 23123
lease that are is included in the applicable formation of the 23124
drilling unit, ~~the release is in a form such that~~ and a copy of a 23125
document in which the owner transfers the well ~~ownership merges~~ 23126
~~with the fee simple interest of~~ to the surface tract so that the 23127
well becomes a part of the title to the surface tract and runs 23128
with the land, and ~~the~~ each document of release and transfer of 23129
the well to the surface tract is in a form that may be recorded. 23130
However, if the owner of the well does not release ~~the~~ each oil 23131
and gas ~~leases~~ lease that is associated with the well that is 23132
proposed to be assigned or otherwise transferred or if ~~the fee~~ 23133
~~simple tract that results from the merger of the well ownership~~ 23134
~~with the fee simple interest of~~ the surface tract to which the 23135

well is transferred is less than five acres, the proposed exempt 23136
domestic well owner shall post a five thousand dollar bond with 23137
the division prior to the assignment or transfer of the well to 23138
ensure that the well will be properly plugged. The chief, for good 23139
cause, may modify the requirements of this section governing the 23140
assignment or transfer of the interests of a well to the 23141
landowner. Upon the assignment or transfer of the well, the owner 23142
of an exempt domestic well is not subject to the severance tax 23143
levied under section 5749.02 of the Revised Code, but is subject 23144
to all applicable fees established in this chapter. 23145

(C) The owner holding a permit under section 1509.05 of the 23146
Revised Code is responsible for all obligations and liabilities 23147
imposed by this chapter and any rules, orders, and terms and 23148
conditions of a permit adopted or issued under it, and no 23149
assignment or transfer by the owner relieves the owner of the 23150
obligations and liabilities until and unless the assignee or 23151
transferee files with the division the information described in 23152
divisions (A)(1), (2), (3), (4), (5), (10), (11), and (12) of 23153
section 1509.06 of the Revised Code; obtains liability insurance 23154
coverage required by section 1509.07 of the Revised Code, except 23155
when none is required by that section; and executes and files a 23156
surety bond, negotiable certificates of deposit or irrevocable 23157
letters of credit, or cash, as described in that section. Instead 23158
of a bond, but only upon acceptance by the chief, the assignee or 23159
transferee may file proof of financial responsibility, described 23160
in section 1509.07 of the Revised Code. Section 1509.071 of the 23161
Revised Code applies to the surety bond, cash, and negotiable 23162
certificates of deposit and irrevocable letters of credit 23163
described in this section. Unless the chief approves a 23164
modification, each assignee or transferee shall operate in 23165
accordance with the plans and information filed by the permit 23166
holder pursuant to section 1509.06 of the Revised Code. 23167

(D) If a mortgaged property that is being foreclosed is 23168
subject to an oil or gas lease, pipeline agreement, or other 23169
instrument related to the production or sale of oil or natural gas 23170
and the lease, agreement, or other instrument was recorded 23171
subsequent to the mortgage, and if the lease, agreement, or other 23172
instrument is not in default, the oil or gas lease, pipeline 23173
agreement, or other instrument, as applicable, has priority over 23174
all other liens, claims, or encumbrances on the property so that 23175
the oil or gas lease, pipeline agreement, or other instrument is 23176
not terminated or extinguished upon the foreclosure sale of the 23177
mortgaged property. If the owner of the mortgaged property was 23178
entitled to oil and gas royalties before the foreclosure sale, the 23179
oil or gas royalties shall be paid to the purchaser of the 23180
foreclosed property. 23181

Sec. 1509.34. (A)(1) If an owner fails to pay the fees 23182
imposed by this chapter, or if the chief of the division of oil 23183
and gas resources management incurs costs under division (E) of 23184
section 1509.071 of the Revised Code to correct conditions 23185
associated with the owner's well that the chief reasonably has 23186
determined are causing imminent health or safety risks, the 23187
division of oil and gas resources management shall have a priority 23188
lien against that owner's interest in the applicable well in front 23189
of all other creditors for the amount of any such unpaid fees and 23190
costs incurred. The chief shall file a statement in the office of 23191
the county recorder of the county in which the applicable well is 23192
located of the amount of the unpaid fees and costs incurred as 23193
described in this division. The statement shall constitute a lien 23194
on the owner's interest in the well as of the date of the filing. 23195
The lien shall remain in force so long as any portion of the lien 23196
remains unpaid or until the chief issues a certificate of release 23197
of the lien. If the chief issues a certificate of release of the 23198
lien, the chief shall file the certificate of release in the 23199

office of the applicable county recorder. 23200

(2) A lien imposed under division (A)(1) of this section 23201
shall be in addition to any lien imposed by the attorney general 23202
for failure to pay ~~the assessment imposed by section 1509.50 of~~ 23203
~~the Revised Code or~~ the tax levied under division (A)(5) ~~or~~ (6), 23204
(10), or (11) of section 5749.02 of the Revised Code, as 23205
applicable. 23206

(3) If the attorney general cannot collect from a severer or 23207
an owner for an outstanding balance ~~of amounts due under section~~ 23208
~~1509.50 of the Revised Code or~~ of unpaid taxes levied under 23209
division (A)(5) ~~or~~ (6), (10), or (11) of section 5749.02 of the 23210
Revised Code, as applicable, the tax commissioner may request the 23211
chief to impose a priority lien against the owner's interest in 23212
the applicable well. Such a lien has priority in front of all 23213
other creditors. 23214

(B) The chief promptly shall issue a certificate of release 23215
of a lien under either of the following circumstances: 23216

(1) Upon the repayment in full of the amount of unpaid fees 23217
imposed by this chapter or costs incurred by the chief under 23218
division (E) of section 1509.071 of the Revised Code to correct 23219
conditions associated with the owner's well that the chief 23220
reasonably has determined are causing imminent health or safety 23221
risks; 23222

(2) Any other circumstance that the chief determines to be in 23223
the best interests of the state. 23224

(C) The chief may modify the amount of a lien under this 23225
section. If the chief modifies a lien, the chief shall file a 23226
statement in the office of the county recorder of the applicable 23227
county of the new amount of the lien. 23228

(D) An owner regarding which the division has recorded a lien 23229

against the owner's interest in a well in accordance with this 23230
section shall not transfer a well, lease, or mineral rights to 23231
another owner or person until the chief issues a certificate of 23232
release for each lien against the owner's interest in the well. 23233

(E) All money from the collection of liens under this section 23234
shall be deposited in the state treasury to the credit of the oil 23235
and gas well fund created in section 1509.02 of the Revised Code. 23236

Sec. 1531.06. (A) The chief of the division of wildlife, with 23237
the approval of the director of natural resources, may acquire by 23238
gift, lease, purchase, or otherwise lands or surface rights upon 23239
lands and waters or surface rights upon waters for wild animals, 23240
fish or game management, preservation, propagation, and 23241
protection, outdoor and nature activities, public fishing and 23242
hunting grounds, and flora and fauna preservation. The chief, with 23243
the approval of the director, may receive by grant, devise, 23244
bequest, donation, or assignment evidences of indebtedness, the 23245
proceeds of which are to be used for the purchase of such lands or 23246
surface rights upon lands and waters or surface rights upon 23247
waters. 23248

(B)(1) The chief shall adopt rules for the protection of 23249
state-owned or leased lands and waters and property under the 23250
control of the division of wildlife against wrongful use or 23251
occupancy that will ensure the carrying out of the intent of this 23252
section, protect those lands, waters, and property from 23253
depredations, and preserve them from molestation, spoilation, 23254
destruction, or any improper use or occupancy thereof, including 23255
rules with respect to recreational activities and for the 23256
government and use of such lands, waters, and property. 23257

(2) The chief may adopt rules benefiting wild animals, fish 23258
or game management, preservation, propagation, and protection, 23259
outdoor and nature activities, public fishing and hunting grounds, 23260

and flora and fauna preservation, and regulating the taking and 23261
possession of wild animals on any lands or waters owned or leased 23262
or under the division's supervision and control and, for a 23263
specified period of years, may prohibit or recall the taking and 23264
possession of any wild animal on any portion of such lands or 23265
waters. The division clearly shall define and mark the boundaries 23266
of the lands and waters owned or leased or under its supervision 23267
and control upon which the taking of any wild animal is 23268
prohibited. 23269

(C) The chief, with the approval of the director, may acquire 23270
by gift, lease, or purchase land for the purpose of establishing 23271
state fish hatcheries and game farms and may erect on it buildings 23272
or structures that are necessary. 23273

The title to or lease of such lands and waters shall be taken 23274
by the chief in the name of the state. The lease or purchase price 23275
of all such lands and waters may be paid from hunting and trapping 23276
and fishing licenses and any other funds. 23277

(D) To provide more public recreation, stream and lake 23278
agreements for public fishing only may be obtained under rules 23279
adopted by the chief. 23280

(E) The chief, with the approval of the director, may 23281
establish user fees for the use of special public facilities or 23282
participation in special activities on lands and waters 23283
administered by the division. The special facilities and 23284
activities may include hunting or fishing on special designated 23285
public lands and waters intensively managed or stocked with 23286
artificially propagated game birds or fish, field trial 23287
facilities, wildlife nature centers, firearm ranges, boat mooring 23288
facilities, camping sites, and other similar special facilities 23289
and activities. The chief shall determine whether the user fees 23290
are refundable and shall ensure that that information is provided 23291
at the time the user fees are paid. 23292

(F) The chief, with the approval of the director, may enter 23293
into lease agreements for rental of concessions or other special 23294
projects situated on state-owned or leased lands or waters or 23295
other property under the division's control. The chief shall set 23296
and collect the fees for concession rentals or other special 23297
projects; regulate through contracts between the division and 23298
concessionaires the sale of tangible objects at concessions or 23299
other special projects; and keep a record of all such fee payments 23300
showing the amount received, from whom received, and for what 23301
purpose the fee was collected. 23302

(G) The chief may sell or donate conservation-related items 23303
or items that promote wildlife conservation, including, but not 23304
limited to, stamps, pins, badges, books, bulletins, maps, 23305
publications, calendars, and any other educational article or 23306
artifact pertaining to wild animals; sell confiscated or forfeited 23307
items; and sell surplus structures and equipment, and timber or 23308
crops from lands owned, administered, leased, or controlled by the 23309
division. The chief, with the approval of the director, also may 23310
engage in campaigns and special events that promote wildlife 23311
conservation by selling or donating wildlife-related materials, 23312
memberships, and other items of promotional value. 23313

(H) The chief may sell, lease, or transfer minerals or 23314
mineral rights, with the approval of the director, when the chief 23315
and the director determine it to be in the best interest of the 23316
state. Upon approval of the director, the chief may make, execute, 23317
and deliver contracts, including leases, to mine, drill, or 23318
excavate iron ore, stone, coal, salt, and other minerals, other 23319
than oil or gas, upon and under lands owned by the state and 23320
administered by the division to any person who complies with the 23321
terms of such a contract. No such contract shall be valid for more 23322
than fifty years from its effective date. Consideration for 23323
minerals and mineral rights shall be by rental or royalty basis as 23324

prescribed by the chief and payable as prescribed by contract. 23325
Moneys collected under this division shall be paid into the state 23326
treasury to the credit of the wildlife habitat fund created in 23327
section 1531.33 of the Revised Code. Contracts entered into under 23328
this division also may provide for consideration for minerals or 23329
mineral rights in the form of acquisition of lands as provided 23330
under divisions (A) and (C) of this section. 23331

(I) All moneys received under divisions (E), (F), and (G) of 23332
this section shall be paid into the state treasury to the credit 23333
of a fund that shall be used for the purposes outlined in section 23334
1533.15 of the Revised Code and for the management of other wild 23335
animals for their ecological and nonconsumptive recreational value 23336
or benefit. 23337

~~(J) The chief, with the approval of the director, may barter 23338
or sell wild animals to other states, state or federal agencies, 23339
and conservation or zoological organizations. Moneys received from 23340
the sale of wild animals shall be deposited into the wild animal 23341
fund created in section 1531.34 of the Revised Code. 23342~~

~~(K)~~ The chief shall adopt rules establishing standards and 23343
guidelines for the administration of contraceptive chemicals to 23344
noncaptive wild animals. The rules may specify chemical delivery 23345
methods and devices and monitoring requirements. 23346

The chief shall establish criteria for the issuance of and 23347
shall issue permits for the administration of contraceptive 23348
chemicals to noncaptive wild animals. No person shall administer 23349
contraceptive chemicals to noncaptive wild animals without a 23350
permit issued by the chief. 23351

~~(L)~~(K) All fees set by the chief under this section shall be 23352
approved by the wildlife council. 23353

~~(M)~~(L) Information contained in the wildlife diversity 23354
database that is established pursuant to division (B)(2) of this 23355

section and section 1531.25 of the Revised Code may be made 23356
available to any individual or public or private agency for 23357
research, educational, environmental, land management, or other 23358
similar purposes that are not detrimental to the conservation of a 23359
species or feature. Information regarding sensitive site locations 23360
of species that are listed pursuant to section 1531.25 of the 23361
Revised Code and of features that are included in the wildlife 23362
diversity database is not subject to section 149.43 of the Revised 23363
Code if the chief determines that the release of the information 23364
could be detrimental to the conservation of a species or feature. 23365

Sec. 1531.99. (A) Whoever violates section 1531.02 of the 23366
Revised Code, or any division rule, other than a rule adopted 23367
under section 1531.25 of the Revised Code, is guilty of a 23368
misdemeanor of the fourth degree. 23369

(B) Whoever violates section 1531.02 of the Revised Code 23370
concerning the taking or possession of deer or violates division 23371
~~(K)~~(J) of section 1531.06 or section 1531.07 or 1531.29 of the 23372
Revised Code is guilty of a misdemeanor of the third degree on a 23373
first offense; on each subsequent offense, that person is guilty 23374
of a misdemeanor of the first degree. 23375

(C) Whoever violates section 1531.25 of the Revised Code is 23376
guilty of a misdemeanor of the first degree. 23377

(D) Whoever violates section 1531.02 of the Revised Code 23378
concerning the buying, selling, or offering for sale of any wild 23379
animals or parts of wild animals, the minimum value of which 23380
animals or parts, in the aggregate, is one thousand dollars or 23381
more as established under section 1531.201 of the Revised Code, is 23382
guilty of a felony of the fifth degree. 23383

(E) A court that imposes sentence for a violation of any 23384
section of this chapter governing the holding, taking, buying, 23385
selling, or possession of wild animals, including, without 23386

limitation, section 1531.11 of the Revised Code, may require the 23387
person who is convicted of or pleads guilty to the offense, in 23388
addition to any fine, term of imprisonment, seizure, and 23389
forfeiture imposed, to make restitution for the minimum value of 23390
the wild animal illegally held, taken, bought, sold, or possessed 23391
as established under section 1531.201 of the Revised Code. An 23392
officer who collects moneys paid as restitution under this section 23393
shall pay those moneys to the treasurer of state who shall deposit 23394
them in the state treasury to the credit of the wildlife fund 23395
established under section 1531.17 of the Revised Code. 23396

Sec. 1541.03. All lands and waters dedicated and set apart 23397
for state park purposes shall be under the control and management 23398
of the division of parks and recreation, which shall protect, 23399
maintain, and keep them in repair. The division shall have the 23400
following powers over all such lands and waters: 23401

(A) To make alterations and improvements; 23402

(B) To construct and maintain dikes, wharves, landings, 23403
docks, dams, and other works; 23404

(C) To construct and maintain roads and drives in, around, 23405
upon, and to the lands and waters to make them conveniently 23406
accessible and useful to the public; 23407

(D) Except as otherwise provided in this section, to adopt, 23408
amend, and rescind, in accordance with Chapter 119. of the Revised 23409
Code, rules necessary for the proper management of state parks, 23410
bodies of water, and the lands adjacent to them under its 23411
jurisdiction and control, including the following: 23412

(1) Governing opening and closing times and dates of the 23413
parks; 23414

(2) Establishing fees and charges for use of facilities in 23415
state parks; 23416

(3) Governing camps, camping, and fees for camps and camping;	23417
(4) Governing the application for and rental of, rental fees for, and the use of cottages;	23418 23419
(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;	23420 23421 23422
(6) Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;	23423 23424 23425 23426 23427
(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are <u>that term is</u> defined in section 1547.01 of the Revised Code, over waters under the control of the division and establishing reasonable fees for the construction of and annual use permits for those structures and devices;	23428 23429 23430 23431 23432 23433 23434
(8) Governing state beaches, swimming, inflatable devices, and fees for them;	23435 23436
(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are <u>that term is</u> defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;	23437 23438 23439 23440 23441
(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.	23442 23443 23444
(E) To coordinate and plan trails in accordance with section 1519.03 of the Revised Code;	23445 23446

(F) To cooperate with the United States and agencies of it 23447
and with political subdivisions in administering federal 23448
recreation moneys under the "Land and Water Conservation Fund Act 23449
of 1965," 78 Stat. 897, 16 U.S.C. 4601-8, as amended; prepare and 23450
distribute the statewide comprehensive outdoor recreation plan; 23451
and administer the state recreational vehicle fund created in 23452
section 4519.11 of the Revised Code; 23453

(G) To administer any state or federally funded grant program 23454
that is related to natural resources and recreation as considered 23455
necessary by the director of natural resources; 23456

(H) To assist the department of natural resources and its 23457
divisions by providing department-wide planning, capital 23458
improvements planning, and special purpose planning. 23459

The division shall adopt rules under this section 23460
establishing a discount program for all persons who are issued a 23461
golden buckeye card under section 173.06 of the Revised Code. The 23462
discount program shall provide a discount for all park services 23463
and rentals, but shall not provide a discount for the purchase of 23464
merchandise. 23465

The division shall not adopt rules establishing fees or 23466
charges for parking a motor vehicle in a state park or for 23467
admission to a state park. 23468

Every resident of this state with a disability that has been 23469
determined by the veterans administration to be permanently and 23470
totally disabling, who receives a pension or compensation from the 23471
veterans administration, and who received an honorable discharge 23472
from the armed forces of the United States, and every veteran to 23473
whom the registrar of motor vehicles has issued a set of license 23474
plates under section 4503.41 of the Revised Code, shall be exempt 23475
from the fees for camping, provided that the resident or veteran 23476
carries in the state park such evidence of the resident's or 23477

veteran's disability as the chief prescribes by rule. 23478

Unless otherwise provided by division rule, every resident of 23479
this state who is sixty-five years of age or older or who is 23480
permanently and totally disabled and who furnishes evidence of 23481
that age or disability in a manner prescribed by division rule 23482
shall be charged one-half of the regular fee for camping, except 23483
on the weekends and holidays designated by the division, and shall 23484
not be charged more than ninety per cent of the regular charges 23485
for state recreational facilities, equipment, services, and food 23486
service operations utilized by the person at any time of year, 23487
whether maintained or operated by the state or leased for 23488
operation by another entity. 23489

As used in this section, "food service operations" means 23490
restaurants that are owned by the department of natural resources 23491
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state 23492
parks or are part of a state park lodge. "Food service operations" 23493
does not include automatic vending machines, concession stands, or 23494
snack bars. 23495

As used in this section, "prisoner of war" means any 23496
regularly appointed, enrolled, enlisted, or inducted member of the 23497
military forces of the United States who was captured, separated, 23498
and incarcerated by an enemy of the United States. Any person who 23499
has been a prisoner of war, was honorably discharged from the 23500
military forces, and is a resident of this state is exempt from 23501
the fees for camping. To claim this exemption, the person shall 23502
present written evidence in the form of a record of separation, a 23503
letter from one of the military forces of the United States, or 23504
such other evidence as the chief prescribes by rule that satisfies 23505
the eligibility criteria established by this section. 23506

~~Sec. 1545.071. The following applies until the department of 23507
administrative services implements for park districts the health 23508~~

~~care plans under section 9.901 of the Revised Code. If those plans 23509
do not include or address any benefits listed in this section, the 23510
following provisions continue in effect for those benefits. 23511~~

The board of park commissioners of any park district may 23512
procure and pay all or any part of the cost of group insurance 23513
policies that may provide benefits for hospitalization, surgical 23514
care, major medical care, disability, dental care, eye care, 23515
medical care, hearing aids, or prescription drugs, or sickness and 23516
accident insurance or a combination of any of the foregoing types 23517
of insurance or coverage for park district officers and employees 23518
and their immediate dependents issued by an insurance company duly 23519
authorized to do business in this state. 23520

The board may procure and pay all or any part of the cost of 23521
group life insurance to insure the lives of park district 23522
employees. 23523

The board also may contract for group health care services 23524
with health insuring corporations holding a certificate of 23525
authority under Chapter 1751. of the Revised Code provided that 23526
each officer or employee is permitted to: 23527

(A) Choose between a plan offered by an insurance company and 23528
a plan offered by a health insuring corporation and provided 23529
further that the officer or employee pays any amount by which the 23530
cost of the plan chosen by the officer or employee exceeds the 23531
cost of the plan offered by the board under this section; 23532

(B) Change the choice made under division (A) of this section 23533
at a time each year as determined in advance by the board. 23534

Any appointed member of the board of park commissioners and 23535
the spouse and dependent children of the member may be covered, at 23536
the option and expense of the member, as a noncompensated employee 23537
of the park district under any benefit plan described in division 23538
(A) of this section. The member shall pay to the park district the 23539

amount certified to it by the benefit provider as the provider's 23540
charge for the coverage the member has chosen under division (A) 23541
of this section. Payments for coverage shall be made, in advance, 23542
in a manner prescribed by the board. The member's exercise of an 23543
option to be covered under this section shall be in writing, 23544
announced at a regular public meeting of the board, and recorded 23545
as a public record in the minutes of the board. 23546

The board may provide the benefits authorized in this section 23547
by contributing to a health and welfare trust fund administered 23548
through or in conjunction with a collective bargaining 23549
representative of the park district employees. 23550

The board may provide the benefits described in this section 23551
through an individual self-insurance program or a joint 23552
self-insurance program as provided in section 9.833 of the Revised 23553
Code. 23554

Sec. 1547.01. As used in this chapter: 23555

(A) ~~As used in sections 1541.03, 1547.26, 1547.39, 1547.40,~~ 23556
~~1547.53, 1547.54, 1547.541, 1547.542, 1547.543, 1547.56, 1547.57,~~ 23557
~~1547.66, and 5311.01 of the Revised Code, "watercraft"~~ 23558
"Watercraft" means any ~~of the following when used or capable of~~ 23559
being used for transportation on the water vessel that is required 23560
to be registered under this chapter, including all of the 23561
following: 23562

(1) A vessel operated by machinery either permanently or 23563
temporarily affixed; 23564

(2) A sailboat ~~other than a sailboard~~ or other recreational 23565
vessel that is dependent on the wind to propel it in the normal 23566
course of operation; 23567

(3) An inflatable, manually propelled ~~boat~~ recreational 23568
vessel that is required by federal law to have a hull 23569

identification number meeting the requirements of the United States coast guard; 23570
23571

(4) A canoe ~~or~~, rowboat, or other recreational vessel that is propelled by human muscular effort using one or more oars, paddles, or poles. 23572
23573
23574

~~"Watercraft"~~ Notwithstanding any other provision to the contrary, "watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code, sailboards, kiteboards, paddleboards, and belly boats or float tubes. 23575
23576
23577
23578

Watercraft subject to ~~section 1547.54 of the Revised Code registration under this chapter~~ shall be divided into five classes as follows: 23579
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23581

Class A: Less than sixteen feet in length; 23582

Class 1: At least sixteen feet, but less than twenty-six feet in length; 23583
23584

Class 2: At least twenty-six feet, but less than forty feet in length; 23585
23586

Class 3: At least forty feet, but less than sixty-five feet in length; 23587
23588

Class 4: At least sixty-five feet in length. 23589

(B) ~~As used in this chapter:~~ 23590

~~(1)~~ "Vessel" includes every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water. 23591
23592
23593

~~(2)~~(C) "Rowboat" means any vessel, except a canoe or paddleboard, that is designed to be rowed and that is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel. 23594
23595
23596
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~~(3)~~(D) "Sailboat" means any vessel, equipped with mast and sails, except a sailboard, that is dependent upon the wind to propel it in the normal course of operation. 23600
23601
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~~(a)~~(1) Any sailboat equipped with an inboard engine is deemed a powercraft with auxiliary sail. 23603
23604

~~(b)~~(2) Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power. 23605
23606

~~(c)~~(3) Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation. 23607
23608
23609

~~(4)~~(E) "Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device. 23610
23611

~~(5)~~(F) "Person" includes any legal entity defined as a person in section 1.59 of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof. 23612
23613
23614
23615

~~(6)~~(G) "Owner" includes any person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to that possession. 23616
23617
23618

~~(7)~~(H) "Operator" includes any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state. 23619
23620
23621

~~(8)~~(I) "Visible" means visible on a dark night with clear atmosphere. 23622
23623

~~(9)~~(J) "Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating. 23624
23625
23626
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~~(10)~~(K) "Navigable waters" means waters that come under the 23629

jurisdiction of the department of the army of the United States 23630
and any waterways within or adjacent to this state, except inland 23631
lakes having neither a navigable inlet nor outlet. 23632

~~(11)~~(L) "In operation" in reference to a vessel means that 23633
the vessel is being navigated or otherwise used on the waters in 23634
this state. 23635

~~(12)~~(M) "Sewage" means human body wastes and the wastes from 23636
toilets and other receptacles intended to receive or retain body 23637
waste. 23638

~~(13)~~(N) "Canoe" means a narrow vessel of shallow draft, 23639
pointed at both ends and propelled by human muscular effort, and 23640
includes kayaks, racing shells, and rowing sculls. 23641

~~(14)~~(O) "Coast guard approved" means bearing an approval 23642
number assigned by the United States coast guard. 23643

~~(15)~~(P) "Type one personal flotation device" means a device 23644
that is designed to turn an unconscious person floating in water 23645
from a face downward position to a vertical or slightly face 23646
upward position and that has at least nine kilograms, 23647
approximately twenty pounds, of buoyancy. 23648

~~(16)~~(Q) "Type two personal flotation device" means a device 23649
that is designed to turn an unconscious person in the water from a 23650
face downward position to a vertical or slightly face upward 23651
position and that has at least seven kilograms, approximately 23652
fifteen and four-tenths pounds, of buoyancy. 23653

~~(17)~~(R) "Type three personal flotation device" means a device 23654
that is designed to keep a conscious person in a vertical or 23655
slightly face upward position and that has at least seven 23656
kilograms, approximately fifteen and four-tenths pounds, of 23657
buoyancy. 23658

~~(18)~~(S) "Type four personal flotation device" means a device 23659

that is designed to be thrown to a person in the water and not 23660
worn and that has at least seven and five-tenths kilograms, 23661
approximately sixteen and five-tenths pounds, of buoyancy. 23662

~~(19)~~(T) "Type five personal flotation device" means a device 23663
that, unlike other personal flotation devices, has limitations on 23664
its approval by the United States coast guard, including, without 23665
limitation, all of the following: 23666

~~(a)~~(1) The approval label on the type five personal flotation 23667
device indicates that the device is approved for the activity in 23668
which the vessel is being used or as a substitute for a personal 23669
flotation device of the type required on the vessel in use. 23670

~~(b)~~(2) The personal flotation device is used in accordance 23671
with any requirements on the approval label. 23672

~~(c)~~(3) The personal flotation device is used in accordance 23673
with requirements in its owner's manual if the approval label 23674
refers to such a manual. 23675

~~(20)~~(U) "Inflatable watercraft" means any vessel constructed 23676
of rubber, canvas, or other material that is designed to be 23677
inflated with any gaseous substance, constructed with two or more 23678
air cells, and operated as a vessel. Inflatable watercraft that is 23679
propelled by human muscular effort using an oar, paddle, or pole 23680
shall be classified as a rowboat and shall be registered by 23681
length. Inflatable watercraft that is propelled by a motor shall 23682
be classified as powercraft and shall be registered by length. 23683
Inflatable watercraft that is propelled by a sail shall be 23684
classified as a sailboat and shall be registered by length. 23685

~~(21)~~(V) "Idle speed" means the slowest possible speed needed 23686
to maintain steerage or maneuverability. 23687

~~(22)~~(W) "Diver's flag" means a red flag not less than one 23688
foot square having a diagonal white stripe extending from the 23689
masthead to the opposite lower corner that when displayed 23690

indicates that divers are in the water. 23691

~~(23)~~(X) "Muffler" means an acoustical suppression device or 23692
system that is designed and installed to abate the sound of 23693
exhaust gases emitted from an internal combustion engine and that 23694
prevents excessive or unusual noise. 23695

~~(24)~~(Y) "Law enforcement vessel" means any vessel used in law 23696
enforcement and under the command of a law enforcement officer. 23697

~~(25)~~(Z) "Personal watercraft" means a vessel, less than 23698
sixteen feet in length, that is propelled by machinery and 23699
designed to be operated by an individual sitting, standing, or 23700
kneeling on the vessel rather than by an individual sitting or 23701
standing inside the vessel. 23702

~~(26)~~(AA) "No wake" has the same meaning as "idle speed." 23703

~~(27)~~(BB) "Watercraft dealer" means any person who is 23704
regularly engaged in the business of manufacturing, selling, 23705
displaying, offering for sale, or dealing in vessels at an 23706
established place of business. "Watercraft dealer" does not 23707
include a person who is a marine salvage dealer or any other 23708
person who dismantles, salvages, or rebuilds vessels using used 23709
parts. 23710

~~(28)~~(CC) "Electronic" includes electrical, digital, magnetic, 23711
optical, electromagnetic, or any other form of technology that 23712
entails capabilities similar to these technologies. 23713

~~(29)~~(DD) "Electronic record" means a record generated, 23714
communicated, received, or stored by electronic means for use in 23715
an information system or for transmission from one information 23716
system to another. 23717

~~(30)~~(EE) "Electronic signature" means a signature in 23718
electronic form attached to or logically associated with an 23719
electronic record. 23720

~~(31)~~(FF) "Drug of abuse" has the same meaning as in section 23721
4506.01 of the Revised Code. 23722

~~(32)~~(GG) "Watercourse" means a substantially natural channel 23723
with recognized banks and bottom in which a flow of water occurs, 23724
with an average of at least ten feet mean surface water width and 23725
at least five miles of length. 23726

~~(33)~~(HH) "Impoundment" means the reservoir created by a dam 23727
or other artificial barrier across a watercourse that causes water 23728
to be stored deeper than and generally beyond the banks of the 23729
natural channel of the watercourse during periods of normal flow, 23730
but does not include water stored behind rock piles, rock riffle 23731
dams, and low channel dams where the depth of water is less than 23732
ten feet above the channel bottom and is essentially confined 23733
within the banks of the natural channel during periods of normal 23734
stream flow. 23735

~~(34)~~(II) "Wild river area" means an area declared a wild 23736
river area by the director of natural resources under this chapter 23737
and includes those rivers or sections of rivers that are free of 23738
impoundments and generally inaccessible except by trail, with 23739
watersheds or shorelines essentially primitive and waters 23740
unpolluted, representing vestiges of primitive America. 23741

~~(35)~~(JJ) "Scenic river area" means an area declared a scenic 23742
river area by the director under this chapter and includes those 23743
rivers or sections of rivers that are free of impoundments, with 23744
shorelines or watersheds still largely primitive and shorelines 23745
largely undeveloped, but accessible in places by roads. 23746

~~(36)~~(KK) "Recreational river area" means an area declared a 23747
recreational river area by the director under this chapter and 23748
includes those rivers or sections of rivers that are readily 23749
accessible by road or railroad, that may have some development 23750
along their shorelines, and that may have undergone some 23751

impoundment or diversion in the past. 23752

(LL) "Belly boat" or "float tube" means a vessel that is 23753
inflatable, propelled solely by human muscular effort without 23754
using an oar, paddle, or pole, and designed to accommodate a 23755
single individual as an operator in such a manner that the 23756
operator remains partially submerged in the water. 23757

(MM) "Kiteboard" means a recreational vessel that has no 23758
freeboard, has no cockpit, and is operated by an individual who is 23759
standing on the vessel while using a kite as a means of propulsion 23760
and lift. 23761

(NN) "Paddleboard" means a recreational vessel that has no 23762
freeboard, is propelled by human muscular effort using a pole or 23763
single- or double-bladed paddle, and is operated by an individual 23764
who is kneeling, standing, or lying on the vessel. 23765

(OO) "Sailboard" means a recreational vessel that has no 23766
freeboard, has no cockpit, has a single sail mounted on a mast 23767
that is connected to the vessel by a free-rotating, flexible 23768
joint, and is operated by an individual who is standing on the 23769
vessel. 23770

(PP) "Recreational vessel" means a vessel that is propelled 23771
or controlled by machinery, sails, other contrivance, or human 23772
muscular effort using an oar, paddle, or pole and that is 23773
manufactured or operated primarily for recreational purposes. 23774

Sec. 1547.542. (A) Any person or organization owning any 23775
number of canoes, rowboats, inflatable watercraft, or sailboats 23776
for the purpose of rental to the public may apply with the chief 23777
of the division of watercraft for and receive an annual 23778
certificate of livery registration. No watercraft shall be rented 23779
to the public from a livery or other place of business in this 23780
state unless it first has been numbered and registered in 23781

accordance with this section or section 1547.54 of the Revised Code. Certificates of livery registration shall be issued by an authorized agent who is selected by the chief from among those designated under section 1547.54 of the Revised Code. The certificate shall display ~~the~~ all of the following:

(1) The name of the owner of the livery, ~~the;~~

(2) The date of issuance, ~~the;~~

(3) The date of expiration, ~~the;~~

(4) The number of watercraft registered, ~~the;~~

(5) The fee paid, ~~an;~~

(6) An authorized facsimile of the signature of the chief provided by the authorized agent who is selected to issue the certificate, ~~and the;~~

(7) The signature of the livery owner. ~~The certificate shall bear the;~~

(8) The livery watercraft registration number assigned to the livery owner, ~~which shall be displayed in accordance with section 1547.57 of the Revised Code on each watercraft in the fleet for which the certificate was issued. The~~

The owner of the livery shall be issued a tag for each watercraft that has been registered in accordance with this section. The tag shall be affixed to each such watercraft in accordance with this section prior to the watercraft's being rented to the public. The chief shall prescribe the content and form of the tag in rules adopted under section 1547.52 of the Revised Code.

The owner of a livery shall obtain an amended certificate of livery registration from the chief whenever the composition of the fleet changes.

(B) Not later than March 15, 2015, the owner of a livery

shall identify each watercraft in the fleet for which a 23812
certificate of registration has been issued under this section in 23813
one of the following ways: 23814

(1) By displaying the livery watercraft registration number 23815
assigned to the livery owner on the forward half of both sides of 23816
the watercraft in block characters that are of a single color that 23817
contrasts with the color of the hull and are at least three inches 23818
in height. The livery watercraft registration number shall be 23819
displayed in such a manner that the number is visible under normal 23820
operating conditions. In addition, the tag that has been issued to 23821
the watercraft under this section shall be placed not more than 23822
six inches from the livery watercraft registration number on the 23823
port side of the watercraft. 23824

(2) By displaying the livery name on the rear half of the 23825
watercraft in such a manner that it is clearly visible under 23826
normal operating conditions. If there is insufficient space or it 23827
is impractical to display the livery name on the sides of the 23828
watercraft, the livery name may be displayed on the rear half of 23829
the watercraft's deck, provided that the display of the name does 23830
not interfere with the placement of the tag that has been issued 23831
to the watercraft. In addition, the tag shall be placed in one of 23832
the following locations: 23833

(a) In the upper right corner of the transom so that the tag 23834
does not interfere with the legibility of the hull identification 23835
number of the watercraft; 23836

(b) Six inches from the stern on the outside of the 23837
watercraft below the port side gunwale; 23838

(c) On the inside of the watercraft on the upper portion of 23839
the starboard side gunwale so that the tag is visible from the 23840
port side of the watercraft; 23841

(d) On a deck on the rear half of the watercraft. 23842

For purposes of division (B) of this section, each watercraft 23843
in a livery fleet shall be identified in a uniform and consistent 23844
manner. 23845

(C) The fee for each watercraft registered under this section 23846
shall be an annual registration fee. The fee shall be one-third of 23847
the triennial registration fees prescribed in section 1547.54 of 23848
the Revised Code. However, if the size of the fleet does not 23849
increase, the fee for an amended certificate of livery 23850
registration shall be the fee prescribed for issuing a duplicate 23851
registration certificate under section 1547.54 of the Revised 23852
Code, and the chief shall not refund to the livery owner all or 23853
any portion of an annual registration fee applicable to a 23854
watercraft transferred or abandoned by the livery owner. If the 23855
size of the fleet increases, the livery owner shall be required to 23856
pay the applicable annual registration fee for each watercraft 23857
registered under an amended certificate of livery registration 23858
that is in excess of the number of watercraft contained in the 23859
annual certificate of livery registration. 23860

In addition to the fees established in this section, 23861
watercraft that are not powercraft shall be charged a waterways 23862
conservation assessment fee. The fee shall be collected at the 23863
time of the issuance of an annual livery registration under this 23864
section and shall be one dollar and fifty cents for each 23865
watercraft included in the registration. The fee shall be 23866
deposited in the state treasury and credited to a distinct account 23867
in the waterways safety fund created in section 1547.75 of the 23868
Revised Code. 23869

(D) The certificate of livery registration, rental ~~receipts~~ 23870
agreements, and required safety equipment are subject to 23871
inspection at any time at the livery's place of business by any 23872
authorized representative of the division of watercraft or any law 23873
enforcement officer in accordance with section 1547.63 of the 23874

Revised Code.	23875
(E) Except as provided in this section, all watercraft	23876
registered under this section are subject to this chapter and	23877
Chapter 1548. of the Revised Code.	23878
(F) The chief may issue an order temporarily or permanently	23879
restricting or suspending a livery certificate of registration and	23880
the privileges associated with it without a hearing if the chief	23881
finds that the holder of the certificate has violated this	23882
chapter.	23883
Sec. 1547.99. (A) Whoever violates section 1547.91 of the	23884
Revised Code is guilty of a felony of the fourth degree.	23885
(B) Whoever violates division (F) of section 1547.08, section	23886
1547.10, division (I) of section 1547.111, section 1547.13, or	23887
section 1547.66 of the Revised Code is guilty of a misdemeanor of	23888
the first degree.	23889
(C) Whoever violates a provision of this chapter or a rule	23890
adopted thereunder, for which no penalty is otherwise provided, is	23891
guilty of a minor misdemeanor.	23892
(D) Whoever violates section 1547.07, 1547.132, or 1547.12 of	23893
the Revised Code without causing injury to persons or damage to	23894
property is guilty of a misdemeanor of the fourth degree.	23895
(E) Whoever violates section 1547.07, 1547.132, or 1547.12 of	23896
the Revised Code causing injury to persons or damage to property	23897
is guilty of a misdemeanor of the third degree.	23898
(F) Whoever violates division (N) of section 1547.54,	23899
division (G) of section 1547.30, or section 1547.131, 1547.25,	23900
1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92	23901
of the Revised Code or a rule adopted under division (A)(2) of	23902
section 1547.52 of the Revised Code is guilty of a misdemeanor of	23903
the fourth degree.	23904

(G) Whoever violates section 1547.11 of the Revised Code is 23905
guilty of a misdemeanor of the first degree and shall be punished 23906
as provided in division (G)(1), (2), or (3) of this section. 23907

(1) Except as otherwise provided in division (G)(2) or (3) of 23908
this section, the court shall sentence the offender to a jail term 23909
of three consecutive days and may sentence the offender pursuant 23910
to section 2929.24 of the Revised Code to a longer jail term. In 23911
addition, the court shall impose upon the offender a fine of not 23912
less than one hundred fifty nor more than one thousand dollars. 23913

The court may suspend the execution of the mandatory jail 23914
term of three consecutive days that it is required to impose by 23915
division (G)(1) of this section if the court, in lieu of the 23916
suspended jail term, places the offender under a community control 23917
sanction pursuant to section 2929.25 of the Revised Code and 23918
requires the offender to attend, for three consecutive days, a 23919
drivers' intervention program that is certified pursuant to 23920
section ~~3793.10~~ 5119.38 of the Revised Code. The court also may 23921
suspend the execution of any part of the mandatory jail term of 23922
three consecutive days that it is required to impose by division 23923
(G)(1) of this section if the court places the offender under a 23924
community control sanction pursuant to section 2929.25 of the 23925
Revised Code for part of the three consecutive days; requires the 23926
offender to attend, for that part of the three consecutive days, a 23927
drivers' intervention program that is certified pursuant to 23928
section ~~3793.10~~ 5119.38 of the Revised Code; and sentences the 23929
offender to a jail term equal to the remainder of the three 23930
consecutive days that the offender does not spend attending the 23931
drivers' intervention program. The court may require the offender, 23932
as a condition of community control, to attend and satisfactorily 23933
complete any treatment or education programs, in addition to the 23934
required attendance at a drivers' intervention program, that the 23935
operators of the drivers' intervention program determine that the 23936

offender should attend and to report periodically to the court on 23937
the offender's progress in the programs. The court also may impose 23938
any other conditions of community control on the offender that it 23939
considers necessary. 23940

(2) If, within six years of the offense, the offender has 23941
been convicted of or pleaded guilty to one violation of section 23942
1547.11 of the Revised Code or one other equivalent offense, the 23943
court shall sentence the offender to a jail term of ten 23944
consecutive days and may sentence the offender pursuant to section 23945
2929.24 of the Revised Code to a longer jail term. In addition, 23946
the court shall impose upon the offender a fine of not less than 23947
one hundred fifty nor more than one thousand dollars. 23948

In addition to any other sentence that it imposes upon the 23949
offender, the court may require the offender to attend a drivers' 23950
intervention program that is certified pursuant to section ~~3793.10~~ 23951
5119.38 of the Revised Code. 23952

(3) If, within six years of the offense, the offender has 23953
been convicted of or pleaded guilty to more than one violation or 23954
offense identified in division (G)(2) of this section, the court 23955
shall sentence the offender to a jail term of thirty consecutive 23956
days and may sentence the offender to a longer jail term of not 23957
more than one year. In addition, the court shall impose upon the 23958
offender a fine of not less than one hundred fifty nor more than 23959
one thousand dollars. 23960

In addition to any other sentence that it imposes upon the 23961
offender, the court may require the offender to attend a drivers' 23962
intervention program that is certified pursuant to section ~~3793.10~~ 23963
5119.38 of the Revised Code. 23964

(4) Upon a showing that serving a jail term would seriously 23965
affect the ability of an offender sentenced pursuant to division 23966
(G)(1), (2), or (3) of this section to continue the offender's 23967

employment, the court may authorize that the offender be granted 23968
work release after the offender has served the mandatory jail term 23969
of three, ten, or thirty consecutive days that the court is 23970
required by division (G)(1), (2), or (3) of this section to 23971
impose. No court shall authorize work release during the mandatory 23972
jail term of three, ten, or thirty consecutive days that the court 23973
is required by division (G)(1), (2), or (3) of this section to 23974
impose. The duration of the work release shall not exceed the time 23975
necessary each day for the offender to commute to and from the 23976
place of employment and the place in which the jail term is served 23977
and the time actually spent under employment. 23978

(5) Notwithstanding any section of the Revised Code that 23979
authorizes the suspension of the imposition or execution of a 23980
sentence or the placement of an offender in any treatment program 23981
in lieu of being imprisoned or serving a jail term, no court shall 23982
suspend the mandatory jail term of ten or thirty consecutive days 23983
required to be imposed by division (G)(2) or (3) of this section 23984
or place an offender who is sentenced pursuant to division (G)(2) 23985
or (3) of this section in any treatment program in lieu of being 23986
imprisoned or serving a jail term until after the offender has 23987
served the mandatory jail term of ten or thirty consecutive days 23988
required to be imposed pursuant to division (G)(2) or (3) of this 23989
section. Notwithstanding any section of the Revised Code that 23990
authorizes the suspension of the imposition or execution of a 23991
sentence or the placement of an offender in any treatment program 23992
in lieu of being imprisoned or serving a jail term, no court, 23993
except as specifically authorized by division (G)(1) of this 23994
section, shall suspend the mandatory jail term of three 23995
consecutive days required to be imposed by division (G)(1) of this 23996
section or place an offender who is sentenced pursuant to division 23997
(G)(1) of this section in any treatment program in lieu of 23998
imprisonment until after the offender has served the mandatory 23999
jail term of three consecutive days required to be imposed 24000

pursuant to division (G)(1) of this section. 24001

(6) As used in division (G) of this section: 24002

(a) "Equivalent offense" has the same meaning as in section 24003
4511.181 of the Revised Code. 24004

(b) "Jail term" and "mandatory jail term" have the same 24005
meanings as in section 2929.01 of the Revised Code. 24006

(H) Whoever violates section 1547.304 of the Revised Code is 24007
guilty of a misdemeanor of the fourth degree and also shall be 24008
assessed any costs incurred by the state or a county, township, 24009
municipal corporation, or other political subdivision in disposing 24010
of an abandoned junk vessel or outboard motor, less any money 24011
accruing to the state, county, township, municipal corporation, or 24012
other political subdivision from that disposal. 24013

(I) Whoever violates division (B) or (C) of section 1547.49 24014
of the Revised Code is guilty of a minor misdemeanor. 24015

(J) Whoever violates section 1547.31 of the Revised Code is 24016
guilty of a misdemeanor of the fourth degree on a first offense. 24017
On each subsequent offense, the person is guilty of a misdemeanor 24018
of the third degree. 24019

(K) Whoever violates section 1547.05 or 1547.051 of the 24020
Revised Code is guilty of a misdemeanor of the fourth degree if 24021
the violation is not related to a collision, injury to a person, 24022
or damage to property and a misdemeanor of the third degree if the 24023
violation is related to a collision, injury to a person, or damage 24024
to property. 24025

(L) The sentencing court, in addition to the penalty provided 24026
under this section for a violation of this chapter or a rule 24027
adopted under it that involves a powercraft powered by more than 24028
ten horsepower and that, in the opinion of the court, involves a 24029
threat to the safety of persons or property, shall order the 24030

offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1551.33. (A) The director of development services shall appoint and fix the compensation of the director of the Ohio coal development office. The director shall serve at the pleasure of the director of development services.

(B) The director of the office shall do all of the following:

(1) Biennially prepare and maintain the Ohio coal development agenda required under section 1551.34 of the Revised Code;

(2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda;

(3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda;

(4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person;

(5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office. Any such employees shall be in the unclassified service and shall serve at the pleasure of the director of development services.

(6) ~~Appoint specified members of and convene~~ Convene the

technical advisory committee established under section 1551.35 of 24061
the Revised Code; 24062

(7) Review, with the assistance of the technical advisory 24063
committee, proposed coal research and development projects as 24064
defined in section 1555.01 of the Revised Code, and coal 24065
development projects, submitted to the office by public utilities 24066
for the purpose of section 4905.304 of the Revised Code. If the 24067
director and the advisory committee determine that any such 24068
facility or project has as its purpose the enhanced use of Ohio 24069
coal in an environmentally acceptable, cost effective manner, 24070
promotes energy conservation, is cost effective, and is 24071
environmentally sound, the director shall submit to the public 24072
utilities commission a report recommending that the commission 24073
allow the recovery of costs associated with the facility or 24074
project under section 4905.304 of the Revised Code and including 24075
the reasons for the recommendation. 24076

(8) Establish such policies, procedures, and guidelines as 24077
are necessary to achieve the office's purposes. 24078

(C) With the approval of the director of development 24079
services, the director of the office may exercise any of the 24080
powers and duties that the director of development services 24081
considers appropriate or desirable to achieve the office's 24082
purposes, including, but not limited to, the powers and duties 24083
enumerated in sections 1551.11, 1551.12, and 1551.15 of the 24084
Revised Code. 24085

Additionally, the director of the office may make loans to 24086
governmental agencies or persons for projects to carry out the 24087
office's purposes. Fees, charges, rates of interest, times of 24088
payment of interest and principal, and other terms, conditions, 24089
and provisions of the loans shall be such as the director of the 24090
office determines to be appropriate and in furtherance of the 24091
purposes for which the loans are made. The mortgage lien securing 24092

any moneys lent by the director of the office may be subordinate 24093
to the mortgage lien securing any moneys lent or invested by a 24094
financial institution, but shall be superior to that securing any 24095
moneys lent or expended by any other person. The moneys used in 24096
making the loans shall be disbursed upon order of the director of 24097
the office. 24098

Sec. 1551.35. (A) There is hereby established a technical 24099
advisory committee to assist the director of the Ohio coal 24100
development office in achieving the office's purposes. The 24101
director of development services shall appoint to the committee 24102
one member of the public utilities commission and one 24103
representative each of coal production companies, the united mine 24104
workers of America, electric utilities, manufacturers that use 24105
Ohio coal, and environmental organizations, as well as two people 24106
with a background in coal research and development technology, one 24107
of whom is employed at the time of the member's appointment by a 24108
state university, as defined in section 3345.011 of the Revised 24109
Code. In addition, the committee shall include four legislative 24110
members. The speaker and minority leader of the house of 24111
representatives each shall appoint one member of the house of 24112
representatives, and the president and minority leader of the 24113
senate each shall appoint one member of the senate, to the 24114
committee. The director of environmental protection shall serve on 24115
the committee as an ex officio member. Any member of the committee 24116
may designate in writing a substitute to serve in the member's 24117
absence on the committee. The director of environmental protection 24118
may designate in writing the chief of the air pollution control 24119
division of the agency to represent the agency. Members shall 24120
serve on the committee at the pleasure of their appointing 24121
authority. Members of the committee appointed by the director of 24122
~~the office~~ development services and, notwithstanding section 24123
101.26 of the Revised Code, legislative members of the committee, 24124

when engaged in their official duties as members of the committee, 24125
shall be compensated on a per diem basis in accordance with 24126
division (J) of section 124.15 of the Revised Code, except that 24127
the member of the public utilities commission and, while employed 24128
by a state university, the member with a background in coal 24129
research, shall not be so compensated. Members shall receive their 24130
actual and necessary expenses incurred in the performance of their 24131
duties. 24132

(B) The technical advisory committee shall review and make 24133
recommendations concerning the Ohio coal development agenda 24134
required under section 1551.34 of the Revised Code, project 24135
proposals, research and development projects submitted to the 24136
office by public utilities for the purpose of section 4905.304 of 24137
the Revised Code, proposals for grants, loans, and loan guarantees 24138
for purposes of sections 1555.01 to 1555.06 of the Revised Code, 24139
and such other topics as the director of the office considers 24140
appropriate. 24141

(C) The technical advisory committee may hold an executive 24142
session at any regular or special meeting for the purpose of 24143
considering research and development project proposals or 24144
applications for assistance submitted to the Ohio coal development 24145
office under section 1551.33, or sections 1555.01 to 1555.06, of 24146
the Revised Code, to the extent that the proposals or applications 24147
consist of trade secrets or other proprietary information. 24148

Any materials or data submitted to, made available to, or 24149
received by the ~~department of development~~ services agency or the 24150
director of the Ohio coal development office in connection with 24151
agreements for assistance entered into under this chapter or 24152
Chapter 1555. of the Revised Code, or any information taken from 24153
those materials or data for any purpose, to the extent that the 24154
materials or data consist of trade secrets or other proprietary 24155
information, are not public records for the purposes of section 24156

149.43 of the Revised Code. 24157

As used in this division, "trade secrets" has the same 24158

meaning as in section 1333.61 of the Revised Code. 24159

Sec. 1555.15. There is hereby created in the state treasury 24160
the coal research and development fund. Moneys obtained for coal 24161
research and development projects from federal grants or loans, 24162
private grants, and other sources, and moneys paid into the fund 24163
pursuant to section 151.07 or 1555.08 of the Revised Code, shall 24164
be expended for the purpose of making grants and making or 24165
guaranteeing loans for coal research and development projects that 24166
will encourage the use of Ohio coal, to any individual, 24167
association, or corporation doing business in this state, or to 24168
any educational or scientific institution located in this state as 24169
provided for in Section 15 of Article VIII, Ohio Constitution and 24170
section 1555.08 of the Revised Code, when appropriated for such 24171
purposes by the general assembly. All investment earnings on the 24172
cash balance in the fund shall be credited to the fund. 24173

The director of budget and management shall establish and 24174
maintain records or accounts for or within the coal research and 24175
development fund in such manner as to show the amounts credited to 24176
such fund pursuant to section 1555.08 of the Revised Code and that 24177
the amounts so credited have been expended for the purposes set 24178
forth in Section 15 of Article VIII, Ohio Constitution, and 24179
section 151.07 of the Revised Code. The director of budget and 24180
management may otherwise manage the fund to comply with any 24181
requirements established by federal grants or loans, private 24182
grants, or moneys from other sources. 24183

Sec. 1701.86. (A) A corporation may be dissolved voluntarily 24184
in the manner provided in this section, provided the provisions of 24185
Chapter 1704. of the Revised Code do not prevent the dissolution 24186

from being effected.	24187
(B) A resolution of dissolution for a corporation shall set forth that the corporation elects to be dissolved. The resolution also may include any of the following:	24188 24189 24190
(1) The date on which the certificate of dissolution is to be filed or the conditions or events that will result in the filing of the certificate;	24191 24192 24193
(2) Authorization for the officers or directors to abandon the proposed dissolution before the filing of the certificate of dissolution;	24194 24195 24196
(3) Any additional provision considered necessary with respect to the proposed dissolution and winding up.	24197 24198
(C) If an initial stated capital is not set forth in the articles then before the corporation begins business, or if an initial stated capital is set forth in the articles then before subscriptions to shares shall have been received in the amount of that initial stated capital, the incorporators or a majority of them may adopt, by a writing signed by each of them, a resolution of dissolution.	24199 24200 24201 24202 24203 24204 24205
(D) The directors may adopt a resolution of dissolution in any of the following cases:	24206 24207
(1) When the corporation has been adjudged bankrupt or has made a general assignment for the benefit of creditors;	24208 24209
(2) By leave of the court, when a receiver has been appointed in a general creditors' suit or in any suit in which the affairs of the corporation are to be wound up;	24210 24211 24212
(3) When substantially all of the assets have been sold at judicial sale or otherwise;	24213 24214
(4) When the articles have been canceled for failure to file annual franchise or excise tax returns or for failure to pay	24215 24216

franchise or excise taxes and the corporation has not been	24217
reinstated or does not desire to be reinstated;	24218
(5) When the period of existence of the corporation specified	24219
in its articles has expired.	24220
(E) The shareholders at a meeting held for such purpose may	24221
adopt a resolution of dissolution by the affirmative vote of the	24222
holders of shares entitling them to exercise two-thirds of the	24223
voting power of the corporation on such proposal or, if the	24224
articles provide or permit, by the affirmative vote of a greater	24225
or lesser proportion, though not less than a majority, of such	24226
voting power, and by such affirmative vote of the holders of	24227
shares of any particular class as is required by the articles.	24228
Notice of the meeting of the shareholders shall be given to all	24229
the shareholders whether or not entitled to vote at it.	24230
(F) Upon the adoption of a resolution of dissolution, a	24231
certificate shall be prepared, on a form prescribed by the	24232
secretary of state, setting forth all of the following:	24233
(1) The name of the corporation;	24234
(2) A statement that a resolution of dissolution has been	24235
adopted;	24236
(3) A statement of the manner of adoption of such resolution,	24237
and, in the case of its adoption by the incorporators or	24238
directors, a statement of the basis for such adoption;	24239
(4) The place in this state where its principal office is or	24240
is to be located;	24241
(5) The internet address of each domain name held or	24242
maintained by or on behalf of the corporation;	24243
(6) The name and address of its statutory agent;	24244
(7) The date of dissolution, if other than the filing date.	24245
The date of dissolution shall not be more than ninety days after	24246

the filing of the certificate of dissolution. 24247

(G) When the resolution of dissolution is adopted by the 24248
incorporators, the certificate shall be signed by not less than a 24249
majority of them. In all other cases, the certificate shall be 24250
signed by any authorized officer, unless the officer fails to 24251
execute and file such certificate within thirty days after the 24252
date upon which such certificate is to be filed. In that latter 24253
event, the certificate of dissolution may be signed by any three 24254
shareholders or, if there are less than three shareholders, all of 24255
the shareholders and shall set forth a statement that the persons 24256
signing the certificate are shareholders and are filing the 24257
certificate because of the failure of the officers to do so. 24258

(H) Except as otherwise provided in division (I) of this 24259
section, a certificate of dissolution, filed with the secretary of 24260
state, shall be accompanied by all of the following: 24261

(1) An affidavit of one or more of the persons executing the 24262
certificate of dissolution or of an officer of the corporation 24263
containing a statement of the counties, if any, in this state in 24264
which the corporation has personal property or a statement that 24265
the corporation is of a type required to pay personal property 24266
taxes to state authorities only; 24267

(2) A certificate or other evidence from the department of 24268
taxation showing that the corporation has paid all taxes 24269
administered by and required to be paid to the tax commissioner 24270
that are or will be due from the corporation on the date of the 24271
dissolution or an affidavit of one or more of the persons 24272
executing the certificate of dissolution or of an officer of the 24273
corporation containing a statement that the corporation is not 24274
required to pay or the department of taxation has not assessed any 24275
tax for which such a certificate or other evidence is not 24276
provided; 24277

(3) A certificate or other evidence showing the payment of 24278
all personal property taxes accruing up to the date of dissolution 24279
or showing that such payment has been adequately guaranteed, or an 24280
affidavit of one or more of the persons executing the certificate 24281
of dissolution or of an officer of the corporation containing a 24282
statement that the corporation is not required to pay or the 24283
department of taxation has not assessed any tax for which such a 24284
certificate or other evidence is not provided; 24285

(4) A receipt, certificate, or other evidence from the 24286
director of job and family services showing that all contributions 24287
due from the corporation as an employer have been paid, or that 24288
such payment has been adequately guaranteed, or that the 24289
corporation is not subject to such contributions; 24290

(5) A receipt, certificate, or other evidence from the bureau 24291
of workers' compensation showing that all premiums due from the 24292
corporation as an employer have been paid, or that such payment 24293
has been adequately guaranteed, or that the corporation is not 24294
subject to such premium payments. 24295

(I) In lieu of the receipt, certificate, or other evidence 24296
described in division (H)(2), (3), (4), or (5) of this section, a 24297
certificate of dissolution may be accompanied by an affidavit, in 24298
a form prescribed by the secretary of state, of one or more 24299
persons executing the certificate of dissolution or of an officer 24300
of the corporation containing a statement of the date upon which 24301
the particular department, agency, or authority was advised in 24302
writing of the scheduled effective date of the dissolution and was 24303
advised in writing of the acknowledgment by the corporation of the 24304
applicability of the provisions of section 1701.95 of the Revised 24305
Code. 24306

(J) Upon the filing of a certificate of dissolution and such 24307
accompanying documents, the secretary of state shall notify all 24308
state agencies, in a manner agreed to by the agencies, of the 24309

filing and shall notify the department of taxation, bureau of 24310
workers' compensation, and department of job and family services 24311
directly of the filing on a weekly basis. The state agencies shall 24312
have thirty days from receipt of notification by the secretary of 24313
state to notify the secretary of state whether the corporation has 24314
any outstanding liabilities. Upon the later of thirty days after 24315
the state agencies received the notification, verification by the 24316
applicable state agencies that the corporation has no outstanding 24317
liabilities, or ~~on~~ a later date specified in the certificate that 24318
is not more than ninety days after the filing, the corporation 24319
shall be dissolved. 24320

Sec. 1701.922. (A) Except as otherwise provided in this 24321
division, upon reinstatement of a corporation's or professional 24322
association's articles of incorporation in accordance with section 24323
1701.07, 1785.06, 5703.93, or 5733.22 of the Revised Code, the 24324
rights, privileges, and franchises, including all real or personal 24325
property rights and credits and all contract and other rights, of 24326
the corporation or association existing at the time its articles 24327
of incorporation were canceled shall be fully vested in the 24328
corporation or association as if the articles had not been 24329
canceled, and the corporation or association shall again be 24330
entitled to exercise the rights, privileges, and franchises 24331
authorized by its articles of incorporation. The name of a 24332
corporation whose articles have been canceled shall be reserved 24333
for a period of one year after the date of cancellation. If the 24334
reinstatement is not made within one year after the date of the 24335
cancellation of its articles of incorporation and it appears that 24336
a corporate name, limited liability company name, limited 24337
liability partnership name, limited partnership name, or trade 24338
name has been filed, the name of which is not distinguishable upon 24339
the record as provided in section 1701.05 of the Revised Code, the 24340
secretary of state shall require the applicant for reinstatement, 24341

as a condition prerequisite to such reinstatement, to amend its articles by changing its name.

(B) Upon reinstatement of a corporation's or association's articles in accordance with section 1701.07, 1785.06, 5703.93, or 5733.22 of the Revised Code, both of the following apply to the exercise of or an attempt to exercise any rights, privileges, or franchises, including entering into or performing any contracts, on behalf of the corporation or association by an officer, agent, or employee of the corporation or association, after cancellation and prior to reinstatement of the articles of incorporation:

(1) The exercise of or an attempt to exercise any rights, privileges, or franchises on behalf of the corporation or association by the officer, agent, or employee of the corporation or association has the same force and effect that the exercise of or an attempt to exercise the right, privilege, or franchise would have had if the corporation's or association's articles had not been canceled, if both of the following apply:

(a) The exercise of or an attempt to exercise the right, privilege, or franchise was within the scope of the corporation's or association's articles of incorporation that existed prior to cancellation;

(b) The officer, agent, or employee had no knowledge that the corporation's or association's articles of incorporation had been canceled.

(2) The corporation or association is liable exclusively for the exercise of or an attempt to exercise any rights, privileges, or franchises on behalf of the corporation or association by an officer, agent, or employee of the corporation or association, if the conditions set forth in divisions (B)(1)(a) and (b) of this section are met.

(C) Upon reinstatement of a corporation's or association's

articles of incorporation in accordance with section 1701.07, 24373
1785.06, 5703.93, or 5733.22 of the Revised Code, the exercise of 24374
or an attempt to exercise any rights, privileges, or franchises on 24375
behalf of the corporation or association by an officer, agent, or 24376
employee of the corporation or association, after cancellation and 24377
prior to reinstatement of the articles of incorporation, does not 24378
constitute a failure to comply with division (A) of section 24379
1701.88 or a violation of section 1701.97 of the Revised Code, if 24380
the conditions set forth in divisions (B)(1)(a) and (b) of this 24381
section are met. 24382

(D) This section is remedial in nature and is to be construed 24383
liberally to accomplish the purpose of providing full 24384
reinstatement of a corporation's or association's articles of 24385
incorporation retroactive, in accordance with this section, to the 24386
time of the cancellation of the articles. 24387

Sec. 1703.29. (A) The failure of any corporation to obtain a 24388
license under sections 1703.01 to 1703.31, ~~inclusive~~, of the 24389
Revised Code, does not affect the validity of any contract with 24390
such corporation, but no foreign corporation ~~which~~ that should 24391
have obtained such license shall maintain any action in any court 24392
until it has obtained such license. Before any such corporation 24393
shall maintain such action on any cause of action arising at the 24394
time when it was not licensed to transact business in this state, 24395
it shall pay to the secretary of state a forfeiture of two hundred 24396
fifty dollars and file in ~~his~~ the secretary of state's office the 24397
papers required by divisions (B) or (C) of this section, whichever 24398
is applicable. 24399

(B) If such corporation has not been previously licensed to 24400
do business in this state or if its license has been surrendered 24401
it shall file as required by division (A) of this section: 24402

(1) Its application for a license certificate, together with 24403

the filing fee, with such information as the secretary of state 24404
requires as to the time it began to transact business in this 24405
state and as to the number of its issued shares represented in 24406
this state, and with the license fees on its shares represented in 24407
this state plus a forfeiture of fifteen per cent thereon. 24408

(2) A certificate from the tax commissioner that the 24409
corporation has paid all ~~franchise~~ taxes ~~which~~ that it should have 24410
paid had it qualified to do business in this state at the time it 24411
began to do so, plus any penalties assessable on said taxes on 24412
account of failure to pay them within the time prescribed by law, 24413
or a certificate of the commissioner that the corporation has 24414
furnished security satisfactory to the commissioner for the 24415
payment of all such ~~franchise~~ taxes and penalties. 24416

(C) If such corporation has been previously licensed to 24417
transact business in this state and its license has expired or has 24418
been canceled by the secretary of state upon order of the 24419
commissioner, or for failure to designate an agent for service of 24420
process, it shall file with the secretary of state its application 24421
for reinstatement, as provided by law, together with the proper 24422
reinstatement fee plus a forfeiture of fifteen per cent thereon. 24423

Upon the filing of such application and payment of such fees 24424
and penalties or forfeitures, the secretary of state shall issue 24425
to such corporation a license certificate. 24426

Sec. 1739.061. (A)(1) This section applies to both of the 24427
following: 24428

(a) A multiple employer welfare arrangement that issues or 24429
requires the use of a standardized identification card or an 24430
electronic technology for submission and routing of prescription 24431
drug claims; 24432

(b) A person or entity that a multiple employer welfare 24433

arrangement contracts with to issue a standardized identification card or an electronic technology described in division (A)(1)(a) of this section.

(2) Notwithstanding division (A)(1) of this section, this section does not apply to the issuance or required use of a standardized identification card or an electronic technology for the submission and routing of prescription drug claims in connection with any of the following:

(a) Any program or arrangement covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, medicare, tricare, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(b) Coverage provided under the medicaid, ~~as defined in section 5111.01 of the Revised Code~~ program.

(c) Coverage provided under an employer's self-insurance plan or by any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of this section to the plan and its administrators.

(B) A standardized identification card or an electronic technology issued or required to be used as provided in division (A)(1) of this section shall contain uniform prescription drug information in accordance with either division (B)(1) or (2) of this section.

(1) The standardized identification card or the electronic technology shall be in a format and contain information fields approved by the national council for prescription drug programs or a successor organization, as specified in the council's or successor organization's pharmacy identification card implementation guide in effect on the first day of October most immediately preceding the issuance or required use of the standardized identification card or the electronic technology.

(2) If the multiple employer welfare arrangement or person under contract with it to issue a standardized identification card or an electronic technology requires the information for the submission and routing of a claim, the standardized identification card or the electronic technology shall contain any of the following information:

(a) The name of the multiple employer welfare arrangement;

(b) The individual's name, group number, and identification number;

(c) A telephone number to inquire about pharmacy-related issues;

(d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";

(e) The processor's control number, labeled as "RxPCN";

(f) The individual's pharmacy benefits group number if different from the insured's medical group number, labeled as "RxGrp. "

(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d)

and (e) of this section if the issuer's international 24495
identification number or the processor's control number is 24496
different for medical and pharmacy claims. 24497

(D) Each multiple employer welfare arrangement described in 24498
division (A) of this section shall annually file a certificate 24499
with the superintendent of insurance certifying that it or any 24500
person it contracts with to issue a standardized identification 24501
card or electronic technology for submission and routing of 24502
prescription drug claims complies with this section. 24503

(E)(1) Except as provided in division (E)(2) of this section, 24504
if there is a change in the information contained in the 24505
standardized identification card or the electronic technology 24506
issued to an individual, the multiple employer welfare arrangement 24507
or person under contract with it to issue a standardized 24508
identification card or an electronic technology shall issue a new 24509
card or electronic technology to the individual. 24510

(2) A multiple employer welfare arrangement or person under 24511
contract with it is not required under division (E)(1) of this 24512
section to issue a new card or electronic technology to an 24513
individual more than once during a twelve-month period. 24514

(F) Nothing in this section shall be construed as requiring a 24515
multiple employer welfare arrangement to produce more than one 24516
standardized identification card or one electronic technology for 24517
use by individuals accessing health care benefits provided under a 24518
multiple employer welfare arrangement. 24519

Sec. 1751.01. As used in this chapter: 24520

(A)(1) "Basic health care services" means the following 24521
services when medically necessary: 24522

(a) Physician's services, except when such services are 24523
supplemental under division (B) of this section; 24524

(b) Inpatient hospital services;	24525
(c) Outpatient medical services;	24526
(d) Emergency health services;	24527
(e) Urgent care services;	24528
(f) Diagnostic laboratory services and diagnostic and therapeutic radiologic services;	24529 24530
(g) Diagnostic and treatment services, other than prescription drug services, for biologically based mental illnesses;	24531 24532 24533
(h) Preventive health care services, including, but not limited to, voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care;	24534 24535 24536 24537
(i) Routine patient care for patients enrolled in an eligible cancer clinical trial pursuant to section 3923.80 of the Revised Code.	24538 24539 24540
"Basic health care services" does not include experimental procedures.	24541 24542
Except as provided by divisions (A)(2) and (3) of this section in connection with the offering of coverage for diagnostic and treatment services for biologically based mental illnesses, a health insuring corporation shall not offer coverage for a health care service, defined as a basic health care service by this division, unless it offers coverage for all listed basic health care services. However, this requirement does not apply to the coverage of beneficiaries enrolled in medicare pursuant to a medicare contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or to the coverage of beneficiaries under any federal health care	24543 24544 24545 24546 24547 24548 24549 24550 24551 24552 24553 24554

program regulated by a federal regulatory body, or to the coverage 24555
of beneficiaries under any contract covering officers or employees 24556
of the state that has been entered into by the department of 24557
administrative services. 24558

(2) A health insuring corporation may offer coverage for 24559
diagnostic and treatment services for biologically based mental 24560
illnesses without offering coverage for all other basic health 24561
care services. A health insuring corporation may offer coverage 24562
for diagnostic and treatment services for biologically based 24563
mental illnesses alone or in combination with one or more 24564
supplemental health care services. However, a health insuring 24565
corporation that offers coverage for any other basic health care 24566
service shall offer coverage for diagnostic and treatment services 24567
for biologically based mental illnesses in combination with the 24568
offer of coverage for all other listed basic health care services. 24569

(3) A health insuring corporation that offers coverage for 24570
basic health care services is not required to offer coverage for 24571
diagnostic and treatment services for biologically based mental 24572
illnesses in combination with the offer of coverage for all other 24573
listed basic health care services if all of the following apply: 24574

(a) The health insuring corporation submits documentation 24575
certified by an independent member of the American academy of 24576
actuaries to the superintendent of insurance showing that incurred 24577
claims for diagnostic and treatment services for biologically 24578
based mental illnesses for a period of at least six months 24579
independently caused the health insuring corporation's costs for 24580
claims and administrative expenses for the coverage of basic 24581
health care services to increase by more than one per cent per 24582
year. 24583

(b) The health insuring corporation submits a signed letter 24584
from an independent member of the American academy of actuaries to 24585
the superintendent of insurance opining that the increase in costs 24586

described in division (A)(3)(a) of this section could reasonably 24587
justify an increase of more than one per cent in the annual 24588
premiums or rates charged by the health insuring corporation for 24589
the coverage of basic health care services. 24590

(c) The superintendent of insurance makes the following 24591
determinations from the documentation and opinion submitted 24592
pursuant to divisions (A)(3)(a) and (b) of this section: 24593

(i) Incurred claims for diagnostic and treatment services for 24594
biologically based mental illnesses for a period of at least six 24595
months independently caused the health insuring corporation's 24596
costs for claims and administrative expenses for the coverage of 24597
basic health care services to increase by more than one per cent 24598
per year. 24599

(ii) The increase in costs reasonably justifies an increase 24600
of more than one per cent in the annual premiums or rates charged 24601
by the health insuring corporation for the coverage of basic 24602
health care services. 24603

Any determination made by the superintendent under this 24604
division is subject to Chapter 119. of the Revised Code. 24605

(B)(1) "Supplemental health care services" means any health 24606
care services other than basic health care services that a health 24607
insuring corporation may offer, alone or in combination with 24608
either basic health care services or other supplemental health 24609
care services, and includes: 24610

(a) Services of facilities for intermediate or long-term 24611
care, or both; 24612

(b) Dental care services; 24613

(c) Vision care and optometric services including lenses and 24614
frames; 24615

(d) Podiatric care or foot care services; 24616

(e) Mental health services, excluding diagnostic and treatment services for biologically based mental illnesses;	24617 24618
(f) Short-term outpatient evaluative and crisis-intervention mental health services;	24619 24620
(g) Medical or psychological treatment and referral services for alcohol and drug abuse or addiction;	24621 24622
(h) Home health services;	24623
(i) Prescription drug services;	24624
(j) Nursing services;	24625
(k) Services of a dietitian licensed under Chapter 4759. of the Revised Code;	24626 24627
(l) Physical therapy services;	24628
(m) Chiropractic services;	24629
(n) Any other category of services approved by the superintendent of insurance.	24630 24631
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	24632 24633 24634 24635 24636
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	24637 24638 24639 24640 24641
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as	24642 24643 24644 24645

these terms are defined in the most recent edition of the 24646
diagnostic and statistical manual of mental disorders published by 24647
the American psychiatric association. 24648

(E) "Closed panel plan" means a health care plan that 24649
requires enrollees to use participating providers. 24650

(F) "Compensation" means remuneration for the provision of 24651
health care services, determined on other than a fee-for-service 24652
or discounted-fee-for-service basis. 24653

(G) "Contractual periodic prepayment" means the formula for 24654
determining the premium rate for all subscribers of a health 24655
insuring corporation. 24656

(H) "Corporation" means a corporation formed under Chapter 24657
1701. or 1702. of the Revised Code or the similar laws of another 24658
state. 24659

(I) "Emergency health services" means those health care 24660
services that must be available on a seven-days-per-week, 24661
twenty-four-hours-per-day basis in order to prevent jeopardy to an 24662
enrollee's health status that would occur if such services were 24663
not received as soon as possible, and includes, where appropriate, 24664
provisions for transportation and indemnity payments or service 24665
agreements for out-of-area coverage. 24666

(J) "Enrollee" means any natural person who is entitled to 24667
receive health care benefits provided by a health insuring 24668
corporation. 24669

(K) "Evidence of coverage" means any certificate, agreement, 24670
policy, or contract issued to a subscriber that sets out the 24671
coverage and other rights to which such person is entitled under a 24672
health care plan. 24673

(L) "Health care facility" means any facility, except a 24674
health care practitioner's office, that provides preventive, 24675

diagnostic, therapeutic, acute convalescent, rehabilitation, 24676
mental health, mental retardation, intermediate care, or skilled 24677
nursing services. 24678

(M) "Health care services" means basic, supplemental, and 24679
specialty health care services. 24680

(N) "Health delivery network" means any group of providers or 24681
health care facilities, or both, or any representative thereof, 24682
that have entered into an agreement to offer health care services 24683
in a panel rather than on an individual basis. 24684

(O) "Health insuring corporation" means a corporation, as 24685
defined in division (H) of this section, that, pursuant to a 24686
policy, contract, certificate, or agreement, pays for, reimburses, 24687
or provides, delivers, arranges for, or otherwise makes available, 24688
basic health care services, supplemental health care services, or 24689
specialty health care services, or a combination of basic health 24690
care services and either supplemental health care services or 24691
specialty health care services, through either an open panel plan 24692
or a closed panel plan. 24693

"Health insuring corporation" does not include a limited 24694
liability company formed pursuant to Chapter 1705. of the Revised 24695
Code, an insurer licensed under Title XXXIX of the Revised Code if 24696
that insurer offers only open panel plans under which all 24697
providers and health care facilities participating receive their 24698
compensation directly from the insurer, a corporation formed by or 24699
on behalf of a political subdivision or a department, office, or 24700
institution of the state, or a public entity formed by or on 24701
behalf of a board of county commissioners, a county board of 24702
developmental disabilities, an alcohol and drug addiction services 24703
board, a board of alcohol, drug addiction, and mental health 24704
services, or a community mental health board, as those terms are 24705
used in Chapters 340. and 5126. of the Revised Code. Except as 24706
provided by division (D) of section 1751.02 of the Revised Code, 24707

or as otherwise provided by law, no board, commission, agency, or 24708
other entity under the control of a political subdivision may 24709
accept insurance risk in providing for health care services. 24710
However, nothing in this division shall be construed as 24711
prohibiting such entities from purchasing the services of a health 24712
insuring corporation or a third-party administrator licensed under 24713
Chapter 3959. of the Revised Code. 24714

(P) "Intermediary organization" means a health delivery 24715
network or other entity that contracts with licensed health 24716
insuring corporations or self-insured employers, or both, to 24717
provide health care services, and that enters into contractual 24718
arrangements with other entities for the provision of health care 24719
services for the purpose of fulfilling the terms of its contracts 24720
with the health insuring corporations and self-insured employers. 24721

(Q) "Intermediate care" means residential care above the 24722
level of room and board for patients who require personal 24723
assistance and health-related services, but who do not require 24724
skilled nursing care. 24725

~~(R) "Medicaid" has the same meaning as in section 5111.01 of 24726
the Revised Code. 24727~~

~~(S)~~ "Medical record" means the personal information that 24728
relates to an individual's physical or mental condition, medical 24729
history, or medical treatment. 24730

~~(T) "Medicare" means the program established under Title 24731
XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 24732
1395, as amended. 24733~~

~~(U)~~(S)(1) "Open panel plan" means a health care plan that 24734
provides incentives for enrollees to use participating providers 24735
and that also allows enrollees to use providers that are not 24736
participating providers. 24737

(2) No health insuring corporation may offer an open panel 24738

plan, unless the health insuring corporation is also licensed as 24739
an insurer under Title XXXIX of the Revised Code, the health 24740
insuring corporation, on June 4, 1997, holds a certificate of 24741
authority or license to operate under Chapter 1736. or 1740. of 24742
the Revised Code, or an insurer licensed under Title XXXIX of the 24743
Revised Code is responsible for the out-of-network risk as 24744
evidenced by both an evidence of coverage filing under section 24745
1751.11 of the Revised Code and a policy and certificate filing 24746
under section 3923.02 of the Revised Code. 24747

~~(V)~~(T) "Osteopathic hospital" means a hospital registered 24748
under section 3701.07 of the Revised Code that advocates 24749
osteopathic principles and the practice and perpetuation of 24750
osteopathic medicine by doing any of the following: 24751

(1) Maintaining a department or service of osteopathic 24752
medicine or a committee on the utilization of osteopathic 24753
principles and methods, under the supervision of an osteopathic 24754
physician; 24755

(2) Maintaining an active medical staff, the majority of 24756
which is comprised of osteopathic physicians; 24757

(3) Maintaining a medical staff executive committee that has 24758
osteopathic physicians as a majority of its members. 24759

~~(W)~~(U) "Panel" means a group of providers or health care 24760
facilities that have joined together to deliver health care 24761
services through a contractual arrangement with a health insuring 24762
corporation, employer group, or other payor. 24763

~~(X)~~(V) "Person" has the same meaning as in section 1.59 of 24764
the Revised Code, and, unless the context otherwise requires, 24765
includes any insurance company holding a certificate of authority 24766
under Title XXXIX of the Revised Code, any subsidiary and 24767
affiliate of an insurance company, and any government agency. 24768

~~(Y)~~(W) "Premium rate" means any set fee regularly paid by a 24769

subscriber to a health insuring corporation. A "premium rate" does 24770
not include a one-time membership fee, an annual administrative 24771
fee, or a nominal access fee, paid to a managed health care system 24772
under which the recipient of health care services remains solely 24773
responsible for any charges accessed for those services by the 24774
provider or health care facility. 24775

~~(Z)~~(X) "Primary care provider" means a provider that is 24776
designated by a health insuring corporation to supervise, 24777
coordinate, or provide initial care or continuing care to an 24778
enrollee, and that may be required by the health insuring 24779
corporation to initiate a referral for specialty care and to 24780
maintain supervision of the health care services rendered to the 24781
enrollee. 24782

~~(AA)~~(Y) "Provider" means any natural person or partnership of 24783
natural persons who are licensed, certified, accredited, or 24784
otherwise authorized in this state to furnish health care 24785
services, or any professional association organized under Chapter 24786
1785. of the Revised Code, provided that nothing in this chapter 24787
or other provisions of law shall be construed to preclude a health 24788
insuring corporation, health care practitioner, or organized 24789
health care group associated with a health insuring corporation 24790
from employing certified nurse practitioners, certified nurse 24791
anesthetists, clinical nurse specialists, certified nurse 24792
midwives, dietitians, physician assistants, dental assistants, 24793
dental hygienists, optometric technicians, or other allied health 24794
personnel who are licensed, certified, accredited, or otherwise 24795
authorized in this state to furnish health care services. 24796

~~(BB)~~(Z) "Provider sponsored organization" means a 24797
corporation, as defined in division (H) of this section, that is 24798
at least eighty per cent owned or controlled by one or more 24799
hospitals, as defined in section 3727.01 of the Revised Code, or 24800
one or more physicians licensed to practice medicine or surgery or 24801

osteopathic medicine and surgery under Chapter 4731. of the 24802
Revised Code, or any combination of such physicians and hospitals. 24803
Such control is presumed to exist if at least eighty per cent of 24804
the voting rights or governance rights of a provider sponsored 24805
organization are directly or indirectly owned, controlled, or 24806
otherwise held by any combination of the physicians and hospitals 24807
described in this division. 24808

~~(CC)~~(AA) "Solicitation document" means the written materials 24809
provided to prospective subscribers or enrollees, or both, and 24810
used for advertising and marketing to induce enrollment in the 24811
health care plans of a health insuring corporation. 24812

~~(DD)~~(BB) "Subscriber" means a person who is responsible for 24813
making payments to a health insuring corporation for participation 24814
in a health care plan, or an enrollee whose employment or other 24815
status is the basis of eligibility for enrollment in a health 24816
insuring corporation. 24817

~~(EE)~~(CC) "Urgent care services" means those health care 24818
services that are appropriately provided for an unforeseen 24819
condition of a kind that usually requires medical attention 24820
without delay but that does not pose a threat to the life, limb, 24821
or permanent health of the injured or ill person, and may include 24822
such health care services provided out of the health insuring 24823
corporation's approved service area pursuant to indemnity payments 24824
or service agreements. 24825

Sec. 1751.11. (A) Every subscriber of a health insuring 24826
corporation is entitled to an evidence of coverage for the health 24827
care plan under which health care benefits are provided. 24828

(B) Every subscriber of a health insuring corporation that 24829
offers basic health care services is entitled to an identification 24830
card or similar document that specifies the health insuring 24831
corporation's name as stated in its articles of incorporation, and 24832

any trade or fictitious names used by the health insuring 24833
corporation. The identification card or document shall list at 24834
least one toll-free telephone number that provides the subscriber 24835
with access, to information on a twenty-four-hours-per-day, 24836
seven-days-per-week basis, as to how health care services may be 24837
obtained. The identification card or document shall also list at 24838
least one toll-free number that, during normal business hours, 24839
provides the subscriber with access to information on the coverage 24840
available under the subscriber's health care plan and information 24841
on the health care plan's internal and external review processes. 24842

(C) No evidence of coverage, or amendment to the evidence of 24843
coverage, shall be delivered, issued for delivery, renewed, or 24844
used, until the form of the evidence of coverage or amendment has 24845
been filed by the health insuring corporation with the 24846
superintendent of insurance. If the superintendent does not 24847
disapprove the evidence of coverage or amendment within sixty days 24848
after it is filed it shall be deemed approved, unless the 24849
superintendent sooner gives approval for the evidence of coverage 24850
or amendment. With respect to an amendment to an approved evidence 24851
of coverage, the superintendent only may disapprove provisions 24852
amended or added to the evidence of coverage. If the 24853
superintendent determines within the sixty-day period that any 24854
evidence of coverage or amendment fails to meet the requirements 24855
of this section, the superintendent shall so notify the health 24856
insuring corporation and it shall be unlawful for the health 24857
insuring corporation to use such evidence of coverage or 24858
amendment. At any time, the superintendent, upon at least thirty 24859
days' written notice to a health insuring corporation, may 24860
withdraw an approval, deemed or actual, of any evidence of 24861
coverage or amendment on any of the grounds stated in this 24862
section. Such disapproval shall be effected by a written order, 24863
which shall state the grounds for disapproval and shall be issued 24864
in accordance with Chapter 119. of the Revised Code. 24865

(D) No evidence of coverage or amendment shall be delivered, issued for delivery, renewed, or used:	24866 24867
(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;	24868 24869
(2) Unless it contains a clear, concise, and complete statement of the following:	24870 24871
(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;	24872 24873 24874
(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;	24875 24876 24877
(c) An enrollee's personal financial obligation for noncovered services;	24878 24879
(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;	24880 24881 24882
(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained in a separate insert.	24883 24884 24885 24886
(f) The method utilized by the health insuring corporation for resolving enrollee complaints;	24887 24888
(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.83 and Chapter 3922. of the Revised Code.	24889 24890 24891
(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This	24892 24893 24894 24895

continuation of coverage shall terminate at the earliest 24896
occurrence of any of the following: 24897

(a) The enrollee's discharge from the hospital; 24898

(b) The determination by the enrollee's attending physician 24899
that inpatient care is no longer medically indicated for the 24900
enrollee; however, nothing in division (D)(3)(b) of this section 24901
precludes a health insuring corporation from engaging in 24902
utilization review as described in the evidence of coverage. 24903

(c) The enrollee's reaching the limit for contractual 24904
benefits; 24905

(d) The effective date of any new coverage. 24906

(4) Unless it contains a provision that states, in substance, 24907
that the health insuring corporation is not a member of any 24908
guaranty fund, and that in the event of the health insuring 24909
corporation's insolvency, an enrollee is protected only to the 24910
extent that the hold harmless provision required by section 24911
1751.13 of the Revised Code applies to the health care services 24912
rendered; 24913

(5) Unless it contains a provision that states, in substance, 24914
that in the event of the insolvency of the health insuring 24915
corporation, an enrollee may be financially responsible for health 24916
care services rendered by a provider or health care facility that 24917
is not under contract to the health insuring corporation, whether 24918
or not the health insuring corporation authorized the use of the 24919
provider or health care facility. 24920

(E) Notwithstanding divisions (C) and (D) of this section, a 24921
health insuring corporation may use an evidence of coverage that 24922
provides for the coverage of beneficiaries enrolled in medicare 24923
pursuant to a medicare contract, or an evidence of coverage that 24924
provides for the coverage of beneficiaries enrolled in the federal 24925
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 24926

an evidence of coverage that provides for the coverage of medicaid 24927
recipients, or an evidence of coverage that provides for the 24928
coverage of beneficiaries under any other federal health care 24929
program regulated by a federal regulatory body, or an evidence of 24930
coverage that provides for the coverage of beneficiaries under any 24931
contract covering officers or employees of the state that has been 24932
entered into by the department of administrative services, if both 24933
of the following apply: 24934

(1) The evidence of coverage has been approved by the United 24935
States department of health and human services, the United States 24936
office of personnel management, the ~~Ohio~~ department of ~~job and~~ 24937
~~family services~~ medicaid, or the department of administrative 24938
services. 24939

(2) The evidence of coverage is filed with the superintendent 24940
of insurance prior to use and is accompanied by documentation of 24941
approval from the United States department of health and human 24942
services, the United States office of personnel management, the 24943
~~Ohio~~ department of ~~job and family services~~ medicaid, or the 24944
department of administrative services. 24945

Sec. 1751.12. (A)(1) No contractual periodic prepayment and 24946
no premium rate for nongroup and conversion policies for health 24947
care services, or any amendment to them, may be used by any health 24948
insuring corporation at any time until the contractual periodic 24949
prepayment and premium rate, or amendment, have been filed with 24950
the superintendent of insurance, and shall not be effective until 24951
the expiration of sixty days after their filing unless the 24952
superintendent sooner gives approval. The filing shall be 24953
accompanied by an actuarial certification in the form prescribed 24954
by the superintendent. The superintendent shall disapprove the 24955
filing, if the superintendent determines within the sixty-day 24956
period that the contractual periodic prepayment or premium rate, 24957

or amendment, is not in accordance with sound actuarial principles 24958
or is not reasonably related to the applicable coverage and 24959
characteristics of the applicable class of enrollees. The 24960
superintendent shall notify the health insuring corporation of the 24961
disapproval, and it shall thereafter be unlawful for the health 24962
insuring corporation to use the contractual periodic prepayment or 24963
premium rate, or amendment. 24964

(2) No contractual periodic prepayment for group policies for 24965
health care services shall be used until the contractual periodic 24966
prepayment has been filed with the superintendent. The filing 24967
shall be accompanied by an actuarial certification in the form 24968
prescribed by the superintendent. The superintendent may reject a 24969
filing made under division (A)(2) of this section at any time, 24970
with at least thirty days' written notice to a health insuring 24971
corporation, if the contractual periodic prepayment is not in 24972
accordance with sound actuarial principles or is not reasonably 24973
related to the applicable coverage and characteristics of the 24974
applicable class of enrollees. 24975

(3) At any time, the superintendent, upon at least thirty 24976
days' written notice to a health insuring corporation, may 24977
withdraw the approval given under division (A)(1) of this section, 24978
deemed or actual, of any contractual periodic prepayment or 24979
premium rate, or amendment, based on information that either of 24980
the following applies: 24981

(a) The contractual periodic prepayment or premium rate, or 24982
amendment, is not in accordance with sound actuarial principles. 24983

(b) The contractual periodic prepayment or premium rate, or 24984
amendment, is not reasonably related to the applicable coverage 24985
and characteristics of the applicable class of enrollees. 24986

(4) Any disapproval under division (A)(1) of this section, 24987
any rejection of a filing made under division (A)(2) of this 24988

section, or any withdrawal of approval under division (A)(3) of 24989
this section, shall be effected by a written notice, which shall 24990
state the specific basis for the disapproval, rejection, or 24991
withdrawal and shall be issued in accordance with Chapter 119. of 24992
the Revised Code. 24993

(B) Notwithstanding division (A) of this section, a health 24994
insuring corporation may use a contractual periodic prepayment or 24995
premium rate for policies used for the coverage of beneficiaries 24996
enrolled in medicare pursuant to a medicare risk contract or 24997
medicare cost contract, or for policies used for the coverage of 24998
beneficiaries enrolled in the federal employees health benefits 24999
program pursuant to 5 U.S.C.A. 8905, or for policies used for the 25000
coverage of medicaid recipients, or for policies used for the 25001
coverage of beneficiaries under any other federal health care 25002
program regulated by a federal regulatory body, or for policies 25003
used for the coverage of beneficiaries under any contract covering 25004
officers or employees of the state that has been entered into by 25005
the department of administrative services, if both of the 25006
following apply: 25007

(1) The contractual periodic prepayment or premium rate has 25008
been approved by the United States department of health and human 25009
services, the United States office of personnel management, the 25010
department of ~~job and family services~~ medicaid, or the department 25011
of administrative services. 25012

(2) The contractual periodic prepayment or premium rate is 25013
filed with the superintendent prior to use and is accompanied by 25014
documentation of approval from the United States department of 25015
health and human services, the United States office of personnel 25016
management, the department of ~~job and family services~~ medicaid, or 25017
the department of administrative services. 25018

(C) The administrative expense portion of all contractual 25019
periodic prepayment or premium rate filings submitted to the 25020

superintendent for review must reflect the actual cost of 25021
administering the product. The superintendent may require that the 25022
administrative expense portion of the filings be itemized and 25023
supported. 25024

(D)(1) Copayments must be reasonable and must not be a 25025
barrier to the necessary utilization of services by enrollees. 25026

(2) A health insuring corporation, in order to ensure that 25027
copayments are reasonable and not a barrier to the necessary 25028
utilization of basic health care services by enrollees, may do one 25029
of the following: 25030

(a) Impose copayment charges on any single covered basic 25031
health care service that does not exceed forty per cent of the 25032
average cost to the health insuring corporation of providing the 25033
service; 25034

(b) Impose copayment charges that annually do not exceed 25035
twenty per cent of the total annual cost to the health insuring 25036
corporation of providing all covered basic health care services, 25037
including physician office visits, urgent care services, and 25038
emergency health services, when aggregated as to all persons 25039
covered under the filed product in question. In addition, annual 25040
copayment charges as to each enrollee shall not exceed twenty per 25041
cent of the total annual cost to the health insuring corporation 25042
of providing all covered basic health care services, including 25043
physician office visits, urgent care services, and emergency 25044
health services, as to such enrollee. The total annual cost of 25045
providing a health care service is the cost to the health insuring 25046
corporation of providing the health care service to its enrollees 25047
as reduced by any applicable provider discount. 25048

(3) To ensure that copayments are reasonable and not a 25049
barrier to the utilization of basic health care services, a health 25050
insuring corporation may not impose, in any contract year, on any 25051

subscriber or enrollee, copayments that exceed two hundred per 25052
cent of the average annual premium rate to subscribers or 25053
enrollees. 25054

(4) For purposes of division (D) of this section, both of the 25055
following apply: 25056

(a) Copayments imposed by health insuring corporations in 25057
connection with a high deductible health plan that is linked to a 25058
health savings account are reasonable and are not a barrier to the 25059
necessary utilization of services by enrollees. 25060

(b) Divisions (D)(2) and (3) of this section do not apply to 25061
a high deductible health plan that is linked to a health savings 25062
account. 25063

(E) A health insuring corporation shall not impose lifetime 25064
maximums on basic health care services. However, a health insuring 25065
corporation may establish a benefit limit for inpatient hospital 25066
services that are provided pursuant to a policy, contract, 25067
certificate, or agreement for supplemental health care services. 25068

(F) A health insuring corporation may require that an 25069
enrollee pay an annual deductible that does not exceed one 25070
thousand dollars per enrollee or two thousand dollars per family, 25071
except that: 25072

(1) A health insuring corporation may impose higher 25073
deductibles for high deductible health plans that are linked to 25074
health savings accounts; 25075

(2) The superintendent may adopt rules allowing different 25076
annual deductible amounts for plans with a medical savings 25077
account, health reimbursement arrangement, flexible spending 25078
account, or similar account; 25079

(3) A health insuring corporation may impose higher 25080
deductibles under health plans if requested by the group contract, 25081

policy, certificate, or agreement holder, or an individual seeking 25082
coverage under an individual health plan. This shall not be 25083
construed as requiring the health insuring corporation to create 25084
customized health plans for group contract holders or individuals. 25085

(G) As used in this section, "health savings account" and 25086
"high deductible health plan" have the same meanings as in the 25087
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 223, as 25088
amended. 25089

Sec. 1751.31. (A) Any changes in a health insuring 25090
corporation's solicitation document shall be filed with the 25091
superintendent of insurance. The superintendent, within sixty days 25092
of filing, may disapprove any solicitation document or amendment 25093
to it on any of the grounds stated in this section. Such 25094
disapproval shall be effected by written notice to the health 25095
insuring corporation. The notice shall state the grounds for 25096
disapproval and shall be issued in accordance with Chapter 119. of 25097
the Revised Code. 25098

(B) The solicitation document shall contain all information 25099
necessary to enable a consumer to make an informed choice as to 25100
whether or not to enroll in the health insuring corporation. The 25101
information shall include a specific description of the health 25102
care services to be available and the approximate number and type 25103
of full-time equivalent medical practitioners. The information 25104
shall be presented in the solicitation document in a manner that 25105
is clear, concise, and intelligible to prospective applicants in 25106
the proposed service area. 25107

(C) Every potential applicant whose subscription to a health 25108
care plan is solicited shall receive, at or before the time of 25109
solicitation, a solicitation document approved by the 25110
superintendent. 25111

(D) Notwithstanding division (A) of this section, a health 25112

insuring corporation may use a solicitation document that the 25113
corporation uses in connection with policies for medicare 25114
beneficiaries pursuant to a medicare risk contract or medicare 25115
cost contract, or for policies for beneficiaries of the federal 25116
employees health benefits program pursuant to 5 U.S.C.A. 8905, or 25117
for policies for medicaid recipients, or for policies for 25118
beneficiaries of any other federal health care program regulated 25119
by a federal regulatory body, or for policies for beneficiaries of 25120
contracts covering officers or employees of the state entered into 25121
by the department of administrative services, if both of the 25122
following apply: 25123

(1) The solicitation document has been approved by the United 25124
States department of health and human services, the United States 25125
office of personnel management, the department of ~~job and family~~ 25126
~~services~~ medicaid, or the department of administrative services. 25127

(2) The solicitation document is filed with the 25128
superintendent of insurance prior to use and is accompanied by 25129
documentation of approval from the United States department of 25130
health and human services, the United States office of personnel 25131
management, the department of ~~job and family services~~ medicaid, or 25132
the department of administrative services. 25133

(E) No health insuring corporation, or its agents or 25134
representatives, shall use monetary or other valuable 25135
consideration, engage in misleading or deceptive practices, or 25136
make untrue, misleading, or deceptive representations to induce 25137
enrollment. Nothing in this division shall prohibit incentive 25138
forms of remuneration such as commission sales programs for the 25139
health insuring corporation's employees and agents. 25140

(F) Any person obligated for any part of a premium rate in 25141
connection with an enrollment agreement, in addition to any right 25142
otherwise available to revoke an offer, may cancel such agreement 25143
within seventy-two hours after having signed the agreement or 25144

offer to enroll. Cancellation occurs when written notice of the 25145
cancellation is given to the health insuring corporation or its 25146
agents or other representatives. A notice of cancellation mailed 25147
to the health insuring corporation shall be considered to have 25148
been filed on its postmark date. 25149

(G) Nothing in this section shall prohibit healthy lifestyle 25150
programs. 25151

Sec. 1923.14. (A) Except as otherwise provided in this 25152
section, within ten days after receiving a writ of execution 25153
described in division (A) or (B) of section 1923.13 of the Revised 25154
Code, the sheriff, police officer, constable, or bailiff shall 25155
execute it by restoring the plaintiff to the possession of the 25156
premises, and shall levy and collect the costs and make return, as 25157
upon other executions. If an appeal from the judgment of 25158
restitution is filed and if, following the filing of the appeal, a 25159
stay of execution is obtained and any required bond is filed with 25160
the court of common pleas, municipal court, or county court, the 25161
judge of that court immediately shall issue an order to the 25162
sheriff, police officer, constable, or bailiff commanding the 25163
delay of all further proceedings upon the execution. If the 25164
premises have been restored to the plaintiff, the sheriff, police 25165
officer, constable, or bailiff shall forthwith place the defendant 25166
in possession of them, and return the writ with the sheriff's, 25167
police officer's, constable's, or bailiff's proceedings and the 25168
costs taxed on it. 25169

(B)(1) After a court of common pleas, municipal court, or 25170
county court issues a writ of execution described in division (B) 25171
of section 1923.13 of the Revised Code, the clerk of the court 25172
shall send by regular mail, to the last known address of the 25173
titled owner of the manufactured home, mobile home, or 25174
recreational vehicle that is the subject of the writ and to the 25175

last known address of each other person who is listed on the writ 25176
as having any outstanding right, title, or interest in the home, 25177
vehicle, or personal property and to the auditor and treasurer of 25178
the county in which the court is located, a written notice that 25179
the home or vehicle potentially may be sold, destroyed, or have 25180
its title transferred under the circumstances described in 25181
division (B)(3) or (4) of this section. 25182

(2) Except as otherwise provided in this division, after 25183
receiving a writ of execution described in division (B) of section 25184
1923.13 of the Revised Code, and after causing the defendant to be 25185
removed from the residential premises of the manufactured home 25186
park, if necessary, in accordance with the writ, the sheriff, 25187
police officer, constable, or bailiff may cause the manufactured 25188
home, mobile home, or recreational vehicle that is the subject of 25189
the writ, and all personal property on the residential premises, 25190
at the sheriff's, police officer's, constable's, or bailiff's 25191
option, either to be removed from the manufactured home park and, 25192
if necessary, moved to a storage facility of the sheriff's, police 25193
officer's, constable's, or bailiff's choice, or to be retained at 25194
their current location on the residential premises, until they are 25195
claimed by the defendant or they are disposed of in a manner 25196
authorized by division (B)(3), (4), or (6) of this section or by 25197
another section of the Revised Code. The sheriff, police officer, 25198
constable, or bailiff shall not cause the manufactured home, 25199
mobile home, or recreational vehicle that is the subject of the 25200
writ, or the personal property, to be removed from the 25201
manufactured home park or moved to a storage facility if the 25202
holder of any outstanding lien, right, title, or interest in the 25203
home or vehicle, other than the titled owner of the home or 25204
vehicle, meets the conditions set forth in division (B)(6) or (7) 25205
of this section. 25206

The sheriff, police officer, constable, or bailiff who 25207

removes the manufactured home, mobile home, or recreational 25208
vehicle, or the abandoned personal property, from the residential 25209
premises shall be immune from civil liability pursuant to section 25210
2744.03 of the Revised Code for any damage caused to the home, 25211
vehicle, or any personal property during the removal. The park 25212
operator shall not be liable for any damage caused by the park 25213
operator's removal of the manufactured home, mobile home, or 25214
recreational vehicle or the removal of the personal property from 25215
the residential premises, or for any damage to the home, vehicle, 25216
or personal property during the time the home, vehicle, or 25217
property remains abandoned or stored in the manufactured home 25218
park, unless the damage is the result of acts that the park 25219
operator or the park operator's agents or employees performed with 25220
malicious purpose, in bad faith, or in a wanton or reckless 25221
manner. The reasonable costs for a removal of the manufactured 25222
home, mobile home, or recreational vehicle and personal property 25223
and, as applicable, the reasonable costs for its storage shall 25224
constitute a lien upon the home or vehicle payable by the titled 25225
owner of the home or vehicle or payable pursuant to division 25226
(B)(3) of this section. 25227

(3) Except as provided in divisions (B)(4), (5), and (6) of 25228
this section and division (D) of section 1923.12 of the Revised 25229
Code, within sixty days after receiving a writ of execution 25230
described in division (B) of section 1923.13 of the Revised Code, 25231
the sheriff, police officer, constable, or bailiff shall commence 25232
proceedings for the sale of the manufactured home, mobile home, or 25233
recreational vehicle that is the subject of the writ, and the 25234
abandoned personal property on the residential premises, if the 25235
home or vehicle is determined to be abandoned in accordance with 25236
the procedures for the sale of goods on execution under Chapter 25237
2329. of the Revised Code. In addition to all notices required to 25238
be given under section 2329.13 of the Revised Code, the sheriff, 25239
police officer, constable, or bailiff shall serve at their 25240

respective last known addresses a written notice of the date, 25241
time, and place of the sale upon all persons who are listed on the 25242
writ of execution as having any outstanding right, title, or 25243
interest in the abandoned manufactured home, mobile home, or 25244
recreational vehicle and the personal property and shall provide 25245
written notice to the auditor and the treasurer of the county in 25246
which the court issuing the writ is located. 25247

Unless the proceedings are governed by division (D) of 25248
section 1923.12 of the Revised Code, notwithstanding any statutory 25249
provision to the contrary, including, but not limited to, section 25250
2329.66 of the Revised Code, there shall be no stay of execution 25251
or exemption from levy or sale on execution available to the 25252
titled owner of the abandoned manufactured home, mobile home, or 25253
recreational vehicle in relation to a sale under this division. 25254
Except as otherwise provided in sections 2113.031, 2117.25, and 25255
~~5111.11~~ 5162.21 of the Revised Code in a case involving a deceased 25256
resident or resident's estate, the sheriff, police officer, 25257
constable, or bailiff shall distribute the proceeds from the sale 25258
of an abandoned manufactured home, mobile home, or recreational 25259
vehicle and any personal property under this division in the 25260
following manner: 25261

(a) The sheriff, police officer, constable, or bailiff shall 25262
first pay the costs for any moving of and any storage outside the 25263
manufactured home park of the home or vehicle and any personal 25264
property pursuant to division (B)(2) of this section, the costs of 25265
the sale, including reimbursing the park operator for the deposit 25266
that the park operator paid to the clerk of court under division 25267
(C) of section 1923.12 of the Revised Code, and any unpaid court 25268
costs assessed against the defendant in the underlying action. 25269

(b) Following the payment required by division (B)(3)(a) of 25270
this section, the sheriff, police officer, constable, or bailiff 25271
shall pay all outstanding tax liens on the home or vehicle. 25272

(c) Following the payment required by division (B)(3)(b) of 25273
this section, the sheriff, police officer, constable, or bailiff 25274
shall pay all other outstanding security interests, liens, or 25275
encumbrances on the home or vehicle by priority of filing or other 25276
priority. 25277

(d) Following the payment required by division (B)(3)(c) of 25278
this section, the sheriff, police officer, constable, or bailiff 25279
shall pay any outstanding monetary judgment rendered under section 25280
1923.09 or 1923.11 of the Revised Code in favor of the plaintiff 25281
and any costs associated with retaining the home or vehicle prior 25282
to the sale at its location on the residential premises within the 25283
manufactured home park pursuant to division (B)(2) of this 25284
section. 25285

(e) After complying with divisions (B)(3)(a) to (d) of this 25286
section, the sheriff, police officer, constable, or bailiff shall 25287
report any remaining money as unclaimed funds pursuant to Chapter 25288
169. of the Revised Code. 25289

Upon the return of any writ of execution for the satisfaction 25290
of which an abandoned manufactured home, mobile home, or 25291
recreational vehicle has been sold under this division, on careful 25292
examination of the proceedings of the sheriff, police officer, 25293
constable, or bailiff conducting the sale, if the court that 25294
issued the writ finds that the sale was made, in all respects, in 25295
conformity with the relevant provisions of Chapter 2329. of the 25296
Revised Code and with this division, it shall direct the clerk of 25297
the court to make an entry on the journal that the court is 25298
satisfied with the legality of the sale and the court shall direct 25299
the clerk of the court of common pleas of the county in which the 25300
writ was issued to issue a certificate of title, free and clear of 25301
all security interests, liens, and encumbrances, to the purchaser 25302
of the home or vehicle. The clerk of the court of common pleas 25303
shall issue the new certificate of title to the purchaser of the 25304

home or vehicle regardless of whether the writ was issued by the 25305
court of common pleas or another court duly authorized to issue 25306
the writ. If the manufactured home, mobile home, or recreational 25307
vehicle sold under this division is located in a manufactured home 25308
park, the purchaser of the home or vehicle shall have no right to 25309
maintain the home or vehicle in the manufactured home park without 25310
the park operator's consent and the sheriff, police officer, 25311
constable, or bailiff conducting the sale shall notify all 25312
prospective purchasers of this fact prior to the commencement of 25313
the sale. 25314

If, after it is offered for sale on two occasions under this 25315
division, the abandoned manufactured home, mobile home, or 25316
recreational vehicle cannot be sold due to a want of bidders, the 25317
sheriff, police officer, constable, or bailiff shall present the 25318
writ of execution unsatisfied to the clerk of the court of common 25319
pleas of the county in which the writ was issued for the issuance 25320
by the clerk in the manner prescribed in section 4505.10 of the 25321
Revised Code of a certificate of title transferring the title of 25322
the home or vehicle to the plaintiff, free and clear of all 25323
security interests, liens, and encumbrances. The clerk of the 25324
court of common pleas shall issue the new certificate of title 25325
transferring the title of the manufactured home, mobile home, or 25326
recreational vehicle to the plaintiff regardless of whether the 25327
writ was issued by the court of common pleas or another court duly 25328
authorized to issue the writ. If any taxes are owed on the home or 25329
vehicle at this time, the county auditor shall remove the 25330
delinquent taxes from the manufactured home tax list and the 25331
delinquent manufactured home tax list and remit any penalties for 25332
late payment of manufactured home taxes. Acceptance of the 25333
certificate of title by the plaintiff terminates all further 25334
proceedings under this section. 25335

(4) Except as provided in division (B)(5) or (6) of this 25336

section and division (D) of section 1923.12 of the Revised Code, 25337
within sixty days after receiving a writ of execution described in 25338
division (B) of section 1923.13 of the Revised Code, if the 25339
manufactured home, mobile home, or recreational vehicle is 25340
determined to be abandoned and to have a value of less than three 25341
thousand dollars, the sheriff, police officer, constable, or 25342
bailiff shall serve at their respective last known addresses a 25343
written notice of potential action as described in this division 25344
upon all persons who are listed on the writ as having any 25345
outstanding right, title, or interest in the home or vehicle. This 25346
notice shall be in addition to all notices required to be given 25347
under section 2329.13 of the Revised Code. Subject to the 25348
fulfillment of these notice requirements, the sheriff, police 25349
officer, constable, or bailiff shall take one of the following 25350
actions with respect to the abandoned manufactured home, mobile 25351
home, or recreational vehicle: 25352

(a) Cause its destruction if there is no person having an 25353
outstanding right, title, or interest in the home or vehicle, 25354
other than the titled owner of the home or vehicle; 25355

(b) Proceed with its sale under division (B)(3) of this 25356
section; 25357

(c) If there is no person having an outstanding right, title, 25358
or interest in the home or vehicle other than the titled owner of 25359
the home or vehicle, or if there is an outstanding right, title, 25360
or interest in the home or vehicle and the lienholder consents in 25361
writing, present the writ of execution to the clerk of the court 25362
of common pleas of the county in which the writ was issued for the 25363
issuance by the clerk in the manner prescribed in section 4505.10 25364
of the Revised Code of a certificate of title transferring the 25365
title of the home or vehicle to the plaintiff, free and clear of 25366
all security interests, liens, and encumbrances. The clerk of the 25367
court of common pleas shall issue the new certificate of title 25368

transferring the title of the home or vehicle regardless of 25369
whether the writ was issued by the court of common pleas or 25370
another court duly authorized to issue the writ. If any taxes are 25371
owed on the home or vehicle at this time, the county auditor shall 25372
remove the delinquent taxes from the manufactured home tax list 25373
and the delinquent manufactured home tax list and remit any 25374
penalties for late payment of manufactured home taxes. Acceptance 25375
of the certificate of title by the plaintiff terminates all 25376
further proceedings under this section. 25377

(5) At any time prior to the issuance of the writ of 25378
execution described in division (B) of section 1923.13 of the 25379
Revised Code, the titled owner of the manufactured home, mobile 25380
home, or recreational vehicle that would be the subject of the 25381
writ may remove the abandoned home or vehicle from the 25382
manufactured home park or other place of storage upon payment to 25383
the county auditor of all outstanding tax liens on the home or 25384
vehicle and, unless the owner is indigent, payment to the clerk of 25385
court of all unpaid court costs assessed against the defendant in 25386
the underlying action. After the issuance of the writ of 25387
execution, the titled owner of the home or vehicle may remove the 25388
abandoned home or vehicle from the manufactured home park or other 25389
place of storage at any time up to the day before the scheduled 25390
sale, destruction, or transfer of the home or vehicle pursuant to 25391
division (B)(3) or (4) of this section upon payment of all of the 25392
following: 25393

(a) All costs for moving and storage of the home or vehicle 25394
pursuant to division (B)(2) of this section and all costs incurred 25395
by the sheriff, police officer, constable, or bailiff up to and 25396
including the date of the removal of the home or vehicle; 25397

(b) All outstanding tax liens on the home or vehicle; 25398

(c) Unless the owner is indigent, all unpaid court costs 25399
assessed against the defendant in the underlying action. 25400

(6) At any time after the issuance of the writ of execution 25401
described in division (B) of section 1923.13 of the Revised Code, 25402
the holder of any outstanding lien, right, title, or interest in 25403
the manufactured home, mobile home, or recreational vehicle, other 25404
than the titled owner of the home or vehicle, may stop the 25405
sheriff, police officer, constable, or bailiff from proceeding 25406
with the sale under this division by doing both of the following: 25407

(a) Commencing a proceeding to repossess the home or vehicle 25408
pursuant to Chapters 1309. and 1317. of the Revised Code; 25409

(b) Paying to the park operator all monthly rental payments 25410
for the lot on which the home or vehicle is located from the time 25411
of the issuance of the writ of execution until the time that the 25412
home or vehicle is sold pursuant to Chapters 1309. and 1317. of 25413
the Revised Code. 25414

(7)(a) At any time prior to the day before the scheduled sale 25415
of the property pursuant to division (B)(3) of this section, the 25416
defendant may remove any personal property of the defendant from 25417
the abandoned home or vehicle or other place of storage. 25418

(b) If personal property owned by a person other than the 25419
defendant is abandoned on the residential premises and has not 25420
previously been removed, the owner of the personal property may 25421
remove the personal property from the abandoned home or vehicle or 25422
other place of storage up to the day before the scheduled sale of 25423
the property pursuant to division (B)(3) of this section upon 25424
presentation of proof of ownership of the property that is 25425
satisfactory to the sheriff, police officer, constable, or bailiff 25426
conducting the sale. 25427

Sec. 2101.24. (A)(1) Except as otherwise provided by law, the 25428
probate court has exclusive jurisdiction: 25429

(a) To take the proof of wills and to admit to record 25430

authenticated copies of wills executed, proved, and allowed in the courts of any other state, territory, or country. If the probate judge is unavoidably absent, any judge of the court of common pleas may take proof of wills and approve bonds to be given, but the record of these acts shall be preserved in the usual records of the probate court.

(b) To grant and revoke letters testamentary and of administration;

(c) To direct and control the conduct and settle the accounts of executors and administrators and order the distribution of estates;

(d) To appoint the attorney general to serve as the administrator of an estate pursuant to section 2113.06 of the Revised Code;

(e) To appoint and remove guardians, conservators, and testamentary trustees, direct and control their conduct, and settle their accounts;

(f) To grant marriage licenses;

(g) To make inquests respecting persons who are so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that they are unable to manage their property and affairs effectively, subject to guardianship;

(h) To qualify assignees, appoint and qualify trustees and commissioners of insolvents, control their conduct, and settle their accounts;

(i) To authorize the sale of lands, equitable estates, or interests in lands or equitable estates, and the assignments of inchoate dower in such cases of sale, on petition by executors, administrators, and guardians;

(j) To authorize the completion of real property contracts on petition of executors and administrators;	25461 25462
(k) To construe wills;	25463
(l) To render declaratory judgments, including, but not limited to, those rendered pursuant to section 2107.084 of the Revised Code;	25464 25465 25466
(m) To direct and control the conduct of fiduciaries and settle their accounts;	25467 25468
(n) To authorize the sale or lease of any estate created by will if the estate is held in trust, on petition by the trustee;	25469 25470
(o) To terminate a testamentary trust in any case in which a court of equity may do so;	25471 25472
(p) To hear and determine actions to contest the validity of wills;	25473 25474
(q) To make a determination of the presumption of death of missing persons and to adjudicate the property rights and obligations of all parties affected by the presumption;	25475 25476 25477
(r) To hear and determine an action commenced pursuant to section 3107.41 of the Revised Code to obtain the release of information pertaining to the birth name of the adopted person and the identity of the adopted person's biological parents and biological siblings;	25478 25479 25480 25481 25482
(s) To act for and issue orders regarding wards pursuant to section 2111.50 of the Revised Code;	25483 25484
(t) To hear and determine actions against sureties on the bonds of fiduciaries appointed by the probate court;	25485 25486
(u) To hear and determine actions involving informed consent for medication of persons hospitalized pursuant to section 5122.141 or 5122.15 of the Revised Code;	25487 25488 25489

(v) To hear and determine actions relating to durable powers of attorney for health care as described in division (D) of section 1337.16 of the Revised Code;	25490 25491 25492
(w) To hear and determine actions commenced by objecting individuals, in accordance with section 2133.05 of the Revised Code;	25493 25494 25495
(x) To hear and determine complaints that pertain to the use or continuation, or the withholding or withdrawal, of life-sustaining treatment in connection with certain patients allegedly in a terminal condition or in a permanently unconscious state pursuant to division (E) of section 2133.08 of the Revised Code, in accordance with that division;	25496 25497 25498 25499 25500 25501
(y) To hear and determine applications that pertain to the withholding or withdrawal of nutrition and hydration from certain patients allegedly in a permanently unconscious state pursuant to section 2133.09 of the Revised Code, in accordance with that section;	25502 25503 25504 25505 25506
(z) To hear and determine applications of attending physicians in accordance with division (B) of section 2133.15 of the Revised Code;	25507 25508 25509
(aa) To hear and determine actions relative to the use or continuation of comfort care in connection with certain principals under durable powers of attorney for health care, declarants under declarations, or patients in accordance with division (E) of either section 1337.16 or 2133.12 of the Revised Code;	25510 25511 25512 25513 25514
(bb) To hear and determine applications for an order relieving an estate from administration under section 2113.03 of the Revised Code;	25515 25516 25517
(cc) To hear and determine applications for an order granting a summary release from administration under section 2113.031 of the Revised Code;	25518 25519 25520

(dd) To hear and determine actions relating to the exercise of the right of disposition, in accordance with section 2108.90 of the Revised Code; 25521
25522
25523

(ee) To hear and determine actions relating to the disinterment and reinterment of human remains under section 517.23 of the Revised Code; 25524
25525
25526

(ff) To hear and determine petitions for an order for treatment of a person suffering from alcohol and other drug abuse filed under section ~~3793.34~~ 5119.93 of the Revised Code and to order treatment of that nature in accordance with, and take other actions afforded to the court under, sections ~~3793.31~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code. 25527
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(2) In addition to the exclusive jurisdiction conferred upon the probate court by division (A)(1) of this section, the probate court shall have exclusive jurisdiction over a particular subject matter if both of the following apply: 25533
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(a) Another section of the Revised Code expressly confers jurisdiction over that subject matter upon the probate court. 25537
25538

(b) No section of the Revised Code expressly confers jurisdiction over that subject matter upon any other court or agency. 25539
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25541

(B)(1) The probate court has concurrent jurisdiction with, and the same powers at law and in equity as, the general division of the court of common pleas to issue writs and orders, and to hear and determine actions as follows: 25542
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(a) If jurisdiction relative to a particular subject matter is stated to be concurrent in a section of the Revised Code or has been construed by judicial decision to be concurrent, any action that involves that subject matter; 25546
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(b) Any action that involves an inter vivos trust; a trust 25550

created pursuant to section 5815.28 of the Revised Code; a 25551
charitable trust or foundation; subject to divisions (A)(1)(u) and 25552
(z) of this section, a power of attorney, including, but not 25553
limited to, a durable power of attorney; the medical treatment of 25554
a competent adult; or a writ of habeas corpus; 25555

(c) Subject to section 2101.31 of the Revised Code, any 25556
action with respect to a probate estate, guardianship, trust, or 25557
post-death dispute that involves any of the following: 25558

(i) A designation or removal of a beneficiary of a life 25559
insurance policy, annuity contract, retirement plan, brokerage 25560
account, security account, bank account, real property, or 25561
tangible personal property; 25562

(ii) A designation or removal of a payable-on-death 25563
beneficiary or transfer-on-death beneficiary; 25564

(iii) A change in the title to any asset involving a joint 25565
and survivorship interest; 25566

(iv) An alleged gift; 25567

(v) The passing of assets upon the death of an individual 25568
otherwise than by will, intestate succession, or trust. 25569

(2) Any action that involves a concurrent jurisdiction 25570
subject matter and that is before the probate court may be 25571
transferred by the probate court, on its order, to the general 25572
division of the court of common pleas. 25573

(C) The probate court has plenary power at law and in equity 25574
to dispose fully of any matter that is properly before the court, 25575
unless the power is expressly otherwise limited or denied by a 25576
section of the Revised Code. 25577

(D) The jurisdiction acquired by a probate court over a 25578
matter or proceeding is exclusive of that of any other probate 25579
court, except when otherwise provided by law. 25580

Sec. 2113.041. (A) The administrator of the medicaid estate 25581
recovery program established pursuant to section ~~5111.11~~ 5162.21 25582
of the Revised Code may present an affidavit to a financial 25583
institution requesting that the financial institution release 25584
account proceeds to recover the cost of services correctly 25585
provided to a medicaid recipient who is subject to the medicaid 25586
estate recovery program. The affidavit shall include all of the 25587
following information: 25588

(1) The name of the decedent; 25589

(2) The name of any person who gave notice that the decedent 25590
was a medicaid recipient and that person's relationship to the 25591
decedent; 25592

(3) The name of the financial institution; 25593

(4) The account number; 25594

(5) A description of the claim for estate recovery; 25595

(6) The amount of funds to be recovered. 25596

(B) A financial institution may release account proceeds to 25597
the administrator of the medicaid estate recovery program if all 25598
of the following apply: 25599

(1) The decedent held an account at the financial institution 25600
that was in the decedent's name only. 25601

(2) No estate has been, and it is reasonable to assume that 25602
no estate will be, opened for the decedent. 25603

(3) The decedent has no outstanding debts known to the 25604
administrator of the medicaid estate recovery program. 25605

(4) The financial institution has received no objections or 25606
has determined that no valid objections to release of proceeds 25607
have been received. 25608

(C) If proceeds have been released pursuant to division (B) 25609

of this section and the department of ~~job and family services~~ 25610
medicaid receives notice of a valid claim to the proceeds that has 25611
a higher priority under section 2117.25 of the Revised Code than 25612
the claim of the medicaid estate recovery program, the department 25613
may refund the proceeds to the financial institution or pay them 25614
to the person or government entity with the claim. 25615

Sec. 2113.06. (A) Administration of the estate of an 25616
intestate shall be granted to persons mentioned in this division, 25617
in the following order: 25618

(1) To the surviving spouse of the deceased, if resident of 25619
the state; 25620

(2) To one of the next of kin of the deceased, resident of 25621
the state. 25622

(B) If the persons entitled to administer the estate under 25623
division (A) of this section fail to take or renounce 25624
administration voluntarily, the matter shall be set for hearing 25625
and notice given to the persons. 25626

(C) If there are no persons entitled to administration, if 25627
they are for any reason unsuitable for the discharge of the trust, 25628
or if without sufficient cause they neglect to apply within a 25629
reasonable time for the administration of the estate, their right 25630
to priority shall be lost, and the court shall commit the 25631
administration to some suitable person who is a resident of the 25632
state, or to the attorney general or the attorney general's 25633
designee, if the department of ~~job and family services~~ medicaid is 25634
seeking to recover ~~medical assistance~~ the costs of medicaid 25635
services from the deceased pursuant to section ~~5111.11~~ 5162.21 or 25636
~~5111.111~~ 5162.211 of the Revised Code. The person granted 25637
administration may be a creditor of the estate. 25638

(D) This section applies to the appointment of an 25639

administrator de bonis non. 25640

Sec. 2117.061. (A) As used in this section: 25641

(1) "Medicaid estate recovery program" means the program 25642
instituted under section ~~5111.11~~ 5162.21 of the Revised Code. 25643

(2) "Person responsible for the estate" means the executor, 25644
administrator, commissioner, or person who filed pursuant to 25645
section 2113.03 of the Revised Code for release from 25646
administration of an estate. 25647

(B) The person responsible for the estate of a decedent 25648
subject to the medicaid estate recovery program or the estate of a 25649
decedent who was the spouse of a decedent subject to the medicaid 25650
estate recovery program shall submit a properly completed medicaid 25651
estate recovery notice form to the administrator of the medicaid 25652
estate recovery program not later than thirty days after the 25653
occurrence of any of the following: 25654

(1) The granting of letters of administration or letters 25655
testamentary; 25656

(2) The filing of an application for release from 25657
administration or summary release from administration. 25658

(C) The person responsible for the estate shall mark the 25659
appropriate box on the appropriate probate form that gives notice 25660
to the administrator of the medicaid estate recovery program to 25661
indicate compliance with the requirements of division (B) of this 25662
section. 25663

(D) The administrator of the medicaid estate recovery program 25664
shall present a claim for estate recovery to the person 25665
responsible for the estate of the decedent or the person's legal 25666
representative not later than ninety days after the date on which 25667
the medicaid estate recovery notice form is received under 25668
division (B) of this section or one year after the decedent's 25669

death, whichever is later. 25670

Sec. 2117.25. (A) Every executor or administrator shall 25671
proceed with diligence to pay the debts of the decedent and shall 25672
apply the assets in the following order: 25673

(1) Costs and expenses of administration; 25674

(2) An amount, not exceeding four thousand dollars, for 25675
funeral expenses that are included in the bill of a funeral 25676
director, funeral expenses other than those in the bill of a 25677
funeral director that are approved by the probate court, and an 25678
amount, not exceeding three thousand dollars, for burial and 25679
cemetery expenses, including that portion of the funeral 25680
director's bill allocated to cemetery expenses that have been paid 25681
to the cemetery by the funeral director. 25682

For purposes of division (A)(2) of this section, burial and 25683
cemetery expenses shall be limited to the following: 25684

(a) The purchase of a right of interment; 25685

(b) Monuments or other markers; 25686

(c) The outer burial container; 25687

(d) The cost of opening and closing the place of interment; 25688

(e) The urn. 25689

(3) The allowance for support made to the surviving spouse, 25690
minor children, or both under section 2106.13 of the Revised Code; 25691

(4) Debts entitled to a preference under the laws of the 25692
United States; 25693

(5) Expenses of the last sickness of the decedent; 25694

(6) If the total bill of a funeral director for funeral 25695
expenses exceeds four thousand dollars, then, in addition to the 25696
amount described in division (A)(2) of this section, an amount, 25697

not exceeding two thousand dollars, for funeral expenses that are 25698
included in the bill and that exceed four thousand dollars; 25699

(7) Expenses of the decedent's last continuous stay in a 25700
nursing home as defined in section 3721.01 of the Revised Code, 25701
residential facility as defined in section 5123.19 of the Revised 25702
Code, or hospital long-term care unit as defined in section 25703
~~3721.50~~ 5168.40 of the Revised Code. 25704

For purposes of division (A)(7) of this section, a decedent's 25705
last ~~continuance~~ continuous stay includes up to thirty consecutive 25706
days during which the decedent was temporarily absent from the 25707
nursing home, residential facility, or hospital long-term care 25708
unit. 25709

(8) Personal property taxes, claims made under the medicaid 25710
estate recovery program instituted pursuant to section ~~5111.11~~ 25711
5162.21 of the Revised Code, and obligations for which the 25712
decedent was personally liable to the state or any of its 25713
subdivisions; 25714

(9) Debts for manual labor performed for the decedent within 25715
twelve months preceding the decedent's death, not exceeding three 25716
hundred dollars to any one person; 25717

(10) Other debts for which claims have been presented and 25718
finally allowed. 25719

(B) The part of the bill of a funeral director that exceeds 25720
the total of six thousand dollars as described in divisions (A)(2) 25721
and (6) of this section, and the part of a claim included in 25722
division (A)(9) of this section that exceeds three hundred dollars 25723
shall be included as a debt under division (A)(10) of this 25724
section, depending upon the time when the claim for the additional 25725
amount is presented. 25726

(C) Any natural person or fiduciary who pays a claim of any 25727
creditor described in division (A) of this section shall be 25728

subrogated to the rights of that creditor proportionate to the 25729
amount of the payment and shall be entitled to reimbursement for 25730
that amount in accordance with the priority of payments set forth 25731
in that division. 25732

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating 25733
to the manner in which and the time within which claims shall be 25734
presented, shall apply to claims set forth in divisions (A)(2), 25735
(6), and (9) of this section. Claims for an expense of 25736
administration or for the allowance for support need not be 25737
presented. The executor or administrator shall pay debts included 25738
in divisions (A)(4) and (8) of this section, of which the executor 25739
or administrator has knowledge, regardless of presentation. 25740

(2) The giving of written notice to an executor or 25741
administrator of a motion or application to revive an action 25742
pending against the decedent at the date of death shall be 25743
equivalent to the presentation of a claim to the executor or 25744
administrator for the purpose of determining the order of payment 25745
of any judgment rendered or decree entered in such an action. 25746

(E) No payments shall be made to creditors of one class until 25747
all those of the preceding class are fully paid or provided for. 25748
If the assets are insufficient to pay all the claims of one class, 25749
the creditors of that class shall be paid ratably. 25750

(F) If it appears at any time that the assets have been 25751
exhausted in paying prior or preferred charges, allowances, or 25752
claims, those payments shall be a bar to an action on any claim 25753
not entitled to that priority or preference. 25754

Sec. 2133.01. Unless the context otherwise requires, as used 25755
in sections 2133.01 to 2133.15 of the Revised Code: 25756

(A) "Adult" means an individual who is eighteen years of age 25757
or older. 25758

(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a declarant or other patient, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of this chapter, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declarant" means any adult who has executed a declaration in accordance with section 2133.02 of the Revised Code.

(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.

(G) "Durable power of attorney for health care" means a

document created pursuant to sections 1337.11 to 1337.17 of the Revised Code.	25789 25790
(H) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.	25791 25792 25793
(I) "Health care facility" means any of the following:	25794
(1) A hospital;	25795
(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	25796 25797 25798
(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	25799 25800
(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;	25801 25802 25803
(5) An intermediate care facility for the mentally retarded <u>individuals with intellectual disabilities</u> .	25804 25805
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	25806 25807 25808 25809 25810 25811
(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.	25812 25813
(L) "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	25814 25815 25816
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	25817 25818

(N) "Hydration" means fluids that are artificially or technologically administered.	25819 25820
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	25821 25822
(P) "Intermediate care facility for the mentally retarded <u>individuals with intellectual disabilities</u> " has the same meaning as in section 5111.20 <u>5124.01</u> of the Revised Code.	25823 25824 25825
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.	25826 25827 25828 25829
(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing as a licensed practical nurse pursuant to Chapter 4723. of the Revised Code.	25830 25831 25832 25833
(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	25834 25835
(T) "Nutrition" means sustenance that is artificially or technologically administered.	25836 25837
(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following:	25838 25839 25840 25841 25842 25843 25844
(1) Irreversible unawareness of one's being and environment.	25845
(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering.	25846 25847 25848

(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.

(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(Y) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.

(AA) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.

Sec. 2133.25. (A) The department of health, by rule adopted 25879
pursuant to Chapter 119. of the Revised Code, shall adopt a 25880
standardized method of procedure for the withholding of CPR by 25881
physicians, emergency medical services personnel, and health care 25882
facilities in accordance with sections 2133.21 to 2133.26 of the 25883
Revised Code. The standardized method shall specify criteria for 25884
determining when a do-not-resuscitate order issued by a physician 25885
is current. The standardized method so adopted shall be the 25886
"do-not-resuscitate protocol" for purposes of sections 2133.21 to 25887
2133.26 of the Revised Code. The department also shall approve one 25888
or more standard forms of DNR identification to be used throughout 25889
this state. 25890

(B) The department of health shall adopt rules in accordance 25891
with Chapter 119. of the Revised Code for the administration of 25892
sections 2133.21 to 2133.26 of the Revised Code. 25893

(C) The department of health shall appoint an advisory 25894
committee to advise the department in the development of rules 25895
under this section. The advisory committee shall include, but 25896
shall not be limited to, representatives of each of the following 25897
organizations: 25898

(1) The association for hospitals and health systems (OHA); 25899

(2) The Ohio state medical association; 25900

(3) The Ohio chapter of the American college of emergency 25901
physicians; 25902

(4) The Ohio hospice organization; 25903

(5) The Ohio council for home care; 25904

(6) The Ohio health care association; 25905

(7) The Ohio ambulance association; 25906

(8) The Ohio medical directors association; 25907

(9) The Ohio association of emergency medical services;	25908
(10) The bioethics network of Ohio;	25909
(11) The Ohio nurses association;	25910
(12) The Ohio academy of nursing homes;	25911
(13) The Ohio association of professional firefighters;	25912
(14) The department of developmental disabilities;	25913
(15) The Ohio osteopathic association;	25914
(16) The association of Ohio philanthropic homes, housing and services for the aging;	25915 25916
(17) The catholic conference of Ohio;	25917
(18) The department of aging;	25918
(19) The department of mental health <u>mental health and addiction services</u> ;	25919 25920
(20) The Ohio private residential association;	25921
(21) The northern Ohio fire fighters association.	25922
Sec. 2151.011. (A) As used in the Revised Code:	25923
(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:	25924 25925 25926
(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;	25927 25928 25929 25930 25931
(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under	25932 25933 25934

this chapter and Chapter 2152. of the Revised Code; 25935

(c) If division (A)(1)(a) or (b) of this section does not 25936
apply, the probate division of the court of common pleas. 25937

(2) "Juvenile judge" means a judge of a court having 25938
jurisdiction under this chapter. 25939

(3) "Private child placing agency" means any association, as 25940
defined in section 5103.02 of the Revised Code, that is certified 25941
under section 5103.03 of the Revised Code to accept temporary, 25942
permanent, or legal custody of children and place the children for 25943
either foster care or adoption. 25944

(4) "Private noncustodial agency" means any person, 25945
organization, association, or society certified by the department 25946
of job and family services that does not accept temporary or 25947
permanent legal custody of children, that is privately operated in 25948
this state, and that does one or more of the following: 25949

(a) Receives and cares for children for two or more 25950
consecutive weeks; 25951

(b) Participates in the placement of children in certified 25952
foster homes; 25953

(c) Provides adoption services in conjunction with a public 25954
children services agency or private child placing agency. 25955

(B) As used in this chapter: 25956

(1) "Adequate parental care" means the provision by a child's 25957
parent or parents, guardian, or custodian of adequate food, 25958
clothing, and shelter to ensure the child's health and physical 25959
safety and the provision by a child's parent or parents of 25960
specialized services warranted by the child's physical or mental 25961
needs. 25962

(2) "Adult" means an individual who is eighteen years of age 25963
or older. 25964

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.

(5) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(6) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(7) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care

home, or an in-home aide or an individual who is licensed, is 25996
regulated, is approved, operates under the direction of, or 25997
otherwise is certified by the department of job and family 25998
services, department of developmental disabilities, or the early 25999
childhood programs of the department of education. 26000

(9) "Chronic truant" has the same meaning as in section 26001
2152.02 of the Revised Code. 26002

(10) "Commit" means to vest custody as ordered by the court. 26003

(11) "Counseling" includes both of the following: 26004

(a) General counseling services performed by a public 26005
children services agency or shelter for victims of domestic 26006
violence to assist a child, a child's parents, and a child's 26007
siblings in alleviating identified problems that may cause or have 26008
caused the child to be an abused, neglected, or dependent child. 26009

(b) Psychiatric or psychological therapeutic counseling 26010
services provided to correct or alleviate any mental or emotional 26011
illness or disorder and performed by a licensed psychiatrist, 26012
licensed psychologist, or a person licensed under Chapter 4757. of 26013
the Revised Code to engage in social work or professional 26014
counseling. 26015

(12) "Custodian" means a person who has legal custody of a 26016
child or a public children services agency or private child 26017
placing agency that has permanent, temporary, or legal custody of 26018
a child. 26019

(13) "Delinquent child" has the same meaning as in section 26020
2152.02 of the Revised Code. 26021

(14) "Detention" means the temporary care of children pending 26022
court adjudication or disposition, or execution of a court order, 26023
in a public or private facility designed to physically restrict 26024
the movement and activities of children. 26025

(15) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code. 26026
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(16) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response. 26028
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(17) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code. 26032
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(18) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents. 26034
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(19) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year. 26039
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(20) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 26044
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(21) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court. 26046
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(22) A "legitimate excuse for absence from the public school 26056

the child is supposed to attend" includes, but is not limited to, 26057
any of the following: 26058

(a) The fact that the child in question has enrolled in and 26059
is attending another public or nonpublic school in this or another 26060
state; 26061

(b) The fact that the child in question is excused from 26062
attendance at school for any of the reasons specified in section 26063
3321.04 of the Revised Code; 26064

(c) The fact that the child in question has received an age 26065
and schooling certificate in accordance with section 3331.01 of 26066
the Revised Code. 26067

(23) "Mental illness" and "mentally ill person subject to 26068
hospitalization by court order" have the same meanings as in 26069
section 5122.01 of the Revised Code. 26070

(24) "Mental injury" means any behavioral, cognitive, 26071
emotional, or mental disorder in a child caused by an act or 26072
omission that is described in section 2919.22 of the Revised Code 26073
and is committed by the parent or other person responsible for the 26074
child's care. 26075

(25) "Mentally retarded person" has the same meaning as in 26076
section 5123.01 of the Revised Code. 26077

(26) "Nonsecure care, supervision, or training" means care, 26078
supervision, or training of a child in a facility that does not 26079
confine or prevent movement of the child within the facility or 26080
from the facility. 26081

(27) "Of compulsory school age" has the same meaning as in 26082
section 3321.01 of the Revised Code. 26083

(28) "Organization" means any institution, public, 26084
semipublic, or private, and any private association, society, or 26085
agency located or operating in the state, incorporated or 26086

unincorporated, having among its functions the furnishing of 26087
protective services or care for children, or the placement of 26088
children in certified foster homes or elsewhere. 26089

(29) "Out-of-home care" means detention facilities, shelter 26090
facilities, certified children's crisis care facilities, certified 26091
foster homes, placement in a prospective adoptive home prior to 26092
the issuance of a final decree of adoption, organizations, 26093
certified organizations, child day-care centers, type A family 26094
day-care homes, child care provided by type B family day-care home 26095
providers and by in-home aides, group home providers, group homes, 26096
institutions, state institutions, residential facilities, 26097
residential care facilities, residential camps, day camps, public 26098
schools, chartered nonpublic schools, educational service centers, 26099
hospitals, and medical clinics that are responsible for the care, 26100
physical custody, or control of children. 26101

(30) "Out-of-home care child abuse" means any of the 26102
following when committed by a person responsible for the care of a 26103
child in out-of-home care: 26104

(a) Engaging in sexual activity with a child in the person's 26105
care; 26106

(b) Denial to a child, as a means of punishment, of proper or 26107
necessary subsistence, education, medical care, or other care 26108
necessary for a child's health; 26109

(c) Use of restraint procedures on a child that cause injury 26110
or pain; 26111

(d) Administration of prescription drugs or psychotropic 26112
medication to the child without the written approval and ongoing 26113
supervision of a licensed physician; 26114

(e) Commission of any act, other than by accidental means, 26115
that results in any injury to or death of the child in out-of-home 26116
care or commission of any act by accidental means that results in 26117

an injury to or death of a child in out-of-home care and that is 26118
at variance with the history given of the injury or death. 26119

(31) "Out-of-home care child neglect" means any of the 26120
following when committed by a person responsible for the care of a 26121
child in out-of-home care: 26122

(a) Failure to provide reasonable supervision according to 26123
the standards of care appropriate to the age, mental and physical 26124
condition, or other special needs of the child; 26125

(b) Failure to provide reasonable supervision according to 26126
the standards of care appropriate to the age, mental and physical 26127
condition, or other special needs of the child, that results in 26128
sexual or physical abuse of the child by any person; 26129

(c) Failure to develop a process for all of the following: 26130

(i) Administration of prescription drugs or psychotropic 26131
drugs for the child; 26132

(ii) Assuring that the instructions of the licensed physician 26133
who prescribed a drug for the child are followed; 26134

(iii) Reporting to the licensed physician who prescribed the 26135
drug all unfavorable or dangerous side effects from the use of the 26136
drug. 26137

(d) Failure to provide proper or necessary subsistence, 26138
education, medical care, or other individualized care necessary 26139
for the health or well-being of the child; 26140

(e) Confinement of the child to a locked room without 26141
monitoring by staff; 26142

(f) Failure to provide ongoing security for all prescription 26143
and nonprescription medication; 26144

(g) Isolation of a child for a period of time when there is 26145
substantial risk that the isolation, if continued, will impair or 26146
retard the mental health or physical well-being of the child. 26147

(32) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(33) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(34) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(35) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:	26179
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(a) A substantial impairment of vision, speech, or hearing;	26183
(b) A congenital orthopedic impairment;	26184
(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.	26185
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	26187
(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.	26188
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(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.	26192
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(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:	26196
	26197
(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.	26198
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	26200
(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.	26201
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(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.	26205
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	26207
(41) "Sanction, service, or condition" means a sanction,	26208

service, or condition created by court order following an 26209
adjudication that a child is an unruly child that is described in 26210
division (A)(4) of section 2152.19 of the Revised Code. 26211

(42) "Protective supervision" means an order of disposition 26212
pursuant to which the court permits an abused, neglected, 26213
dependent, or unruly child to remain in the custody of the child's 26214
parents, guardian, or custodian and stay in the child's home, 26215
subject to any conditions and limitations upon the child, the 26216
child's parents, guardian, or custodian, or any other person that 26217
the court prescribes, including supervision as directed by the 26218
court for the protection of the child. 26219

(43) "Psychiatrist" has the same meaning as in section 26220
5122.01 of the Revised Code. 26221

(44) "Psychologist" has the same meaning as in section 26222
4732.01 of the Revised Code. 26223

(45) "Residential camp" means a program in which the care, 26224
physical custody, or control of children is accepted overnight for 26225
recreational or recreational and educational purposes. 26226

(46) "Residential care facility" means an institution, 26227
residence, or facility that is licensed by the department of 26228
~~mental health~~ mental health and addiction services under section 26229
~~5119.22~~ 5119.34 of the Revised Code and that provides care for a 26230
child. 26231

(47) "Residential facility" means a home or facility that is 26232
licensed by the department of developmental disabilities under 26233
section 5123.19 of the Revised Code and in which a child with a 26234
developmental disability resides. 26235

(48) "Residual parental rights, privileges, and 26236
responsibilities" means those rights, privileges, and 26237
responsibilities remaining with the natural parent after the 26238
transfer of legal custody of the child, including, but not 26239

necessarily limited to, the privilege of reasonable visitation, 26240
consent to adoption, the privilege to determine the child's 26241
religious affiliation, and the responsibility for support. 26242

(49) "School day" means the school day established by the 26243
state board of education pursuant to section 3313.48 of the 26244
Revised Code. 26245

(50) "School month" and "school year" have the same meanings 26246
as in section 3313.62 of the Revised Code. 26247

(51) "Secure correctional facility" means a facility under 26248
the direction of the department of youth services that is designed 26249
to physically restrict the movement and activities of children and 26250
used for the placement of children after adjudication and 26251
disposition. 26252

(52) "Sexual activity" has the same meaning as in section 26253
2907.01 of the Revised Code. 26254

(53) "Shelter" means the temporary care of children in 26255
physically unrestricted facilities pending court adjudication or 26256
disposition. 26257

(54) "Shelter for victims of domestic violence" has the same 26258
meaning as in section 3113.33 of the Revised Code. 26259

(55) "Temporary custody" means legal custody of a child who 26260
is removed from the child's home, which custody may be terminated 26261
at any time at the discretion of the court or, if the legal 26262
custody is granted in an agreement for temporary custody, by the 26263
person who executed the agreement. 26264

(56) "Traditional response" means a public children services 26265
agency's response to a report of child abuse or neglect that 26266
encourages engagement of the family in a comprehensive evaluation 26267
of the child's current and future safety needs and a fact-finding 26268
process to determine whether child abuse or neglect occurred and 26269

the circumstances surrounding the alleged harm or risk of harm. 26270

(C) For the purposes of this chapter, a child shall be 26271
presumed abandoned when the parents of the child have failed to 26272
visit or maintain contact with the child for more than ninety 26273
days, regardless of whether the parents resume contact with the 26274
child after that period of ninety days. 26275

Sec. 2151.3514. (A) As used in this section: 26276

(1) "~~Alcohol and drug~~ Community addiction program services 26277
provider" has the same meaning as in section ~~3793.01~~ 5119.01 of 26278
the Revised Code; 26279

(2) "Chemical dependency" means either of the following: 26280

(a) The chronic and habitual use of alcoholic beverages to 26281
the extent that the user no longer can control the use of alcohol 26282
or endangers the user's health, safety, or welfare or that of 26283
others; 26284

(b) The use of a drug of abuse to the extent that the user 26285
becomes physically or psychologically dependent on the drug or 26286
endangers the user's health, safety, or welfare or that of others. 26287

(3) "Drug of abuse" has the same meaning as in section 26288
3719.011 of the Revised Code. 26289

~~(4) "Medicaid" means the program established under Chapter 26290
5111. of the Revised Code. 26291~~

(B) If the juvenile court issues an order of temporary 26292
custody or protective supervision under division (A) of section 26293
2151.353 of the Revised Code with respect to a child adjudicated 26294
to be an abused, neglected, or dependent child and the alcohol or 26295
other drug addiction of a parent or other caregiver of the child 26296
was the basis for the adjudication of abuse, neglect, or 26297
dependency, the court shall issue an order requiring the parent or 26298
other caregiver to submit to an assessment and, if needed, 26299

treatment from ~~an alcohol and drug~~ a community addiction program 26300
services provider certified by the department of ~~alcohol and drug~~ 26301
~~addiction services~~ mental health and addiction services. The court 26302
may order the parent or other caregiver to submit to alcohol or 26303
other drug testing during, after, or both during and after, the 26304
treatment. The court shall send any order issued pursuant to this 26305
division to the public children services agency that serves the 26306
county in which the court is located for use as described in 26307
section 340.15 of the Revised Code. 26308

(C) Any order requiring alcohol or other drug testing that is 26309
issued pursuant to division (B) of this section shall require one 26310
alcohol or other drug test to be conducted each month during a 26311
period of twelve consecutive months beginning the month 26312
immediately following the month in which the order for alcohol or 26313
other drug testing is issued. Arrangements for administering the 26314
alcohol or other drug tests, as well as funding the costs of the 26315
tests, shall be locally determined in accordance with sections 26316
~~340.033~~ 340.03 and 340.15 of the Revised Code. If a parent or 26317
other caregiver required to submit to alcohol or other drug tests 26318
under this section is not a recipient of medicaid, the agency that 26319
refers the parent or caregiver for the tests may require the 26320
parent or caregiver to reimburse the agency for the cost of 26321
conducting the tests. 26322

(D) The certified ~~alcohol and drug~~ community addiction 26323
~~program~~ services provider that conducts any alcohol or other drug 26324
tests ordered in accordance with divisions (B) and (C) of this 26325
section shall send the results of the tests, along with the 26326
~~program's~~ provider's recommendations as to the benefits of 26327
continued treatment, to the court and to the public children 26328
services agency providing services to the involved family, 26329
according to federal regulations set forth in 42 C.F.R. Part 2, 26330
and division (B) of section 340.15 of the Revised Code. The court 26331

shall consider the results and the recommendations sent to it 26332
under this division in any adjudication or review by the court, 26333
according to section 2151.353, 2151.414, or 2151.419 of the 26334
Revised Code. 26335

Sec. 2151.362. (A)(1) In the manner prescribed by division 26336
(C)(1) or (2) of section 3313.64 of the Revised Code, as 26337
applicable, the court, at the time of making any order that 26338
removes a child from the child's own home or that vests legal or 26339
permanent custody of the child in a person other than the child's 26340
parent or a government agency, shall determine the school district 26341
that is to bear the cost of educating the child. The court shall 26342
make the determination a part of the order that provides for the 26343
child's placement or commitment. That school district shall bear 26344
the cost of educating the child unless and until the department of 26345
education determines that a different district shall be 26346
responsible for bearing that cost pursuant to division (A)(2) of 26347
this section. The court's order shall state that the determination 26348
of which school district is responsible to bear the cost of 26349
educating the child is subject to re-determination by the 26350
department pursuant to that division. 26351

(2) If, while the child is in the custody of a person other 26352
than the child's parent or a government agency, the department of 26353
education determines that the place of residence of the child's 26354
parent has changed since the court issued its initial order, the 26355
department may name a different school district to bear the cost 26356
of educating the child. The department shall make this new 26357
determination, and any future determinations, based on evidence 26358
received from the school district currently responsible to bear 26359
the cost of educating the child. If the department finds that the 26360
evidence demonstrates to its satisfaction that the residence of 26361
the child's parent has changed since the court issued its initial 26362
order under division (A)(1) of this section, or since the 26363

department last made a determination under division (A)(2) of this 26364
section, the department shall name the district in which the 26365
child's parent currently resides or, if the parent's residence is 26366
not known, the district in which the parent's last known residence 26367
is located. If the department cannot determine any Ohio district 26368
in which the parent currently resides or has resided, the school 26369
district designated in the initial court order under division 26370
(A)(1) of this section, or in the most recent determination made 26371
by the department under division (A)(2) of this section, shall 26372
continue to bear the cost of educating the child. 26373

(B) Whenever a child is placed in a detention facility 26374
established under section 2152.41 of the Revised Code or a 26375
juvenile facility established under section 2151.65 of the Revised 26376
Code, the facility shall be responsible for coordinating the 26377
education of the child. The facility may take any of the following 26378
measures in coordinating the education of the child: 26379

(1) If applicable, use the chartered nonpublic school that 26380
the facility operates; 26381

(2) Arrange with the school district responsible for bearing 26382
the cost of educating the child determined under division (A) of 26383
this section, for the facility to educate the child on its own; 26384

(3) Contract with an educational service center for the 26385
service center to educate the child; 26386

(4) Contract with the school district in which the facility 26387
is located for that school district to educate the child. 26388

However, the child's school district as determined by the 26389
court or the department, in the same manner as prescribed in 26390
division (A) of this section, shall pay the cost of educating the 26391
child based on the per capita cost of the educational facility 26392
within the detention home or juvenile facility. 26393

(C) Whenever a child is placed by the court in a private 26394

institution, school, or residential treatment center or any other 26395
private facility, the state shall pay to the court a subsidy to 26396
help defray the expense of educating the child in an amount equal 26397
to the product of the daily per capita educational cost of the 26398
private facility, as determined pursuant to this section, and the 26399
number of days the child resides at the private facility, provided 26400
that the subsidy shall not exceed twenty-five hundred dollars per 26401
year per child. The daily per capita educational cost of a private 26402
facility shall be determined by dividing the actual program cost 26403
of the private facility or twenty-five hundred dollars, whichever 26404
is less, by three hundred sixty-five days or by three hundred 26405
sixty-six days for years that include February twenty-ninth. The 26406
state shall pay seventy-five per cent of the total subsidy for 26407
each year quarterly to the court. The state may adjust the 26408
remaining twenty-five per cent of the total subsidy to be paid to 26409
the court for each year to an amount that is less than twenty-five 26410
per cent of the total subsidy for that year based upon the 26411
availability of funds appropriated to the department of education 26412
for the purpose of subsidizing courts that place a child in a 26413
private institution, school, or residential treatment center or 26414
any other private facility and shall pay that adjusted amount to 26415
the court at the end of the year. 26416

Sec. 2151.83. (A) A public children services agency or 26417
private child placing agency, on the request of a young adult, 26418
shall enter into a jointly prepared written agreement with the 26419
young adult that obligates the agency to ensure that independent 26420
living services are provided to the young adult and sets forth the 26421
responsibilities of the young adult regarding the services. The 26422
agreement shall be developed based on the young adult's strengths, 26423
needs, and circumstances. The agreement shall be designed to 26424
promote the young adult's successful transition to independent 26425
adult living and emotional and economic self-sufficiency. 26426

(B) If the young adult appears to be eligible for services 26427
from one or more of the following entities, the agency must 26428
contact the appropriate entity to determine eligibility: 26429

(1) An entity, other than the agency, that is represented on 26430
a county family and children first council established pursuant to 26431
section 121.37 of the Revised Code. If the entity is a board of 26432
alcohol, drug addiction, and mental health services, an alcohol 26433
and drug addiction services board, or a community mental health 26434
board, the agency shall contact the provider of alcohol, drug 26435
addiction, or mental health services that has been designated by 26436
the board to determine the young adult's eligibility for services. 26437

(2) The ~~rehabilitation services commission~~ opportunities for 26438
Ohioans with disabilities agency; 26439

(3) A metropolitan housing authority established pursuant to 26440
section 3735.27 of the Revised Code. 26441

If an entity described in this division determines that the 26442
young adult qualifies for services from the entity, that entity, 26443
the young adult, and the agency to which the young adult made the 26444
request for independent living services shall enter into a written 26445
addendum to the jointly prepared agreement entered into under 26446
division (A) of this section. The addendum shall indicate how 26447
services under the agreement and addendum are to be coordinated 26448
and allocate the service responsibilities among the entities and 26449
agency that signed the addendum. 26450

Sec. 2152.54. (A) An evaluation of a child who does not 26451
appear to the court to be a person who is at least moderately 26452
intellectually disabled shall be made by an evaluator who is one 26453
of the following: 26454

(1) A professional employed by a psychiatric facility or 26455
center certified by the department of ~~mental health~~ mental health 26456

and addiction services to provide forensic services and appointed 26457
by the director of the facility or center to conduct the 26458
evaluation; 26459

(2) A psychiatrist or a licensed clinical psychologist who 26460
satisfies the criteria of division (I)(1) of section 5122.01 of 26461
the Revised Code and has specialized education, training, or 26462
experience in forensic evaluations of children or adolescents. 26463

(B) An evaluation of a child who appears to the court to be a 26464
person who is at least moderately intellectually disabled shall be 26465
made by a psychiatrist or licensed clinical psychologist who 26466
satisfies the criteria of division (I)(1) of section 5122.01 of 26467
the Revised Code and has specialized education, training, or 26468
experience in forensic evaluations of children or adolescents who 26469
have intellectual disability. 26470

(C) If an evaluation is conducted by an evaluator of the type 26471
described in division (A)(1) or (2) of this section and the 26472
evaluator concludes that the child is a person who is at least 26473
moderately intellectually disabled, the evaluator shall 26474
discontinue the evaluation and notify the court within one 26475
business day after reaching the conclusion. Within two business 26476
days after receiving notification, the court shall order the child 26477
to undergo an evaluation by an evaluator of the type described in 26478
division (B) of this section. Within two business days after the 26479
appointment of the new evaluator, the original evaluator shall 26480
deliver to the new evaluator all information relating to the child 26481
obtained during the original evaluation. 26482

Sec. 2152.59. (A) If after a hearing held pursuant to section 26483
2152.58 of the Revised Code the court determines that a child is 26484
competent, the court shall proceed with the delinquent child's 26485
proceeding as provided by law. No statement that a child makes 26486
during an evaluation or hearing conducted under sections 2152.51 26487

through 2152.59 of the Revised Code shall be used against the 26488
child on the issue of responsibility or guilt in any child or 26489
adult proceeding. 26490

(B) If after a hearing held pursuant to section 2152.58 of 26491
the Revised Code the court determines that the child is not 26492
competent and cannot attain competency within the period of time 26493
applicable under division (D)(2) of this section, the court shall 26494
dismiss the charges without prejudice, except that the court may 26495
delay dismissal for up to ninety calendar days and do either of 26496
the following: 26497

(1) Refer the matter to a public children services agency and 26498
request that agency determine whether to file an action in 26499
accordance with section 2151.27 of the Revised Code alleging that 26500
the child is a dependent, neglected, or abused child; 26501

(2) Assign court staff to refer the child or the child's 26502
family to the local family and children first council or an agency 26503
funded by the department of ~~mental health~~ mental health and 26504
addiction services or department of developmental disabilities or 26505
otherwise secure services to reduce the potential that the child 26506
would engage in behavior that could result in delinquent child or 26507
other criminal charges. 26508

(C) If after a hearing held pursuant to section 2152.58 of 26509
the Revised Code the court determines that a child is not 26510
competent but could likely attain competency by participating in 26511
services specifically designed to help the child develop 26512
competency, the court may order the child to participate in 26513
services specifically designed to help the child develop 26514
competency at county expense. The court shall name a reliable 26515
provider to deliver the competency attainment services and shall 26516
order the child's parent, guardian, or custodian to contact that 26517
provider by a specified date to arrange for services. 26518

(D) The competency attainment services provided to a child 26519
shall be based on a competency attainment plan described in 26520
division (E)(2) of this section and approved by the court. 26521
Services are subject to the following conditions and time periods 26522
measured from the date the court approves the plan: 26523

(1) Services shall be provided in the least restrictive 26524
setting that is consistent with the child's ability to attain 26525
competency and the safety of both the child and the community. If 26526
the child has been released on temporary or interim orders and 26527
refuses or fails to cooperate with the service provider, the court 26528
may reassess the orders and amend them to require a more 26529
appropriate setting. 26530

(2) No child shall be required to participate in competency 26531
attainment services for longer than is required for the child to 26532
attain competency. The following maximum periods of participation 26533
apply: 26534

(a) If a child is ordered to participate in competency 26535
attainment services that are provided outside of a residential 26536
setting, the child shall not participate in those services for a 26537
period exceeding three months if the child is charged with an act 26538
that would be a misdemeanor if committed by an adult, six months 26539
if the child is charged with an act that would be a felony of the 26540
third, fourth, or fifth degree if committed by an adult, or one 26541
year if the child is charged with an act that would be a felony of 26542
the first or second degree, aggravated murder, or murder if 26543
committed by an adult. 26544

(b) If a child is ordered to receive competency attainment 26545
services that are provided in a residential setting that is 26546
operated solely or in part for the purpose of providing competency 26547
attainment services, the child shall not participate in those 26548
services for a period exceeding forty-five calendar days if the 26549
child is charged with an act that would be a misdemeanor if 26550

committed by an adult, three months if the child is charged with 26551
an act that would be a felony of the third, fourth, or fifth 26552
degree if committed by an adult, six months if the child is 26553
charged with an act that would be a felony of the first or second 26554
degree if committed by an adult, or one year if the child is 26555
charged with an act that would be aggravated murder or murder if 26556
committed by an adult. 26557

(c) If a child is ordered into a residential, detention, or 26558
other secured setting for reasons other than to participate in 26559
competency attainment services and is also ordered to participate 26560
in competency attainment services concurrently, the child shall 26561
participate in the competency attainment services for not longer 26562
than the relevant period set forth in division (D)(2)(a) of this 26563
section. 26564

(d) If a child is ordered to participate in competency 26565
attainment services that require the child to live for some but 26566
not all of the duration of the services in a residential setting 26567
that is operated solely or in part for the purpose of providing 26568
competency attainment services, the child shall participate in the 26569
competency attainment services for not longer than the relevant 26570
period set forth in division (D)(2)(b) of this section. For the 26571
purpose of calculating a time period under division (D)(2)(d) of 26572
this section, two days of participation in a nonresidential 26573
setting shall equal one day of participation in a residential 26574
setting. 26575

(3) A child who receives competency attainment services in a 26576
residential setting that is operated solely or partly for the 26577
purpose of providing competency attainment services is in 26578
detention for purposes of section 2921.34 and division (B) of 26579
section 2152.18 of the Revised Code during the time that the child 26580
resides in the residential setting. 26581

(E)(1) Within ten business days after the court names the 26582

provider responsible for the child's competency attainment 26583
services under division (D) of this section, the court shall 26584
deliver to that provider a copy of each competency assessment 26585
report it has received for review. The provider shall return the 26586
copies of the reports to the court upon the termination of the 26587
services. 26588

(2) Not later than thirty calendar days after the child 26589
contacts the competency attainment services provider under 26590
division (C) of this section, the provider shall submit to the 26591
court a plan for the child to attain competency. The court shall 26592
provide copies of the plan to the prosecuting attorney, the 26593
child's attorney, the child's guardian ad litem, if any, and the 26594
child's parents, guardian, or custodian. 26595

(F) The provider that provides the child's competency 26596
attainment services pursuant to the competency attainment plan 26597
shall submit reports to the court on the following schedule: 26598

(1) A report on the child's progress every thirty calendar 26599
days and on the termination of services. The report shall not 26600
include any details of the alleged offense as reported by the 26601
child. 26602

(2) If the provider determines that the child is not 26603
cooperating to a degree that would allow the services to be 26604
effective to help the child attain competency, a report informing 26605
the court of the determination within three business days after 26606
making the determination; 26607

(3) If the provider determines that the current setting is no 26608
longer the least restrictive setting that is consistent with the 26609
child's ability to attain competency and the safety of both the 26610
child and the community, a report informing the court of the 26611
determination within three business days after making the 26612
determination; 26613

(4) If the provider determines that the child has achieved 26614
the goals of the plan and would be able to understand the nature 26615
and objectives of the proceeding against the child and to assist 26616
in the child's defense, with or without reasonable accommodations 26617
to meet the criteria set forth in division (B) of section 2152.56 26618
of the Revised Code, a report informing the court of that 26619
determination within three business days after making the 26620
determination. If the provider believes that accommodations would 26621
be necessary or desirable, the report shall include 26622
recommendations for accommodations. 26623

(5) If the provider determines that the child will not 26624
achieve the goals of the plan within the applicable period of time 26625
under division (D)(2) of this section, a report informing the 26626
court of the determination within three business days after making 26627
the determination. The report shall include recommendations for 26628
services for the child that would support the safety of the child 26629
or the community. 26630

(G) The court shall provide copies of any report made under 26631
division (F) of this section to the prosecuting attorney, the 26632
child's attorney, and the child's guardian ad litem, if any. The 26633
court shall provide copies of any report made under division (F) 26634
of this section to the child's parents, guardian, or custodian 26635
unless the court finds that doing so is not in the best interest 26636
of the child. 26637

(H)(1) Within fifteen business days after receiving a report 26638
under division (F) of this section, the court may hold a hearing 26639
to determine if a new order is necessary. To assist in making a 26640
determination under division (H) of this section, the court may 26641
order a new competency evaluation in accordance with section 26642
2152.53 of the Revised Code. Until a new order is issued or the 26643
required period of participation expires, the child shall continue 26644
to participate in competency attainment services. 26645

(2) If after a hearing held under division (H)(1) of this section the court determines that the child is not making progress toward competency or is so uncooperative that attainment services cannot be effective, the court may order a change in setting or services that would help the child attain competency within the relevant period of time under division (D)(2) of this section.

(3) If after a hearing held under division (H)(1) of this section the court determines that the child has not or will not attain competency within the relevant period of time under division (D)(2) of this section, the court shall dismiss the delinquency complaint without prejudice, except that the court may delay dismissal for up to ninety calendar days and do either of the following:

(a) Refer the matter to a public children services agency and request that agency determine whether to file an action in accordance with section 2151.27 of the Revised Code alleging that the child is a dependent, neglected, or abused child;

(b) Assign court staff to refer the child or the child's family to the local family and children first council or an agency funded by the department of ~~mental health~~ mental health and addiction services or department of developmental disabilities or otherwise secure services to reduce the potential that the child would engage in behavior that could result in delinquency or other criminal charges.

(4) A dismissal under division (H)(3) of this section does not preclude a future delinquent child proceeding or criminal prosecution as provided under section 2151.23 of the Revised Code if the child eventually attains competency.

(5) If after a hearing held under division (H)(1) of this section the court determines that the child has attained competency, the court shall proceed with the delinquent child's

proceeding in accordance with division (A) of this section. 26677

(6) A dismissal under this section does not bar a civil 26678
action based on the acts or omissions that formed the basis of the 26679
complaint. 26680

Sec. 2307.65. (A) The attorney general may bring a civil 26681
action in the Franklin county court of common pleas on behalf of 26682
the department of ~~job and family services~~ medicaid, and the 26683
prosecuting attorney of the county in which a violation of 26684
division (B) of section 2913.401 of the Revised Code occurs may 26685
bring a civil action in the court of common pleas of that county 26686
on behalf of the county department of job and family services, 26687
against a person who violates division (B) of section 2913.401 of 26688
the Revised Code for the recovery of the amount of benefits paid 26689
on behalf of a person that either department would not have paid 26690
but for the violation minus any amounts paid in restitution under 26691
division (C)(2) of section 2913.401 of the Revised Code and for 26692
reasonable attorney's fees and all other fees and costs of 26693
litigation. 26694

(B) In a civil action brought under division (A) of this 26695
section, if the defendant failed to disclose a transfer of 26696
property in violation of division (B)(3) of section 2913.401 of 26697
the Revised Code, the court may also grant any of the following 26698
relief to the extent permitted by the "Social Security Act," 26699
section 1917, 42 U.S.C. 1396p: 26700

(1) Avoidance of the transfer of property that was not 26701
disclosed in violation of division (B)(3) of section 2913.401 of 26702
the Revised Code to the extent of the amount of benefits the 26703
department would not have paid but for the violation; 26704

(2) An order of attachment or garnishment against the 26705
property in accordance with Chapter 2715. or 2716. of the Revised 26706
Code; 26707

(3) An injunction against any further disposition by the transferor or transferee, or both, of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or against the disposition of other property by the transferor or transferee;

(4) Appointment of a receiver to take charge of the property transferred or of other property of the transferee;

(5) Any other relief that the court considers just and equitable.

(C) To the extent permitted by the "Social Security Act," section 1917, 42 U.S.C. 1396p, the department of ~~job and family services~~ medicaid or the county department of job and family services may enforce a judgment obtained under this section by levying on property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code or on the proceeds of the transfer of that property in accordance with Chapter 2329. of the Revised Code.

(D) The remedies provided in divisions (B) and (C) of this section do not apply if the transferee of the property the transfer of which was not disclosed in violation of division (B)(3) of section 2913.401 of the Revised Code acquired the property in good faith and for fair market value.

(E) The remedies provided in this section are not exclusive and do not preclude the use of any other criminal or civil remedy for any act that is in violation of section 2913.401 of the Revised Code.

(F) Amounts of medicaid benefits paid and recovered in an action brought under this section shall be credited to the general revenue fund, and any applicable federal share shall be returned to the appropriate agency or department of the United States.

Sec. 2317.02. The following persons shall not testify in 26738
certain respects: 26739

(A)(1) An attorney, concerning a communication made to the 26740
attorney by a client in that relation or concerning the attorney's 26741
advice to a client, except that the attorney may testify by 26742
express consent of the client or, if the client is deceased, by 26743
the express consent of the surviving spouse or the executor or 26744
administrator of the estate of the deceased client. However, if 26745
the client voluntarily reveals the substance of attorney-client 26746
communications in a nonprivileged context or is deemed by section 26747
2151.421 of the Revised Code to have waived any testimonial 26748
privilege under this division, the attorney may be compelled to 26749
testify on the same subject. 26750

The testimonial privilege established under this division 26751
does not apply concerning a communication between a client who has 26752
since died and the deceased client's attorney if the communication 26753
is relevant to a dispute between parties who claim through that 26754
deceased client, regardless of whether the claims are by testate 26755
or intestate succession or by inter vivos transaction, and the 26756
dispute addresses the competency of the deceased client when the 26757
deceased client executed a document that is the basis of the 26758
dispute or whether the deceased client was a victim of fraud, 26759
undue influence, or duress when the deceased client executed a 26760
document that is the basis of the dispute. 26761

(2) An attorney, concerning a communication made to the 26762
attorney by a client in that relationship or the attorney's advice 26763
to a client, except that if the client is an insurance company, 26764
the attorney may be compelled to testify, subject to an in camera 26765
inspection by a court, about communications made by the client to 26766
the attorney or by the attorney to the client that are related to 26767
the attorney's aiding or furthering an ongoing or future 26768

commission of bad faith by the client, if the party seeking 26769
disclosure of the communications has made a prima-facie showing of 26770
bad faith, fraud, or criminal misconduct by the client. 26771

(B)(1) A physician or a dentist concerning a communication 26772
made to the physician or dentist by a patient in that relation or 26773
the physician's or dentist's advice to a patient, except as 26774
otherwise provided in this division, division (B)(2), and division 26775
(B)(3) of this section, and except that, if the patient is deemed 26776
by section 2151.421 of the Revised Code to have waived any 26777
testimonial privilege under this division, the physician may be 26778
compelled to testify on the same subject. 26779

The testimonial privilege established under this division 26780
does not apply, and a physician or dentist may testify or may be 26781
compelled to testify, in any of the following circumstances: 26782

(a) In any civil action, in accordance with the discovery 26783
provisions of the Rules of Civil Procedure in connection with a 26784
civil action, or in connection with a claim under Chapter 4123. of 26785
the Revised Code, under any of the following circumstances: 26786

(i) If the patient or the guardian or other legal 26787
representative of the patient gives express consent; 26788

(ii) If the patient is deceased, the spouse of the patient or 26789
the executor or administrator of the patient's estate gives 26790
express consent; 26791

(iii) If a medical claim, dental claim, chiropractic claim, 26792
or optometric claim, as defined in section 2305.113 of the Revised 26793
Code, an action for wrongful death, any other type of civil 26794
action, or a claim under Chapter 4123. of the Revised Code is 26795
filed by the patient, the personal representative of the estate of 26796
the patient if deceased, or the patient's guardian or other legal 26797
representative. 26798

(b) In any civil action concerning court-ordered treatment or 26799

services received by a patient, if the court-ordered treatment or 26800
services were ordered as part of a case plan journalized under 26801
section 2151.412 of the Revised Code or the court-ordered 26802
treatment or services are necessary or relevant to dependency, 26803
neglect, or abuse or temporary or permanent custody proceedings 26804
under Chapter 2151. of the Revised Code. 26805

(c) In any criminal action concerning any test or the results 26806
of any test that determines the presence or concentration of 26807
alcohol, a drug of abuse, a combination of them, a controlled 26808
substance, or a metabolite of a controlled substance in the 26809
patient's whole blood, blood serum or plasma, breath, urine, or 26810
other bodily substance at any time relevant to the criminal 26811
offense in question. 26812

(d) In any criminal action against a physician or dentist. In 26813
such an action, the testimonial privilege established under this 26814
division does not prohibit the admission into evidence, in 26815
accordance with the Rules of Evidence, of a patient's medical or 26816
dental records or other communications between a patient and the 26817
physician or dentist that are related to the action and obtained 26818
by subpoena, search warrant, or other lawful means. A court that 26819
permits or compels a physician or dentist to testify in such an 26820
action or permits the introduction into evidence of patient 26821
records or other communications in such an action shall require 26822
that appropriate measures be taken to ensure that the 26823
confidentiality of any patient named or otherwise identified in 26824
the records is maintained. Measures to ensure confidentiality that 26825
may be taken by the court include sealing its records or deleting 26826
specific information from its records. 26827

(e)(i) If the communication was between a patient who has 26828
since died and the deceased patient's physician or dentist, the 26829
communication is relevant to a dispute between parties who claim 26830
through that deceased patient, regardless of whether the claims 26831

are by testate or intestate succession or by inter vivos 26832
transaction, and the dispute addresses the competency of the 26833
deceased patient when the deceased patient executed a document 26834
that is the basis of the dispute or whether the deceased patient 26835
was a victim of fraud, undue influence, or duress when the 26836
deceased patient executed a document that is the basis of the 26837
dispute. 26838

(ii) If neither the spouse of a patient nor the executor or 26839
administrator of that patient's estate gives consent under 26840
division (B)(1)(a)(ii) of this section, testimony or the 26841
disclosure of the patient's medical records by a physician, 26842
dentist, or other health care provider under division (B)(1)(e)(i) 26843
of this section is a permitted use or disclosure of protected 26844
health information, as defined in 45 C.F.R. 160.103, and an 26845
authorization or opportunity to be heard shall not be required. 26846

(iii) Division (B)(1)(e)(i) of this section does not require 26847
a mental health professional to disclose psychotherapy notes, as 26848
defined in 45 C.F.R. 164.501. 26849

(iv) An interested person who objects to testimony or 26850
disclosure under division (B)(1)(e)(i) of this section may seek a 26851
protective order pursuant to Civil Rule 26. 26852

(v) A person to whom protected health information is 26853
disclosed under division (B)(1)(e)(i) of this section shall not 26854
use or disclose the protected health information for any purpose 26855
other than the litigation or proceeding for which the information 26856
was requested and shall return the protected health information to 26857
the covered entity or destroy the protected health information, 26858
including all copies made, at the conclusion of the litigation or 26859
proceeding. 26860

(2)(a) If any law enforcement officer submits a written 26861
statement to a health care provider that states that an official 26862

criminal investigation has begun regarding a specified person or 26863
that a criminal action or proceeding has been commenced against a 26864
specified person, that requests the provider to supply to the 26865
officer copies of any records the provider possesses that pertain 26866
to any test or the results of any test administered to the 26867
specified person to determine the presence or concentration of 26868
alcohol, a drug of abuse, a combination of them, a controlled 26869
substance, or a metabolite of a controlled substance in the 26870
person's whole blood, blood serum or plasma, breath, or urine at 26871
any time relevant to the criminal offense in question, and that 26872
conforms to section 2317.022 of the Revised Code, the provider, 26873
except to the extent specifically prohibited by any law of this 26874
state or of the United States, shall supply to the officer a copy 26875
of any of the requested records the provider possesses. If the 26876
health care provider does not possess any of the requested 26877
records, the provider shall give the officer a written statement 26878
that indicates that the provider does not possess any of the 26879
requested records. 26880

(b) If a health care provider possesses any records of the 26881
type described in division (B)(2)(a) of this section regarding the 26882
person in question at any time relevant to the criminal offense in 26883
question, in lieu of personally testifying as to the results of 26884
the test in question, the custodian of the records may submit a 26885
certified copy of the records, and, upon its submission, the 26886
certified copy is qualified as authentic evidence and may be 26887
admitted as evidence in accordance with the Rules of Evidence. 26888
Division (A) of section 2317.422 of the Revised Code does not 26889
apply to any certified copy of records submitted in accordance 26890
with this division. Nothing in this division shall be construed to 26891
limit the right of any party to call as a witness the person who 26892
administered the test to which the records pertain, the person 26893
under whose supervision the test was administered, the custodian 26894
of the records, the person who made the records, or the person 26895

under whose supervision the records were made. 26896

(3)(a) If the testimonial privilege described in division 26897
(B)(1) of this section does not apply as provided in division 26898
(B)(1)(a)(iii) of this section, a physician or dentist may be 26899
compelled to testify or to submit to discovery under the Rules of 26900
Civil Procedure only as to a communication made to the physician 26901
or dentist by the patient in question in that relation, or the 26902
physician's or dentist's advice to the patient in question, that 26903
related causally or historically to physical or mental injuries 26904
that are relevant to issues in the medical claim, dental claim, 26905
chiropractic claim, or optometric claim, action for wrongful 26906
death, other civil action, or claim under Chapter 4123. of the 26907
Revised Code. 26908

(b) If the testimonial privilege described in division (B)(1) 26909
of this section does not apply to a physician or dentist as 26910
provided in division (B)(1)(c) of this section, the physician or 26911
dentist, in lieu of personally testifying as to the results of the 26912
test in question, may submit a certified copy of those results, 26913
and, upon its submission, the certified copy is qualified as 26914
authentic evidence and may be admitted as evidence in accordance 26915
with the Rules of Evidence. Division (A) of section 2317.422 of 26916
the Revised Code does not apply to any certified copy of results 26917
submitted in accordance with this division. Nothing in this 26918
division shall be construed to limit the right of any party to 26919
call as a witness the person who administered the test in 26920
question, the person under whose supervision the test was 26921
administered, the custodian of the results of the test, the person 26922
who compiled the results, or the person under whose supervision 26923
the results were compiled. 26924

(4) The testimonial privilege described in division (B)(1) of 26925
this section is not waived when a communication is made by a 26926
physician to a pharmacist or when there is communication between a 26927

patient and a pharmacist in furtherance of the physician-patient relation. 26928
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(5)(a) As used in divisions (B)(1) to (4) of this section, 26930
"communication" means acquiring, recording, or transmitting any 26931
information, in any manner, concerning any facts, opinions, or 26932
statements necessary to enable a physician or dentist to diagnose, 26933
treat, prescribe, or act for a patient. A "communication" may 26934
include, but is not limited to, any medical or dental, office, or 26935
hospital communication such as a record, chart, letter, 26936
memorandum, laboratory test and results, x-ray, photograph, 26937
financial statement, diagnosis, or prognosis. 26938

(b) As used in division (B)(2) of this section, "health care 26939
provider" means a hospital, ambulatory care facility, long-term 26940
care facility, pharmacy, emergency facility, or health care 26941
practitioner. 26942

(c) As used in division (B)(5)(b) of this section: 26943

(i) "Ambulatory care facility" means a facility that provides 26944
medical, diagnostic, or surgical treatment to patients who do not 26945
require hospitalization, including a dialysis center, ambulatory 26946
surgical facility, cardiac catheterization facility, diagnostic 26947
imaging center, extracorporeal shock wave lithotripsy center, home 26948
health agency, inpatient hospice, birthing center, radiation 26949
therapy center, emergency facility, and an urgent care center. 26950
"Ambulatory health care facility" does not include the private 26951
office of a physician or dentist, whether the office is for an 26952
individual or group practice. 26953

(ii) "Emergency facility" means a hospital emergency 26954
department or any other facility that provides emergency medical 26955
services. 26956

(iii) "Health care practitioner" has the same meaning as in 26957
section 4769.01 of the Revised Code. 26958

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 26959
26960

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility ~~or intermediate care facility for the mentally retarded~~, as those ~~terms are~~ defined in section ~~5111.20~~ 5165.01 of the Revised Code; a ~~facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended, as defined in section~~ 5165.01 of the Revised Code; and an intermediate care facility for individuals with intellectual disabilities, as defined in section 5124.01 of the Revised Code. 26961
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(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code. 26975
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(d) As used in divisions (B)(1) and (2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code. 26977
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(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists. 26980
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(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 of the Revised Code or the immunity from civil liability conferred by section 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the 26983
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employee in accordance with division (B) of that section. As used 26990
in division (B)(7) of this section, "employee," "employer," and 26991
"physician" have the same meanings as in section 2305.33 of the 26992
Revised Code. 26993

(C)(1) A cleric, when the cleric remains accountable to the 26994
authority of that cleric's church, denomination, or sect, 26995
concerning a confession made, or any information confidentially 26996
communicated, to the cleric for a religious counseling purpose in 26997
the cleric's professional character. The cleric may testify by 26998
express consent of the person making the communication, except 26999
when the disclosure of the information is in violation of a sacred 27000
trust and except that, if the person voluntarily testifies or is 27001
deemed by division (A)(4)(c) of section 2151.421 of the Revised 27002
Code to have waived any testimonial privilege under this division, 27003
the cleric may be compelled to testify on the same subject except 27004
when disclosure of the information is in violation of a sacred 27005
trust. 27006

(2) As used in division (C) of this section: 27007

(a) "Cleric" means a member of the clergy, rabbi, priest, 27008
Christian Science practitioner, or regularly ordained, accredited, 27009
or licensed minister of an established and legally cognizable 27010
church, denomination, or sect. 27011

(b) "Sacred trust" means a confession or confidential 27012
communication made to a cleric in the cleric's ecclesiastical 27013
capacity in the course of discipline enjoined by the church to 27014
which the cleric belongs, including, but not limited to, the 27015
Catholic Church, if both of the following apply: 27016

(i) The confession or confidential communication was made 27017
directly to the cleric. 27018

(ii) The confession or confidential communication was made in 27019
the manner and context that places the cleric specifically and 27020

strictly under a level of confidentiality that is considered 27021
inviolable by canon law or church doctrine. 27022

(D) Husband or wife, concerning any communication made by one 27023
to the other, or an act done by either in the presence of the 27024
other, during coverture, unless the communication was made, or act 27025
done, in the known presence or hearing of a third person competent 27026
to be a witness; and such rule is the same if the marital relation 27027
has ceased to exist; 27028

(E) A person who assigns a claim or interest, concerning any 27029
matter in respect to which the person would not, if a party, be 27030
permitted to testify; 27031

(F) A person who, if a party, would be restricted under 27032
section 2317.03 of the Revised Code, when the property or thing is 27033
sold or transferred by an executor, administrator, guardian, 27034
trustee, heir, devisee, or legatee, shall be restricted in the 27035
same manner in any action or proceeding concerning the property or 27036
thing. 27037

(G)(1) A school guidance counselor who holds a valid educator 27038
license from the state board of education as provided for in 27039
section 3319.22 of the Revised Code, a person licensed under 27040
Chapter 4757. of the Revised Code as a professional clinical 27041
counselor, professional counselor, social worker, independent 27042
social worker, marriage and family therapist or independent 27043
marriage and family therapist, or registered under Chapter 4757. 27044
of the Revised Code as a social work assistant concerning a 27045
confidential communication received from a client in that relation 27046
or the person's advice to a client unless any of the following 27047
applies: 27048

(a) The communication or advice indicates clear and present 27049
danger to the client or other persons. For the purposes of this 27050
division, cases in which there are indications of present or past 27051

child abuse or neglect of the client constitute a clear and present danger. 27052
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(b) The client gives express consent to the testimony. 27054

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent. 27055
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(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject. 27058
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(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship. 27062
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(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action. 27066
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(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code. 27070
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(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code. 27077
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(H) A mediator acting under a mediation order issued under 27082
division (A) of section 3109.052 of the Revised Code or otherwise 27083
issued in any proceeding for divorce, dissolution, legal 27084
separation, annulment, or the allocation of parental rights and 27085
responsibilities for the care of children, in any action or 27086
proceeding, other than a criminal, delinquency, child abuse, child 27087
neglect, or dependent child action or proceeding, that is brought 27088
by or against either parent who takes part in mediation in 27089
accordance with the order and that pertains to the mediation 27090
process, to any information discussed or presented in the 27091
mediation process, to the allocation of parental rights and 27092
responsibilities for the care of the parents' children, or to the 27093
awarding of parenting time rights in relation to their children; 27094

(I) A communications assistant, acting within the scope of 27095
the communication assistant's authority, when providing 27096
telecommunications relay service pursuant to section 4931.06 of 27097
the Revised Code or Title II of the "Communications Act of 1934," 27098
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 27099
made through a telecommunications relay service. Nothing in this 27100
section shall limit the obligation of a communications assistant 27101
to divulge information or testify when mandated by federal law or 27102
regulation or pursuant to subpoena in a criminal proceeding. 27103

Nothing in this section shall limit any immunity or privilege 27104
granted under federal law or regulation. 27105

(J)(1) A chiropractor in a civil proceeding concerning a 27106
communication made to the chiropractor by a patient in that 27107
relation or the chiropractor's advice to a patient, except as 27108
otherwise provided in this division. The testimonial privilege 27109
established under this division does not apply, and a chiropractor 27110
may testify or may be compelled to testify, in any civil action, 27111
in accordance with the discovery provisions of the Rules of Civil 27112
Procedure in connection with a civil action, or in connection with 27113

a claim under Chapter 4123. of the Revised Code, under any of the 27114
following circumstances: 27115

(a) If the patient or the guardian or other legal 27116
representative of the patient gives express consent. 27117

(b) If the patient is deceased, the spouse of the patient or 27118
the executor or administrator of the patient's estate gives 27119
express consent. 27120

(c) If a medical claim, dental claim, chiropractic claim, or 27121
optometric claim, as defined in section 2305.113 of the Revised 27122
Code, an action for wrongful death, any other type of civil 27123
action, or a claim under Chapter 4123. of the Revised Code is 27124
filed by the patient, the personal representative of the estate of 27125
the patient if deceased, or the patient's guardian or other legal 27126
representative. 27127

(2) If the testimonial privilege described in division (J)(1) 27128
of this section does not apply as provided in division (J)(1)(c) 27129
of this section, a chiropractor may be compelled to testify or to 27130
submit to discovery under the Rules of Civil Procedure only as to 27131
a communication made to the chiropractor by the patient in 27132
question in that relation, or the chiropractor's advice to the 27133
patient in question, that related causally or historically to 27134
physical or mental injuries that are relevant to issues in the 27135
medical claim, dental claim, chiropractic claim, or optometric 27136
claim, action for wrongful death, other civil action, or claim 27137
under Chapter 4123. of the Revised Code. 27138

(3) The testimonial privilege established under this division 27139
does not apply, and a chiropractor may testify or be compelled to 27140
testify, in any criminal action or administrative proceeding. 27141

(4) As used in this division, "communication" means 27142
acquiring, recording, or transmitting any information, in any 27143
manner, concerning any facts, opinions, or statements necessary to 27144

enable a chiropractor to diagnose, treat, or act for a patient. A 27145
communication may include, but is not limited to, any 27146
chiropractic, office, or hospital communication such as a record, 27147
chart, letter, memorandum, laboratory test and results, x-ray, 27148
photograph, financial statement, diagnosis, or prognosis. 27149

(K)(1) Except as provided under division (K)(2) of this 27150
section, a critical incident stress management team member 27151
concerning a communication received from an individual who 27152
receives crisis response services from the team member, or the 27153
team member's advice to the individual, during a debriefing 27154
session. 27155

(2) The testimonial privilege established under division 27156
(K)(1) of this section does not apply if any of the following are 27157
true: 27158

(a) The communication or advice indicates clear and present 27159
danger to the individual who receives crisis response services or 27160
to other persons. For purposes of this division, cases in which 27161
there are indications of present or past child abuse or neglect of 27162
the individual constitute a clear and present danger. 27163

(b) The individual who received crisis response services 27164
gives express consent to the testimony. 27165

(c) If the individual who received crisis response services 27166
is deceased, the surviving spouse or the executor or administrator 27167
of the estate of the deceased individual gives express consent. 27168

(d) The individual who received crisis response services 27169
voluntarily testifies, in which case the team member may be 27170
compelled to testify on the same subject. 27171

(e) The court in camera determines that the information 27172
communicated by the individual who received crisis response 27173
services is not germane to the relationship between the individual 27174
and the team member. 27175

(f) The communication or advice pertains or is related to any criminal act.	27176 27177
(3) As used in division (K) of this section:	27178
(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.	27179 27180 27181 27182
(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.	27183 27184 27185 27186 27187
(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.	27188 27189 27190
(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.	27191 27192 27193 27194 27195 27196
(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:	27197 27198 27199
(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;	27200 27201
(b) Has education, training, and experience in all of the following:	27202 27203
(i) Providing workplace-based services designed to address employer and employee productivity issues;	27204 27205

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;	27206 27207 27208 27209
(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;	27210 27211 27212 27213
(iv) Selecting and evaluating available community resources;	27214
(v) Making appropriate referrals;	27215
(vi) Local and national employee assistance agreements;	27216
(vii) Client confidentiality.	27217
(3) Division (L)(1) of this section does not apply to any of the following:	27218 27219
(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;	27220 27221 27222 27223
(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;	27224 27225 27226
(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;	27227 27228 27229
(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;	27230 27231 27232
(e) A civil or criminal malpractice action brought against the employee assistance professional;	27233 27234

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code, and residential facilities licensed pursuant to section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made, may be qualified as authentic evidence if any such person endorses thereon the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, a combination of them, a controlled substance, or a metabolite of a

controlled substance in a patient's whole blood, blood serum or 27266
plasma, breath, or urine at any time relevant to a criminal 27267
offense that is submitted in a criminal action or proceeding in 27268
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 27269
of the Revised Code. 27270

Sec. 2329.192. (A) As used in this section: 27271

(1) "State lien" means a lien upon real estate, including 27272
lands and tenements, of persons indebted to the state for debt, 27273
taxes, or in any other manner recorded by a state agency in any 27274
office of the clerk of a county court or the county recorder. 27275

(2) "State lienholder" means the department, agency, or other 27276
division of the state in whose name a state lien has been filed or 27277
recorded. 27278

(B) In every action seeking the judicial sale of real estate 27279
that is subject to a state lien, all of the following apply: 27280

(1) The party seeking a judicial sale shall include the state 27281
lienholder as a party defendant and shall serve that state 27282
lienholder with a copy of the preliminary judicial report or 27283
commitment for an owner's fee policy of title insurance filed in 27284
accordance with section 2329.191 of the Revised Code. 27285

(2) A state lienholder shall not be made a party defendant if 27286
no state lien has been recorded against the owner of the real 27287
estate for which the judicial sale is sought. 27288

(3) The appearance of the state lienholder shall be presumed 27289
for purposes of jurisdiction, and the court shall take judicial 27290
notice that the state has a lien against the real estate. 27291

(4) A state lienholder may, but is not required to, file an 27292
answer to the complaint or any other pleading in the action if the 27293
amount, validity, or priority of the state lien is not identified 27294
in the pleadings as disputed and shall file an answer to the 27295

complaint or any other pleading in the action if the amount, 27296
validity, or priority of the state lien is identified in the 27297
pleadings as disputed. If a state lien is not identified as 27298
disputed, unless the state files an answer or other responsive 27299
pleading, the party seeking the judicial sale is not required to 27300
serve the state lienholder with any answer or subsequent pleadings 27301
in the action for judicial sale. 27302

(5) As part of any order confirming the sale of the real 27303
estate that is subject to any undisputed state lien or 27304
distributing the proceeds of any judicial sale of real estate, the 27305
undisputed state lien shall be protected as if the state had 27306
appeared in the action and filed an answer asserting the validity 27307
of the state lien as recorded in the office of the clerk of the 27308
county court or the office of the county recorder. 27309

(6) Any party asserting a dispute as to the amount, validity, 27310
or priority of the state lien or of any lien or other interest 27311
that has priority over the state lien shall serve the state 27312
lienholder and the attorney general with notice of the dispute, 27313
and the state lienholder shall be permitted to file a responsive 27314
pleading and participate in the proceedings as if the state 27315
lienholder had been served with a summons on the date the state 27316
lienholder received notice of the dispute. 27317

(C) Upon the judicial sale of the real estate that is the 27318
subject of an action under division (B) of this section, the 27319
interest of any undisputed state lien shall transfer to the 27320
proceeds of the sale of the real estate, and the state lienholder 27321
shall be entitled to payment from the proceeds of the sale of the 27322
real estate in accordance with the state lienholder's priority as 27323
set forth in the final judicial report or commitment for an 27324
owner's fee policy of title insurance filed in accordance with 27325
section 2329.191 of the Revised Code. 27326

Sec. 2505.02. (A) As used in this section:	27327
(1) "Substantial right" means a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect.	27328 27329 27330
(2) "Special proceeding" means an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity.	27331 27332 27333
(3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter, suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.	27334 27335 27336 27337 27338 27339 27340 27341
(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:	27342 27343 27344
(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;	27345 27346
(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;	27347 27348 27349
(3) An order that vacates or sets aside a judgment or grants a new trial;	27350 27351
(4) An order that grants or denies a provisional remedy and to which both of the following apply:	27352 27353
(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional	27354 27355 27356

remedy. 27357

(b) The appealing party would not be afforded a meaningful or 27358
effective remedy by an appeal following final judgment as to all 27359
proceedings, issues, claims, and parties in the action. 27360

(5) An order that determines that an action may or may not be 27361
maintained as a class action; 27362

(6) An order determining the constitutionality of any changes 27363
to the Revised Code made by Am. Sub. S.B. 281 of the 124th general 27364
assembly, including the amendment of sections 1751.67, 2117.06, 27365
2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 27366
2711.22, 2711.23, 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 27367
3923.64, 4705.15, and 5111.018 (renumbered as 5164.07 by H.B. ... 27368
of the 130th general assembly), and the enactment of sections 27369
2305.113, 2323.41, 2323.43, and 2323.55 of the Revised Code or any 27370
changes made by Sub. S.B. 80 of the 125th general assembly, 27371
including the amendment of sections 2125.02, 2305.10, 2305.131, 27372
2315.18, 2315.19, and 2315.21 of the Revised Code; 27373

(7) An order in an appropriation proceeding that may be 27374
appealed pursuant to division (B)(3) of section 163.09 of the 27375
Revised Code. 27376

(C) When a court issues an order that vacates or sets aside a 27377
judgment or grants a new trial, the court, upon the request of 27378
either party, shall state in the order the grounds upon which the 27379
new trial is granted or the judgment vacated or set aside. 27380

(D) This section applies to and governs any action, including 27381
an appeal, that is pending in any court on July 22, 1998, and all 27382
claims filed or actions commenced on or after July 22, 1998, 27383
notwithstanding any provision of any prior statute or rule of law 27384
of this state. 27385

Sec. 2743.02. (A)(1) The state hereby waives its immunity 27386

from liability, except as provided for the office of the state 27387
fire marshal in division (G)(1) of section 9.60 and division (B) 27388
of section 3737.221 of the Revised Code and subject to division 27389
(H) of this section, and consents to be sued, and have its 27390
liability determined, in the court of claims created in this 27391
chapter in accordance with the same rules of law applicable to 27392
suits between private parties, except that the determination of 27393
liability is subject to the limitations set forth in this chapter 27394
and, in the case of state universities or colleges, in section 27395
3345.40 of the Revised Code, and except as provided in division 27396
(A)(2) or (3) of this section. To the extent that the state has 27397
previously consented to be sued, this chapter has no 27398
applicability. 27399

Except in the case of a civil action filed by the state, 27400
filing a civil action in the court of claims results in a complete 27401
waiver of any cause of action, based on the same act or omission, 27402
that the filing party has against any officer or employee, as 27403
defined in section 109.36 of the Revised Code. The waiver shall be 27404
void if the court determines that the act or omission was 27405
manifestly outside the scope of the officer's or employee's office 27406
or employment or that the officer or employee acted with malicious 27407
purpose, in bad faith, or in a wanton or reckless manner. 27408

(2) If a claimant proves in the court of claims that an 27409
officer or employee, as defined in section 109.36 of the Revised 27410
Code, would have personal liability for the officer's or 27411
employee's acts or omissions but for the fact that the officer or 27412
employee has personal immunity under section 9.86 of the Revised 27413
Code, the state shall be held liable in the court of claims in any 27414
action that is timely filed pursuant to section 2743.16 of the 27415
Revised Code and that is based upon the acts or omissions. 27416

(3)(a) Except as provided in division (A)(3)(b) of this 27417
section, the state is immune from liability in any civil action or 27418

proceeding involving the performance or nonperformance of a public 27419
duty, including the performance or nonperformance of a public duty 27420
that is owed by the state in relation to any action of an 27421
individual who is committed to the custody of the state. 27422

(b) The state immunity provided in division (A)(3)(a) of this 27423
section does not apply to any action of the state under 27424
circumstances in which a special relationship can be established 27425
between the state and an injured party. A special relationship 27426
under this division is demonstrated if all of the following 27427
elements exist: 27428

(i) An assumption by the state, by means of promises or 27429
actions, of an affirmative duty to act on behalf of the party who 27430
was allegedly injured; 27431

(ii) Knowledge on the part of the state's agents that 27432
inaction of the state could lead to harm; 27433

(iii) Some form of direct contact between the state's agents 27434
and the injured party; 27435

(iv) The injured party's justifiable reliance on the state's 27436
affirmative undertaking. 27437

(B) The state hereby waives the immunity from liability of 27438
all hospitals owned or operated by one or more political 27439
subdivisions and consents for them to be sued, and to have their 27440
liability determined, in the court of common pleas, in accordance 27441
with the same rules of law applicable to suits between private 27442
parties, subject to the limitations set forth in this chapter. 27443
This division is also applicable to hospitals owned or operated by 27444
political subdivisions that have been determined by the supreme 27445
court to be subject to suit prior to July 28, 1975. 27446

(C) Any hospital, as defined in section 2305.113 of the 27447
Revised Code, may purchase liability insurance covering its 27448
operations and activities and its agents, employees, nurses, 27449

interns, residents, staff, and members of the governing board and 27450
committees, and, whether or not such insurance is purchased, may, 27451
to the extent that its governing board considers appropriate, 27452
indemnify or agree to indemnify and hold harmless any such person 27453
against expense, including attorney's fees, damage, loss, or other 27454
liability arising out of, or claimed to have arisen out of, the 27455
death, disease, or injury of any person as a result of the 27456
negligence, malpractice, or other action or inaction of the 27457
indemnified person while acting within the scope of the 27458
indemnified person's duties or engaged in activities at the 27459
request or direction, or for the benefit, of the hospital. Any 27460
hospital electing to indemnify those persons, or to agree to so 27461
indemnify, shall reserve any funds that are necessary, in the 27462
exercise of sound and prudent actuarial judgment, to cover the 27463
potential expense, fees, damage, loss, or other liability. The 27464
superintendent of insurance may recommend, or, if the hospital 27465
requests the superintendent to do so, the superintendent shall 27466
recommend, a specific amount for any period that, in the 27467
superintendent's opinion, represents such a judgment. This 27468
authority is in addition to any authorization otherwise provided 27469
or permitted by law. 27470

(D)(1) Notwithstanding any other provision of the Revised 27471
Code or rules of a court to the contrary, in an action against the 27472
state to recover damages for injury, death, or loss to person or 27473
property caused by an act or omission of the state itself, by an 27474
act or omission of any officer or employee of the state while 27475
acting within the scope of employment or official 27476
responsibilities, or by an act or omission of any other person 27477
authorized to act on behalf of the state that occurred while 27478
engaged in activities at the request or direction, or for the 27479
benefit, of the state, the following apply: 27480

(a) Punitive or exemplary damages shall not be awarded. 27481

(b)(i) Recoveries against the state shall be reduced by the 27482
aggregate of insurance proceeds, disability award, benefits or 27483
other collateral recovery received by the claimant for the injury, 27484
death, or loss allegedly incurred. This division If a claimant 27485
receives or is entitled to receive benefits or other collateral 27486
recovery, the claimant or the claimant's attorney shall disclose 27487
the benefits or other collateral recovery to the court, and the 27488
court shall deduct the amount of the benefits or other collateral 27489
recovery from any award against the state recovered by the 27490
claimant. No insurer or other person is entitled to bring a civil 27491
action under a subrogation provision in an insurance or other 27492
contract against the state with respect to those benefits or other 27493
collateral recovery. Nothing in this division affects or shall be 27494
construed to limit the rights of a beneficiary under a life 27495
insurance policy or the rights of sureties under fidelity or 27496
surety bonds. 27497

(ii) Division (D)(1)(b)(i) of this section does not apply to 27498
civil actions in the court of claims against a state university or 27499
college under the circumstances described in section 3345.40 of 27500
the Revised Code. The collateral benefits provisions of division 27501
(B)(2) of that section apply under those circumstances. 27502

(c) There shall not be any limitation on compensatory damages 27503
that represent the actual loss of the person who is awarded the 27504
damages. However, except in wrongful death actions brought 27505
pursuant to Chapter 2125. of the Revised Code, damages that arise 27506
from the same cause of action, transaction or occurrence, or 27507
series of transactions or occurrences and that do not represent 27508
the actual loss of the person who is awarded the damages shall not 27509
exceed two hundred fifty thousand dollars in favor of any one 27510
person. The limitation on damages that do not represent the actual 27511
loss of the person who is awarded the damages provided in this 27512
division does not apply to court costs that are awarded to a 27513

claimant, or to interest on a judgment rendered in favor of a 27514
claimant, in an action against the state. 27515

(2) As used in division (D) of this section: 27516

(a) "Benefits" includes, but is not limited to, proceeds from 27517
a policy or policies of insurance, social security benefits, 27518
veterans' benefits, unemployment compensation, workers' 27519
compensation, medicaid benefits, medicare benefits, and disability 27520
awards. 27521

(b) "Collateral recovery" includes, but is not limited to, 27522
any settlements with and judgments against third parties that 27523
arise out of the same operative facts involved in, and the injury, 27524
death, or loss allegedly incurred, in the action against the 27525
state, or any other source of recovery for any injury, death, or 27526
loss allegedly incurred in that action. 27527

(c) Except as provided in division (D)(2)(d) of this section, 27528
"the actual loss of the person who is awarded the damages" 27529
includes all of the following: 27530

(i) All wages, salaries, or other compensation lost by the 27531
person injured as a result of the injury, including wages, 27532
salaries, or other compensation lost as of the date of a judgment 27533
and future expected lost earnings of the injured person; 27534

(ii) All expenditures of the injured person or of another 27535
person on behalf of the injured person for medical care or 27536
treatment, rehabilitation services, or other care, treatment, 27537
services, products, or accommodations that were necessary because 27538
of the injury; 27539

(iii) All expenditures to be incurred in the future, as 27540
determined by the court, by the injured person or by another 27541
person on behalf of the injured person for medical care or 27542
treatment, rehabilitation services, or other care, treatment, 27543
services, products, or accommodations that will be necessary 27544

because of the injury; 27545

(iv) All expenditures of a person whose property was injured 27546
or destroyed or of another person on behalf of the person whose 27547
property was injured or destroyed in order to repair or replace 27548
the property that was injured or destroyed; 27549

(v) All expenditures of the injured person, of the person 27550
whose property was injured or destroyed, or of another person on 27551
behalf of the injured person or the person whose property was 27552
injured or destroyed in relation to the actual preparation or 27553
presentation of the claim involved; 27554

(vi) Any other expenditures of the injured person, of the 27555
person whose property was injured or destroyed, or of another 27556
person on behalf of the injured person or the person whose 27557
property was injured or destroyed that the court determines 27558
represent an actual loss experienced because of the personal or 27559
property injury or property loss. 27560

(d) "The actual loss of the person who is awarded the 27561
damages" does not include either of the following: 27562

(i) Any fees paid or owed to an attorney for any services 27563
rendered in relation to the personal or property injury or 27564
property loss; 27565

(ii) Any damages awarded for pain and suffering, for the loss 27566
of society, consortium, companionship, care, assistance, 27567
attention, protection, advice, guidance, counsel, instruction, 27568
training, or education of the injured person, for mental anguish, 27569
or for any other intangible loss. 27570

(E) The only defendant in original actions in the court of 27571
claims is the state. The state may file a third-party complaint or 27572
counterclaim in any civil action, except a civil action for ten 27573
thousand dollars or less, that is filed in the court of claims. 27574

(F) A civil action against an officer or employee, as defined 27575
in section 109.36 of the Revised Code, that alleges that the 27576
officer's or employee's conduct was manifestly outside the scope 27577
of the officer's or employee's employment or official 27578
responsibilities, or that the officer or employee acted with 27579
malicious purpose, in bad faith, or in a wanton or reckless manner 27580
shall first be filed against the state in the court of claims that 27581
has exclusive, original jurisdiction to determine, initially, 27582
whether the officer or employee is entitled to personal immunity 27583
under section 9.86 of the Revised Code and whether the courts of 27584
common pleas have jurisdiction over the civil action. The officer 27585
or employee may participate in the immunity determination 27586
proceeding before the court of claims to determine whether the 27587
officer or employee is entitled to personal immunity under section 27588
9.86 of the Revised Code. 27589

The filing of a claim against an officer or employee under 27590
this division tolls the running of the applicable statute of 27591
limitations until the court of claims determines whether the 27592
officer or employee is entitled to personal immunity under section 27593
9.86 of the Revised Code. 27594

(G) If a claim lies against an officer or employee who is a 27595
member of the Ohio national guard, and the officer or employee 27596
was, at the time of the act or omission complained of, subject to 27597
the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 27598
2671, et seq., the Federal Tort Claims Act is the exclusive remedy 27599
of the claimant and the state has no liability under this section. 27600

(H) If an inmate of a state correctional institution has a 27601
claim against the state for the loss of or damage to property and 27602
the amount claimed does not exceed three hundred dollars, before 27603
commencing an action against the state in the court of claims, the 27604
inmate shall file a claim for the loss or damage under the rules 27605
adopted by the director of rehabilitation and correction pursuant 27606

to this division. The inmate shall file the claim within the time 27607
allowed for commencement of a civil action under section 2743.16 27608
of the Revised Code. If the state admits or compromises the claim, 27609
the director shall make payment from a fund designated by the 27610
director for that purpose. If the state denies the claim or does 27611
not compromise the claim at least sixty days prior to expiration 27612
of the time allowed for commencement of a civil action based upon 27613
the loss or damage under section 2743.16 of the Revised Code, the 27614
inmate may commence an action in the court of claims under this 27615
chapter to recover damages for the loss or damage. 27616

The director of rehabilitation and correction shall adopt 27617
rules pursuant to Chapter 119. of the Revised Code to implement 27618
this division. 27619

Sec. 2744.05. Notwithstanding any other provisions of the 27620
Revised Code or rules of a court to the contrary, in an action 27621
against a political subdivision to recover damages for injury, 27622
death, or loss to person or property caused by an act or omission 27623
in connection with a governmental or proprietary function: 27624

(A) Punitive or exemplary damages shall not be awarded. 27625

(B)(1) If a claimant receives or is entitled to receive 27626
benefits for injuries or loss allegedly incurred from a policy or 27627
policies of insurance or any other source, the benefits shall be 27628
disclosed to the court, and the amount of the benefits shall be 27629
deducted from any award against a political subdivision recovered 27630
by that claimant. No insurer or other person is entitled to bring 27631
an action under a subrogation provision in an insurance or other 27632
contract against a political subdivision with respect to those 27633
benefits. 27634

The amount of the benefits shall be deducted from an award 27635
against a political subdivision under division (B)(1) of this 27636
section regardless of whether the claimant may be under an 27637

obligation to pay back the benefits upon recovery, in whole or in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of ~~job and family services~~ medicaid from recovering from the political subdivision, pursuant to section ~~5101.58~~ 5160.37 of the Revised Code, the cost of medical assistance ~~benefits provided under Chapter 5107. or 5111. of the Revised Code~~ provided under a medical assistance program.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages"

does not include any fees paid or owed to an attorney for any 27700
services rendered in relation to a personal or property injury or 27701
property loss, and does not include any damages awarded for pain 27702
and suffering, for the loss of society, consortium, companionship, 27703
care, assistance, attention, protection, advice, guidance, 27704
counsel, instruction, training, or education of the person 27705
injured, for mental anguish, or for any other intangible loss. 27706

Sec. 2901.30. (A) As used in sections 2901.30 to 2901.32 of 27707
the Revised Code: 27708

(1) "Information" means information that can be integrated 27709
into the computer system and that relates to the physical or 27710
mental description of a minor including, but not limited to, 27711
height, weight, color of hair and eyes, use of eyeglasses or 27712
contact lenses, skin coloring, physical or mental handicaps, 27713
special medical conditions or needs, abnormalities, problems, 27714
scars and marks, and distinguishing characteristics, and other 27715
information that could assist in identifying a minor including, 27716
but not limited to, full name and nickname, date and place of 27717
birth, age, names and addresses of parents and other relatives, 27718
fingerprints, dental records, photographs, social security number, 27719
driver's license number, credit card numbers, bank account 27720
numbers, and clothing. 27721

(2) "Minor" means a person under eighteen years of age. 27722

(3) "Missing children" or "missing child" means either of the 27723
following: 27724

(a) A minor who has run away from or who otherwise is missing 27725
from the home of, or the care, custody, and control of, the 27726
minor's parents, parent who is the residential parent and legal 27727
custodian, guardian, legal custodian, or other person having 27728
responsibility for the care of the minor; 27729

(b) A minor who is missing and about whom there is reason to believe the minor could be the victim of a violation of section 2905.01, 2905.02, 2905.03, or 2919.23 of the Revised Code or of a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996.

(B) When a law enforcement agency in this state that has jurisdiction in the matter is informed that a minor is or may be a missing child and that the person providing the information wishes to file a missing child report, the law enforcement agency shall take that report. Upon taking the report, the law enforcement agency shall take prompt action upon it, including, but not limited to, concerted efforts to locate the missing child. No law enforcement agency in this state shall have a rule or policy that prohibits or discourages the filing of or the taking of action upon a missing child report, within a specified period following the discovery or formulation of a belief that a minor is or could be a missing child.

(C) If a missing child report is made to a law enforcement agency in this state that has jurisdiction in the matter, the law enforcement agency shall gather readily available information about the missing child and integrate it into the national crime information center computer immediately following the making of the report. The law enforcement agency shall make reasonable efforts to acquire additional information about the missing child following the transmittal of the initially available information, and promptly integrate any additional information acquired into such computer systems.

Whenever a law enforcement agency integrates information about a missing child into the national crime information center computer, the law enforcement agency promptly shall notify the missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other person

responsible for the care of the missing child, that it has so 27762
integrated the information. 27763

The parents, parent who is the residential parent and legal 27764
custodian, guardian, legal custodian, or other person responsible 27765
for the care of the missing child shall provide available 27766
information upon request, and may provide information voluntarily, 27767
to the law enforcement agency during the information gathering 27768
process. The law enforcement agency also may obtain available 27769
information about the missing child from other persons, subject to 27770
constitutional and statutory limitations. 27771

(D) Upon the filing of a missing child report, the law 27772
enforcement agency involved may notify the public or nonpublic 27773
school in which the missing child is or was most recently 27774
enrolled, as ascertained by the agency, that the child is the 27775
subject of a missing child report and that the child's school 27776
records are to be marked in accordance with section 3313.672 of 27777
the Revised Code. 27778

(E) Upon the filing of a missing child report, the law 27779
enforcement agency involved promptly shall make a reasonable 27780
attempt to notify other law enforcement agencies within its county 27781
and, if the agency has jurisdiction in a municipal corporation or 27782
township that borders another county, to notify the law 27783
enforcement agency for the municipal corporation or township in 27784
the other county with which it shares the border, that it has 27785
taken a missing child report and may be requesting assistance or 27786
cooperation in the case, and provide relevant information to the 27787
other law enforcement agencies. The agency may notify additional 27788
law enforcement agencies, or appropriate public children services 27789
agencies, about the case, request their assistance or cooperation 27790
in the case, and provide them with relevant information. 27791

Upon request from a law enforcement agency, a public children 27792
services agency shall grant the law enforcement agency access to 27793

all information concerning a missing child that the agency 27794
possesses that may be relevant to the law enforcement agency in 27795
investigating a missing child report concerning that child. The 27796
information obtained by the law enforcement agency shall be used 27797
only to further the investigation to locate the missing child. 27798

(F) Upon request, law enforcement agencies in this state 27799
shall provide assistance to, and cooperate with, other law 27800
enforcement agencies in their investigation of missing child 27801
cases. The assistance and cooperation under this paragraph shall 27802
be pursuant to any terms agreed upon by the law enforcement 27803
agencies, which may include the provision of law enforcement 27804
services or the use of law enforcement equipment or the 27805
interchange of services and equipment among the cooperating law 27806
enforcement agencies. Chapter 2744. of the Revised Code, insofar 27807
as it applies to the operation of law enforcement agencies, shall 27808
apply to the cooperating political subdivisions and to the law 27809
enforcement agency employees when they are rendering services 27810
pursuant to this paragraph outside the territory of the political 27811
subdivision by which they are employed. Law enforcement agency 27812
employees rendering services outside the territory of the 27813
political subdivision in which they are employed, pursuant to this 27814
paragraph, shall be entitled to participate in any indemnity fund 27815
established by their employer to the same extent as if they were 27816
rendering service within the territory of their employing 27817
political subdivision. Those law enforcement agency employees also 27818
shall be entitled to all the rights and benefits of Chapter 4123. 27819
of the Revised Code to the same extent as if rendering services 27820
within the territory of their employing political subdivision. 27821

The information in any missing child report made to a law 27822
enforcement agency shall be made available, upon request, to law 27823
enforcement personnel of this state, other states, and the federal 27824
government when the law enforcement personnel indicate that the 27825

request is to aid in identifying or locating a missing child or 27826
the possible identification of a deceased minor who, upon 27827
discovery, cannot be identified. 27828

(G) When a missing child has not been located within thirty 27829
days after the date on which the missing child report pertaining 27830
to the child was filed with a law enforcement agency, that law 27831
enforcement agency shall request the missing child's parents, 27832
parent who is the residential parent and legal custodian, 27833
guardian, or legal custodian, or any other person responsible for 27834
the care of the missing child, to provide written consent for the 27835
law enforcement agency to contact the missing child's dentist and 27836
request the missing child's dental records. Upon receipt of such 27837
written consent, the dentist shall release a copy of the missing 27838
child's dental records to the law enforcement agency and shall 27839
provide and encode the records in such form as requested by the 27840
law enforcement agency. The law enforcement agency then shall 27841
integrate information in the records into the national crime 27842
information center computer in order to compare the records to 27843
those of unidentified deceased persons. This division does not 27844
prevent a law enforcement agency from seeking consent to obtain 27845
copies of a missing child's dental records, or prevent a missing 27846
child's parents, parent who is the residential parent and legal 27847
custodian, guardian, or legal custodian, or any other person 27848
responsible for the care of the missing child, from granting 27849
consent for the release of copies of the missing child's dental 27850
records to a law enforcement agency, at any time. 27851

(H) A missing child's parents, parent who is the residential 27852
parent and legal custodian, guardian, or legal custodian, or any 27853
other persons responsible for the care of a missing child, 27854
immediately shall notify the law enforcement agency with which 27855
they filed the missing child report whenever the child has 27856
returned to their home or to their care, custody, and control, has 27857

been released if the missing child was the victim of an offense 27858
listed in division (A)(3)(b) of this section, or otherwise has 27859
been located. Upon such notification or upon otherwise learning 27860
that a missing child has returned to the home of, or to the care, 27861
custody, and control of the missing child's parents, parent who is 27862
the residential parent and legal custodian, guardian, legal 27863
custodian, or other person responsible for the missing child's 27864
care, has been released if the missing child was the victim of an 27865
offense listed in division (A)(3)(b) of this section, or otherwise 27866
has been located, the law enforcement agency involved promptly 27867
shall integrate the fact that the minor no longer is a missing 27868
child into the national crime information center computer and 27869
shall inform any school that was notified under division (D) of 27870
this section that the minor is no longer a missing child. 27871

~~(I) Nothing contained in this section shall be construed to 27872
impair the confidentiality of services provided to runaway minors 27873
by shelters for runaway minors pursuant to sections 5119.64 to 27874
5119.68 of the Revised Code. 27875~~

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 27876
Revised Code: 27877

(A) "Care facility" means any of the following: 27878

(1) Any "home" as defined in section 3721.10 ~~or 5111.20~~ of 27879
the Revised Code; 27880

(2) Any "residential facility" as defined in section 5123.19 27881
of the Revised Code; 27882

(3) Any institution or facility operated or provided by the 27883
department of ~~mental health~~ mental health and addiction services 27884
or by the department of developmental disabilities pursuant to 27885
sections ~~5119.02~~ 5119.14 and 5123.03 of the Revised Code; 27886

(4) Any "residential facility" as defined in section ~~5119.22~~ 27887

<u>5119.34</u> of the Revised Code;	27888
(5) Any unit of any hospital, as defined in section 3701.01 of the Revised Code, that provides the same services as a nursing home, as defined in section 3721.01 of the Revised Code;	27889 27890 27891
(6) Any institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to one individual or two unrelated individuals who are dependent upon the services of others.	27892 27893 27894 27895 27896
(B) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a person by physical contact with the person or by the inappropriate use of a physical or chemical restraint, medication, or isolation on the person.	27897 27898 27899 27900
(C)(1) "Gross neglect" means knowingly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in physical harm or serious physical harm to the person.	27901 27902 27903 27904 27905
(2) "Neglect" means recklessly failing to provide a person with any treatment, care, goods, or service that is necessary to maintain the health or safety of the person when the failure results in serious physical harm to the person.	27906 27907 27908 27909
(D) "Inappropriate use of a physical or chemical restraint, medication, or isolation" means the use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in quantities that preclude habilitation and treatment.	27910 27911 27912 27913 27914
Sec. 2913.40. (A) As used in this section:	27915
(1) "Statement or representation" means any oral, written, electronic, electronic impulse, or magnetic communication that is	27916 27917

used to identify an item of goods or a service for which 27918
reimbursement may be made under the ~~medical assistance~~ medicaid 27919
program or that states income and expense and is or may be used to 27920
determine a rate of reimbursement under the ~~medical assistance~~ 27921
medicaid program. 27922

(2) ~~"Medical assistance program" means the program~~ 27923
~~established by the department of job and family services to~~ 27924
~~provide medical assistance under section 5111.01 of the Revised~~ 27925
~~Code and the medicaid program of Title XIX of the "Social Security~~ 27926
~~Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.~~ 27927

(3) "Provider" means any person who has signed a provider 27928
agreement with the department of ~~job and family services~~ medicaid 27929
to provide goods or services pursuant to the ~~medical assistance~~ 27930
medicaid program or any person who has signed an agreement with a 27931
party to such a provider agreement under which the person agrees 27932
to provide goods or services that are reimbursable under the 27933
~~medical assistance~~ medicaid program. 27934

(4)(3) "Provider agreement" ~~means an oral or written~~ 27935
~~agreement between the department of job and family services and a~~ 27936
~~person in which the person agrees to provide goods or services~~ 27937
~~under the medical assistance program~~ has the same meaning as in 27938
section 5164.01 of the Revised Code. 27939

(5)(4) "Recipient" means any individual who receives goods or 27940
services from a provider under the ~~medical assistance~~ medicaid 27941
program. 27942

(6)(5) "Records" means any medical, professional, financial, 27943
or business records relating to the treatment or care of any 27944
recipient, to goods or services provided to any recipient, or to 27945
rates paid for goods or services provided to any recipient and any 27946
records that are required by the rules of the medicaid director ~~of~~ 27947
~~job and family services~~ to be kept for the ~~medical assistance~~ 27948

medicaid program. 27949

(B) No person shall knowingly make or cause to be made a 27950
false or misleading statement or representation for use in 27951
obtaining reimbursement from the ~~medical assistance~~ medicaid 27952
program. 27953

(C) No person, with purpose to commit fraud or knowing that 27954
the person is facilitating a fraud, shall do either of the 27955
following: 27956

(1) Contrary to the terms of the person's provider agreement, 27957
charge, solicit, accept, or receive for goods or services that the 27958
person provides under the ~~medical assistance~~ medicaid program any 27959
property, money, or other consideration in addition to the amount 27960
of reimbursement under the ~~medical assistance~~ medicaid program and 27961
the person's provider agreement for the goods or services and any 27962
cost-sharing expenses authorized by section ~~5111.0112~~ 5162.20 of 27963
the Revised Code or rules adopted pursuant to section ~~5111.01,~~ 27964
~~5111.011, or 5111.02 of the Revised Code~~ by the medicaid director 27965
regarding the medicaid program. 27966

(2) Solicit, offer, or receive any remuneration, other than 27967
any cost-sharing expenses authorized by section ~~5111.0112~~ 5162.20 27968
of the Revised Code or rules adopted ~~under section 5111.01,~~ 27969
~~5111.011, or 5111.02 of the Revised Code~~ by the medicaid director 27970
regarding the medicaid program, in cash or in kind, including, but 27971
not limited to, a kickback or rebate, in connection with the 27972
furnishing of goods or services for which whole or partial 27973
reimbursement is or may be made under the ~~medical assistance~~ 27974
medicaid program. 27975

(D) No person, having submitted a claim for or provided goods 27976
or services under the ~~medical assistance~~ medicaid program, shall 27977
do either of the following for a period of at least six years 27978
after a reimbursement pursuant to that claim, or a reimbursement 27979

for those goods or services, is received under the ~~medical~~ 27980
~~assistance~~ medicaid program: 27981

(1) Knowingly alter, falsify, destroy, conceal, or remove any 27982
records that are necessary to fully disclose the nature of all 27983
goods or services for which the claim was submitted, or for which 27984
reimbursement was received, by the person; 27985

(2) Knowingly alter, falsify, destroy, conceal, or remove any 27986
records that are necessary to disclose fully all income and 27987
expenditures upon which rates of reimbursements were based for the 27988
person. 27989

(E) Whoever violates this section is guilty of medicaid 27990
fraud. Except as otherwise provided in this division, medicaid 27991
fraud is a misdemeanor of the first degree. If the value of 27992
property, services, or funds obtained in violation of this section 27993
is one thousand dollars or more and is less than seven thousand 27994
five hundred dollars, medicaid fraud is a felony of the fifth 27995
degree. If the value of property, services, or funds obtained in 27996
violation of this section is seven thousand five hundred dollars 27997
or more and is less than one hundred fifty thousand dollars, 27998
medicaid fraud is a felony of the fourth degree. If the value of 27999
the property, services, or funds obtained in violation of this 28000
section is one hundred fifty thousand dollars or more, medicaid 28001
fraud is a felony of the third degree. 28002

(F) Upon application of the governmental agency, office, or 28003
other entity that conducted the investigation and prosecution in a 28004
case under this section, the court shall order any person who is 28005
convicted of a violation of this section for receiving any 28006
reimbursement for furnishing goods or services under the ~~medical~~ 28007
~~assistance~~ medicaid program to which the person is not entitled to 28008
pay to the applicant its cost of investigating and prosecuting the 28009
case. The costs of investigation and prosecution that a defendant 28010
is ordered to pay pursuant to this division shall be in addition 28011

to any other penalties for the receipt of that reimbursement that 28012
are provided in this section, section ~~5111.03~~ 5164.35 of the 28013
Revised Code, or any other provision of law. 28014

(G) The provisions of this section are not intended to be 28015
exclusive remedies and do not preclude the use of any other 28016
criminal or civil remedy for any act that is in violation of this 28017
section. 28018

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a 28019
violation of section 2919.27 of the Revised Code or of a municipal 28020
ordinance that is substantially similar to that section, the court 28021
may order an evaluation of the mental condition of the defendant 28022
if the court determines that either of the following criteria 28023
apply: 28024

(i) If the alleged violation is a violation of a protection 28025
order issued or consent agreement approved pursuant to section 28026
2919.26 or 3113.31 of the Revised Code, that the violation 28027
allegedly involves conduct by the defendant that caused physical 28028
harm to the person or property of a family or household member 28029
covered by the order or agreement, or conduct by the defendant 28030
that caused a family or household member to believe that the 28031
defendant would cause physical harm to that member or that 28032
member's property. 28033

(ii) If the alleged violation is a violation of a protection 28034
order issued pursuant to section 2903.213 or 2903.214 of the 28035
Revised Code or a protection order issued by a court of another 28036
state, that the violation allegedly involves conduct by the 28037
defendant that caused physical harm to the person or property of 28038
the person covered by the order, or conduct by the defendant that 28039
caused the person covered by the order to believe that the 28040
defendant would cause physical harm to that person or that 28041
person's property. 28042

(b) If a defendant is charged with a violation of section 28043
2903.211 of the Revised Code or of a municipal ordinance that is 28044
substantially similar to that section, the court may order an 28045
evaluation of the mental condition of the defendant. 28046

(2) An evaluation ordered under division (A)(1) of this 28047
section shall be completed no later than thirty days from the date 28048
the order is entered pursuant to that division. In that order, the 28049
court shall do either of the following: 28050

(a) Order that the evaluation of the mental condition of the 28051
defendant be preceded by an examination conducted either by a 28052
forensic center that is designated by the department of ~~mental~~ 28053
~~health~~ mental health and addiction services to conduct 28054
examinations and make evaluations of defendants charged with 28055
violations of section 2903.211 or 2919.27 of the Revised Code or 28056
of substantially similar municipal ordinances in the area in which 28057
the court is located, or by any other program or facility that is 28058
designated by the department of ~~mental health~~ mental health and 28059
addiction services or the department of developmental disabilities 28060
to conduct examinations and make evaluations of defendants charged 28061
with violations of section 2903.211 or 2919.27 of the Revised Code 28062
or of substantially similar municipal ordinances, and that is 28063
operated by either department or is certified by either department 28064
as being in compliance with the standards established under 28065
division ~~(H)(B)(7)~~ of section ~~5119.01~~ 5119.10 of the Revised Code 28066
or division (C) of section 5123.04 of the Revised Code. 28067

(b) Designate a center, program, or facility other than one 28068
designated by the department of ~~mental health~~ mental health and 28069
addiction services or the department of developmental 28070
disabilities, as described in division (A)(2)(a) of this section, 28071
to conduct the evaluation and preceding examination of the mental 28072
condition of the defendant. 28073

Whether the court acts pursuant to division (A)(2)(a) or (b) 28074

of this section, the court may designate examiners other than the 28075
personnel of the center, program, facility, or department involved 28076
to make the evaluation and preceding examination of the mental 28077
condition of the defendant. 28078

(B) If the court considers that additional evaluations of the 28079
mental condition of a defendant are necessary following the 28080
evaluation authorized by division (A) of this section, the court 28081
may order up to two additional similar evaluations. These 28082
evaluations shall be completed no later than thirty days from the 28083
date the applicable court order is entered. If more than one 28084
evaluation of the mental condition of the defendant is ordered 28085
under this division, the prosecutor and the defendant may 28086
recommend to the court an examiner whom each prefers to perform 28087
one of the evaluations and preceding examinations. 28088

(C)(1) The court may order a defendant who has been released 28089
on bail to submit to an examination under division (A) or (B) of 28090
this section. The examination shall be conducted either at the 28091
detention facility in which the defendant would have been confined 28092
if the defendant had not been released on bail, or, if so 28093
specified by the center, program, facility, or examiners involved, 28094
at the premises of the center, program, or facility. Additionally, 28095
the examination shall be conducted at the times established by the 28096
examiners involved. If such a defendant refuses to submit to an 28097
examination or a complete examination as required by the court or 28098
the center, program, facility, or examiners involved, the court 28099
may amend the conditions of the bail of the defendant and order 28100
the sheriff to take the defendant into custody and deliver the 28101
defendant to the detention facility in which the defendant would 28102
have been confined if the defendant had not been released on bail, 28103
or, if so specified by the center, program, facility, or examiners 28104
involved, to the premises of the center, program, or facility, for 28105
purposes of the examination. 28106

(2) A defendant who has not been released on bail shall be examined at the detention facility in which the defendant is confined or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility.

(D) The examiner of the mental condition of a defendant under division (A) or (B) of this section shall file a written report with the court within thirty days after the entry of an order for the evaluation of the mental condition of the defendant. The report shall contain the findings of the examiner; the facts in reasonable detail on which the findings are based; the opinion of the examiner as to the mental condition of the defendant; the opinion of the examiner as to whether the defendant represents a substantial risk of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that placed other persons in reasonable fear of violent behavior and serious physical harm, or evidence of present dangerousness; and the opinion of the examiner as to the types of treatment or counseling that the defendant needs. The court shall provide copies of the report to the prosecutor and defense counsel.

(E) The costs of any evaluation and preceding examination of a defendant that is ordered pursuant to division (A) or (B) of this section shall be taxed as court costs in the criminal case.

(F) If the examiner considers it necessary in order to make an accurate evaluation of the mental condition of a defendant, an examiner under division (A) or (B) of this section may request any family or household member of the defendant to provide the examiner with information. A family or household member may, but is not required to, provide information to the examiner upon receipt of the request.

(G) As used in this section:

- (1) "Bail" includes a recognizance. 28139
- (2) "Examiner" means a psychiatrist, a licensed independent 28140
social worker who is employed by a forensic center that is 28141
certified as being in compliance with the standards established 28142
under division ~~(H)(B)(7)~~ of section ~~5119.01~~ 5119.10 or division 28143
(C) of section 5123.04 of the Revised Code, a licensed 28144
professional clinical counselor who is employed at a forensic 28145
center that is certified as being in compliance with such 28146
standards, or a licensed clinical psychologist, except that in 28147
order to be an examiner, a licensed clinical psychologist shall 28148
meet the criteria of division (I)(1) of section 5122.01 of the 28149
Revised Code or be employed to conduct examinations by the 28150
department of ~~mental health~~ mental health and addiction services 28151
or by a forensic center certified as being in compliance with the 28152
standards established under division ~~(H)(B)(7)~~ of section ~~5119.01~~ 28153
5119.10 or division (C) of section 5123.04 of the Revised Code 28154
that is designated by the department of ~~mental health~~ mental 28155
health and addiction services. 28156
- (3) "Family or household member" has the same meaning as in 28157
section 2919.25 of the Revised Code. 28158
- (4) "Prosecutor" has the same meaning as in section 2935.01 28159
of the Revised Code. 28160
- (5) "Psychiatrist" and "licensed clinical psychologist" have 28161
the same meanings as in section 5122.01 of the Revised Code. 28162
- (6) "Protection order issued by a court of another state" has 28163
the same meaning as in section 2919.27 of the Revised Code. 28164
- Sec. 2921.01.** As used in sections 2921.01 to 2921.45 of the 28165
Revised Code: 28166
- (A) "Public official" means any elected or appointed officer, 28167
or employee, or agent of the state or any political subdivision, 28168

whether in a temporary or permanent capacity, and includes, but is 28169
not limited to, legislators, judges, and law enforcement officers. 28170
"Public official" does not include an employee, officer, or 28171
governor-appointed member of the board of directors of the 28172
nonprofit corporation formed under section 187.01 of the Revised 28173
Code. 28174

(B) "Public servant" means any of the following: 28175

(1) Any public official; 28176

(2) Any person performing ad hoc a governmental function, 28177
including, but not limited to, a juror, member of a temporary 28178
commission, master, arbitrator, advisor, or consultant; 28179

(3) A person who is a candidate for public office, whether or 28180
not the person is elected or appointed to the office for which the 28181
person is a candidate. A person is a candidate for purposes of 28182
this division if the person has been nominated according to law 28183
for election or appointment to public office, or if the person has 28184
filed a petition or petitions as required by law to have the 28185
person's name placed on the ballot in a primary, general, or 28186
special election, or if the person campaigns as a write-in 28187
candidate in any primary, general, or special election. 28188

"Public servant" does not include an employee, officer, or 28189
governor-appointed member of the board of directors of the 28190
nonprofit corporation formed under section 187.01 of the Revised 28191
Code. 28192

(C) "Party official" means any person who holds an elective 28193
or appointive post in a political party in the United States or 28194
this state, by virtue of which the person directs, conducts, or 28195
participates in directing or conducting party affairs at any level 28196
of responsibility. 28197

(D) "Official proceeding" means any proceeding before a 28198
legislative, judicial, administrative, or other governmental 28199

agency or official authorized to take evidence under oath, and 28200
includes any proceeding before a referee, hearing examiner, 28201
commissioner, notary, or other person taking testimony or a 28202
deposition in connection with an official proceeding. 28203

(E) "Detention" means arrest; confinement in any vehicle 28204
subsequent to an arrest; confinement in any public or private 28205
facility for custody of persons charged with or convicted of crime 28206
in this state or another state or under the laws of the United 28207
States or alleged or found to be a delinquent child or unruly 28208
child in this state or another state or under the laws of the 28209
United States; hospitalization, institutionalization, or 28210
confinement in any public or private facility that is ordered 28211
pursuant to or under the authority of section 2945.37, 2945.371, 28212
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 28213
Code; confinement in any vehicle for transportation to or from any 28214
facility of any of those natures; detention for extradition or 28215
deportation; except as provided in this division, supervision by 28216
any employee of any facility of any of those natures that is 28217
incidental to hospitalization, institutionalization, or 28218
confinement in the facility but that occurs outside the facility; 28219
supervision by an employee of the department of rehabilitation and 28220
correction of a person on any type of release from a state 28221
correctional institution; or confinement in any vehicle, airplane, 28222
or place while being returned from outside of this state into this 28223
state by a private person or entity pursuant to a contract entered 28224
into under division (E) of section 311.29 of the Revised Code or 28225
division (B) of section 5149.03 of the Revised Code. For a person 28226
confined in a county jail who participates in a county jail 28227
industry program pursuant to section 5147.30 of the Revised Code, 28228
"detention" includes time spent at an assigned work site and going 28229
to and from the work site. 28230

(F) "Detention facility" means any public or private place 28231

used for the confinement of a person charged with or convicted of 28232
any crime in this state or another state or under the laws of the 28233
United States or alleged or found to be a delinquent child or 28234
unruly child in this state or another state or under the laws of 28235
the United States. 28236

(G) "Valuable thing or valuable benefit" includes, but is not 28237
limited to, a contribution. This inclusion does not indicate or 28238
imply that a contribution was not included in those terms before 28239
September 17, 1986. 28240

(H) "Campaign committee," "contribution," "political action 28241
committee," "legislative campaign fund," "political party," and 28242
"political contributing entity" have the same meanings as in 28243
section 3517.01 of the Revised Code. 28244

(I) "Provider agreement" ~~and "medical assistance program"~~ 28245
~~have~~ has the same ~~meanings~~ meaning as in section ~~2913.40~~ 5164.01 28246
of the Revised Code. 28247

Sec. 2921.22. (A)(1) Except as provided in division (A)(2) of 28248
this section, no person, knowing that a felony has been or is 28249
being committed, shall knowingly fail to report such information 28250
to law enforcement authorities. 28251

(2) No person, knowing that a violation of division (B) of 28252
section 2913.04 of the Revised Code has been, or is being 28253
committed or that the person has received information derived from 28254
such a violation, shall knowingly fail to report the violation to 28255
law enforcement authorities. 28256

(B) Except for conditions that are within the scope of 28257
division (E) of this section, no physician, limited practitioner, 28258
nurse, or other person giving aid to a sick or injured person 28259
shall negligently fail to report to law enforcement authorities 28260
any gunshot or stab wound treated or observed by the physician, 28261

limited practitioner, nurse, or person, or any serious physical 28262
harm to persons that the physician, limited practitioner, nurse, 28263
or person knows or has reasonable cause to believe resulted from 28264
an offense of violence. 28265

(C) No person who discovers the body or acquires the first 28266
knowledge of the death of a person shall fail to report the death 28267
immediately to a physician whom the person knows to be treating 28268
the deceased for a condition from which death at such time would 28269
not be unexpected, or to a law enforcement officer, an ambulance 28270
service, an emergency squad, or the coroner in a political 28271
subdivision in which the body is discovered, the death is believed 28272
to have occurred, or knowledge concerning the death is obtained. 28273

(D) No person shall fail to provide upon request of the 28274
person to whom a report required by division (C) of this section 28275
was made, or to any law enforcement officer who has reasonable 28276
cause to assert the authority to investigate the circumstances 28277
surrounding the death, any facts within the person's knowledge 28278
that may have a bearing on the investigation of the death. 28279

(E)(1) As used in this division, "burn injury" means any of 28280
the following: 28281

(a) Second or third degree burns; 28282

(b) Any burns to the upper respiratory tract or laryngeal 28283
edema due to the inhalation of superheated air; 28284

(c) Any burn injury or wound that may result in death; 28285

(d) Any physical harm to persons caused by or as the result 28286
of the use of fireworks, novelties and trick noisemakers, and wire 28287
sparklers, as each is defined by section 3743.01 of the Revised 28288
Code. 28289

(2) No physician, nurse, or limited practitioner who, outside 28290
a hospital, sanitarium, or other medical facility, attends or 28291

treats a person who has sustained a burn injury that is inflicted 28292
by an explosion or other incendiary device or that shows evidence 28293
of having been inflicted in a violent, malicious, or criminal 28294
manner shall fail to report the burn injury immediately to the 28295
local arson, or fire and explosion investigation, bureau, if there 28296
is a bureau of this type in the jurisdiction in which the person 28297
is attended or treated, or otherwise to local law enforcement 28298
authorities. 28299

(3) No manager, superintendent, or other person in charge of 28300
a hospital, sanitarium, or other medical facility in which a 28301
person is attended or treated for any burn injury that is 28302
inflicted by an explosion or other incendiary device or that shows 28303
evidence of having been inflicted in a violent, malicious, or 28304
criminal manner shall fail to report the burn injury immediately 28305
to the local arson, or fire and explosion investigation, bureau, 28306
if there is a bureau of this type in the jurisdiction in which the 28307
person is attended or treated, or otherwise to local law 28308
enforcement authorities. 28309

(4) No person who is required to report any burn injury under 28310
division (E)(2) or (3) of this section shall fail to file, within 28311
three working days after attending or treating the victim, a 28312
written report of the burn injury with the office of the state 28313
fire marshal. The report shall comply with the uniform standard 28314
developed by the state fire marshal pursuant to division (A)(15) 28315
of section 3737.22 of the Revised Code. 28316

(5) Anyone participating in the making of reports under 28317
division (E) of this section or anyone participating in a judicial 28318
proceeding resulting from the reports is immune from any civil or 28319
criminal liability that otherwise might be incurred or imposed as 28320
a result of such actions. Notwithstanding section 4731.22 of the 28321
Revised Code, the physician-patient relationship is not a ground 28322
for excluding evidence regarding a person's burn injury or the 28323

cause of the burn injury in any judicial proceeding resulting from 28324
a report submitted under division (E) of this section. 28325

(F)(1) Any doctor of medicine or osteopathic medicine, 28326
hospital intern or resident, registered or licensed practical 28327
nurse, psychologist, social worker, independent social worker, 28328
social work assistant, professional clinical counselor, or 28329
professional counselor who knows or has reasonable cause to 28330
believe that a patient or client has been the victim of domestic 28331
violence, as defined in section 3113.31 of the Revised Code, shall 28332
note that knowledge or belief and the basis for it in the 28333
patient's or client's records. 28334

(2) Notwithstanding section 4731.22 of the Revised Code, the 28335
doctor-patient privilege shall not be a ground for excluding any 28336
information regarding the report containing the knowledge or 28337
belief noted under division (F)(1) of this section, and the 28338
information may be admitted as evidence in accordance with the 28339
Rules of Evidence. 28340

(G) Divisions (A) and (D) of this section do not require 28341
disclosure of information, when any of the following applies: 28342

(1) The information is privileged by reason of the 28343
relationship between attorney and client; doctor and patient; 28344
licensed psychologist or licensed school psychologist and client; 28345
member of the clergy, rabbi, minister, or priest and any person 28346
communicating information confidentially to the member of the 28347
clergy, rabbi, minister, or priest for a religious counseling 28348
purpose of a professional character; husband and wife; or a 28349
communications assistant and those who are a party to a 28350
telecommunications relay service call. 28351

(2) The information would tend to incriminate a member of the 28352
actor's immediate family. 28353

(3) Disclosure of the information would amount to revealing a 28354

news source, privileged under section 2739.04 or 2739.12 of the Revised Code. 28355
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(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy. 28357
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(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or ~~organization~~ services provider certified pursuant to section ~~3793.06~~ 5119.36 of the Revised Code. 28362
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(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of section 2907.02 or 2907.05 of the Revised Code or to victims of felonious sexual penetration in violation of former section 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services. 28369
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(H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence. 28378
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(I) Whoever violates division (A) or (B) of this section is guilty of failure to report a crime. Violation of division (A)(1) of this section is a misdemeanor of the fourth degree. Violation of division (A)(2) or (B) of this section is a misdemeanor of the second degree. 28381
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(J) Whoever violates division (C) or (D) of this section is 28386
guilty of failure to report knowledge of a death, a misdemeanor of 28387
the fourth degree. 28388

(K)(1) Whoever negligently violates division (E) of this 28389
section is guilty of a minor misdemeanor. 28390

(2) Whoever knowingly violates division (E) of this section 28391
is guilty of a misdemeanor of the second degree. 28392

Sec. 2921.36. (A) No person shall knowingly convey, or 28393
attempt to convey, onto the grounds of a detention facility or of 28394
an institution, office building, or other place that is under the 28395
control of the department of ~~mental health~~ mental health and 28396
addiction services, the department of developmental disabilities, 28397
the department of youth services, or the department of 28398
rehabilitation and correction any of the following items: 28399

(1) Any deadly weapon or dangerous ordnance, as defined in 28400
section 2923.11 of the Revised Code, or any part of or ammunition 28401
for use in such a deadly weapon or dangerous ordnance; 28402

(2) Any drug of abuse, as defined in section 3719.011 of the 28403
Revised Code; 28404

(3) Any intoxicating liquor, as defined in section 4301.01 of 28405
the Revised Code. 28406

(B) Division (A) of this section does not apply to any person 28407
who conveys or attempts to convey an item onto the grounds of a 28408
detention facility or of an institution, office building, or other 28409
place under the control of the department of ~~mental health~~ mental 28410
health and addiction services, the department of developmental 28411
disabilities, the department of youth services, or the department 28412
of rehabilitation and correction pursuant to the written 28413
authorization of the person in charge of the detention facility or 28414
the institution, office building, or other place and in accordance 28415

with the written rules of the detention facility or the 28416
institution, office building, or other place. 28417

(C) No person shall knowingly deliver, or attempt to deliver, 28418
to any person who is confined in a detention facility, to a child 28419
confined in a youth services facility, to a prisoner who is 28420
temporarily released from confinement for a work assignment, or to 28421
any patient in an institution under the control of the department 28422
of ~~mental health~~ mental health and addiction services or the 28423
department of developmental disabilities any item listed in 28424
division (A)(1), (2), or (3) of this section. 28425

(D) No person shall knowingly deliver, or attempt to deliver, 28426
cash to any person who is confined in a detention facility, to a 28427
child confined in a youth services facility, or to a prisoner who 28428
is temporarily released from confinement for a work assignment. 28429

(E) No person shall knowingly deliver, or attempt to deliver, 28430
to any person who is confined in a detention facility, to a child 28431
confined in a youth services facility, or to a prisoner who is 28432
temporarily released from confinement for a work assignment a 28433
cellular telephone, two-way radio, or other electronic 28434
communications device. 28435

(F)(1) It is an affirmative defense to a charge under 28436
division (A)(1) of this section that the weapon or dangerous 28437
ordnance in question was being transported in a motor vehicle for 28438
any lawful purpose, that it was not on the actor's person, and, if 28439
the weapon or dangerous ordnance in question was a firearm, that 28440
it was unloaded and was being carried in a closed package, box, or 28441
case or in a compartment that can be reached only by leaving the 28442
vehicle. 28443

(2) It is an affirmative defense to a charge under division 28444
(C) of this section that the actor was not otherwise prohibited by 28445
law from delivering the item to the confined person, the child, 28446

the prisoner, or the patient and that either of the following 28447
applies: 28448

(a) The actor was permitted by the written rules of the 28449
detention facility or the institution, office building, or other 28450
place to deliver the item to the confined person or the patient. 28451

(b) The actor was given written authorization by the person 28452
in charge of the detention facility or the institution, office 28453
building, or other place to deliver the item to the confined 28454
person or the patient. 28455

(G)(1) Whoever violates division (A)(1) of this section or 28456
commits a violation of division (C) of this section involving an 28457
item listed in division (A)(1) of this section is guilty of 28458
illegal conveyance of weapons onto the grounds of a specified 28459
governmental facility, a felony of the third degree. If the 28460
offender is an officer or employee of the department of 28461
rehabilitation and correction, the court shall impose a mandatory 28462
prison term. 28463

(2) Whoever violates division (A)(2) of this section or 28464
commits a violation of division (C) of this section involving any 28465
drug of abuse is guilty of illegal conveyance of drugs of abuse 28466
onto the grounds of a specified governmental facility, a felony of 28467
the third degree. If the offender is an officer or employee of the 28468
department of rehabilitation and correction or of the department 28469
of youth services, the court shall impose a mandatory prison term. 28470

(3) Whoever violates division (A)(3) of this section or 28471
commits a violation of division (C) of this section involving any 28472
intoxicating liquor is guilty of illegal conveyance of 28473
intoxicating liquor onto the grounds of a specified governmental 28474
facility, a misdemeanor of the second degree. 28475

(4) Whoever violates division (D) of this section is guilty 28476
of illegal conveyance of cash onto the grounds of a detention 28477

facility, a misdemeanor of the first degree. If the offender 28478
previously has been convicted of or pleaded guilty to a violation 28479
of division (D) of this section, illegal conveyance of cash onto 28480
the grounds of a detention facility is a felony of the fifth 28481
degree. 28482

(5) Whoever violates division (E) of this section is guilty 28483
of illegal conveyance of a communications device onto the grounds 28484
of a specified governmental facility, a misdemeanor of the first 28485
degree, or if the offender previously has been convicted of or 28486
pleaded guilty to a violation of division (E) of this section, a 28487
felony of the fifth degree. 28488

Sec. 2921.38. (A) No person who is confined in a detention 28489
facility, with intent to harass, annoy, threaten, or alarm another 28490
person, shall cause or attempt to cause the other person to come 28491
into contact with blood, semen, urine, feces, or another bodily 28492
substance by throwing the bodily substance at the other person, by 28493
expelling the bodily substance upon the other person, or in any 28494
other manner. 28495

(B) No person, with intent to harass, annoy, threaten, or 28496
alarm a law enforcement officer, shall cause or attempt to cause 28497
the law enforcement officer to come into contact with blood, 28498
semen, urine, feces, or another bodily substance by throwing the 28499
bodily substance at the law enforcement officer, by expelling the 28500
bodily substance upon the law enforcement officer, or in any other 28501
manner. 28502

(C) No person, with knowledge that the person is a carrier of 28503
the virus that causes acquired immunodeficiency syndrome, is a 28504
carrier of a hepatitis virus, or is infected with tuberculosis and 28505
with intent to harass, annoy, threaten, or alarm another person, 28506
shall cause or attempt to cause the other person to come into 28507
contact with blood, semen, urine, feces, or another bodily 28508

substance by throwing the bodily substance at the other person, by 28509
expelling the bodily substance upon the other person, or in any 28510
other manner. 28511

(D) Whoever violates this section is guilty of harassment 28512
with a bodily substance. A violation of division (A) or (B) of 28513
this section is a felony of the fifth degree. A violation of 28514
division (C) of this section is a felony of the third degree. 28515

(E)(1) The court, on request of the prosecutor, or the law 28516
enforcement authority responsible for the investigation of the 28517
violation, shall cause a person who allegedly has committed a 28518
violation of this section to submit to one or more appropriate 28519
tests to determine if the person is a carrier of the virus that 28520
causes acquired immunodeficiency syndrome, is a carrier of a 28521
hepatitis virus, or is infected with tuberculosis. 28522

(2) The court shall charge the offender with the costs of the 28523
test or tests ordered under division (E)(1) of this section unless 28524
the court determines that the accused is unable to pay, in which 28525
case the costs shall be charged to the entity that operates the 28526
detention facility in which the alleged offense occurred. 28527

(F) This section does not apply to a person who is 28528
hospitalized, institutionalized, or confined in a facility 28529
operated by the department of ~~mental health~~ mental health and 28530
addiction services or the department of developmental 28531
disabilities. 28532

Sec. 2923.126. (A) A concealed handgun license that is issued 28533
under section 2923.125 of the Revised Code shall expire five years 28534
after the date of issuance. A licensee who has been issued a 28535
license under that section shall be granted a grace period of 28536
thirty days after the licensee's license expires during which the 28537
licensee's license remains valid. Except as provided in divisions 28538
(B) and (C) of this section, a licensee who has been issued a 28539

concealed handgun license under section 2923.125 or 2923.1213 of 28540
the Revised Code may carry a concealed handgun anywhere in this 28541
state if the licensee also carries a valid license and valid 28542
identification when the licensee is in actual possession of a 28543
concealed handgun. The licensee shall give notice of any change in 28544
the licensee's residence address to the sheriff who issued the 28545
license within forty-five days after that change. 28546

If a licensee is the driver or an occupant of a motor vehicle 28547
that is stopped as the result of a traffic stop or a stop for 28548
another law enforcement purpose and if the licensee is 28549
transporting or has a loaded handgun in the motor vehicle at that 28550
time, the licensee shall promptly inform any law enforcement 28551
officer who approaches the vehicle while stopped that the licensee 28552
has been issued a concealed handgun license and that the licensee 28553
currently possesses or has a loaded handgun; the licensee shall 28554
not knowingly disregard or fail to comply with lawful orders of a 28555
law enforcement officer given while the motor vehicle is stopped, 28556
knowingly fail to remain in the motor vehicle while stopped, or 28557
knowingly fail to keep the licensee's hands in plain sight after 28558
any law enforcement officer begins approaching the licensee while 28559
stopped and before the officer leaves, unless directed otherwise 28560
by a law enforcement officer; and the licensee shall not knowingly 28561
have contact with the loaded handgun by touching it with the 28562
licensee's hands or fingers, in any manner in violation of 28563
division (E) of section 2923.16 of the Revised Code, after any law 28564
enforcement officer begins approaching the licensee while stopped 28565
and before the officer leaves. Additionally, if a licensee is the 28566
driver or an occupant of a commercial motor vehicle that is 28567
stopped by an employee of the motor carrier enforcement unit for 28568
the purposes defined in section 5503.04 of the Revised Code and if 28569
the licensee is transporting or has a loaded handgun in the 28570
commercial motor vehicle at that time, the licensee shall promptly 28571
inform the employee of the unit who approaches the vehicle while 28572

stopped that the licensee has been issued a concealed handgun 28573
license and that the licensee currently possesses or has a loaded 28574
handgun. 28575

If a licensee is stopped for a law enforcement purpose and if 28576
the licensee is carrying a concealed handgun at the time the 28577
officer approaches, the licensee shall promptly inform any law 28578
enforcement officer who approaches the licensee while stopped that 28579
the licensee has been issued a concealed handgun license and that 28580
the licensee currently is carrying a concealed handgun; the 28581
licensee shall not knowingly disregard or fail to comply with 28582
lawful orders of a law enforcement officer given while the 28583
licensee is stopped or knowingly fail to keep the licensee's hands 28584
in plain sight after any law enforcement officer begins 28585
approaching the licensee while stopped and before the officer 28586
leaves, unless directed otherwise by a law enforcement officer; 28587
and the licensee shall not knowingly remove, attempt to remove, 28588
grasp, or hold the loaded handgun or knowingly have contact with 28589
the loaded handgun by touching it with the licensee's hands or 28590
fingers, in any manner in violation of division (B) of section 28591
2923.12 of the Revised Code, after any law enforcement officer 28592
begins approaching the licensee while stopped and before the 28593
officer leaves. 28594

(B) A valid concealed handgun license does not authorize the 28595
licensee to carry a concealed handgun in any manner prohibited 28596
under division (B) of section 2923.12 of the Revised Code or in 28597
any manner prohibited under section 2923.16 of the Revised Code. A 28598
valid license does not authorize the licensee to carry a concealed 28599
handgun into any of the following places: 28600

(1) A police station, sheriff's office, or state highway 28601
patrol station, premises controlled by the bureau of criminal 28602
identification and investigation, a state correctional 28603
institution, jail, workhouse, or other detention facility, an 28604

airport passenger terminal, or an institution that is maintained, 28605
operated, managed, and governed pursuant to division (A) of 28606
section ~~5119.02~~ 5119.14 of the Revised Code or division (A)(1) of 28607
section 5123.03 of the Revised Code; 28608

(2) A school safety zone if the licensee's carrying the 28609
concealed handgun is in violation of section 2923.122 of the 28610
Revised Code; 28611

(3) A courthouse or another building or structure in which a 28612
courtroom is located, in violation of section 2923.123 of the 28613
Revised Code; 28614

(4) Any premises or open air arena for which a D permit has 28615
been issued under Chapter 4303. of the Revised Code if the 28616
licensee's carrying the concealed handgun is in violation of 28617
section 2923.121 of the Revised Code; 28618

(5) Any premises owned or leased by any public or private 28619
college, university, or other institution of higher education, 28620
unless the handgun is in a locked motor vehicle or the licensee is 28621
in the immediate process of placing the handgun in a locked motor 28622
vehicle; 28623

(6) Any church, synagogue, mosque, or other place of worship, 28624
unless the church, synagogue, mosque, or other place of worship 28625
posts or permits otherwise; 28626

(7) A child day-care center, a type A family day-care home, a 28627
type B family day-care home, or a type C family day-care home, 28628
except that this division does not prohibit a licensee who resides 28629
in a type A family day-care home, a type B family day-care home, 28630
or a type C family day-care home from carrying a concealed handgun 28631
at any time in any part of the home that is not dedicated or used 28632
for day-care purposes, or from carrying a concealed handgun in a 28633
part of the home that is dedicated or used for day-care purposes 28634
at any time during which no children, other than children of that 28635

licensee, are in the home; 28636

(8) An aircraft that is in, or intended for operation in, 28637
foreign air transportation, interstate air transportation, 28638
intrastate air transportation, or the transportation of mail by 28639
aircraft; 28640

(9) Any building that is a government facility of this state 28641
or a political subdivision of this state and that is not a 28642
building that is used primarily as a shelter, restroom, parking 28643
facility for motor vehicles, or rest facility and is not a 28644
courthouse or other building or structure in which a courtroom is 28645
located that is subject to division (B)(3) of this section; 28646

(10) A place in which federal law prohibits the carrying of 28647
handguns. 28648

(C)(1) Nothing in this section shall negate or restrict a 28649
rule, policy, or practice of a private employer that is not a 28650
private college, university, or other institution of higher 28651
education concerning or prohibiting the presence of firearms on 28652
the private employer's premises or property, including motor 28653
vehicles owned by the private employer. Nothing in this section 28654
shall require a private employer of that nature to adopt a rule, 28655
policy, or practice concerning or prohibiting the presence of 28656
firearms on the private employer's premises or property, including 28657
motor vehicles owned by the private employer. 28658

(2)(a) A private employer shall be immune from liability in a 28659
civil action for any injury, death, or loss to person or property 28660
that allegedly was caused by or related to a licensee bringing a 28661
handgun onto the premises or property of the private employer, 28662
including motor vehicles owned by the private employer, unless the 28663
private employer acted with malicious purpose. A private employer 28664
is immune from liability in a civil action for any injury, death, 28665
or loss to person or property that allegedly was caused by or 28666

related to the private employer's decision to permit a licensee to 28667
bring, or prohibit a licensee from bringing, a handgun onto the 28668
premises or property of the private employer. As used in this 28669
division, "private employer" includes a private college, 28670
university, or other institution of higher education. 28671

(b) A political subdivision shall be immune from liability in 28672
a civil action, to the extent and in the manner provided in 28673
Chapter 2744. of the Revised Code, for any injury, death, or loss 28674
to person or property that allegedly was caused by or related to a 28675
licensee bringing a handgun onto any premises or property owned, 28676
leased, or otherwise under the control of the political 28677
subdivision. As used in this division, "political subdivision" has 28678
the same meaning as in section 2744.01 of the Revised Code. 28679

(3)(a) Except as provided in division (C)(3)(b) of this 28680
section, the owner or person in control of private land or 28681
premises, and a private person or entity leasing land or premises 28682
owned by the state, the United States, or a political subdivision 28683
of the state or the United States, may post a sign in a 28684
conspicuous location on that land or on those premises prohibiting 28685
persons from carrying firearms or concealed firearms on or onto 28686
that land or those premises. Except as otherwise provided in this 28687
division, a person who knowingly violates a posted prohibition of 28688
that nature is guilty of criminal trespass in violation of 28689
division (A)(4) of section 2911.21 of the Revised Code and is 28690
guilty of a misdemeanor of the fourth degree. If a person 28691
knowingly violates a posted prohibition of that nature and the 28692
posted land or premises primarily was a parking lot or other 28693
parking facility, the person is not guilty of criminal trespass in 28694
violation of division (A)(4) of section 2911.21 of the Revised 28695
Code and instead is subject only to a civil cause of action for 28696
trespass based on the violation. 28697

(b) A landlord may not prohibit or restrict a tenant who is a 28698

licensee and who on or after September 9, 2008, enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.

(c) As used in division (C)(3) of this section:

(i) "Residential premises" has the same meaning as in section 5321.01 of the Revised Code, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.

(ii) "Landlord," "tenant," and "rental agreement" have the same meanings as in section 5321.01 of the Revised Code.

(D) A person who holds a concealed handgun license issued by another state that is recognized by the attorney general pursuant to a reciprocity agreement entered into pursuant to section 109.69 of the Revised Code has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code and is subject to the same restrictions that apply to a person who carries a license issued under that section.

(E) A peace officer has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under section 2923.125 of the Revised Code. For purposes of reciprocity with other states, a peace officer shall be considered to be a licensee in this state.

(F)(1) A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to division (F)(2) of this section and a valid firearms requalification certification issued pursuant to division (F)(3) of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license

under section 2923.125 of the Revised Code and is subject to the 28730
same restrictions that apply to a person who carries a license 28731
issued under that section. For purposes of reciprocity with other 28732
states, a qualified retired peace officer who possesses a retired 28733
peace officer identification card issued pursuant to division 28734
(F)(2) of this section and a valid firearms requalification 28735
certification issued pursuant to division (F)(3) of this section 28736
shall be considered to be a licensee in this state. 28737

(2)(a) Each public agency of this state or of a political 28738
subdivision of this state that is served by one or more peace 28739
officers shall issue a retired peace officer identification card 28740
to any person who retired from service as a peace officer with 28741
that agency, if the issuance is in accordance with the agency's 28742
policies and procedures and if the person, with respect to the 28743
person's service with that agency, satisfies all of the following: 28744

(i) The person retired in good standing from service as a 28745
peace officer with the public agency, and the retirement was not 28746
for reasons of mental instability. 28747

(ii) Before retiring from service as a peace officer with 28748
that agency, the person was authorized to engage in or supervise 28749
the prevention, detection, investigation, or prosecution of, or 28750
the incarceration of any person for, any violation of law and the 28751
person had statutory powers of arrest. 28752

(iii) At the time of the person's retirement as a peace 28753
officer with that agency, the person was trained and qualified to 28754
carry firearms in the performance of the peace officer's duties. 28755

(iv) Before retiring from service as a peace officer with 28756
that agency, the person was regularly employed as a peace officer 28757
for an aggregate of fifteen years or more, or, in the alternative, 28758
the person retired from service as a peace officer with that 28759
agency, after completing any applicable probationary period of 28760

that service, due to a service-connected disability, as determined 28761
by the agency. 28762

(b) A retired peace officer identification card issued to a 28763
person under division (F)(2)(a) of this section shall identify the 28764
person by name, contain a photograph of the person, identify the 28765
public agency of this state or of the political subdivision of 28766
this state from which the person retired as a peace officer and 28767
that is issuing the identification card, and specify that the 28768
person retired in good standing from service as a peace officer 28769
with the issuing public agency and satisfies the criteria set 28770
forth in divisions (F)(2)(a)(i) to (iv) of this section. In 28771
addition to the required content specified in this division, a 28772
retired peace officer identification card issued to a person under 28773
division (F)(2)(a) of this section may include the firearms 28774
requalification certification described in division (F)(3) of this 28775
section, and if the identification card includes that 28776
certification, the identification card shall serve as the firearms 28777
requalification certification for the retired peace officer. If 28778
the issuing public agency issues credentials to active law 28779
enforcement officers who serve the agency, the agency may comply 28780
with division (F)(2)(a) of this section by issuing the same 28781
credentials to persons who retired from service as a peace officer 28782
with the agency and who satisfy the criteria set forth in 28783
divisions (F)(2)(a)(i) to (iv) of this section, provided that the 28784
credentials so issued to retired peace officers are stamped with 28785
the word "RETIRED." 28786

(c) A public agency of this state or of a political 28787
subdivision of this state may charge persons who retired from 28788
service as a peace officer with the agency a reasonable fee for 28789
issuing to the person a retired peace officer identification card 28790
pursuant to division (F)(2)(a) of this section. 28791

(3) If a person retired from service as a peace officer with 28792

a public agency of this state or of a political subdivision of 28793
this state and the person satisfies the criteria set forth in 28794
divisions (F)(2)(a)(i) to (iv) of this section, the public agency 28795
may provide the retired peace officer with the opportunity to 28796
attend a firearms requalification program that is approved for 28797
purposes of firearms requalification required under section 28798
109.801 of the Revised Code. The retired peace officer may be 28799
required to pay the cost of the course. 28800

If a retired peace officer who satisfies the criteria set 28801
forth in divisions (F)(2)(a)(i) to (iv) of this section attends a 28802
firearms requalification program that is approved for purposes of 28803
firearms requalification required under section 109.801 of the 28804
Revised Code, the retired peace officer's successful completion of 28805
the firearms requalification program requalifies the retired peace 28806
officer for purposes of division (F) of this section for five 28807
years from the date on which the program was successfully 28808
completed, and the requalification is valid during that five-year 28809
period. If a retired peace officer who satisfies the criteria set 28810
forth in divisions (F)(2)(a)(i) to (iv) of this section 28811
satisfactorily completes such a firearms requalification program, 28812
the retired peace officer shall be issued a firearms 28813
requalification certification that identifies the retired peace 28814
officer by name, identifies the entity that taught the program, 28815
specifies that the retired peace officer successfully completed 28816
the program, specifies the date on which the course was 28817
successfully completed, and specifies that the requalification is 28818
valid for five years from that date of successful completion. The 28819
firearms requalification certification for a retired peace officer 28820
may be included in the retired peace officer identification card 28821
issued to the retired peace officer under division (F)(2) of this 28822
section. 28823

A retired peace officer who attends a firearms 28824

requalification program that is approved for purposes of firearms 28825
requalification required under section 109.801 of the Revised Code 28826
may be required to pay the cost of the program. 28827

(G) As used in this section: 28828

(1) "Qualified retired peace officer" means a person who 28829
satisfies all of the following: 28830

(a) The person satisfies the criteria set forth in divisions 28831
(F)(2)(a)(i) to (v) of this section. 28832

(b) The person is not under the influence of alcohol or 28833
another intoxicating or hallucinatory drug or substance. 28834

(c) The person is not prohibited by federal law from 28835
receiving firearms. 28836

(2) "Retired peace officer identification card" means an 28837
identification card that is issued pursuant to division (F)(2) of 28838
this section to a person who is a retired peace officer. 28839

(3) "Government facility of this state or a political 28840
subdivision of this state" means any of the following: 28841

(a) A building or part of a building that is owned or leased 28842
by the government of this state or a political subdivision of this 28843
state and where employees of the government of this state or the 28844
political subdivision regularly are present for the purpose of 28845
performing their official duties as employees of the state or 28846
political subdivision; 28847

(b) The office of a deputy registrar serving pursuant to 28848
Chapter 4503. of the Revised Code that is used to perform deputy 28849
registrar functions. 28850

Sec. 2925.03. (A) No person shall knowingly do any of the 28851
following: 28852

(1) Sell or offer to sell a controlled substance or a 28853

controlled substance analog; 28854

(2) Prepare for shipment, ship, transport, deliver, prepare 28855
for distribution, or distribute a controlled substance or a 28856
controlled substance analog, when the offender knows or has 28857
reasonable cause to believe that the controlled substance or a 28858
controlled substance analog is intended for sale or resale by the 28859
offender or another person. 28860

(B) This section does not apply to any of the following: 28861

(1) Manufacturers, licensed health professionals authorized 28862
to prescribe drugs, pharmacists, owners of pharmacies, and other 28863
persons whose conduct is in accordance with Chapters 3719., 4715., 28864
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 28865

(2) If the offense involves an anabolic steroid, any person 28866
who is conducting or participating in a research project involving 28867
the use of an anabolic steroid if the project has been approved by 28868
the United States food and drug administration; 28869

(3) Any person who sells, offers for sale, prescribes, 28870
dispenses, or administers for livestock or other nonhuman species 28871
an anabolic steroid that is expressly intended for administration 28872
through implants to livestock or other nonhuman species and 28873
approved for that purpose under the "Federal Food, Drug, and 28874
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 28875
and is sold, offered for sale, prescribed, dispensed, or 28876
administered for that purpose in accordance with that act. 28877

(C) Whoever violates division (A) of this section is guilty 28878
of one of the following: 28879

(1) If the drug involved in the violation is any compound, 28880
mixture, preparation, or substance included in schedule I or 28881
schedule II, with the exception of marihuana, cocaine, L.S.D., 28882
heroin, hashish, and controlled substance analogs, whoever 28883
violates division (A) of this section is guilty of aggravated 28884

trafficking in drugs. The penalty for the offense shall be 28885
determined as follows: 28886

(a) Except as otherwise provided in division (C)(1)(b), (c), 28887
(d), (e), or (f) of this section, aggravated trafficking in drugs 28888
is a felony of the fourth degree, and division (C) of section 28889
2929.13 of the Revised Code applies in determining whether to 28890
impose a prison term on the offender. 28891

(b) Except as otherwise provided in division (C)(1)(c), (d), 28892
(e), or (f) of this section, if the offense was committed in the 28893
vicinity of a school or in the vicinity of a juvenile, aggravated 28894
trafficking in drugs is a felony of the third degree, and division 28895
(C) of section 2929.13 of the Revised Code applies in determining 28896
whether to impose a prison term on the offender. 28897

(c) Except as otherwise provided in this division, if the 28898
amount of the drug involved equals or exceeds the bulk amount but 28899
is less than five times the bulk amount, aggravated trafficking in 28900
drugs is a felony of the third degree, and, except as otherwise 28901
provided in this division, there is a presumption for a prison 28902
term for the offense. If aggravated trafficking in drugs is a 28903
felony of the third degree under this division and if the offender 28904
two or more times previously has been convicted of or pleaded 28905
guilty to a felony drug abuse offense, the court shall impose as a 28906
mandatory prison term one of the prison terms prescribed for a 28907
felony of the third degree. If the amount of the drug involved is 28908
within that range and if the offense was committed in the vicinity 28909
of a school or in the vicinity of a juvenile, aggravated 28910
trafficking in drugs is a felony of the second degree, and the 28911
court shall impose as a mandatory prison term one of the prison 28912
terms prescribed for a felony of the second degree. 28913

(d) Except as otherwise provided in this division, if the 28914
amount of the drug involved equals or exceeds five times the bulk 28915
amount but is less than fifty times the bulk amount, aggravated 28916

trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(2) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule III, IV, or V, whoever violates division (A) of this section is guilty of trafficking in drugs. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b), (c), (d), or (e) of this section, trafficking in drugs is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(2)(c), (d), 28949
or (e) of this section, if the offense was committed in the 28950
vicinity of a school or in the vicinity of a juvenile, trafficking 28951
in drugs is a felony of the fourth degree, and division (C) of 28952
section 2929.13 of the Revised Code applies in determining whether 28953
to impose a prison term on the offender. 28954

(c) Except as otherwise provided in this division, if the 28955
amount of the drug involved equals or exceeds the bulk amount but 28956
is less than five times the bulk amount, trafficking in drugs is a 28957
felony of the fourth degree, and division (B) of section 2929.13 28958
of the Revised Code applies in determining whether to impose a 28959
prison term for the offense. If the amount of the drug involved is 28960
within that range and if the offense was committed in the vicinity 28961
of a school or in the vicinity of a juvenile, trafficking in drugs 28962
is a felony of the third degree, and there is a presumption for a 28963
prison term for the offense. 28964

(d) Except as otherwise provided in this division, if the 28965
amount of the drug involved equals or exceeds five times the bulk 28966
amount but is less than fifty times the bulk amount, trafficking 28967
in drugs is a felony of the third degree, and there is a 28968
presumption for a prison term for the offense. If the amount of 28969
the drug involved is within that range and if the offense was 28970
committed in the vicinity of a school or in the vicinity of a 28971
juvenile, trafficking in drugs is a felony of the second degree, 28972
and there is a presumption for a prison term for the offense. 28973

(e) Except as otherwise provided in this division, if the 28974
amount of the drug involved equals or exceeds fifty times the bulk 28975
amount, trafficking in drugs is a felony of the second degree, and 28976
the court shall impose as a mandatory prison term one of the 28977
prison terms prescribed for a felony of the second degree. If the 28978
amount of the drug involved equals or exceeds fifty times the bulk 28979
amount and if the offense was committed in the vicinity of a 28980

school or in the vicinity of a juvenile, trafficking in drugs is a 28981
felony of the first degree, and the court shall impose as a 28982
mandatory prison term one of the prison terms prescribed for a 28983
felony of the first degree. 28984

(3) If the drug involved in the violation is marihuana or a 28985
compound, mixture, preparation, or substance containing marihuana 28986
other than hashish, whoever violates division (A) of this section 28987
is guilty of trafficking in marihuana. The penalty for the offense 28988
shall be determined as follows: 28989

(a) Except as otherwise provided in division (C)(3)(b), (c), 28990
(d), (e), (f), (g), or (h) of this section, trafficking in 28991
marihuana is a felony of the fifth degree, and division (B) of 28992
section 2929.13 of the Revised Code applies in determining whether 28993
to impose a prison term on the offender. 28994

(b) Except as otherwise provided in division (C)(3)(c), (d), 28995
(e), (f), (g), or (h) of this section, if the offense was 28996
committed in the vicinity of a school or in the vicinity of a 28997
juvenile, trafficking in marihuana is a felony of the fourth 28998
degree, and division (B) of section 2929.13 of the Revised Code 28999
applies in determining whether to impose a prison term on the 29000
offender. 29001

(c) Except as otherwise provided in this division, if the 29002
amount of the drug involved equals or exceeds two hundred grams 29003
but is less than one thousand grams, trafficking in marihuana is a 29004
felony of the fourth degree, and division (B) of section 2929.13 29005
of the Revised Code applies in determining whether to impose a 29006
prison term on the offender. If the amount of the drug involved is 29007
within that range and if the offense was committed in the vicinity 29008
of a school or in the vicinity of a juvenile, trafficking in 29009
marihuana is a felony of the third degree, and division (C) of 29010
section 2929.13 of the Revised Code applies in determining whether 29011
to impose a prison term on the offender. 29012

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds one thousand grams but is less than five thousand grams, trafficking in marihuana is a felony of the third degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five thousand grams but is less than twenty thousand grams, trafficking in marihuana is a felony of the third degree, and there is a presumption that a prison term shall be imposed for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the second degree, and there is a presumption that a prison term shall be imposed for the offense.

(f) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty thousand grams but is less than forty thousand grams, trafficking in marihuana is a felony of the second degree, and the court shall impose a mandatory prison term of five, six, seven, or eight years. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in marihuana is a felony of the first degree, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(g) Except as otherwise provided in this division, if the

amount of the drug involved equals or exceeds forty thousand 29045
grams, trafficking in marihuana is a felony of the second degree, 29046
and the court shall impose as a mandatory prison term the maximum 29047
prison term prescribed for a felony of the second degree. If the 29048
amount of the drug involved equals or exceeds forty thousand grams 29049
and if the offense was committed in the vicinity of a school or in 29050
the vicinity of a juvenile, trafficking in marihuana is a felony 29051
of the first degree, and the court shall impose as a mandatory 29052
prison term the maximum prison term prescribed for a felony of the 29053
first degree. 29054

(h) Except as otherwise provided in this division, if the 29055
offense involves a gift of twenty grams or less of marihuana, 29056
trafficking in marihuana is a minor misdemeanor upon a first 29057
offense and a misdemeanor of the third degree upon a subsequent 29058
offense. If the offense involves a gift of twenty grams or less of 29059
marihuana and if the offense was committed in the vicinity of a 29060
school or in the vicinity of a juvenile, trafficking in marihuana 29061
is a misdemeanor of the third degree. 29062

(4) If the drug involved in the violation is cocaine or a 29063
compound, mixture, preparation, or substance containing cocaine, 29064
whoever violates division (A) of this section is guilty of 29065
trafficking in cocaine. The penalty for the offense shall be 29066
determined as follows: 29067

(a) Except as otherwise provided in division (C)(4)(b), (c), 29068
(d), (e), (f), or (g) of this section, trafficking in cocaine is a 29069
felony of the fifth degree, and division (B) of section 2929.13 of 29070
the Revised Code applies in determining whether to impose a prison 29071
term on the offender. 29072

(b) Except as otherwise provided in division (C)(4)(c), (d), 29073
(e), (f), or (g) of this section, if the offense was committed in 29074
the vicinity of a school or in the vicinity of a juvenile, 29075
trafficking in cocaine is a felony of the fourth degree, and 29076

division (C) of section 2929.13 of the Revised Code applies in 29077
determining whether to impose a prison term on the offender. 29078

(c) Except as otherwise provided in this division, if the 29079
amount of the drug involved equals or exceeds five grams but is 29080
less than ten grams of cocaine, trafficking in cocaine is a felony 29081
of the fourth degree, and division (B) of section 2929.13 of the 29082
Revised Code applies in determining whether to impose a prison 29083
term for the offense. If the amount of the drug involved is within 29084
that range and if the offense was committed in the vicinity of a 29085
school or in the vicinity of a juvenile, trafficking in cocaine is 29086
a felony of the third degree, and there is a presumption for a 29087
prison term for the offense. 29088

(d) Except as otherwise provided in this division, if the 29089
amount of the drug involved equals or exceeds ten grams but is 29090
less than twenty grams of cocaine, trafficking in cocaine is a 29091
felony of the third degree, and, except as otherwise provided in 29092
this division, there is a presumption for a prison term for the 29093
offense. If trafficking in cocaine is a felony of the third degree 29094
under this division and if the offender two or more times 29095
previously has been convicted of or pleaded guilty to a felony 29096
drug abuse offense, the court shall impose as a mandatory prison 29097
term one of the prison terms prescribed for a felony of the third 29098
degree. If the amount of the drug involved is within that range 29099
and if the offense was committed in the vicinity of a school or in 29100
the vicinity of a juvenile, trafficking in cocaine is a felony of 29101
the second degree, and the court shall impose as a mandatory 29102
prison term one of the prison terms prescribed for a felony of the 29103
second degree. 29104

(e) Except as otherwise provided in this division, if the 29105
amount of the drug involved equals or exceeds twenty grams but is 29106
less than twenty-seven grams of cocaine, trafficking in cocaine is 29107
a felony of the second degree, and the court shall impose as a 29108

mandatory prison term one of the prison terms prescribed for a 29109
felony of the second degree. If the amount of the drug involved is 29110
within that range and if the offense was committed in the vicinity 29111
of a school or in the vicinity of a juvenile, trafficking in 29112
cocaine is a felony of the first degree, and the court shall 29113
impose as a mandatory prison term one of the prison terms 29114
prescribed for a felony of the first degree. 29115

(f) If the amount of the drug involved equals or exceeds 29116
twenty-seven grams but is less than one hundred grams of cocaine 29117
and regardless of whether the offense was committed in the 29118
vicinity of a school or in the vicinity of a juvenile, trafficking 29119
in cocaine is a felony of the first degree, and the court shall 29120
impose as a mandatory prison term one of the prison terms 29121
prescribed for a felony of the first degree. 29122

(g) If the amount of the drug involved equals or exceeds one 29123
hundred grams of cocaine and regardless of whether the offense was 29124
committed in the vicinity of a school or in the vicinity of a 29125
juvenile, trafficking in cocaine is a felony of the first degree, 29126
the offender is a major drug offender, and the court shall impose 29127
as a mandatory prison term the maximum prison term prescribed for 29128
a felony of the first degree. 29129

(5) If the drug involved in the violation is L.S.D. or a 29130
compound, mixture, preparation, or substance containing L.S.D., 29131
whoever violates division (A) of this section is guilty of 29132
trafficking in L.S.D. The penalty for the offense shall be 29133
determined as follows: 29134

(a) Except as otherwise provided in division (C)(5)(b), (c), 29135
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 29136
felony of the fifth degree, and division (B) of section 2929.13 of 29137
the Revised Code applies in determining whether to impose a prison 29138
term on the offender. 29139

(b) Except as otherwise provided in division (C)(5)(c), (d), 29140
(e), (f), or (g) of this section, if the offense was committed in 29141
the vicinity of a school or in the vicinity of a juvenile, 29142
trafficking in L.S.D. is a felony of the fourth degree, and 29143
division (C) of section 2929.13 of the Revised Code applies in 29144
determining whether to impose a prison term on the offender. 29145

(c) Except as otherwise provided in this division, if the 29146
amount of the drug involved equals or exceeds ten unit doses but 29147
is less than fifty unit doses of L.S.D. in a solid form or equals 29148
or exceeds one gram but is less than five grams of L.S.D. in a 29149
liquid concentrate, liquid extract, or liquid distillate form, 29150
trafficking in L.S.D. is a felony of the fourth degree, and 29151
division (B) of section 2929.13 of the Revised Code applies in 29152
determining whether to impose a prison term for the offense. If 29153
the amount of the drug involved is within that range and if the 29154
offense was committed in the vicinity of a school or in the 29155
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 29156
third degree, and there is a presumption for a prison term for the 29157
offense. 29158

(d) Except as otherwise provided in this division, if the 29159
amount of the drug involved equals or exceeds fifty unit doses but 29160
is less than two hundred fifty unit doses of L.S.D. in a solid 29161
form or equals or exceeds five grams but is less than twenty-five 29162
grams of L.S.D. in a liquid concentrate, liquid extract, or liquid 29163
distillate form, trafficking in L.S.D. is a felony of the third 29164
degree, and, except as otherwise provided in this division, there 29165
is a presumption for a prison term for the offense. If trafficking 29166
in L.S.D. is a felony of the third degree under this division and 29167
if the offender two or more times previously has been convicted of 29168
or pleaded guilty to a felony drug abuse offense, the court shall 29169
impose as a mandatory prison term one of the prison terms 29170
prescribed for a felony of the third degree. If the amount of the 29171

drug involved is within that range and if the offense was 29172
committed in the vicinity of a school or in the vicinity of a 29173
juvenile, trafficking in L.S.D. is a felony of the second degree, 29174
and the court shall impose as a mandatory prison term one of the 29175
prison terms prescribed for a felony of the second degree. 29176

(e) Except as otherwise provided in this division, if the 29177
amount of the drug involved equals or exceeds two hundred fifty 29178
unit doses but is less than one thousand unit doses of L.S.D. in a 29179
solid form or equals or exceeds twenty-five grams but is less than 29180
one hundred grams of L.S.D. in a liquid concentrate, liquid 29181
extract, or liquid distillate form, trafficking in L.S.D. is a 29182
felony of the second degree, and the court shall impose as a 29183
mandatory prison term one of the prison terms prescribed for a 29184
felony of the second degree. If the amount of the drug involved is 29185
within that range and if the offense was committed in the vicinity 29186
of a school or in the vicinity of a juvenile, trafficking in 29187
L.S.D. is a felony of the first degree, and the court shall impose 29188
as a mandatory prison term one of the prison terms prescribed for 29189
a felony of the first degree. 29190

(f) If the amount of the drug involved equals or exceeds one 29191
thousand unit doses but is less than five thousand unit doses of 29192
L.S.D. in a solid form or equals or exceeds one hundred grams but 29193
is less than five hundred grams of L.S.D. in a liquid concentrate, 29194
liquid extract, or liquid distillate form and regardless of 29195
whether the offense was committed in the vicinity of a school or 29196
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 29197
of the first degree, and the court shall impose as a mandatory 29198
prison term one of the prison terms prescribed for a felony of the 29199
first degree. 29200

(g) If the amount of the drug involved equals or exceeds five 29201
thousand unit doses of L.S.D. in a solid form or equals or exceeds 29202
five hundred grams of L.S.D. in a liquid concentrate, liquid 29203

extract, or liquid distillate form and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of trafficking in heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), (f), or (g) of this section, trafficking in heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) Except as otherwise provided in division (C)(6)(c), (d), (e), (f), or (g) of this section, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten unit doses but is less than fifty unit doses or equals or exceeds one gram but is less than five grams, trafficking in heroin is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in heroin is a felony of the third degree, and there is a presumption for a

prison term for the offense. 29236

(d) Except as otherwise provided in this division, if the 29237
amount of the drug involved equals or exceeds fifty unit doses but 29238
is less than one hundred unit doses or equals or exceeds five 29239
grams but is less than ten grams, trafficking in heroin is a 29240
felony of the third degree, and there is a presumption for a 29241
prison term for the offense. If the amount of the drug involved is 29242
within that range and if the offense was committed in the vicinity 29243
of a school or in the vicinity of a juvenile, trafficking in 29244
heroin is a felony of the second degree, and there is a 29245
presumption for a prison term for the offense. 29246

(e) Except as otherwise provided in this division, if the 29247
amount of the drug involved equals or exceeds one hundred unit 29248
doses but is less than five hundred unit doses or equals or 29249
exceeds ten grams but is less than fifty grams, trafficking in 29250
heroin is a felony of the second degree, and the court shall 29251
impose as a mandatory prison term one of the prison terms 29252
prescribed for a felony of the second degree. If the amount of the 29253
drug involved is within that range and if the offense was 29254
committed in the vicinity of a school or in the vicinity of a 29255
juvenile, trafficking in heroin is a felony of the first degree, 29256
and the court shall impose as a mandatory prison term one of the 29257
prison terms prescribed for a felony of the first degree. 29258

(f) If the amount of the drug involved equals or exceeds five 29259
hundred unit doses but is less than two thousand five hundred unit 29260
doses or equals or exceeds fifty grams but is less than two 29261
hundred fifty grams and regardless of whether the offense was 29262
committed in the vicinity of a school or in the vicinity of a 29263
juvenile, trafficking in heroin is a felony of the first degree, 29264
and the court shall impose as a mandatory prison term one of the 29265
prison terms prescribed for a felony of the first degree. 29266

(g) If the amount of the drug involved equals or exceeds two 29267

thousand five hundred unit doses or equals or exceeds two hundred 29268
fifty grams and regardless of whether the offense was committed in 29269
the vicinity of a school or in the vicinity of a juvenile, 29270
trafficking in heroin is a felony of the first degree, the 29271
offender is a major drug offender, and the court shall impose as a 29272
mandatory prison term the maximum prison term prescribed for a 29273
felony of the first degree. 29274

(7) If the drug involved in the violation is hashish or a 29275
compound, mixture, preparation, or substance containing hashish, 29276
whoever violates division (A) of this section is guilty of 29277
trafficking in hashish. The penalty for the offense shall be 29278
determined as follows: 29279

(a) Except as otherwise provided in division (C)(7)(b), (c), 29280
(d), (e), (f), or (g) of this section, trafficking in hashish is a 29281
felony of the fifth degree, and division (B) of section 2929.13 of 29282
the Revised Code applies in determining whether to impose a prison 29283
term on the offender. 29284

(b) Except as otherwise provided in division (C)(7)(c), (d), 29285
(e), (f), or (g) of this section, if the offense was committed in 29286
the vicinity of a school or in the vicinity of a juvenile, 29287
trafficking in hashish is a felony of the fourth degree, and 29288
division (B) of section 2929.13 of the Revised Code applies in 29289
determining whether to impose a prison term on the offender. 29290

(c) Except as otherwise provided in this division, if the 29291
amount of the drug involved equals or exceeds ten grams but is 29292
less than fifty grams of hashish in a solid form or equals or 29293
exceeds two grams but is less than ten grams of hashish in a 29294
liquid concentrate, liquid extract, or liquid distillate form, 29295
trafficking in hashish is a felony of the fourth degree, and 29296
division (B) of section 2929.13 of the Revised Code applies in 29297
determining whether to impose a prison term on the offender. If 29298
the amount of the drug involved is within that range and if the 29299

offense was committed in the vicinity of a school or in the 29300
vicinity of a juvenile, trafficking in hashish is a felony of the 29301
third degree, and division (C) of section 2929.13 of the Revised 29302
Code applies in determining whether to impose a prison term on the 29303
offender. 29304

(d) Except as otherwise provided in this division, if the 29305
amount of the drug involved equals or exceeds fifty grams but is 29306
less than two hundred fifty grams of hashish in a solid form or 29307
equals or exceeds ten grams but is less than fifty grams of 29308
hashish in a liquid concentrate, liquid extract, or liquid 29309
distillate form, trafficking in hashish is a felony of the third 29310
degree, and division (C) of section 2929.13 of the Revised Code 29311
applies in determining whether to impose a prison term on the 29312
offender. If the amount of the drug involved is within that range 29313
and if the offense was committed in the vicinity of a school or in 29314
the vicinity of a juvenile, trafficking in hashish is a felony of 29315
the second degree, and there is a presumption that a prison term 29316
shall be imposed for the offense. 29317

(e) Except as otherwise provided in this division, if the 29318
amount of the drug involved equals or exceeds two hundred fifty 29319
grams but is less than one thousand grams of hashish in a solid 29320
form or equals or exceeds fifty grams but is less than two hundred 29321
grams of hashish in a liquid concentrate, liquid extract, or 29322
liquid distillate form, trafficking in hashish is a felony of the 29323
third degree, and there is a presumption that a prison term shall 29324
be imposed for the offense. If the amount of the drug involved is 29325
within that range and if the offense was committed in the vicinity 29326
of a school or in the vicinity of a juvenile, trafficking in 29327
hashish is a felony of the second degree, and there is a 29328
presumption that a prison term shall be imposed for the offense. 29329

(f) Except as otherwise provided in this division, if the 29330
amount of the drug involved equals or exceeds one thousand grams 29331

but is less than two thousand grams of hashish in a solid form or 29332
equals or exceeds two hundred grams but is less than four hundred 29333
grams of hashish in a liquid concentrate, liquid extract, or 29334
liquid distillate form, trafficking in hashish is a felony of the 29335
second degree, and the court shall impose a mandatory prison term 29336
of five, six, seven, or eight years. If the amount of the drug 29337
involved is within that range and if the offense was committed in 29338
the vicinity of a school or in the vicinity of a juvenile, 29339
trafficking in hashish is a felony of the first degree, and the 29340
court shall impose as a mandatory prison term the maximum prison 29341
term prescribed for a felony of the first degree. 29342

(g) Except as otherwise provided in this division, if the 29343
amount of the drug involved equals or exceeds two thousand grams 29344
of hashish in a solid form or equals or exceeds four hundred grams 29345
of hashish in a liquid concentrate, liquid extract, or liquid 29346
distillate form, trafficking in hashish is a felony of the second 29347
degree, and the court shall impose as a mandatory prison term the 29348
maximum prison term prescribed for a felony of the second degree. 29349
If the amount of the drug involved equals or exceeds two thousand 29350
grams of hashish in a solid form or equals or exceeds four hundred 29351
grams of hashish in a liquid concentrate, liquid extract, or 29352
liquid distillate form and if the offense was committed in the 29353
vicinity of a school or in the vicinity of a juvenile, trafficking 29354
in hashish is a felony of the first degree, and the court shall 29355
impose as a mandatory prison term the maximum prison term 29356
prescribed for a felony of the first degree. 29357

(8) If the drug involved in the violation is a controlled 29358
substance analog or compound, mixture, preparation, or substance 29359
that contains a controlled substance analog, whoever violates 29360
division (A) of this section is guilty of trafficking in a 29361
controlled substance analog. The penalty for the offense shall be 29362
determined as follows: 29363

(a) Except as otherwise provided in division (C)(8)(b), (c), 29364
(d), (e), (f), or (g) of this section, trafficking in a controlled 29365
substance analog is a felony of the fifth degree, and division (C) 29366
of section 2929.13 of the Revised Code applies in determining 29367
whether to impose a prison term on the offender. 29368

(b) Except as otherwise provided in division (C)(8)(c), (d), 29369
(e), (f), or (g) of this section, if the offense was committed in 29370
the vicinity of a school or in the vicinity of a juvenile, 29371
trafficking in a controlled substance analog is a felony of the 29372
fourth degree, and division (C) of section 2929.13 of the Revised 29373
Code applies in determining whether to impose a prison term on the 29374
offender. 29375

(c) Except as otherwise provided in this division, if the 29376
amount of the drug involved equals or exceeds ten grams but is 29377
less than twenty grams, trafficking in a controlled substance 29378
analog is a felony of the fourth degree, and division (B) of 29379
section 2929.13 of the Revised Code applies in determining whether 29380
to impose a prison term for the offense. If the amount of the drug 29381
involved is within that range and if the offense was committed in 29382
the vicinity of a school or in the vicinity of a juvenile, 29383
trafficking in a controlled substance analog is a felony of the 29384
third degree, and there is a presumption for a prison term for the 29385
offense. 29386

(d) Except as otherwise provided in this division, if the 29387
amount of the drug involved equals or exceeds twenty grams but is 29388
less than thirty grams, trafficking in a controlled substance 29389
analog is a felony of the third degree, and there is a presumption 29390
for a prison term for the offense. If the amount of the drug 29391
involved is within that range and if the offense was committed in 29392
the vicinity of a school or in the vicinity of a juvenile, 29393
trafficking in a controlled substance analog is a felony of the 29394
second degree, and there is a presumption for a prison term for 29395

the offense. 29396

(e) Except as otherwise provided in this division, if the 29397
amount of the drug involved equals or exceeds thirty grams but is 29398
less than forty grams, trafficking in a controlled substance 29399
analog is a felony of the second degree, and the court shall 29400
impose as a mandatory prison term one of the prison terms 29401
prescribed for a felony of the second degree. If the amount of the 29402
drug involved is within that range and if the offense was 29403
committed in the vicinity of a school or in the vicinity of a 29404
juvenile, trafficking in a controlled substance analog is a felony 29405
of the first degree, and the court shall impose as a mandatory 29406
prison term one of the prison terms prescribed for a felony of the 29407
first degree. 29408

(f) If the amount of the drug involved equals or exceeds 29409
forty grams but is less than fifty grams and regardless of whether 29410
the offense was committed in the vicinity of a school or in the 29411
vicinity of a juvenile, trafficking in a controlled substance 29412
analog is a felony of the first degree, and the court shall impose 29413
as a mandatory prison term one of the prison terms prescribed for 29414
a felony of the first degree. 29415

(g) If the amount of the drug involved equals or exceeds 29416
fifty grams and regardless of whether the offense was committed in 29417
the vicinity of a school or in the vicinity of a juvenile, 29418
trafficking in a controlled substance analog is a felony of the 29419
first degree, the offender is a major drug offender, and the court 29420
shall impose as a mandatory prison term the maximum prison term 29421
prescribed for a felony of the first degree. 29422

(D) In addition to any prison term authorized or required by 29423
division (C) of this section and sections 2929.13 and 2929.14 of 29424
the Revised Code, and in addition to any other sanction imposed 29425
for the offense under this section or sections 2929.11 to 2929.18 29426
of the Revised Code, the court that sentences an offender who is 29427

convicted of or pleads guilty to a violation of division (A) of 29428
this section shall do all of the following that are applicable 29429
regarding the offender: 29430

(1) If the violation of division (A) of this section is a 29431
felony of the first, second, or third degree, the court shall 29432
impose upon the offender the mandatory fine specified for the 29433
offense under division (B)(1) of section 2929.18 of the Revised 29434
Code unless, as specified in that division, the court determines 29435
that the offender is indigent. Except as otherwise provided in 29436
division (H)(1) of this section, a mandatory fine or any other 29437
fine imposed for a violation of this section is subject to 29438
division (F) of this section. If a person is charged with a 29439
violation of this section that is a felony of the first, second, 29440
or third degree, posts bail, and forfeits the bail, the clerk of 29441
the court shall pay the forfeited bail pursuant to divisions 29442
(D)(1) and (F) of this section, as if the forfeited bail was a 29443
fine imposed for a violation of this section. If any amount of the 29444
forfeited bail remains after that payment and if a fine is imposed 29445
under division (H)(1) of this section, the clerk of the court 29446
shall pay the remaining amount of the forfeited bail pursuant to 29447
divisions (H)(2) and (3) of this section, as if that remaining 29448
amount was a fine imposed under division (H)(1) of this section. 29449

(2) The court shall suspend the driver's or commercial 29450
driver's license or permit of the offender in accordance with 29451
division (G) of this section. 29452

(3) If the offender is a professionally licensed person, the 29453
court immediately shall comply with section 2925.38 of the Revised 29454
Code. 29455

(E) When a person is charged with the sale of or offer to 29456
sell a bulk amount or a multiple of a bulk amount of a controlled 29457
substance, the jury, or the court trying the accused, shall 29458
determine the amount of the controlled substance involved at the 29459

time of the offense and, if a guilty verdict is returned, shall 29460
return the findings as part of the verdict. In any such case, it 29461
is unnecessary to find and return the exact amount of the 29462
controlled substance involved, and it is sufficient if the finding 29463
and return is to the effect that the amount of the controlled 29464
substance involved is the requisite amount, or that the amount of 29465
the controlled substance involved is less than the requisite 29466
amount. 29467

(F)(1) Notwithstanding any contrary provision of section 29468
3719.21 of the Revised Code and except as provided in division (H) 29469
of this section, the clerk of the court shall pay any mandatory 29470
fine imposed pursuant to division (D)(1) of this section and any 29471
fine other than a mandatory fine that is imposed for a violation 29472
of this section pursuant to division (A) or (B)(5) of section 29473
2929.18 of the Revised Code to the county, township, municipal 29474
corporation, park district, as created pursuant to section 511.18 29475
or 1545.04 of the Revised Code, or state law enforcement agencies 29476
in this state that primarily were responsible for or involved in 29477
making the arrest of, and in prosecuting, the offender. However, 29478
the clerk shall not pay a mandatory fine so imposed to a law 29479
enforcement agency unless the agency has adopted a written 29480
internal control policy under division (F)(2) of this section that 29481
addresses the use of the fine moneys that it receives. Each agency 29482
shall use the mandatory fines so paid to subsidize the agency's 29483
law enforcement efforts that pertain to drug offenses, in 29484
accordance with the written internal control policy adopted by the 29485
recipient agency under division (F)(2) of this section. 29486

(2)(a) Prior to receiving any fine moneys under division 29487
(F)(1) of this section or division (B) of section 2925.42 of the 29488
Revised Code, a law enforcement agency shall adopt a written 29489
internal control policy that addresses the agency's use and 29490
disposition of all fine moneys so received and that provides for 29491

the keeping of detailed financial records of the receipts of those 29492
fine moneys, the general types of expenditures made out of those 29493
fine moneys, and the specific amount of each general type of 29494
expenditure. The policy shall not provide for or permit the 29495
identification of any specific expenditure that is made in an 29496
ongoing investigation. All financial records of the receipts of 29497
those fine moneys, the general types of expenditures made out of 29498
those fine moneys, and the specific amount of each general type of 29499
expenditure by an agency are public records open for inspection 29500
under section 149.43 of the Revised Code. Additionally, a written 29501
internal control policy adopted under this division is such a 29502
public record, and the agency that adopted it shall comply with 29503
it. 29504

(b) Each law enforcement agency that receives in any calendar 29505
year any fine moneys under division (F)(1) of this section or 29506
division (B) of section 2925.42 of the Revised Code shall prepare 29507
a report covering the calendar year that cumulates all of the 29508
information contained in all of the public financial records kept 29509
by the agency pursuant to division (F)(2)(a) of this section for 29510
that calendar year, and shall send a copy of the cumulative 29511
report, no later than the first day of March in the calendar year 29512
following the calendar year covered by the report, to the attorney 29513
general. Each report received by the attorney general is a public 29514
record open for inspection under section 149.43 of the Revised 29515
Code. Not later than the fifteenth day of April in the calendar 29516
year in which the reports are received, the attorney general shall 29517
send to the president of the senate and the speaker of the house 29518
of representatives a written notification that does all of the 29519
following: 29520

(i) Indicates that the attorney general has received from law 29521
enforcement agencies reports of the type described in this 29522
division that cover the previous calendar year and indicates that 29523

the reports were received under this division; 29524

(ii) Indicates that the reports are open for inspection under 29525
section 149.43 of the Revised Code; 29526

(iii) Indicates that the attorney general will provide a copy 29527
of any or all of the reports to the president of the senate or the 29528
speaker of the house of representatives upon request. 29529

(3) As used in division (F) of this section: 29530

(a) "Law enforcement agencies" includes, but is not limited 29531
to, the state board of pharmacy and the office of a prosecutor. 29532

(b) "Prosecutor" has the same meaning as in section 2935.01 29533
of the Revised Code. 29534

(G) When required under division (D)(2) of this section or 29535
any other provision of this chapter, the court shall suspend for 29536
not less than six months or more than five years the driver's or 29537
commercial driver's license or permit of any person who is 29538
convicted of or pleads guilty to any violation of this section or 29539
any other specified provision of this chapter. If an offender's 29540
driver's or commercial driver's license or permit is suspended 29541
pursuant to this division, the offender, at any time after the 29542
expiration of two years from the day on which the offender's 29543
sentence was imposed or from the day on which the offender finally 29544
was released from a prison term under the sentence, whichever is 29545
later, may file a motion with the sentencing court requesting 29546
termination of the suspension; upon the filing of such a motion 29547
and the court's finding of good cause for the termination, the 29548
court may terminate the suspension. 29549

(H)(1) In addition to any prison term authorized or required 29550
by division (C) of this section and sections 2929.13 and 2929.14 29551
of the Revised Code, in addition to any other penalty or sanction 29552
imposed for the offense under this section or sections 2929.11 to 29553
2929.18 of the Revised Code, and in addition to the forfeiture of 29554

property in connection with the offense as prescribed in Chapter 29555
2981. of the Revised Code, the court that sentences an offender 29556
who is convicted of or pleads guilty to a violation of division 29557
(A) of this section may impose upon the offender an additional 29558
fine specified for the offense in division (B)(4) of section 29559
2929.18 of the Revised Code. A fine imposed under division (H)(1) 29560
of this section is not subject to division (F) of this section and 29561
shall be used solely for the support of one or more eligible 29562
~~alcohol and drug~~ community addiction ~~programs~~ services provider in 29563
accordance with divisions (H)(2) and (3) of this section. 29564

(2) The court that imposes a fine under division (H)(1) of 29565
this section shall specify in the judgment that imposes the fine 29566
one or more eligible ~~alcohol and drug~~ community addiction ~~programs~~ 29567
services provider for the support of which the fine money is to be 29568
used. No ~~alcohol and drug~~ community addiction ~~program~~ services 29569
provider shall receive or use money paid or collected in 29570
satisfaction of a fine imposed under division (H)(1) of this 29571
section unless the ~~program~~ services provider is specified in the 29572
judgment that imposes the fine. No ~~alcohol and drug~~ community 29573
addiction ~~program~~ services provider shall be specified in the 29574
judgment unless the ~~program~~ services provider is an eligible 29575
~~alcohol and drug~~ community addiction ~~program~~ services provider 29576
and, except as otherwise provided in division (H)(2) of this 29577
section, unless the ~~program~~ services provider is located in the 29578
county in which the court that imposes the fine is located or in a 29579
county that is immediately contiguous to the county in which that 29580
court is located. If no eligible ~~alcohol and drug~~ community 29581
addiction ~~program~~ services provider is located in any of those 29582
counties, the judgment may specify an eligible ~~alcohol and drug~~ 29583
community addiction ~~program~~ services provider that is located 29584
anywhere within this state. 29585

(3) Notwithstanding any contrary provision of section 3719.21 29586

of the Revised Code, the clerk of the court shall pay any fine 29587
imposed under division (H)(1) of this section to the eligible 29588
~~alcohol and drug~~ community addiction ~~program~~ services provider 29589
specified pursuant to division (H)(2) of this section in the 29590
judgment. The eligible ~~alcohol and drug~~ community addiction 29591
~~program~~ services provider that receives the fine moneys shall use 29592
the moneys only for the alcohol and drug addiction services 29593
identified in the application for certification under section 29594
~~3793.06~~ 5119.36 of the Revised Code or in the application for a 29595
license under section ~~3793.11~~ 5119.39 of the Revised Code filed 29596
with the department of ~~alcohol and drug addiction services~~ mental
health and addiction services by the ~~alcohol and drug~~ community 29597
addiction ~~program~~ services provider specified in the judgment. 29598
29599

(4) Each ~~alcohol and drug~~ community addiction ~~program~~ 29600
services provider that receives in a calendar year any fine moneys 29601
under division (H)(3) of this section shall file an annual report 29602
covering that calendar year with the court of common pleas and the 29603
board of county commissioners of the county in which the ~~program~~ 29604
services provider is located, with the court of common pleas and 29605
the board of county commissioners of each county from which the 29606
~~program~~ services provider received the moneys if that county is 29607
different from the county in which the ~~program~~ services provider 29608
is located, and with the attorney general. The ~~alcohol and drug~~ 29609
community addiction ~~program~~ services provider shall file the 29610
report no later than the first day of March in the calendar year 29611
following the calendar year in which the ~~program~~ services provider 29612
received the fine moneys. The report shall include statistics on 29613
the number of persons served by the ~~alcohol and drug~~ community 29614
addiction ~~program~~ services provider, identify the types of alcohol 29615
and drug addiction services provided to those persons, and include 29616
a specific accounting of the purposes for which the fine moneys 29617
received were used. No information contained in the report shall 29618
identify, or enable a person to determine the identity of, any 29619

person served by the ~~alcohol and drug~~ community addiction ~~program~~ 29620
services provider. Each report received by a court of common 29621
pleas, a board of county commissioners, or the attorney general is 29622
a public record open for inspection under section 149.43 of the 29623
Revised Code. 29624

(5) As used in divisions (H)(1) to (5) of this section: 29625

(a) "~~Alcohol and drug~~ Community addiction ~~program~~ services 29626
provider" and "alcohol and drug addiction services" have the same 29627
meanings as in section ~~3793.01~~ 5119.01 of the Revised Code. 29628

(b) "Eligible ~~alcohol and drug~~ community addiction ~~program~~ 29629
services provider" means ~~an alcohol and drug~~ a community addiction 29630
program services provider that is certified under section ~~3793.06~~ 29631
5119.36 of the Revised Code or licensed under section ~~3793.11~~ 29632
5119.39 of the Revised Code by the department of ~~alcohol and drug~~ 29633
~~addiction services~~ mental health and addiction services. 29634

(I) As used in this section, "drug" includes any substance 29635
that is represented to be a drug. 29636

(J) It is an affirmative defense to a charge of trafficking 29637
in a controlled substance analog under division (C)(8) of this 29638
section that the person charged with violating that offense sold 29639
or offered to sell, or prepared for shipment, shipped, 29640
transported, delivered, prepared for distribution, or distributed 29641
an item described in division (HH)(2)(a), (b), or (c) of section 29642
3719.01 of the Revised Code. 29643

Sec. 2929.13. (A) Except as provided in division (E), (F), or 29644
(G) of this section and unless a specific sanction is required to 29645
be imposed or is precluded from being imposed pursuant to law, a 29646
court that imposes a sentence upon an offender for a felony may 29647
impose any sanction or combination of sanctions on the offender 29648
that are provided in sections 2929.14 to 2929.18 of the Revised 29649

Code. 29650

If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also shall impose any financial sanction pursuant to section 2929.18 of the Revised Code that is required for the offense and may impose any other financial sanction pursuant to that section but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, in addition to the mandatory term of local incarceration or the mandatory prison term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) For a fourth degree felony OVI offense for which sentence is imposed under division (G)(1) of this section, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code. If the court imposes upon the offender a community control sanction and the offender violates any condition of the community control sanction, the court may take any action prescribed in division (B) of section 2929.15 of the Revised Code relative to the offender, including imposing a prison term on the offender pursuant to that division.

(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (B)(4) of section 2929.14 of the Revised Code or a community control sanction as described in division (G)(2) of this section.

(B)(1)(a) Except as provided in division (B)(1)(b) of this section, if an offender is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense, the court shall sentence the offender to a community control sanction of at least one year's duration if all of the following apply:

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.

(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.

(iii) If the court made a request of the department of rehabilitation and correction pursuant to division (B)(1)(c) of this section, the department, within the forty-five-day period specified in that division, provided the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court.

(iv) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

(i) The offender committed the offense while having a firearm

on or about the offender's person or under the offender's control. 29713

(ii) If the offense is a qualifying assault offense, the 29714
offender caused serious physical harm to another person while 29715
committing the offense, and, if the offense is not a qualifying 29716
assault offense, the offender caused physical harm to another 29717
person while committing the offense. 29718

(iii) The offender violated a term of the conditions of bond 29719
as set by the court. 29720

(iv) The court made a request of the department of 29721
rehabilitation and correction pursuant to division (B)(1)(c) of 29722
this section, and the department, within the forty-five-day period 29723
specified in that division, did not provide the court with the 29724
name of, contact information for, and program details of any 29725
community control sanction of at least one year's duration that is 29726
available for persons sentenced by the court. 29727

(v) The offense is a sex offense that is a fourth or fifth 29728
degree felony violation of any provision of Chapter 2907. of the 29729
Revised Code. 29730

(vi) In committing the offense, the offender attempted to 29731
cause or made an actual threat of physical harm to a person with a 29732
deadly weapon. 29733

(vii) In committing the offense, the offender attempted to 29734
cause or made an actual threat of physical harm to a person, and 29735
the offender previously was convicted of an offense that caused 29736
physical harm to a person. 29737

(viii) The offender held a public office or position of 29738
trust, and the offense related to that office or position; the 29739
offender's position obliged the offender to prevent the offense or 29740
to bring those committing it to justice; or the offender's 29741
professional reputation or position facilitated the offense or was 29742
likely to influence the future conduct of others. 29743

(ix) The offender committed the offense for hire or as part of an organized criminal activity. 29744
29745

(x) The offender at the time of the offense was serving, or the offender previously had served, a prison term. 29746
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(xi) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance. 29748
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29750

(c) If a court that is sentencing an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense believes that no community control sanctions are available for its use that, if imposed on the offender, will adequately fulfill the overriding principles and purposes of sentencing, the court shall contact the department of rehabilitation and correction and ask the department to provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court. Not later than forty-five days after receipt of a request from a court under this division, the department shall provide the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court, if any. Upon making a request under this division that relates to a particular offender, a court shall defer sentencing of that offender until it receives from the department the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court or for forty-five days, whichever is the earlier. 29751
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If the department provides the court with the names of, contact information for, and program details of one or more 29774
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community control sanctions of at least one year's duration that 29776
are available for persons sentenced by the court within the 29777
forty-five-day period specified in this division, the court shall 29778
impose upon the offender a community control sanction under 29779
division (B)(1)(a) of this section, except that the court may 29780
impose a prison term under division (B)(1)(b) of this section if a 29781
factor described in division (B)(1)(b)(i) or (ii) of this section 29782
applies. If the department does not provide the court with the 29783
names of, contact information for, and program details of one or 29784
more community control sanctions of at least one year's duration 29785
that are available for persons sentenced by the court within the 29786
forty-five-day period specified in this division, the court may 29787
impose upon the offender a prison term under division 29788
(B)(1)(b)(iv) of this section. 29789

(d) A sentencing court may impose an additional penalty under 29790
division (B) of section 2929.15 of the Revised Code upon an 29791
offender sentenced to a community control sanction under division 29792
(B)(1)(a) of this section if the offender violates the conditions 29793
of the community control sanction, violates a law, or leaves the 29794
state without the permission of the court or the offender's 29795
probation officer. 29796

(2) If division (B)(1) of this section does not apply, except 29797
as provided in division (E), (F), or (G) of this section, in 29798
determining whether to impose a prison term as a sanction for a 29799
felony of the fourth or fifth degree, the sentencing court shall 29800
comply with the purposes and principles of sentencing under 29801
section 2929.11 of the Revised Code and with section 2929.12 of 29802
the Revised Code. 29803

(C) Except as provided in division (D), (E), (F), or (G) of 29804
this section, in determining whether to impose a prison term as a 29805
sanction for a felony of the third degree or a felony drug offense 29806
that is a violation of a provision of Chapter 2925. of the Revised 29807

Code and that is specified as being subject to this division for 29808
purposes of sentencing, the sentencing court shall comply with the 29809
purposes and principles of sentencing under section 2929.11 of the 29810
Revised Code and with section 2929.12 of the Revised Code. 29811

(D)(1) Except as provided in division (E) or (F) of this 29812
section, for a felony of the first or second degree, for a felony 29813
drug offense that is a violation of any provision of Chapter 29814
2925., 3719., or 4729. of the Revised Code for which a presumption 29815
in favor of a prison term is specified as being applicable, and 29816
for a violation of division (A)(4) or (B) of section 2907.05 of 29817
the Revised Code for which a presumption in favor of a prison term 29818
is specified as being applicable, it is presumed that a prison 29819
term is necessary in order to comply with the purposes and 29820
principles of sentencing under section 2929.11 of the Revised 29821
Code. Division (D)(2) of this section does not apply to a 29822
presumption established under this division for a violation of 29823
division (A)(4) of section 2907.05 of the Revised Code. 29824

(2) Notwithstanding the presumption established under 29825
division (D)(1) of this section for the offenses listed in that 29826
division other than a violation of division (A)(4) or (B) of 29827
section 2907.05 of the Revised Code, the sentencing court may 29828
impose a community control sanction or a combination of community 29829
control sanctions instead of a prison term on an offender for a 29830
felony of the first or second degree or for a felony drug offense 29831
that is a violation of any provision of Chapter 2925., 3719., or 29832
4729. of the Revised Code for which a presumption in favor of a 29833
prison term is specified as being applicable if it makes both of 29834
the following findings: 29835

(a) A community control sanction or a combination of 29836
community control sanctions would adequately punish the offender 29837
and protect the public from future crime, because the applicable 29838
factors under section 2929.12 of the Revised Code indicating a 29839

lesser likelihood of recidivism outweigh the applicable factors 29840
under that section indicating a greater likelihood of recidivism. 29841

(b) A community control sanction or a combination of 29842
community control sanctions would not demean the seriousness of 29843
the offense, because one or more factors under section 2929.12 of 29844
the Revised Code that indicate that the offender's conduct was 29845
less serious than conduct normally constituting the offense are 29846
applicable, and they outweigh the applicable factors under that 29847
section that indicate that the offender's conduct was more serious 29848
than conduct normally constituting the offense. 29849

(E)(1) Except as provided in division (F) of this section, 29850
for any drug offense that is a violation of any provision of 29851
Chapter 2925. of the Revised Code and that is a felony of the 29852
third, fourth, or fifth degree, the applicability of a presumption 29853
under division (D) of this section in favor of a prison term or of 29854
division (B) or (C) of this section in determining whether to 29855
impose a prison term for the offense shall be determined as 29856
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 29857
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 29858
Revised Code, whichever is applicable regarding the violation. 29859

(2) If an offender who was convicted of or pleaded guilty to 29860
a felony violates the conditions of a community control sanction 29861
imposed for the offense solely by reason of producing positive 29862
results on a drug test, the court, as punishment for the violation 29863
of the sanction, shall not order that the offender be imprisoned 29864
unless the court determines on the record either of the following: 29865

(a) The offender had been ordered as a sanction for the 29866
felony to participate in a drug treatment program, in a drug 29867
education program, or in narcotics anonymous or a similar program, 29868
and the offender continued to use illegal drugs after a reasonable 29869
period of participation in the program. 29870

(b) The imprisonment of the offender for the violation is 29871
consistent with the purposes and principles of sentencing set 29872
forth in section 2929.11 of the Revised Code. 29873

(3) A court that sentences an offender for a drug abuse 29874
offense that is a felony of the third, fourth, or fifth degree may 29875
require that the offender be assessed by a properly credentialed 29876
professional within a specified period of time. The court shall 29877
require the professional to file a written assessment of the 29878
offender with the court. If the offender is eligible for a 29879
community control sanction and after considering the written 29880
assessment, the court may impose a community control sanction that 29881
includes treatment and recovery support services authorized by 29882
section ~~3793.02~~ 5119.21 of the Revised Code. If the court imposes 29883
treatment and recovery support services as a community control 29884
sanction, the court shall direct the level and type of treatment 29885
and recovery support services after considering the assessment and 29886
recommendation of treatment and recovery support services 29887
providers. 29888

(F) Notwithstanding divisions (A) to (E) of this section, the 29889
court shall impose a prison term or terms under sections 2929.02 29890
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 29891
of the Revised Code and except as specifically provided in section 29892
2929.20, divisions (C) to (I) of section 2967.19, or section 29893
2967.191 of the Revised Code or when parole is authorized for the 29894
offense under section 2967.13 of the Revised Code shall not reduce 29895
the term or terms pursuant to section 2929.20, section 2967.19, 29896
section 2967.193, or any other provision of Chapter 2967. or 29897
Chapter 5120. of the Revised Code for any of the following 29898
offenses: 29899

(1) Aggravated murder when death is not imposed or murder; 29900

(2) Any rape, regardless of whether force was involved and 29901
regardless of the age of the victim, or an attempt to commit rape 29902

if, had the offender completed the rape that was attempted, the 29903
offender would have been guilty of a violation of division 29904
(A)(1)(b) of section 2907.02 of the Revised Code and would be 29905
sentenced under section 2971.03 of the Revised Code; 29906

(3) Gross sexual imposition or sexual battery, if the victim 29907
is less than thirteen years of age and if any of the following 29908
applies: 29909

(a) Regarding gross sexual imposition, the offender 29910
previously was convicted of or pleaded guilty to rape, the former 29911
offense of felonious sexual penetration, gross sexual imposition, 29912
or sexual battery, and the victim of the previous offense was less 29913
than thirteen years of age; 29914

(b) Regarding gross sexual imposition, the offense was 29915
committed on or after August 3, 2006, and evidence other than the 29916
testimony of the victim was admitted in the case corroborating the 29917
violation. 29918

(c) Regarding sexual battery, either of the following 29919
applies: 29920

(i) The offense was committed prior to August 3, 2006, the 29921
offender previously was convicted of or pleaded guilty to rape, 29922
the former offense of felonious sexual penetration, or sexual 29923
battery, and the victim of the previous offense was less than 29924
thirteen years of age. 29925

(ii) The offense was committed on or after August 3, 2006. 29926

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 29927
2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the Revised Code 29928
if the section requires the imposition of a prison term; 29929

(5) A first, second, or third degree felony drug offense for 29930
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 29931
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 29932

4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.

(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the

sentence imposed pursuant to division (B)(1)(a) of section 2929.14 29964
of the Revised Code for having the firearm; 29965

(9) Any offense of violence that is a felony, if the offender 29966
wore or carried body armor while committing the felony offense of 29967
violence, with respect to the portion of the sentence imposed 29968
pursuant to division (B)(1)(d) of section 2929.14 of the Revised 29969
Code for wearing or carrying the body armor; 29970

(10) Corrupt activity in violation of section 2923.32 of the 29971
Revised Code when the most serious offense in the pattern of 29972
corrupt activity that is the basis of the offense is a felony of 29973
the first degree; 29974

(11) Any violent sex offense or designated homicide, assault, 29975
or kidnapping offense if, in relation to that offense, the 29976
offender is adjudicated a sexually violent predator; 29977

(12) A violation of division (A)(1) or (2) of section 2921.36 29978
of the Revised Code, or a violation of division (C) of that 29979
section involving an item listed in division (A)(1) or (2) of that 29980
section, if the offender is an officer or employee of the 29981
department of rehabilitation and correction; 29982

(13) A violation of division (A)(1) or (2) of section 2903.06 29983
of the Revised Code if the victim of the offense is a peace 29984
officer, as defined in section 2935.01 of the Revised Code, or an 29985
investigator of the bureau of criminal identification and 29986
investigation, as defined in section 2903.11 of the Revised Code, 29987
with respect to the portion of the sentence imposed pursuant to 29988
division (B)(5) of section 2929.14 of the Revised Code; 29989

(14) A violation of division (A)(1) or (2) of section 2903.06 29990
of the Revised Code if the offender has been convicted of or 29991
pleaded guilty to three or more violations of division (A) or (B) 29992
of section 4511.19 of the Revised Code or an equivalent offense, 29993
as defined in section 2941.1415 of the Revised Code, or three or 29994

more violations of any combination of those divisions and 29995
offenses, with respect to the portion of the sentence imposed 29996
pursuant to division (B)(6) of section 2929.14 of the Revised 29997
Code; 29998

(15) Kidnapping, in the circumstances specified in section 29999
2971.03 of the Revised Code and when no other provision of 30000
division (F) of this section applies; 30001

(16) Kidnapping, abduction, compelling prostitution, 30002
promoting prostitution, engaging in a pattern of corrupt activity, 30003
illegal use of a minor in a nudity-oriented material or 30004
performance in violation of division (A)(1) or (2) of section 30005
2907.323 of the Revised Code, or endangering children in violation 30006
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 30007
the Revised Code, if the offender is convicted of or pleads guilty 30008
to a specification as described in section 2941.1422 of the 30009
Revised Code that was included in the indictment, count in the 30010
indictment, or information charging the offense; 30011

(17) A felony violation of division (A) or (B) of section 30012
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 30013
that section, and division (D)(6) of that section, require the 30014
imposition of a prison term; 30015

(18) A felony violation of section 2903.11, 2903.12, or 30016
2903.13 of the Revised Code, if the victim of the offense was a 30017
woman that the offender knew was pregnant at the time of the 30018
violation, with respect to a portion of the sentence imposed 30019
pursuant to division (B)(8) of section 2929.14 of the Revised 30020
Code. 30021

(G) Notwithstanding divisions (A) to (E) of this section, if 30022
an offender is being sentenced for a fourth degree felony OVI 30023
offense or for a third degree felony OVI offense, the court shall 30024
impose upon the offender a mandatory term of local incarceration 30025

or a mandatory prison term in accordance with the following: 30026

(1) If the offender is being sentenced for a fourth degree 30027
felony OVI offense and if the offender has not been convicted of 30028
and has not pleaded guilty to a specification of the type 30029
described in section 2941.1413 of the Revised Code, the court may 30030
impose upon the offender a mandatory term of local incarceration 30031
of sixty days or one hundred twenty days as specified in division 30032
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 30033
not reduce the term pursuant to section 2929.20, 2967.193, or any 30034
other provision of the Revised Code. The court that imposes a 30035
mandatory term of local incarceration under this division shall 30036
specify whether the term is to be served in a jail, a 30037
community-based correctional facility, a halfway house, or an 30038
alternative residential facility, and the offender shall serve the 30039
term in the type of facility specified by the court. A mandatory 30040
term of local incarceration imposed under division (G)(1) of this 30041
section is not subject to any other Revised Code provision that 30042
pertains to a prison term except as provided in division (A)(1) of 30043
this section. 30044

(2) If the offender is being sentenced for a third degree 30045
felony OVI offense, or if the offender is being sentenced for a 30046
fourth degree felony OVI offense and the court does not impose a 30047
mandatory term of local incarceration under division (G)(1) of 30048
this section, the court shall impose upon the offender a mandatory 30049
prison term of one, two, three, four, or five years if the 30050
offender also is convicted of or also pleads guilty to a 30051
specification of the type described in section 2941.1413 of the 30052
Revised Code or shall impose upon the offender a mandatory prison 30053
term of sixty days or one hundred twenty days as specified in 30054
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 30055
if the offender has not been convicted of and has not pleaded 30056
guilty to a specification of that type. Subject to divisions (C) 30057

to (I) of section 2967.19 of the Revised Code, the court shall not 30058
reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or 30059
any other provision of the Revised Code. The offender shall serve 30060
the one-, two-, three-, four-, or five-year mandatory prison term 30061
consecutively to and prior to the prison term imposed for the 30062
underlying offense and consecutively to any other mandatory prison 30063
term imposed in relation to the offense. In no case shall an 30064
offender who once has been sentenced to a mandatory term of local 30065
incarceration pursuant to division (G)(1) of this section for a 30066
fourth degree felony OVI offense be sentenced to another mandatory 30067
term of local incarceration under that division for any violation 30068
of division (A) of section 4511.19 of the Revised Code. In 30069
addition to the mandatory prison term described in division (G)(2) 30070
of this section, the court may sentence the offender to a 30071
community control sanction under section 2929.16 or 2929.17 of the 30072
Revised Code, but the offender shall serve the prison term prior 30073
to serving the community control sanction. The department of 30074
rehabilitation and correction may place an offender sentenced to a 30075
mandatory prison term under this division in an intensive program 30076
prison established pursuant to section 5120.033 of the Revised 30077
Code if the department gave the sentencing judge prior notice of 30078
its intent to place the offender in an intensive program prison 30079
established under that section and if the judge did not notify the 30080
department that the judge disapproved the placement. Upon the 30081
establishment of the initial intensive program prison pursuant to 30082
section 5120.033 of the Revised Code that is privately operated 30083
and managed by a contractor pursuant to a contract entered into 30084
under section 9.06 of the Revised Code, both of the following 30085
apply: 30086

(a) The department of rehabilitation and correction shall 30087
make a reasonable effort to ensure that a sufficient number of 30088
offenders sentenced to a mandatory prison term under this division 30089
are placed in the privately operated and managed prison so that 30090

the privately operated and managed prison has full occupancy. 30091

(b) Unless the privately operated and managed prison has full 30092
occupancy, the department of rehabilitation and correction shall 30093
not place any offender sentenced to a mandatory prison term under 30094
this division in any intensive program prison established pursuant 30095
to section 5120.033 of the Revised Code other than the privately 30096
operated and managed prison. 30097

(H) If an offender is being sentenced for a sexually oriented 30098
offense or child-victim oriented offense that is a felony 30099
committed on or after January 1, 1997, the judge shall require the 30100
offender to submit to a DNA specimen collection procedure pursuant 30101
to section 2901.07 of the Revised Code. 30102

(I) If an offender is being sentenced for a sexually oriented 30103
offense or a child-victim oriented offense committed on or after 30104
January 1, 1997, the judge shall include in the sentence a summary 30105
of the offender's duties imposed under sections 2950.04, 2950.041, 30106
2950.05, and 2950.06 of the Revised Code and the duration of the 30107
duties. The judge shall inform the offender, at the time of 30108
sentencing, of those duties and of their duration. If required 30109
under division (A)(2) of section 2950.03 of the Revised Code, the 30110
judge shall perform the duties specified in that section, or, if 30111
required under division (A)(6) of section 2950.03 of the Revised 30112
Code, the judge shall perform the duties specified in that 30113
division. 30114

(J)(1) Except as provided in division (J)(2) of this section, 30115
when considering sentencing factors under this section in relation 30116
to an offender who is convicted of or pleads guilty to an attempt 30117
to commit an offense in violation of section 2923.02 of the 30118
Revised Code, the sentencing court shall consider the factors 30119
applicable to the felony category of the violation of section 30120
2923.02 of the Revised Code instead of the factors applicable to 30121
the felony category of the offense attempted. 30122

(2) When considering sentencing factors under this section in relation to an offender who is convicted of or pleads guilty to an attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense, the sentencing court shall consider the factors applicable to the felony category that the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt.

(K) As used in this section:

(1) "Drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(2) "Qualifying assault offense" means a violation of section 2903.13 of the Revised Code for which the penalty provision in division (C)(7)(b) or (C)(8)(b) of that section applies.

(L) At the time of sentencing an offender for any sexually oriented offense, if the offender is a tier III sex offender/child-victim offender relative to that offense and the offender does not serve a prison term or jail term, the court may require that the offender be monitored by means of a global positioning device. If the court requires such monitoring, the cost of monitoring shall be borne by the offender. If the offender is indigent, the cost of compliance shall be paid by the crime victims reparations fund.

Sec. 2929.15. (A)(1) If in sentencing an offender for a felony the court is not required to impose a prison term, a mandatory prison term, or a term of life imprisonment upon the offender, the court may directly impose a sentence that consists of one or more community control sanctions authorized pursuant to

section 2929.16, 2929.17, or 2929.18 of the Revised Code. If the 30154
court is sentencing an offender for a fourth degree felony OVI 30155
offense under division (G)(1) of section 2929.13 of the Revised 30156
Code, in addition to the mandatory term of local incarceration 30157
imposed under that division and the mandatory fine required by 30158
division (B)(3) of section 2929.18 of the Revised Code, the court 30159
may impose upon the offender a community control sanction or 30160
combination of community control sanctions in accordance with 30161
sections 2929.16 and 2929.17 of the Revised Code. If the court is 30162
sentencing an offender for a third or fourth degree felony OVI 30163
offense under division (G)(2) of section 2929.13 of the Revised 30164
Code, in addition to the mandatory prison term or mandatory prison 30165
term and additional prison term imposed under that division, the 30166
court also may impose upon the offender a community control 30167
sanction or combination of community control sanctions under 30168
section 2929.16 or 2929.17 of the Revised Code, but the offender 30169
shall serve all of the prison terms so imposed prior to serving 30170
the community control sanction. 30171

The duration of all community control sanctions imposed upon 30172
an offender under this division shall not exceed five years. If 30173
the offender absconds or otherwise leaves the jurisdiction of the 30174
court in which the offender resides without obtaining permission 30175
from the court or the offender's probation officer to leave the 30176
jurisdiction of the court, or if the offender is confined in any 30177
institution for the commission of any offense while under a 30178
community control sanction, the period of the community control 30179
sanction ceases to run until the offender is brought before the 30180
court for its further action. If the court sentences the offender 30181
to one or more nonresidential sanctions under section 2929.17 of 30182
the Revised Code, the court shall impose as a condition of the 30183
nonresidential sanctions that, during the period of the sanctions, 30184
the offender must abide by the law and must not leave the state 30185
without the permission of the court or the offender's probation 30186

officer. The court may impose any other conditions of release 30187
under a community control sanction that the court considers 30188
appropriate, including, but not limited to, requiring that the 30189
offender not ingest or be injected with a drug of abuse and submit 30190
to random drug testing as provided in division (D) of this section 30191
to determine whether the offender ingested or was injected with a 30192
drug of abuse and requiring that the results of the drug test 30193
indicate that the offender did not ingest or was not injected with 30194
a drug of abuse. 30195

(2)(a) If a court sentences an offender to any community 30196
control sanction or combination of community control sanctions 30197
authorized pursuant to section 2929.16, 2929.17, or 2929.18 of the 30198
Revised Code, the court shall place the offender under the general 30199
control and supervision of a department of probation in the county 30200
that serves the court for purposes of reporting to the court a 30201
violation of any condition of the sanctions, any condition of 30202
release under a community control sanction imposed by the court, a 30203
violation of law, or the departure of the offender from this state 30204
without the permission of the court or the offender's probation 30205
officer. Alternatively, if the offender resides in another county 30206
and a county department of probation has been established in that 30207
county or that county is served by a multicounty probation 30208
department established under section 2301.27 of the Revised Code, 30209
the court may request the court of common pleas of that county to 30210
receive the offender into the general control and supervision of 30211
that county or multicounty department of probation for purposes of 30212
reporting to the court a violation of any condition of the 30213
sanctions, any condition of release under a community control 30214
sanction imposed by the court, a violation of law, or the 30215
departure of the offender from this state without the permission 30216
of the court or the offender's probation officer, subject to the 30217
jurisdiction of the trial judge over and with respect to the 30218
person of the offender, and to the rules governing that department 30219

of probation. 30220

If there is no department of probation in the county that 30221
serves the court, the court shall place the offender, regardless 30222
of the offender's county of residence, under the general control 30223
and supervision of the adult parole authority for purposes of 30224
reporting to the court a violation of any of the sanctions, any 30225
condition of release under a community control sanction imposed by 30226
the court, a violation of law, or the departure of the offender 30227
from this state without the permission of the court or the 30228
offender's probation officer. 30229

(b) If the court imposing sentence upon an offender sentences 30230
the offender to any community control sanction or combination of 30231
community control sanctions authorized pursuant to section 30232
2929.16, 2929.17, or 2929.18 of the Revised Code, and if the 30233
offender violates any condition of the sanctions, any condition of 30234
release under a community control sanction imposed by the court, 30235
violates any law, or departs the state without the permission of 30236
the court or the offender's probation officer, the public or 30237
private person or entity that operates or administers the sanction 30238
or the program or activity that comprises the sanction shall 30239
report the violation or departure directly to the sentencing 30240
court, or shall report the violation or departure to the county or 30241
multicounty department of probation with general control and 30242
supervision over the offender under division (A)(2)(a) of this 30243
section or the officer of that department who supervises the 30244
offender, or, if there is no such department with general control 30245
and supervision over the offender under that division, to the 30246
adult parole authority. If the public or private person or entity 30247
that operates or administers the sanction or the program or 30248
activity that comprises the sanction reports the violation or 30249
departure to the county or multicounty department of probation or 30250
the adult parole authority, the department's or authority's 30251

officers may treat the offender as if the offender were on 30252
probation and in violation of the probation, and shall report the 30253
violation of the condition of the sanction, any condition of 30254
release under a community control sanction imposed by the court, 30255
the violation of law, or the departure from the state without the 30256
required permission to the sentencing court. 30257

(3) If an offender who is eligible for community control 30258
sanctions under this section admits to being drug addicted or the 30259
court has reason to believe that the offender is drug addicted, 30260
and if the offense for which the offender is being sentenced was 30261
related to the addiction, the court may require that the offender 30262
be assessed by a properly credentialed professional within a 30263
specified period of time and shall require the professional to 30264
file a written assessment of the offender with the court. If a 30265
court imposes treatment and recovery support services as a 30266
community control sanction, the court shall direct the level and 30267
type of treatment and recovery support services after 30268
consideration of the written assessment, if available at the time 30269
of sentencing, and recommendations of the professional and other 30270
treatment and recovery support services providers. 30271

(4) If an assessment completed pursuant to division (A)(3) of 30272
this section indicates that the offender is addicted to drugs or 30273
alcohol, the court may include in any community control sanction 30274
imposed for a violation of section 2925.02, 2925.03, 2925.04, 30275
2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 30276
2925.37 of the Revised Code a requirement that the offender 30277
participate in a treatment and recovery support services program 30278
certified under section ~~3793.06~~ 5119.36 of the Revised Code or 30279
offered by another properly credentialed ~~program~~ community 30280
addiction services provider. 30281

(B)(1) If the conditions of a community control sanction are 30282
violated or if the offender violates a law or leaves the state 30283

without the permission of the court or the offender's probation officer, the sentencing court may impose upon the violator one or more of the following penalties:

(a) A longer time under the same sanction if the total time under the sanctions does not exceed the five-year limit specified in division (A) of this section;

(b) A more restrictive sanction under section 2929.16, 2929.17, or 2929.18 of the Revised Code;

(c) A prison term on the offender pursuant to section 2929.14 of the Revised Code.

(2) The prison term, if any, imposed upon a violator pursuant to this division shall be within the range of prison terms available for the offense for which the sanction that was violated was imposed and shall not exceed the prison term specified in the notice provided to the offender at the sentencing hearing pursuant to division (B)(2) of section 2929.19 of the Revised Code. The court may reduce the longer period of time that the offender is required to spend under the longer sanction, the more restrictive sanction, or a prison term imposed pursuant to this division by the time the offender successfully spent under the sanction that was initially imposed.

(C) If an offender, for a significant period of time, fulfills the conditions of a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code in an exemplary manner, the court may reduce the period of time under the sanction or impose a less restrictive sanction, but the court shall not permit the offender to violate any law or permit the offender to leave the state without the permission of the court or the offender's probation officer.

(D)(1) If a court under division (A)(1) of this section imposes a condition of release under a community control sanction

that requires the offender to submit to random drug testing, the 30315
department of probation or the adult parole authority that has 30316
general control and supervision of the offender under division 30317
(A)(2)(a) of this section may cause the offender to submit to 30318
random drug testing performed by a laboratory or entity that has 30319
entered into a contract with any of the governmental entities or 30320
officers authorized to enter into a contract with that laboratory 30321
or entity under section 341.26, 753.33, or 5120.63 of the Revised 30322
Code. 30323

(2) If no laboratory or entity described in division (D)(1) 30324
of this section has entered into a contract as specified in that 30325
division, the department of probation or the adult parole 30326
authority that has general control and supervision of the offender 30327
under division (A)(2)(a) of this section shall cause the offender 30328
to submit to random drug testing performed by a reputable public 30329
laboratory to determine whether the individual who is the subject 30330
of the drug test ingested or was injected with a drug of abuse. 30331

(3) A laboratory or entity that has entered into a contract 30332
pursuant to section 341.26, 753.33, or 5120.63 of the Revised Code 30333
shall perform the random drug tests under division (D)(1) of this 30334
section in accordance with the applicable standards that are 30335
included in the terms of that contract. A public laboratory shall 30336
perform the random drug tests under division (D)(2) of this 30337
section in accordance with the standards set forth in the policies 30338
and procedures established by the department of rehabilitation and 30339
correction pursuant to section 5120.63 of the Revised Code. An 30340
offender who is required under division (A)(1) of this section to 30341
submit to random drug testing as a condition of release under a 30342
community control sanction and whose test results indicate that 30343
the offender ingested or was injected with a drug of abuse shall 30344
pay the fee for the drug test if the department of probation or 30345
the adult parole authority that has general control and 30346

supervision of the offender requires payment of a fee. A 30347
laboratory or entity that performs the random drug testing on an 30348
offender under division (D)(1) or (2) of this section shall 30349
transmit the results of the drug test to the appropriate 30350
department of probation or the adult parole authority that has 30351
general control and supervision of the offender under division 30352
(A)(2)(a) of this section. 30353

Sec. 2930.01. As used in this chapter: 30354

(A) "Crime" means any of the following: 30355

(1) A felony; 30356

(2) A violation of section 2903.05, 2903.06, 2903.13, 30357
2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04 of the 30358
Revised Code, a violation of section 2903.07 of the Revised Code 30359
as it existed prior to March 23, 2000, or a violation of a 30360
substantially equivalent municipal ordinance; 30361

(3) A violation of division (A) or (B) of section 4511.19, 30362
division (A) or (B) of section 1547.11, or division (A)(3) of 30363
section 4561.15 of the Revised Code or of a municipal ordinance 30364
substantially similar to any of those divisions that is the 30365
proximate cause of a vehicle, streetcar, trackless trolley, 30366
aquatic device, or aircraft accident in which the victim receives 30367
injuries for which the victim receives medical treatment either at 30368
the scene of the accident by emergency medical services personnel 30369
or at a hospital, ambulatory care facility, physician's office, 30370
specialist's office, or other medical care facility. 30371

(4) A motor vehicle accident to which both of the following 30372
apply: 30373

(a) The motor vehicle accident is caused by a violation of a 30374
provision of the Revised Code that is a misdemeanor of the first 30375
degree or higher. 30376

(b) As a result of the motor vehicle accident, the victim 30377
receives injuries for which the victim receives medical treatment 30378
either at the scene of the accident by emergency medical services 30379
personnel or at a hospital, ambulatory care facility, physician's 30380
office, specialist's office, or other medical care facility. 30381

(B) "Custodial agency" means one of the following: 30382

(1) The entity that has custody of a defendant or an alleged 30383
juvenile offender who is incarcerated for a crime, is under 30384
detention for the commission of a specified delinquent act, or who 30385
is detained after a finding of incompetence to stand trial or not 30386
guilty by reason of insanity relative to a crime, including any of 30387
the following: 30388

(a) The department of rehabilitation and correction or the 30389
adult parole authority; 30390

(b) A county sheriff; 30391

(c) The entity that administers a jail, as defined in section 30392
2929.01 of the Revised Code; 30393

(d) The entity that administers a community-based 30394
correctional facility and program or a district community-based 30395
correctional facility and program; 30396

(e) The department of ~~mental health~~ mental health and 30397
addiction services or other entity to which a defendant found 30398
incompetent to stand trial or not guilty by reason of insanity is 30399
committed. 30400

(2) The entity that has custody of an alleged juvenile 30401
offender pursuant to an order of disposition of a juvenile court, 30402
including the department of youth services or a school, camp, 30403
institution, or other facility operated for the care of delinquent 30404
children. 30405

(C) "Defendant" means a person who is alleged to be the 30406

perpetrator of a crime in a police report or in a complaint, 30407
indictment, or information that charges the commission of a crime 30408
and that provides the basis for the criminal prosecution and 30409
subsequent proceedings to which this chapter makes reference. 30410

(D) "Member of the victim's family" means a spouse, child, 30411
stepchild, sibling, parent, stepparent, grandparent, or other 30412
relative of a victim but does not include a person who is charged 30413
with, convicted of, or adjudicated to be a delinquent child for 30414
the crime or specified delinquent act against the victim or 30415
another crime or specified delinquent act arising from the same 30416
conduct, criminal episode, or plan. 30417

(E) "Prosecutor" means one of the following: 30418

(1) With respect to a criminal case, it has the same meaning 30419
as in section 2935.01 of the Revised Code and also includes the 30420
attorney general and, when appropriate, the employees of any 30421
person listed in section 2935.01 of the Revised Code or of the 30422
attorney general. 30423

(2) With respect to a delinquency proceeding, it includes any 30424
person listed in division (C) of section 2935.01 of the Revised 30425
Code or an employee of a person listed in that division who 30426
prosecutes a delinquency proceeding. 30427

(F) "Public agency" means an office, agency, department, 30428
bureau, or other governmental entity of the state or of a 30429
political subdivision of the state. 30430

(G) "Public official" has the same meaning as in section 30431
2921.01 of the Revised Code. 30432

(H) "Victim" means either of the following: 30433

(1) A person who is identified as the victim of a crime or 30434
specified delinquent act in a police report or in a complaint, 30435
indictment, or information that charges the commission of a crime 30436

and that provides the basis for the criminal prosecution or 30437
delinquency proceeding and subsequent proceedings to which this 30438
chapter makes reference. 30439

(2) A person who receives injuries as a result of a vehicle, 30440
streetcar, trackless trolley, aquatic device, or aircraft accident 30441
that is proximately caused by a violation described in division 30442
(A)(3) of this section or a motor vehicle accident that is 30443
proximately caused by a violation described in division (A)(4) of 30444
this section and who receives medical treatment as described in 30445
division (A)(3) or (4) of this section, whichever is applicable. 30446

(I) "Victim's representative" means a member of the victim's 30447
family or another person who pursuant to the authority of section 30448
2930.02 of the Revised Code exercises the rights of a victim under 30449
this chapter. 30450

(J) "Court" means a court of common pleas, juvenile court, 30451
municipal court, or county court. 30452

(K) "Delinquency proceeding" means all proceedings in a 30453
juvenile court that are related to a case in which a complaint has 30454
been filed alleging that a child is a delinquent child. 30455

(L) "Case" means a delinquency proceeding and all related 30456
activity or a criminal prosecution and all related activity. 30457

(M) The "defense" means the defense against criminal charges 30458
in a criminal prosecution or the defense against a delinquent 30459
child complaint in a delinquency proceeding. 30460

(N) The "prosecution" means the prosecution of criminal 30461
charges in a criminal prosecution or the prosecution of a 30462
delinquent child complaint in a delinquency proceeding. 30463

(O) "Specified delinquent act" means any of the following: 30464

(1) An act committed by a child that if committed by an adult 30465
would be a felony; 30466

(2) An act committed by a child that is a violation of a section listed in division (A)(1) or (2) of this section or is a violation of a substantially equivalent municipal ordinance;

(3) An act committed by a child that is described in division (A)(3) or (4) of this section.

(P)(1) "Alleged juvenile offender" means a child who is alleged to have committed a specified delinquent act in a police report or in a complaint in juvenile court that charges the commission of a specified delinquent act and that provides the basis for the delinquency proceeding and all subsequent proceedings to which this chapter makes reference.

(2) As used in divisions (O) and (P)(1) of this section, "child" has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Motor vehicle accident" means any accident involving a motor vehicle.

(R) "Motor vehicle" has the same meaning as in section 4509.01 of the Revised Code.

(S) "Aircraft" has the same meaning as in section 4561.01 of the Revised Code.

(T) "Aquatic device" means any vessel, or any water skis, aquaplane, or similar device.

(U) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(V) "Vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident" means any accident involving a vehicle, streetcar, trackless trolley, aquatic device, or aircraft.

(W) "Vessel" has the same meaning as in section 1547.01 of the Revised Code.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, 30496
deputy marshal, municipal police officer, township constable, 30497
police officer of a township or joint police district, member of a 30498
police force employed by a metropolitan housing authority under 30499
division (D) of section 3735.31 of the Revised Code, member of a 30500
police force employed by a regional transit authority under 30501
division (Y) of section 306.35 of the Revised Code, state 30502
university law enforcement officer appointed under section 3345.04 30503
of the Revised Code, veterans' home police officer appointed under 30504
section 5907.02 of the Revised Code, special police officer 30505
employed by a port authority under section 4582.04 or 4582.28 of 30506
the Revised Code, or a special police officer employed by a 30507
municipal corporation at a municipal airport, or other municipal 30508
air navigation facility, that has scheduled operations, as defined 30509
in section 119.3 of Title 14 of the Code of Federal Regulations, 30510
14 C.F.R. 119.3, as amended, and that is required to be under a 30511
security program and is governed by aviation security rules of the 30512
transportation security administration of the United States 30513
department of transportation as provided in Parts 1542. and 1544. 30514
of Title 49 of the Code of Federal Regulations, as amended, shall 30515
arrest and detain, until a warrant can be obtained, a person found 30516
violating, within the limits of the political subdivision, 30517
metropolitan housing authority housing project, regional transit 30518
authority facilities or areas of a municipal corporation that have 30519
been agreed to by a regional transit authority and a municipal 30520
corporation located within its territorial jurisdiction, college, 30521
university, veterans' home operated under Chapter 5907. of the 30522
Revised Code, port authority, or municipal airport or other 30523
municipal air navigation facility, in which the peace officer is 30524
appointed, employed, or elected, a law of this state, an ordinance 30525
of a municipal corporation, or a resolution of a township. 30526

(2) A peace officer of the department of natural resources, a 30527

state fire marshal law enforcement officer described in division 30528
(A)(23) of section 109.71 of the Revised Code, or an individual 30529
designated to perform law enforcement duties under section 30530
511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and 30531
detain, until a warrant can be obtained, a person found violating, 30532
within the limits of the peace officer's, state fire marshal law 30533
enforcement officer's, or individual's territorial jurisdiction, a 30534
law of this state. 30535

(3) The house sergeant at arms, if the house sergeant at arms 30536
has arrest authority pursuant to division (E)(1) of section 30537
101.311 of the Revised Code, and an assistant house sergeant at 30538
arms shall arrest and detain, until a warrant can be obtained, a 30539
person found violating, within the limits of the sergeant at 30540
arms's or assistant sergeant at arms's territorial jurisdiction 30541
specified in division (D)(1)(a) of section 101.311 of the Revised 30542
Code or while providing security pursuant to division (D)(1)(f) of 30543
section 101.311 of the Revised Code, a law of this state, an 30544
ordinance of a municipal corporation, or a resolution of a 30545
township. 30546

(4) The senate sergeant at arms and an assistant senate 30547
sergeant at arms shall arrest and detain, until a warrant can be 30548
obtained, a person found violating, within the limits of the 30549
sergeant at arms's or assistant sergeant at arms's territorial 30550
jurisdiction specified in division (B) of section 101.312 of the 30551
Revised Code, a law of this state, an ordinance of a municipal 30552
corporation, or a resolution of a township. 30553

(B)(1) When there is reasonable ground to believe that an 30554
offense of violence, the offense of criminal child enticement as 30555
defined in section 2905.05 of the Revised Code, the offense of 30556
public indecency as defined in section 2907.09 of the Revised 30557
Code, the offense of domestic violence as defined in section 30558
2919.25 of the Revised Code, the offense of violating a protection 30559

order as defined in section 2919.27 of the Revised Code, the 30560
offense of menacing by stalking as defined in section 2903.211 of 30561
the Revised Code, the offense of aggravated trespass as defined in 30562
section 2911.211 of the Revised Code, a theft offense as defined 30563
in section 2913.01 of the Revised Code, or a felony drug abuse 30564
offense as defined in section 2925.01 of the Revised Code, has 30565
been committed within the limits of the political subdivision, 30566
metropolitan housing authority housing project, regional transit 30567
authority facilities or those areas of a municipal corporation 30568
that have been agreed to by a regional transit authority and a 30569
municipal corporation located within its territorial jurisdiction, 30570
college, university, veterans' home operated under Chapter 5907. 30571
of the Revised Code, port authority, or municipal airport or other 30572
municipal air navigation facility, in which the peace officer is 30573
appointed, employed, or elected or within the limits of the 30574
territorial jurisdiction of the peace officer, a peace officer 30575
described in division (A) of this section may arrest and detain 30576
until a warrant can be obtained any person who the peace officer 30577
has reasonable cause to believe is guilty of the violation. 30578

(2) For purposes of division (B)(1) of this section, the 30579
execution of any of the following constitutes reasonable ground to 30580
believe that the offense alleged in the statement was committed 30581
and reasonable cause to believe that the person alleged in the 30582
statement to have committed the offense is guilty of the 30583
violation: 30584

(a) A written statement by a person alleging that an alleged 30585
offender has committed the offense of menacing by stalking or 30586
aggravated trespass; 30587

(b) A written statement by the administrator of the 30588
interstate compact on mental health appointed under section 30589
~~5119.51~~ 5119.71 of the Revised Code alleging that a person who had 30590
been hospitalized, institutionalized, or confined in any facility 30591

under an order made pursuant to or under authority of section 30592
2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 30593
2945.402 of the Revised Code has escaped from the facility, from 30594
confinement in a vehicle for transportation to or from the 30595
facility, or from supervision by an employee of the facility that 30596
is incidental to hospitalization, institutionalization, or 30597
confinement in the facility and that occurs outside of the 30598
facility, in violation of section 2921.34 of the Revised Code; 30599

(c) A written statement by the administrator of any facility 30600
in which a person has been hospitalized, institutionalized, or 30601
confined under an order made pursuant to or under authority of 30602
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 30603
2945.402 of the Revised Code alleging that the person has escaped 30604
from the facility, from confinement in a vehicle for 30605
transportation to or from the facility, or from supervision by an 30606
employee of the facility that is incidental to hospitalization, 30607
institutionalization, or confinement in the facility and that 30608
occurs outside of the facility, in violation of section 2921.34 of 30609
the Revised Code. 30610

(3)(a) For purposes of division (B)(1) of this section, a 30611
peace officer described in division (A) of this section has 30612
reasonable grounds to believe that the offense of domestic 30613
violence or the offense of violating a protection order has been 30614
committed and reasonable cause to believe that a particular person 30615
is guilty of committing the offense if any of the following 30616
occurs: 30617

(i) A person executes a written statement alleging that the 30618
person in question has committed the offense of domestic violence 30619
or the offense of violating a protection order against the person 30620
who executes the statement or against a child of the person who 30621
executes the statement. 30622

(ii) No written statement of the type described in division 30623

(B)(3)(a)(i) of this section is executed, but the peace officer, 30624
based upon the peace officer's own knowledge and observation of 30625
the facts and circumstances of the alleged incident of the offense 30626
of domestic violence or the alleged incident of the offense of 30627
violating a protection order or based upon any other information, 30628
including, but not limited to, any reasonably trustworthy 30629
information given to the peace officer by the alleged victim of 30630
the alleged incident of the offense or any witness of the alleged 30631
incident of the offense, concludes that there are reasonable 30632
grounds to believe that the offense of domestic violence or the 30633
offense of violating a protection order has been committed and 30634
reasonable cause to believe that the person in question is guilty 30635
of committing the offense. 30636

(iii) No written statement of the type described in division 30637
(B)(3)(a)(i) of this section is executed, but the peace officer 30638
witnessed the person in question commit the offense of domestic 30639
violence or the offense of violating a protection order. 30640

(b) If pursuant to division (B)(3)(a) of this section a peace 30641
officer has reasonable grounds to believe that the offense of 30642
domestic violence or the offense of violating a protection order 30643
has been committed and reasonable cause to believe that a 30644
particular person is guilty of committing the offense, it is the 30645
preferred course of action in this state that the officer arrest 30646
and detain that person pursuant to division (B)(1) of this section 30647
until a warrant can be obtained. 30648

If pursuant to division (B)(3)(a) of this section a peace 30649
officer has reasonable grounds to believe that the offense of 30650
domestic violence or the offense of violating a protection order 30651
has been committed and reasonable cause to believe that family or 30652
household members have committed the offense against each other, 30653
it is the preferred course of action in this state that the 30654
officer, pursuant to division (B)(1) of this section, arrest and 30655

detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division (A) of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division (A) of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was 30688
caused by a person acting in self-defense; 30689

(iii) Each person's fear of physical harm, if any, resulting 30690
from the other person's threatened use of force against any person 30691
or resulting from the other person's use or history of the use of 30692
force against any person, and the reasonableness of that fear; 30693

(iv) The comparative severity of any injuries suffered by the 30694
persons involved in the alleged offense. 30695

(e)(i) A peace officer described in division (A) of this 30696
section shall not require, as a prerequisite to arresting or 30697
charging a person who has committed the offense of domestic 30698
violence or the offense of violating a protection order, that the 30699
victim of the offense specifically consent to the filing of 30700
charges against the person who has committed the offense or sign a 30701
complaint against the person who has committed the offense. 30702

(ii) If a person is arrested for or charged with committing 30703
the offense of domestic violence or the offense of violating a 30704
protection order and if the victim of the offense does not 30705
cooperate with the involved law enforcement or prosecuting 30706
authorities in the prosecution of the offense or, subsequent to 30707
the arrest or the filing of the charges, informs the involved law 30708
enforcement or prosecuting authorities that the victim does not 30709
wish the prosecution of the offense to continue or wishes to drop 30710
charges against the alleged offender relative to the offense, the 30711
involved prosecuting authorities, in determining whether to 30712
continue with the prosecution of the offense or whether to dismiss 30713
charges against the alleged offender relative to the offense and 30714
notwithstanding the victim's failure to cooperate or the victim's 30715
wishes, shall consider all facts and circumstances that are 30716
relevant to the offense, including, but not limited to, the 30717
statements and observations of the peace officers who responded to 30718
the incident that resulted in the arrest or filing of the charges 30719

and of all witnesses to that incident. 30720

(f) In determining pursuant to divisions (B)(3)(a) to (g) of 30721
this section whether to arrest a person pursuant to division 30722
(B)(1) of this section, a peace officer described in division (A) 30723
of this section shall not consider as a factor any possible 30724
shortage of cell space at the detention facility to which the 30725
person will be taken subsequent to the person's arrest or any 30726
possibility that the person's arrest might cause, contribute to, 30727
or exacerbate overcrowding at that detention facility or at any 30728
other detention facility. 30729

(g) If a peace officer described in division (A) of this 30730
section intends pursuant to divisions (B)(3)(a) to (g) of this 30731
section to arrest a person pursuant to division (B)(1) of this 30732
section and if the officer is unable to do so because the person 30733
is not present, the officer promptly shall seek a warrant for the 30734
arrest of the person. 30735

(h) If a peace officer described in division (A) of this 30736
section responds to a report of an alleged incident of the offense 30737
of domestic violence or an alleged incident of the offense of 30738
violating a protection order and if the circumstances of the 30739
incident involved the use or threatened use of a deadly weapon or 30740
any person involved in the incident brandished a deadly weapon 30741
during or in relation to the incident, the deadly weapon that was 30742
used, threatened to be used, or brandished constitutes contraband, 30743
and, to the extent possible, the officer shall seize the deadly 30744
weapon as contraband pursuant to Chapter 2981. of the Revised 30745
Code. Upon the seizure of a deadly weapon pursuant to division 30746
(B)(3)(h) of this section, section 2981.12 of the Revised Code 30747
shall apply regarding the treatment and disposition of the deadly 30748
weapon. For purposes of that section, the "underlying criminal 30749
offense" that was the basis of the seizure of a deadly weapon 30750
under division (B)(3)(h) of this section and to which the deadly 30751

weapon had a relationship is any of the following that is 30752
applicable: 30753

(i) The alleged incident of the offense of domestic violence 30754
or the alleged incident of the offense of violating a protection 30755
order to which the officer who seized the deadly weapon responded; 30756

(ii) Any offense that arose out of the same facts and 30757
circumstances as the report of the alleged incident of the offense 30758
of domestic violence or the alleged incident of the offense of 30759
violating a protection order to which the officer who seized the 30760
deadly weapon responded. 30761

(4) If, in the circumstances described in divisions (B)(3)(a) 30762
to (g) of this section, a peace officer described in division (A) 30763
of this section arrests and detains a person pursuant to division 30764
(B)(1) of this section, or if, pursuant to division (B)(3)(h) of 30765
this section, a peace officer described in division (A) of this 30766
section seizes a deadly weapon, the officer, to the extent 30767
described in and in accordance with section 9.86 or 2744.03 of the 30768
Revised Code, is immune in any civil action for damages for 30769
injury, death, or loss to person or property that arises from or 30770
is related to the arrest and detention or the seizure. 30771

(C) When there is reasonable ground to believe that a 30772
violation of division (A)(1), (2), (3), (4), or (5) of section 30773
4506.15 or a violation of section 4511.19 of the Revised Code has 30774
been committed by a person operating a motor vehicle subject to 30775
regulation by the public utilities commission of Ohio under Title 30776
XLIX of the Revised Code, a peace officer with authority to 30777
enforce that provision of law may stop or detain the person whom 30778
the officer has reasonable cause to believe was operating the 30779
motor vehicle in violation of the division or section and, after 30780
investigating the circumstances surrounding the operation of the 30781
vehicle, may arrest and detain the person. 30782

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, 30783
municipal police officer, member of a police force employed by a 30784
metropolitan housing authority under division (D) of section 30785
3735.31 of the Revised Code, member of a police force employed by 30786
a regional transit authority under division (Y) of section 306.35 30787
of the Revised Code, special police officer employed by a port 30788
authority under section 4582.04 or 4582.28 of the Revised Code, 30789
special police officer employed by a municipal corporation at a 30790
municipal airport or other municipal air navigation facility 30791
described in division (A) of this section, township constable, 30792
police officer of a township or joint police district, state 30793
university law enforcement officer appointed under section 3345.04 30794
of the Revised Code, peace officer of the department of natural 30795
resources, individual designated to perform law enforcement duties 30796
under section 511.232, 1545.13, or 6101.75 of the Revised Code, 30797
the house sergeant at arms if the house sergeant at arms has 30798
arrest authority pursuant to division (E)(1) of section 101.311 of 30799
the Revised Code, or an assistant house sergeant at arms is 30800
authorized by division (A) or (B) of this section to arrest and 30801
detain, within the limits of the political subdivision, 30802
metropolitan housing authority housing project, regional transit 30803
authority facilities or those areas of a municipal corporation 30804
that have been agreed to by a regional transit authority and a 30805
municipal corporation located within its territorial jurisdiction, 30806
port authority, municipal airport or other municipal air 30807
navigation facility, college, or university in which the officer 30808
is appointed, employed, or elected or within the limits of the 30809
territorial jurisdiction of the peace officer, a person until a 30810
warrant can be obtained, the peace officer, outside the limits of 30811
that territory, may pursue, arrest, and detain that person until a 30812
warrant can be obtained if all of the following apply: 30813

(1) The pursuit takes place without unreasonable delay after 30814
the offense is committed; 30815

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, port authority, municipal airport or other municipal air navigation facility, college, or university in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to section 4510.036 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint police district created under section 505.482 of the Revised Code, or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person

found violating any section or chapter of the Revised Code listed 30848
in division (E)(1) of this section, other than sections 4513.33 30849
and 4513.34 of the Revised Code, on the portion of any street or 30850
highway that is located immediately adjacent to the boundaries of 30851
the township police district or joint police district, in the case 30852
of a member of a township police district or joint police district 30853
police force, or the unincorporated territory of the township, in 30854
the case of a township constable. However, if the population of 30855
the township that created the township police district served by 30856
the member's police force, or the townships and municipal 30857
corporations that created the joint police district served by the 30858
member's police force, or the township that is served by the 30859
township constable, is sixty thousand or less, the member of the 30860
township police district or joint police district police force or 30861
the township constable may not make an arrest under division 30862
(E)(2) of this section on a state highway that is included as part 30863
of the interstate system. 30864

(3) A police officer or village marshal appointed, elected, 30865
or employed by a municipal corporation may arrest and detain, 30866
until a warrant can be obtained, any person found violating any 30867
section or chapter of the Revised Code listed in division (E)(1) 30868
of this section on the portion of any street or highway that is 30869
located immediately adjacent to the boundaries of the municipal 30870
corporation in which the police officer or village marshal is 30871
appointed, elected, or employed. 30872

(4) A peace officer of the department of natural resources, a 30873
state fire marshal law enforcement officer described in division 30874
(A)(23) of section 109.71 of the Revised Code, or an individual 30875
designated to perform law enforcement duties under section 30876
511.232, 1545.13, or 6101.75 of the Revised Code may arrest and 30877
detain, until a warrant can be obtained, any person found 30878
violating any section or chapter of the Revised Code listed in 30879

division (E)(1) of this section, other than sections 4513.33 and 30880
4513.34 of the Revised Code, on the portion of any street or 30881
highway that is located immediately adjacent to the boundaries of 30882
the lands and waters that constitute the territorial jurisdiction 30883
of the peace officer or state fire marshal law enforcement 30884
officer. 30885

(F)(1) A department of ~~mental health~~ mental health and 30886
addiction services special police officer or a department of 30887
developmental disabilities special police officer may arrest 30888
without a warrant and detain until a warrant can be obtained any 30889
person found committing on the premises of any institution under 30890
the jurisdiction of the particular department a misdemeanor under 30891
a law of the state. 30892

A department of ~~mental health~~ mental health and addiction 30893
services special police officer or a department of developmental 30894
disabilities special police officer may arrest without a warrant 30895
and detain until a warrant can be obtained any person who has been 30896
hospitalized, institutionalized, or confined in an institution 30897
under the jurisdiction of the particular department pursuant to or 30898
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 30899
2945.40, 2945.401, or 2945.402 of the Revised Code and who is 30900
found committing on the premises of any institution under the 30901
jurisdiction of the particular department a violation of section 30902
2921.34 of the Revised Code that involves an escape from the 30903
premises of the institution. 30904

(2)(a) If a department of ~~mental health~~ mental health and 30905
addiction services special police officer or a department of 30906
developmental disabilities special police officer finds any person 30907
who has been hospitalized, institutionalized, or confined in an 30908
institution under the jurisdiction of the particular department 30909
pursuant to or under authority of section 2945.37, 2945.371, 30910
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 30911

Code committing a violation of section 2921.34 of the Revised Code 30912
that involves an escape from the premises of the institution, or 30913
if there is reasonable ground to believe that a violation of 30914
section 2921.34 of the Revised Code has been committed that 30915
involves an escape from the premises of an institution under the 30916
jurisdiction of the department of ~~mental health~~ mental health and 30917
addiction services or the department of developmental disabilities 30918
and if a department of ~~mental health~~ mental health and addiction 30919
services special police officer or a department of developmental 30920
disabilities special police officer has reasonable cause to 30921
believe that a particular person who has been hospitalized, 30922
institutionalized, or confined in the institution pursuant to or 30923
under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 30924
2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of 30925
the violation, the special police officer, outside of the premises 30926
of the institution, may pursue, arrest, and detain that person for 30927
that violation of section 2921.34 of the Revised Code, until a 30928
warrant can be obtained, if both of the following apply: 30929

(i) The pursuit takes place without unreasonable delay after 30930
the offense is committed; 30931

(ii) The pursuit is initiated within the premises of the 30932
institution from which the violation of section 2921.34 of the 30933
Revised Code occurred. 30934

(b) For purposes of division (F)(2)(a) of this section, the 30935
execution of a written statement by the administrator of the 30936
institution in which a person had been hospitalized, 30937
institutionalized, or confined pursuant to or under authority of 30938
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 30939
2945.402 of the Revised Code alleging that the person has escaped 30940
from the premises of the institution in violation of section 30941
2921.34 of the Revised Code constitutes reasonable ground to 30942
believe that the violation was committed and reasonable cause to 30943

believe that the person alleged in the statement to have committed 30944
the offense is guilty of the violation. 30945

(G) As used in this section: 30946

(1) A "department of ~~mental health~~ mental health and 30947
addiction services special police officer" means a special police 30948
officer of the department of ~~mental health~~ mental health and 30949
addiction services designated under section ~~5119.14~~ 5119.08 of the 30950
Revised Code who is certified by the Ohio peace officer training 30951
commission under section 109.77 of the Revised Code as having 30952
successfully completed an approved peace officer basic training 30953
program. 30954

(2) A "department of developmental disabilities special 30955
police officer" means a special police officer of the department 30956
of developmental disabilities designated under section 5123.13 of 30957
the Revised Code who is certified by the Ohio peace officer 30958
training council under section 109.77 of the Revised Code as 30959
having successfully completed an approved peace officer basic 30960
training program. 30961

(3) "Deadly weapon" has the same meaning as in section 30962
2923.11 of the Revised Code. 30963

(4) "Family or household member" has the same meaning as in 30964
section 2919.25 of the Revised Code. 30965

(5) "Street" or "highway" has the same meaning as in section 30966
4511.01 of the Revised Code. 30967

(6) "Interstate system" has the same meaning as in section 30968
5516.01 of the Revised Code. 30969

(7) "Peace officer of the department of natural resources" 30970
means an employee of the department of natural resources who is a 30971
natural resources law enforcement staff officer designated 30972
pursuant to section 1501.013 of the Revised Code, a forest officer 30973

designated pursuant to section 1503.29 of the Revised Code, a 30974
preserve officer designated pursuant to section 1517.10 of the 30975
Revised Code, a wildlife officer designated pursuant to section 30976
1531.13 of the Revised Code, a park officer designated pursuant to 30977
section 1541.10 of the Revised Code, or a state watercraft officer 30978
designated pursuant to section 1547.521 of the Revised Code. 30979

(8) "Portion of any street or highway" means all lanes of the 30980
street or highway irrespective of direction of travel, including 30981
designated turn lanes, and any berm, median, or shoulder. 30982

Sec. 2935.33. (A) If a person charged with a misdemeanor is 30983
taken before a judge of a court of record and if it appears to the 30984
judge that the person is an alcoholic or is suffering from acute 30985
alcohol intoxication and that the person would benefit from 30986
services provided by ~~an alcohol and drug~~ a community addiction 30987
~~program~~ services provider certified under Chapter ~~3793-~~ 5119. of 30988
the Revised Code, the judge may place the person temporarily in a 30989
~~program~~ services provider certified under that chapter in the area 30990
in which the court has jurisdiction for inpatient care and 30991
treatment for an indefinite period not exceeding five days. The 30992
commitment does not limit the right to release on bail. The judge 30993
may dismiss a charge of a violation of division (B) of section 30994
2917.11 of the Revised Code or of a municipal ordinance 30995
substantially equivalent to that division if the defendant 30996
complies with all the conditions of treatment ordered by the 30997
court. 30998

The court may order that any fines or court costs collected 30999
by the court from defendants who have received inpatient care from 31000
~~an alcohol and drug~~ a community addiction ~~program~~ services 31001
provider be paid, for the benefit of the program, to the board of 31002
alcohol, drug addiction, and mental health services of the 31003
alcohol, drug addiction, and mental health service district in 31004

which the ~~program services provider~~ is located or to the director 31005
of ~~alcohol and drug addiction services~~ mental health and addiction 31006
services. 31007

(B) If a person is being sentenced for a violation of 31008
division (B) of section 2917.11 or section 4511.19 of the Revised 31009
Code, a misdemeanor violation of section 2919.25 of the Revised 31010
Code, a misdemeanor violation of section 2919.27 of the Revised 31011
Code involving a protection order issued or consent agreement 31012
approved pursuant to section 2919.26 or 3113.31 of the Revised 31013
Code, or a violation of a municipal ordinance substantially 31014
equivalent to that division or any of those sections and if it 31015
appears to the judge at the time of sentencing that the person is 31016
an alcoholic or is suffering from acute alcohol intoxication and 31017
that, in lieu of imprisonment, the person would benefit from 31018
services provided by ~~an alcohol and drug~~ a community addiction 31019
~~program services provider~~ certified under Chapter ~~3793~~, 5119, of 31020
the Revised Code, the court may commit the person to close 31021
supervision in any facility in the area in which the court has 31022
jurisdiction that is, or is operated by, such a ~~program services~~ 31023
provider. Such close supervision may include outpatient services 31024
and part-time release, except that a person convicted of a 31025
violation of division (A) of section 4511.19 of the Revised Code 31026
shall be confined to the facility for at least three days and 31027
except that a person convicted of a misdemeanor violation of 31028
section 2919.25 of the Revised Code, a misdemeanor violation of 31029
section 2919.27 of the Revised Code involving a protection order 31030
issued or consent agreement approved pursuant to section 2919.26 31031
or 3113.31 of the Revised Code, or a violation of a substantially 31032
equivalent municipal ordinance shall be confined to the facility 31033
in accordance with the order of commitment. A commitment of a 31034
person to a facility for purposes of close supervision shall not 31035
exceed the maximum term for which the person could be imprisoned. 31036

(C) A law enforcement officer who finds a person subject to prosecution for violation of division (B) of section 2917.11 of the Revised Code or a municipal ordinance substantially equivalent to that division and who has reasonable cause to believe that the person is an alcoholic or is suffering from acute alcohol intoxication and would benefit from immediate treatment immediately may place the person in ~~an alcohol and drug a~~ community addiction program services provider certified under Chapter ~~3793.~~ 5119. of the Revised Code in the area in which the person is found, for emergency treatment, in lieu of other arrest procedures, for a maximum period of forty-eight hours. During that time, if the person desires to leave such custody, the person shall be released forthwith.

(D) As used in this section:

(1) "Alcoholic" has the same meaning as in section ~~3793.01~~ 5119.01 of the Revised Code;

(2) "Acute alcohol intoxication" means a heavy consumption of alcohol over a relatively short period of time, resulting in dysfunction of the brain centers controlling behavior, speech, and memory and causing characteristic withdrawal symptoms.

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of the Revised Code:

(1) "Prosecutor" means a prosecuting attorney or a city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has authority to prosecute a criminal case that is before the court or the criminal case in which a defendant in a criminal case has been found incompetent to stand trial or not guilty by reason of insanity.

(2) "Examiner" means either of the following:

(a) A psychiatrist or a licensed clinical psychologist who

satisfies the criteria of division (I)(1) of section 5122.01 of 31067
the Revised Code or is employed by a certified forensic center 31068
designated by the department of ~~mental health~~ mental health and 31069
addiction services to conduct examinations or evaluations. 31070

(b) For purposes of a separate mental retardation evaluation 31071
that is ordered by a court pursuant to division (H) of section 31072
2945.371 of the Revised Code, a psychologist designated by the 31073
director of developmental disabilities pursuant to that section to 31074
conduct that separate mental retardation evaluation. 31075

(3) "Nonsecured status" means any unsupervised, off-grounds 31076
movement or trial visit from a hospital or institution, or any 31077
conditional release, that is granted to a person who is found 31078
incompetent to stand trial and is committed pursuant to section 31079
2945.39 of the Revised Code or to a person who is found not guilty 31080
by reason of insanity and is committed pursuant to section 2945.40 31081
of the Revised Code. 31082

(4) "Unsupervised, off-grounds movement" includes only 31083
off-grounds privileges that are unsupervised and that have an 31084
expectation of return to the hospital or institution on a daily 31085
basis. 31086

(5) "Trial visit" means a patient privilege of a longer 31087
stated duration of unsupervised community contact with an 31088
expectation of return to the hospital or institution at designated 31089
times. 31090

(6) "Conditional release" means a commitment status under 31091
which the trial court at any time may revoke a person's 31092
conditional release and order the rehospitalization or 31093
reinstitutionalization of the person as described in division (A) 31094
of section 2945.402 of the Revised Code and pursuant to which a 31095
person who is found incompetent to stand trial or a person who is 31096
found not guilty by reason of insanity lives and receives 31097

treatment in the community for a period of time that does not 31098
exceed the maximum prison term or term of imprisonment that the 31099
person could have received for the offense in question had the 31100
person been convicted of the offense instead of being found 31101
incompetent to stand trial on the charge of the offense or being 31102
found not guilty by reason of insanity relative to the offense. 31103

(7) "Licensed clinical psychologist," "mentally ill person 31104
subject to hospitalization by court order," and "psychiatrist" 31105
have the same meanings as in section 5122.01 of the Revised Code. 31106

(8) "Mentally retarded person subject to institutionalization 31107
by court order" has the same meaning as in section 5123.01 of the 31108
Revised Code. 31109

(B) In a criminal action in a court of common pleas, a county 31110
court, or a municipal court, the court, prosecutor, or defense may 31111
raise the issue of the defendant's competence to stand trial. If 31112
the issue is raised before the trial has commenced, the court 31113
shall hold a hearing on the issue as provided in this section. If 31114
the issue is raised after the trial has commenced, the court shall 31115
hold a hearing on the issue only for good cause shown or on the 31116
court's own motion. 31117

(C) The court shall conduct the hearing required or 31118
authorized under division (B) of this section within thirty days 31119
after the issue is raised, unless the defendant has been referred 31120
for evaluation in which case the court shall conduct the hearing 31121
within ten days after the filing of the report of the evaluation 31122
or, in the case of a defendant who is ordered by the court 31123
pursuant to division (H) of section 2945.371 of the Revised Code 31124
to undergo a separate mental retardation evaluation conducted by a 31125
psychologist designated by the director of developmental 31126
disabilities, within ten days after the filing of the report of 31127
the separate mental retardation evaluation under that division. A 31128
hearing may be continued for good cause. 31129

(D) The defendant shall be represented by counsel at the 31130
hearing conducted under division (C) of this section. If the 31131
defendant is unable to obtain counsel, the court shall appoint 31132
counsel under Chapter 120. of the Revised Code or under the 31133
authority recognized in division (C) of section 120.06, division 31134
(E) of section 120.16, division (E) of section 120.26, or section 31135
2941.51 of the Revised Code before proceeding with the hearing. 31136

(E) The prosecutor and defense counsel may submit evidence on 31137
the issue of the defendant's competence to stand trial. A written 31138
report of the evaluation of the defendant may be admitted into 31139
evidence at the hearing by stipulation, but, if either the 31140
prosecution or defense objects to its admission, the report may be 31141
admitted under sections 2317.36 to 2317.38 of the Revised Code or 31142
any other applicable statute or rule. 31143

(F) The court shall not find a defendant incompetent to stand 31144
trial solely because the defendant is receiving or has received 31145
treatment as a voluntary or involuntary mentally ill patient under 31146
Chapter 5122. or a voluntary or involuntary mentally retarded 31147
resident under Chapter 5123. of the Revised Code or because the 31148
defendant is receiving or has received psychotropic drugs or other 31149
medication, even if the defendant might become incompetent to 31150
stand trial without the drugs or medication. 31151

(G) A defendant is presumed to be competent to stand trial. 31152
If, after a hearing, the court finds by a preponderance of the 31153
evidence that, because of the defendant's present mental 31154
condition, the defendant is incapable of understanding the nature 31155
and objective of the proceedings against the defendant or of 31156
assisting in the defendant's defense, the court shall find the 31157
defendant incompetent to stand trial and shall enter an order 31158
authorized by section 2945.38 of the Revised Code. 31159

(H) Municipal courts shall follow the procedures set forth in 31160
sections 2945.37 to 2945.402 of the Revised Code. Except as 31161

provided in section 2945.371 of the Revised Code, a municipal 31162
court shall not order an evaluation of the defendant's competence 31163
to stand trial or the defendant's mental condition at the time of 31164
the commission of the offense to be conducted at any hospital 31165
operated by the department of ~~mental health~~ mental health and 31166
addiction services. Those evaluations shall be performed through 31167
community resources including, but not limited to, certified 31168
forensic centers, court probation departments, and community 31169
mental health agencies. All expenses of the evaluations shall be 31170
borne by the legislative authority of the municipal court, as 31171
defined in section 1901.03 of the Revised Code, and shall be taxed 31172
as costs in the case. If a defendant is found incompetent to stand 31173
trial or not guilty by reason of insanity, a municipal court may 31174
commit the defendant as provided in sections 2945.38 to 2945.402 31175
of the Revised Code. 31176

Sec. 2945.371. (A) If the issue of a defendant's competence 31177
to stand trial is raised or if a defendant enters a plea of not 31178
guilty by reason of insanity, the court may order one or more 31179
evaluations of the defendant's present mental condition or, in the 31180
case of a plea of not guilty by reason of insanity, of the 31181
defendant's mental condition at the time of the offense charged. 31182
An examiner shall conduct the evaluation. 31183

(B) If the court orders more than one evaluation under 31184
division (A) of this section, the prosecutor and the defendant may 31185
recommend to the court an examiner whom each prefers to perform 31186
one of the evaluations. If a defendant enters a plea of not guilty 31187
by reason of insanity and if the court does not designate an 31188
examiner recommended by the defendant, the court shall inform the 31189
defendant that the defendant may have independent expert 31190
evaluation and that, if the defendant is unable to obtain 31191
independent expert evaluation, it will be obtained for the 31192
defendant at public expense if the defendant is indigent. 31193

(C) If the court orders an evaluation under division (A) of 31194
this section, the defendant shall be available at the times and 31195
places established by the examiners who are to conduct the 31196
evaluation. The court may order a defendant who has been released 31197
on bail or recognizance to submit to an evaluation under this 31198
section. If a defendant who has been released on bail or 31199
recognizance refuses to submit to a complete evaluation, the court 31200
may amend the conditions of bail or recognizance and order the 31201
sheriff to take the defendant into custody and deliver the 31202
defendant to a center, program, or facility operated or certified 31203
by the department of ~~mental health~~ mental health and addiction 31204
services or the department of developmental disabilities where the 31205
defendant may be held for evaluation for a reasonable period of 31206
time not to exceed twenty days. 31207

(D) A defendant who has not been released on bail or 31208
recognizance may be evaluated at the defendant's place of 31209
detention. Upon the request of the examiner, the court may order 31210
the sheriff to transport the defendant to a program or facility 31211
operated or certified by the department of ~~mental health~~ mental 31212
health and addiction services or the department of developmental 31213
disabilities, where the defendant may be held for evaluation for a 31214
reasonable period of time not to exceed twenty days, and to return 31215
the defendant to the place of detention after the evaluation. A 31216
municipal court may make an order under this division only upon 31217
the request of a certified forensic center examiner. 31218

(E) If a court orders the evaluation to determine a 31219
defendant's mental condition at the time of the offense charged, 31220
the court shall inform the examiner of the offense with which the 31221
defendant is charged. 31222

(F) In conducting an evaluation of a defendant's mental 31223
condition at the time of the offense charged, the examiner shall 31224
consider all relevant evidence. If the offense charged involves 31225

the use of force against another person, the relevant evidence to 31226
be considered includes, but is not limited to, any evidence that 31227
the defendant suffered, at the time of the commission of the 31228
offense, from the "battered woman syndrome." 31229

(G) The examiner shall file a written report with the court 31230
within thirty days after entry of a court order for evaluation, 31231
and the court shall provide copies of the report to the prosecutor 31232
and defense counsel. The report shall include all of the 31233
following: 31234

(1) The examiner's findings; 31235

(2) The facts in reasonable detail on which the findings are 31236
based; 31237

(3) If the evaluation was ordered to determine the 31238
defendant's competence to stand trial, all of the following 31239
findings or recommendations that are applicable: 31240

(a) Whether the defendant is capable of understanding the 31241
nature and objective of the proceedings against the defendant or 31242
of assisting in the defendant's defense; 31243

(b) If the examiner's opinion is that the defendant is 31244
incapable of understanding the nature and objective of the 31245
proceedings against the defendant or of assisting in the 31246
defendant's defense, whether the defendant presently is mentally 31247
ill or mentally retarded and, if the examiner's opinion is that 31248
the defendant presently is mentally retarded, whether the 31249
defendant appears to be a mentally retarded person subject to 31250
institutionalization by court order; 31251

(c) If the examiner's opinion is that the defendant is 31252
incapable of understanding the nature and objective of the 31253
proceedings against the defendant or of assisting in the 31254
defendant's defense, the examiner's opinion as to the likelihood 31255
of the defendant becoming capable of understanding the nature and 31256

objective of the proceedings against the defendant and of 31257
assisting in the defendant's defense within one year if the 31258
defendant is provided with a course of treatment; 31259

(d) If the examiner's opinion is that the defendant is 31260
incapable of understanding the nature and objective of the 31261
proceedings against the defendant or of assisting in the 31262
defendant's defense and that the defendant presently is mentally 31263
ill or mentally retarded, the examiner's recommendation as to the 31264
least restrictive placement or commitment alternative, consistent 31265
with the defendant's treatment needs for restoration to competency 31266
and with the safety of the community. 31267

(4) If the evaluation was ordered to determine the 31268
defendant's mental condition at the time of the offense charged, 31269
the examiner's findings as to whether the defendant, at the time 31270
of the offense charged, did not know, as a result of a severe 31271
mental disease or defect, the wrongfulness of the defendant's acts 31272
charged. 31273

(H) If the examiner's report filed under division (G) of this 31274
section indicates that in the examiner's opinion the defendant is 31275
incapable of understanding the nature and objective of the 31276
proceedings against the defendant or of assisting in the 31277
defendant's defense and that in the examiner's opinion the 31278
defendant appears to be a mentally retarded person subject to 31279
institutionalization by court order, the court shall order the 31280
defendant to undergo a separate mental retardation evaluation 31281
conducted by a psychologist designated by the director of 31282
developmental disabilities. Divisions (C) to (F) of this section 31283
apply in relation to a separate mental retardation evaluation 31284
conducted under this division. The psychologist appointed under 31285
this division to conduct the separate mental retardation 31286
evaluation shall file a written report with the court within 31287
thirty days after the entry of the court order requiring the 31288

separate mental retardation evaluation, and the court shall 31289
provide copies of the report to the prosecutor and defense 31290
counsel. The report shall include all of the information described 31291
in divisions (G)(1) to (4) of this section. If the court orders a 31292
separate mental retardation evaluation of a defendant under this 31293
division, the court shall not conduct a hearing under divisions 31294
(B) to (H) of section 2945.37 of the Revised Code regarding that 31295
defendant until a report of the separate mental retardation 31296
evaluation conducted under this division has been filed. Upon the 31297
filing of that report, the court shall conduct the hearing within 31298
the period of time specified in division (C) of section 2945.37 of 31299
the Revised Code. 31300

(I) An examiner appointed under divisions (A) and (B) of this 31301
section or under division (H) of this section to evaluate a 31302
defendant to determine the defendant's competence to stand trial 31303
also may be appointed to evaluate a defendant who has entered a 31304
plea of not guilty by reason of insanity, but an examiner of that 31305
nature shall prepare separate reports on the issue of competence 31306
to stand trial and the defense of not guilty by reason of 31307
insanity. 31308

(J) No statement that a defendant makes in an evaluation or 31309
hearing under divisions (A) to (H) of this section relating to the 31310
defendant's competence to stand trial or to the defendant's mental 31311
condition at the time of the offense charged shall be used against 31312
the defendant on the issue of guilt in any criminal action or 31313
proceeding, but, in a criminal action or proceeding, the 31314
prosecutor or defense counsel may call as a witness any person who 31315
evaluated the defendant or prepared a report pursuant to a 31316
referral under this section. Neither the appointment nor the 31317
testimony of an examiner appointed under this section precludes 31318
the prosecutor or defense counsel from calling other witnesses or 31319
presenting other evidence on competency or insanity issues. 31320

(K) Persons appointed as examiners under divisions (A) and 31321
(B) of this section or under division (H) of this section shall be 31322
paid a reasonable amount for their services and expenses, as 31323
certified by the court. The certified amount shall be paid by the 31324
county in the case of county courts and courts of common pleas and 31325
by the legislative authority, as defined in section 1901.03 of the 31326
Revised Code, in the case of municipal courts. 31327

Sec. 2945.38. (A) If the issue of a defendant's competence to 31328
stand trial is raised and if the court, upon conducting the 31329
hearing provided for in section 2945.37 of the Revised Code, finds 31330
that the defendant is competent to stand trial, the defendant 31331
shall be proceeded against as provided by law. If the court finds 31332
the defendant competent to stand trial and the defendant is 31333
receiving psychotropic drugs or other medication, the court may 31334
authorize the continued administration of the drugs or medication 31335
or other appropriate treatment in order to maintain the 31336
defendant's competence to stand trial, unless the defendant's 31337
attending physician advises the court against continuation of the 31338
drugs, other medication, or treatment. 31339

(B)(1)(a) If, after taking into consideration all relevant 31340
reports, information, and other evidence, the court finds that the 31341
defendant is incompetent to stand trial and that there is a 31342
substantial probability that the defendant will become competent 31343
to stand trial within one year if the defendant is provided with a 31344
course of treatment, the court shall order the defendant to 31345
undergo treatment. If the defendant has been charged with a felony 31346
offense and if, after taking into consideration all relevant 31347
reports, information, and other evidence, the court finds that the 31348
defendant is incompetent to stand trial, but the court is unable 31349
at that time to determine whether there is a substantial 31350
probability that the defendant will become competent to stand 31351
trial within one year if the defendant is provided with a course 31352

of treatment, the court shall order continuing evaluation and 31353
treatment of the defendant for a period not to exceed four months 31354
to determine whether there is a substantial probability that the 31355
defendant will become competent to stand trial within one year if 31356
the defendant is provided with a course of treatment. 31357

(b) The court order for the defendant to undergo treatment or 31358
continuing evaluation and treatment under division (B)(1)(a) of 31359
this section shall specify that the defendant, if determined to 31360
require mental health treatment or continuing evaluation and 31361
treatment, either shall be committed to the department of ~~mental~~ 31362
~~health~~ mental health and addiction services for treatment or 31363
continuing evaluation and treatment at a hospital, facility, or 31364
agency, as determined to be clinically appropriate by the 31365
department of ~~mental health~~ mental health and addiction services 31366
or shall be committed to a facility certified by the department of 31367
~~mental health~~ mental health and addiction services as being 31368
qualified to treat mental illness, to a public or community mental 31369
health facility, or to a psychiatrist or another mental health 31370
professional for treatment or continuing evaluation and treatment. 31371
Prior to placing the defendant, the department of ~~mental health~~ 31372
mental health and addiction services shall obtain court approval 31373
for that placement following a hearing. The court order for the 31374
defendant to undergo treatment or continuing evaluation and 31375
treatment under division (B)(1)(a) of this section shall specify 31376
that the defendant, if determined to require treatment or 31377
continuing evaluation and treatment for mental retardation, shall 31378
receive treatment or continuing evaluation and treatment at an 31379
institution or facility operated by the department of 31380
developmental disabilities, at a facility certified by the 31381
department of developmental disabilities as being qualified to 31382
treat mental retardation, at a public or private mental 31383
retardation facility, or by a psychiatrist or another mental 31384
retardation professional. In any case, the order may restrict the 31385

defendant's freedom of movement as the court considers necessary. 31386
The prosecutor in the defendant's case shall send to the chief 31387
clinical officer of the hospital, facility, or agency where the 31388
defendant is placed by the department of ~~mental health~~ mental 31389
health and addiction services, or to the managing officer of the 31390
institution, the director of the program or facility, or the 31391
person to which the defendant is committed, copies of relevant 31392
police reports and other background information that pertains to 31393
the defendant and is available to the prosecutor unless the 31394
prosecutor determines that the release of any of the information 31395
in the police reports or any of the other background information 31396
to unauthorized persons would interfere with the effective 31397
prosecution of any person or would create a substantial risk of 31398
harm to any person. 31399

In determining the place of commitment, the court shall 31400
consider the extent to which the person is a danger to the person 31401
and to others, the need for security, and the type of crime 31402
involved and shall order the least restrictive alternative 31403
available that is consistent with public safety and treatment 31404
goals. In weighing these factors, the court shall give preference 31405
to protecting public safety. 31406

(c) If the defendant is found incompetent to stand trial, if 31407
the chief clinical officer of the hospital, facility, or agency 31408
where the defendant is placed, or the managing officer of the 31409
institution, the director of the program or facility, or the 31410
person to which the defendant is committed for treatment or 31411
continuing evaluation and treatment under division (B)(1)(b) of 31412
this section determines that medication is necessary to restore 31413
the defendant's competency to stand trial, and if the defendant 31414
lacks the capacity to give informed consent or refuses medication, 31415
the chief clinical officer of the hospital, facility, or agency 31416
where the defendant is placed, or the managing officer of the 31417

institution, the director of the program or facility, or the 31418
person to which the defendant is committed for treatment or 31419
continuing evaluation and treatment may petition the court for 31420
authorization for the involuntary administration of medication. 31421
The court shall hold a hearing on the petition within five days of 31422
the filing of the petition if the petition was filed in a 31423
municipal court or a county court regarding an incompetent 31424
defendant charged with a misdemeanor or within ten days of the 31425
filing of the petition if the petition was filed in a court of 31426
common pleas regarding an incompetent defendant charged with a 31427
felony offense. Following the hearing, the court may authorize the 31428
involuntary administration of medication or may dismiss the 31429
petition. 31430

(2) If the court finds that the defendant is incompetent to 31431
stand trial and that, even if the defendant is provided with a 31432
course of treatment, there is not a substantial probability that 31433
the defendant will become competent to stand trial within one 31434
year, the court shall order the discharge of the defendant, unless 31435
upon motion of the prosecutor or on its own motion, the court 31436
either seeks to retain jurisdiction over the defendant pursuant to 31437
section 2945.39 of the Revised Code or files an affidavit in the 31438
probate court for the civil commitment of the defendant pursuant 31439
to Chapter 5122. or 5123. of the Revised Code alleging that the 31440
defendant is a mentally ill person subject to hospitalization by 31441
court order or a mentally retarded person subject to 31442
institutionalization by court order. If an affidavit is filed in 31443
the probate court, the trial court shall send to the probate court 31444
copies of all written reports of the defendant's mental condition 31445
that were prepared pursuant to section 2945.371 of the Revised 31446
Code. 31447

The trial court may issue the temporary order of detention 31448
that a probate court may issue under section 5122.11 or 5123.71 of 31449

the Revised Code, to remain in effect until the probable cause or 31450
initial hearing in the probate court. Further proceedings in the 31451
probate court are civil proceedings governed by Chapter 5122. or 31452
5123. of the Revised Code. 31453

(C) No defendant shall be required to undergo treatment, 31454
including any continuing evaluation and treatment, under division 31455
(B)(1) of this section for longer than whichever of the following 31456
periods is applicable: 31457

(1) One year, if the most serious offense with which the 31458
defendant is charged is one of the following offenses: 31459

(a) Aggravated murder, murder, or an offense of violence for 31460
which a sentence of death or life imprisonment may be imposed; 31461

(b) An offense of violence that is a felony of the first or 31462
second degree; 31463

(c) A conspiracy to commit, an attempt to commit, or 31464
complicity in the commission of an offense described in division 31465
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 31466
complicity is a felony of the first or second degree. 31467

(2) Six months, if the most serious offense with which the 31468
defendant is charged is a felony other than a felony described in 31469
division (C)(1) of this section; 31470

(3) Sixty days, if the most serious offense with which the 31471
defendant is charged is a misdemeanor of the first or second 31472
degree; 31473

(4) Thirty days, if the most serious offense with which the 31474
defendant is charged is a misdemeanor of the third or fourth 31475
degree, a minor misdemeanor, or an unclassified misdemeanor. 31476

(D) Any defendant who is committed pursuant to this section 31477
shall not voluntarily admit the defendant or be voluntarily 31478
admitted to a hospital or institution pursuant to section 5122.02, 31479

5122.15, 5123.69, or 5123.76 of the Revised Code. 31480

(E) Except as otherwise provided in this division, a 31481
defendant who is charged with an offense and is committed by the 31482
court under this section to the department of ~~mental health~~ mental 31483
health and addiction services or is committed to an institution or 31484
facility for the treatment of mental retardation shall not be 31485
granted unsupervised on-grounds movement, supervised off-grounds 31486
movement, or nonsecured status except in accordance with the court 31487
order. The court may grant a defendant supervised off-grounds 31488
movement to obtain medical treatment or specialized habilitation 31489
treatment services if the person who supervises the treatment or 31490
the continuing evaluation and treatment of the defendant ordered 31491
under division (B)(1)(a) of this section informs the court that 31492
the treatment or continuing evaluation and treatment cannot be 31493
provided at the hospital or facility where the defendant is placed 31494
by the department of ~~mental health~~ mental health and addiction 31495
services or the institution or facility to which the defendant is 31496
committed. The chief clinical officer of the hospital or facility 31497
where the defendant is placed by the department of ~~mental health~~ 31498
mental health and addiction services or the managing officer of 31499
the institution or director of the facility to which the defendant 31500
is committed, or a designee of any of those persons, may grant a 31501
defendant movement to a medical facility for an emergency medical 31502
situation with appropriate supervision to ensure the safety of the 31503
defendant, staff, and community during that emergency medical 31504
situation. The chief clinical officer of the hospital or facility 31505
where the defendant is placed by the department of ~~mental health~~ 31506
mental health and addiction services or the managing officer of 31507
the institution or director of the facility to which the defendant 31508
is committed shall notify the court within twenty-four hours of 31509
the defendant's movement to the medical facility for an emergency 31510
medical situation under this division. 31511

(F) The person who supervises the treatment or continuing evaluation and treatment of a defendant ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the

defendant's defense and there is a substantial probability that 31543
the defendant will become capable of understanding the nature and 31544
objective of the proceedings against the defendant and of 31545
assisting in the defendant's defense if the defendant is provided 31546
with a course of treatment, if in the examiner's opinion the 31547
defendant remains mentally ill or mentally retarded, and if the 31548
maximum time for treatment as specified in division (C) of this 31549
section has not expired, the report also shall contain the 31550
examiner's recommendation as to the least restrictive placement or 31551
commitment alternative that is consistent with the defendant's 31552
treatment needs for restoration to competency and with the safety 31553
of the community. The court shall provide copies of the report to 31554
the prosecutor and defense counsel. 31555

(H) If a defendant is committed pursuant to division (B)(1) 31556
of this section, within ten days after the treating physician of 31557
the defendant or the examiner of the defendant who is employed or 31558
retained by the treating facility advises that there is not a 31559
substantial probability that the defendant will become capable of 31560
understanding the nature and objective of the proceedings against 31561
the defendant or of assisting in the defendant's defense even if 31562
the defendant is provided with a course of treatment, within ten 31563
days after the expiration of the maximum time for treatment as 31564
specified in division (C) of this section, within ten days after 31565
the expiration of the maximum time for continuing evaluation and 31566
treatment as specified in division (B)(1)(a) of this section, 31567
within thirty days after a defendant's request for a hearing that 31568
is made after six months of treatment, or within thirty days after 31569
being advised by the treating physician or examiner that the 31570
defendant is competent to stand trial, whichever is the earliest, 31571
the court shall conduct another hearing to determine if the 31572
defendant is competent to stand trial and shall do whichever of 31573
the following is applicable: 31574

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. 31575
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(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the facility or program at which the treatment is to be continued, and shall specify whether the treatment is to be continued at the same or a different facility or program. 31578
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(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code. 31588
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(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under 31597
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this division is not a bar to further prosecution based on the 31607
same conduct. The court shall discharge the defendant unless the 31608
court or prosecutor files an affidavit in probate court for civil 31609
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 31610
If an affidavit for civil commitment is filed, the court may 31611
detain the defendant for ten days pending civil commitment. All of 31612
the following provisions apply to persons charged with a 31613
misdemeanor or a felony other than a felony listed in division 31614
(C)(1) of this section who are committed by the probate court 31615
subsequent to the court's or prosecutor's filing of an affidavit 31616
for civil commitment under authority of this division: 31617

(a) The chief clinical officer of the entity, hospital, or 31618
facility, the managing officer of the institution, the director of 31619
the program, or the person to which the defendant is committed or 31620
admitted shall do all of the following: 31621

(i) Notify the prosecutor, in writing, of the discharge of 31622
the defendant, send the notice at least ten days prior to the 31623
discharge unless the discharge is by the probate court, and state 31624
in the notice the date on which the defendant will be discharged; 31625

(ii) Notify the prosecutor, in writing, when the defendant is 31626
absent without leave or is granted unsupervised, off-grounds 31627
movement, and send this notice promptly after the discovery of the 31628
absence without leave or prior to the granting of the 31629
unsupervised, off-grounds movement, whichever is applicable; 31630

(iii) Notify the prosecutor, in writing, of the change of the 31631
defendant's commitment or admission to voluntary status, send the 31632
notice promptly upon learning of the change to voluntary status, 31633
and state in the notice the date on which the defendant was 31634
committed or admitted on a voluntary status. 31635

(b) Upon receiving notice that the defendant will be granted 31636
unsupervised, off-grounds movement, the prosecutor either shall 31637

re-indict the defendant or promptly notify the court that the 31638
prosecutor does not intend to prosecute the charges against the 31639
defendant. 31640

(I) If a defendant is convicted of a crime and sentenced to a 31641
jail or workhouse, the defendant's sentence shall be reduced by 31642
the total number of days the defendant is confined for evaluation 31643
to determine the defendant's competence to stand trial or 31644
treatment under this section and sections 2945.37 and 2945.371 of 31645
the Revised Code or by the total number of days the defendant is 31646
confined for evaluation to determine the defendant's mental 31647
condition at the time of the offense charged. 31648

Sec. 2945.39. (A) If a defendant who is charged with an 31649
offense described in division (C)(1) of section 2945.38 of the 31650
Revised Code is found incompetent to stand trial, after the 31651
expiration of the maximum time for treatment as specified in 31652
division (C) of that section or after the court finds that there 31653
is not a substantial probability that the defendant will become 31654
competent to stand trial even if the defendant is provided with a 31655
course of treatment, one of the following applies: 31656

(1) The court or the prosecutor may file an affidavit in 31657
probate court for civil commitment of the defendant in the manner 31658
provided in Chapter 5122. or 5123. of the Revised Code. If the 31659
court or prosecutor files an affidavit for civil commitment, the 31660
court may detain the defendant for ten days pending civil 31661
commitment. If the probate court commits the defendant subsequent 31662
to the court's or prosecutor's filing of an affidavit for civil 31663
commitment, the chief clinical officer of the entity, hospital, or 31664
facility, the managing officer of the institution, the director of 31665
the program, or the person to which the defendant is committed or 31666
admitted shall send to the prosecutor the notices described in 31667
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 31668

Code within the periods of time and under the circumstances 31669
specified in those divisions. 31670

(2) On the motion of the prosecutor or on its own motion, the 31671
court may retain jurisdiction over the defendant if, at a hearing, 31672
the court finds both of the following by clear and convincing 31673
evidence: 31674

(a) The defendant committed the offense with which the 31675
defendant is charged. 31676

(b) The defendant is a mentally ill person subject to 31677
hospitalization by court order or a mentally retarded person 31678
subject to institutionalization by court order. 31679

(B) In making its determination under division (A)(2) of this 31680
section as to whether to retain jurisdiction over the defendant, 31681
the court may consider all relevant evidence, including, but not 31682
limited to, any relevant psychiatric, psychological, or medical 31683
testimony or reports, the acts constituting the offense charged, 31684
and any history of the defendant that is relevant to the 31685
defendant's ability to conform to the law. 31686

(C) If the court conducts a hearing as described in division 31687
(A)(2) of this section and if the court does not make both 31688
findings described in divisions (A)(2)(a) and (b) of this section 31689
by clear and convincing evidence, the court shall dismiss the 31690
indictment, information, or complaint against the defendant. Upon 31691
the dismissal, the court shall discharge the defendant unless the 31692
court or prosecutor files an affidavit in probate court for civil 31693
commitment of the defendant pursuant to Chapter 5122. or 5123. of 31694
the Revised Code. If the court or prosecutor files an affidavit 31695
for civil commitment, the court may order that the defendant be 31696
detained for up to ten days pending the civil commitment. If the 31697
probate court commits the defendant subsequent to the court's or 31698
prosecutor's filing of an affidavit for civil commitment, the 31699

chief clinical officer of the entity, hospital, or facility, the 31700
managing officer of the institution, the director of the program, 31701
or the person to which the defendant is committed or admitted 31702
shall send to the prosecutor the notices described in divisions 31703
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 31704
within the periods of time and under the circumstances specified 31705
in those divisions. A dismissal of charges under this division is 31706
not a bar to further criminal proceedings based on the same 31707
conduct. 31708

(D)(1) If the court conducts a hearing as described in 31709
division (A)(2) of this section and if the court makes the 31710
findings described in divisions (A)(2)(a) and (b) of this section 31711
by clear and convincing evidence, the court shall commit the 31712
defendant, if determined to require mental health treatment, 31713
either to the department of ~~mental health~~ mental health and 31714
addiction services for treatment at a hospital, facility, or 31715
agency as determined clinically appropriate by the department of 31716
~~mental health~~ mental health and addiction services or to another 31717
medical or psychiatric facility, as appropriate. Prior to placing 31718
the defendant, the department of ~~mental health~~ mental health and 31719
addiction services shall obtain court approval for that placement. 31720
If the court conducts such a hearing and if it makes those 31721
findings by clear and convincing evidence, the court shall commit 31722
the defendant, if determined to require treatment for mental 31723
retardation, to a facility operated by the department of 31724
developmental disabilities, or another facility, as appropriate. 31725
In determining the place of commitment, the court shall consider 31726
the extent to which the person is a danger to the person and to 31727
others, the need for security, and the type of crime involved and 31728
shall order the least restrictive alternative available that is 31729
consistent with public safety and the welfare of the defendant. In 31730
weighing these factors, the court shall give preference to 31731
protecting public safety. 31732

(2) If a court makes a commitment of a defendant under 31733
division (D)(1) of this section, the prosecutor shall send to the 31734
hospital, facility, or agency where the defendant is placed by the 31735
department of ~~mental health~~ mental health and addiction services 31736
or to the defendant's place of commitment all reports of the 31737
defendant's current mental condition and, except as otherwise 31738
provided in this division, any other relevant information, 31739
including, but not limited to, a transcript of the hearing held 31740
pursuant to division (A)(2) of this section, copies of relevant 31741
police reports, and copies of any prior arrest and conviction 31742
records that pertain to the defendant and that the prosecutor 31743
possesses. The prosecutor shall send the reports of the 31744
defendant's current mental condition in every case of commitment, 31745
and, unless the prosecutor determines that the release of any of 31746
the other relevant information to unauthorized persons would 31747
interfere with the effective prosecution of any person or would 31748
create a substantial risk of harm to any person, the prosecutor 31749
also shall send the other relevant information. Upon admission of 31750
a defendant committed under division (D)(1) of this section, the 31751
place of commitment shall send to the board of alcohol, drug 31752
addiction, and mental health services or the community mental 31753
health board serving the county in which the charges against the 31754
defendant were filed a copy of all reports of the defendant's 31755
current mental condition and a copy of the other relevant 31756
information provided by the prosecutor under this division, 31757
including, if provided, a transcript of the hearing held pursuant 31758
to division (A)(2) of this section, the relevant police reports, 31759
and the prior arrest and conviction records that pertain to the 31760
defendant and that the prosecutor possesses. 31761

(3) If a court makes a commitment under division (D)(1) of 31762
this section, all further proceedings shall be in accordance with 31763
sections 2945.401 and 2945.402 of the Revised Code. 31764

Sec. 2945.40. (A) If a person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue a temporary order of detention for that person to remain in effect for ten court days or until the hearing, whichever occurs first.

Any person detained pursuant to a temporary order of detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court

shall inform the person that the person has all of the following 31796
rights: 31797

(1) The right to be represented by counsel and to have that 31798
counsel provided at public expense if the person is indigent, with 31799
the counsel to be appointed by the court under Chapter 120. of the 31800
Revised Code or under the authority recognized in division (C) of 31801
section 120.06, division (E) of section 120.16, division (E) of 31802
section 120.26, or section 2941.51 of the Revised Code; 31803

(2) The right to have independent expert evaluation and to 31804
have that independent expert evaluation provided at public expense 31805
if the person is indigent; 31806

(3) The right to subpoena witnesses and documents, to present 31807
evidence on the person's behalf, and to cross-examine witnesses 31808
against the person; 31809

(4) The right to testify in the person's own behalf and to 31810
not be compelled to testify; 31811

(5) The right to have copies of any relevant medical or 31812
mental health document in the custody of the state or of any place 31813
of commitment other than a document for which the court finds that 31814
the release to the person of information contained in the document 31815
would create a substantial risk of harm to any person. 31816

(D) The hearing under division (A) of this section shall be 31817
open to the public, and the court shall conduct the hearing in 31818
accordance with the Rules of Civil Procedure. The court shall make 31819
and maintain a full transcript and record of the hearing 31820
proceedings. The court may consider all relevant evidence, 31821
including, but not limited to, any relevant psychiatric, 31822
psychological, or medical testimony or reports, the acts 31823
constituting the offense in relation to which the person was found 31824
not guilty by reason of insanity, and any history of the person 31825
that is relevant to the person's ability to conform to the law. 31826

(E) Upon completion of the hearing under division (A) of this section, if the court finds there is not clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, the court shall discharge the person, unless a detainer has been placed upon the person by the department of rehabilitation and correction, in which case the person shall be returned to that department.

(F) If, at the hearing under division (A) of this section, the court finds by clear and convincing evidence that the person is a mentally ill person subject to hospitalization by court order, the court shall commit the person either to the department of ~~mental health~~ mental health and addiction services for treatment in a hospital, facility, or agency as determined clinically appropriate by the department of ~~mental health~~ mental health and addiction services or to another medical or psychiatric facility, as appropriate. Prior to placing the defendant, the department of ~~mental health~~ mental health and addiction services shall obtain court approval for that placement. If, at the hearing under division (A) of this section, the court determines by clear and convincing evidence that the person requires treatment for mental retardation, it shall commit the person to a facility operated by the department of developmental disabilities or another facility, as appropriate. Further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code. In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and the welfare of the person. In weighing these factors, the court shall give preference to protecting public safety.

(G) If a court makes a commitment of a person under division 31859
(F) of this section, the prosecutor shall send to the hospital, 31860
facility, or agency where the person is placed by the department 31861
of ~~mental health~~ mental health and addiction services or to the 31862
defendant's place of commitment all reports of the person's 31863
current mental condition, and, except as otherwise provided in 31864
this division, any other relevant information, including, but not 31865
limited to, a transcript of the hearing held pursuant to division 31866
(A) of this section, copies of relevant police reports, and copies 31867
of any prior arrest and conviction records that pertain to the 31868
person and that the prosecutor possesses. The prosecutor shall 31869
send the reports of the person's current mental condition in every 31870
case of commitment, and, unless the prosecutor determines that the 31871
release of any of the other relevant information to unauthorized 31872
persons would interfere with the effective prosecution of any 31873
person or would create a substantial risk of harm to any person, 31874
the prosecutor also shall send the other relevant information. 31875
Upon admission of a person committed under division (F) of this 31876
section, the place of commitment shall send to the board of 31877
alcohol, drug addiction, and mental health services or the 31878
community mental health board serving the county in which the 31879
charges against the person were filed a copy of all reports of the 31880
person's current mental condition and a copy of the other relevant 31881
information provided by the prosecutor under this division, 31882
including, if provided, a transcript of the hearing held pursuant 31883
to division (A) of this section, the relevant police reports, and 31884
the prior arrest and conviction records that pertain to the person 31885
and that the prosecutor possesses. 31886

(H) A person who is committed pursuant to this section shall 31887
not voluntarily admit the person or be voluntarily admitted to a 31888
hospital or institution pursuant to section 5122.02, 5122.15, 31889
5123.69, or 5123.76 of the Revised Code. 31890

Sec. 2945.401. (A) A defendant found incompetent to stand 31891
trial and committed pursuant to section 2945.39 of the Revised 31892
Code or a person found not guilty by reason of insanity and 31893
committed pursuant to section 2945.40 of the Revised Code shall 31894
remain subject to the jurisdiction of the trial court pursuant to 31895
that commitment, and to the provisions of this section, until the 31896
final termination of the commitment as described in division 31897
(J)(1) of this section. If the jurisdiction is terminated under 31898
this division because of the final termination of the commitment 31899
resulting from the expiration of the maximum prison term or term 31900
of imprisonment described in division (J)(1)(b) of this section, 31901
the court or prosecutor may file an affidavit for the civil 31902
commitment of the defendant or person pursuant to Chapter 5122. or 31903
5123. of the Revised Code. 31904

(B) A hearing conducted under any provision of sections 31905
2945.37 to 2945.402 of the Revised Code shall not be conducted in 31906
accordance with Chapters 5122. and 5123. of the Revised Code. Any 31907
person who is committed pursuant to section 2945.39 or 2945.40 of 31908
the Revised Code shall not voluntarily admit the person or be 31909
voluntarily admitted to a hospital or institution pursuant to 31910
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 31911
All other provisions of Chapters 5122. and 5123. of the Revised 31912
Code regarding hospitalization or institutionalization shall apply 31913
to the extent they are not in conflict with this chapter. A 31914
commitment under section 2945.39 or 2945.40 of the Revised Code 31915
shall not be terminated and the conditions of the commitment shall 31916
not be changed except as otherwise provided in division (D)(2) of 31917
this section with respect to a mentally retarded person subject to 31918
institutionalization by court order or except by order of the 31919
trial court. 31920

(C) The department of ~~mental health~~ mental health and 31921
addiction services or the institution, facility, or program to 31922

which a defendant or person has been committed under section 31923
2945.39 or 2945.40 of the Revised Code shall report in writing to 31924
the trial court, at the times specified in this division, as to 31925
whether the defendant or person remains a mentally ill person 31926
subject to hospitalization by court order or a mentally retarded 31927
person subject to institutionalization by court order and, in the 31928
case of a defendant committed under section 2945.39 of the Revised 31929
Code, as to whether the defendant remains incompetent to stand 31930
trial. The department, institution, facility, or program shall 31931
make the reports after the initial six months of treatment and 31932
every two years after the initial report is made. The trial court 31933
shall provide copies of the reports to the prosecutor and to the 31934
counsel for the defendant or person. Within thirty days after its 31935
receipt pursuant to this division of a report from the department, 31936
institution, facility, or program, the trial court shall hold a 31937
hearing on the continued commitment of the defendant or person or 31938
on any changes in the conditions of the commitment of the 31939
defendant or person. The defendant or person may request a change 31940
in the conditions of confinement, and the trial court shall 31941
conduct a hearing on that request if six months or more have 31942
elapsed since the most recent hearing was conducted under this 31943
section. 31944

(D)(1) Except as otherwise provided in division (D)(2) of 31945
this section, when a defendant or person has been committed under 31946
section 2945.39 or 2945.40 of the Revised Code, at any time after 31947
evaluating the risks to public safety and the welfare of the 31948
defendant or person, the designee of the department of ~~mental~~ 31949
~~health~~ mental health and addiction services or the managing 31950
officer of the institution or director of the facility or program 31951
to which the defendant or person is committed may recommend a 31952
termination of the defendant's or person's commitment or a change 31953
in the conditions of the defendant's or person's commitment. 31954

Except as otherwise provided in division (D)(2) of this 31955
section, if the designee of the department of ~~mental health~~ mental 31956
health and addiction services recommends on-grounds unsupervised 31957
movement, off-grounds supervised movement, or nonsecured status 31958
for the defendant or person or termination of the defendant's or 31959
person's commitment, the following provisions apply: 31960

(a) If the department's designee recommends on-grounds 31961
unsupervised movement or off-grounds supervised movement, the 31962
department's designee shall file with the trial court an 31963
application for approval of the movement and shall send a copy of 31964
the application to the prosecutor. Within fifteen days after 31965
receiving the application, the prosecutor may request a hearing on 31966
the application and, if a hearing is requested, shall so inform 31967
the department's designee. If the prosecutor does not request a 31968
hearing within the fifteen-day period, the trial court shall 31969
approve the application by entering its order approving the 31970
requested movement or, within five days after the expiration of 31971
the fifteen-day period, shall set a date for a hearing on the 31972
application. If the prosecutor requests a hearing on the 31973
application within the fifteen-day period, the trial court shall 31974
hold a hearing on the application within thirty days after the 31975
hearing is requested. If the trial court, within five days after 31976
the expiration of the fifteen-day period, sets a date for a 31977
hearing on the application, the trial court shall hold the hearing 31978
within thirty days after setting the hearing date. At least 31979
fifteen days before any hearing is held under this division, the 31980
trial court shall give the prosecutor written notice of the date, 31981
time, and place of the hearing. At the conclusion of each hearing 31982
conducted under this division, the trial court either shall 31983
approve or disapprove the application and shall enter its order 31984
accordingly. 31985

(b) If the department's designee recommends termination of 31986

the defendant's or person's commitment at any time or if the 31987
department's designee recommends the first of any nonsecured 31988
status for the defendant or person, the department's designee 31989
shall send written notice of this recommendation to the trial 31990
court and to the local forensic center. The local forensic center 31991
shall evaluate the committed defendant or person and, within 31992
thirty days after its receipt of the written notice, shall submit 31993
to the trial court and the department's designee a written report 31994
of the evaluation. The trial court shall provide a copy of the 31995
department's designee's written notice and of the local forensic 31996
center's written report to the prosecutor and to the counsel for 31997
the defendant or person. Upon the local forensic center's 31998
submission of the report to the trial court and the department's 31999
designee, all of the following apply: 32000

(i) If the forensic center disagrees with the recommendation 32001
of the department's designee, it shall inform the department's 32002
designee and the trial court of its decision and the reasons for 32003
the decision. The department's designee, after consideration of 32004
the forensic center's decision, shall either withdraw, proceed 32005
with, or modify and proceed with the recommendation. If the 32006
department's designee proceeds with, or modifies and proceeds 32007
with, the recommendation, the department's designee shall proceed 32008
in accordance with division (D)(1)(b)(iii) of this section. 32009

(ii) If the forensic center agrees with the recommendation of 32010
the department's designee, it shall inform the department's 32011
designee and the trial court of its decision and the reasons for 32012
the decision, and the department's designee shall proceed in 32013
accordance with division (D)(1)(b)(iii) of this section. 32014

(iii) If the forensic center disagrees with the 32015
recommendation of the department's designee and the department's 32016
designee proceeds with, or modifies and proceeds with, the 32017
recommendation or if the forensic center agrees with the 32018

recommendation of the department's designee, the department's 32019
designee shall work with community mental health agencies, 32020
programs, facilities, or boards of alcohol, drug addiction, and 32021
mental health services or community mental health boards to 32022
develop a plan to implement the recommendation. If the defendant 32023
or person is on medication, the plan shall include, but shall not 32024
be limited to, a system to monitor the defendant's or person's 32025
compliance with the prescribed medication treatment plan. The 32026
system shall include a schedule that clearly states when the 32027
defendant or person shall report for a medication compliance 32028
check. The medication compliance checks shall be based upon the 32029
effective duration of the prescribed medication, taking into 32030
account the route by which it is taken, and shall be scheduled at 32031
intervals sufficiently close together to detect a potential 32032
increase in mental illness symptoms that the medication is 32033
intended to prevent. 32034

The department's designee, after consultation with the board 32035
of alcohol, drug addiction, and mental health services or the 32036
community mental health board serving the area, shall send the 32037
recommendation and plan developed under division (D)(1)(b)(iii) of 32038
this section, in writing, to the trial court, the prosecutor, and 32039
the counsel for the committed defendant or person. The trial court 32040
shall conduct a hearing on the recommendation and plan developed 32041
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 32042
and (d) and (E) to (J) of this section apply regarding the 32043
hearing. 32044

(c) If the department's designee's recommendation is for 32045
nonsecured status or termination of commitment, the prosecutor may 32046
obtain an independent expert evaluation of the defendant's or 32047
person's mental condition, and the trial court may continue the 32048
hearing on the recommendation for a period of not more than thirty 32049
days to permit time for the evaluation. 32050

The prosecutor may introduce the evaluation report or present 32051
other evidence at the hearing in accordance with the Rules of 32052
Evidence. 32053

(d) The trial court shall schedule the hearing on a 32054
department's designee's recommendation for nonsecured status or 32055
termination of commitment and shall give reasonable notice to the 32056
prosecutor and the counsel for the defendant or person. Unless 32057
continued for independent evaluation at the prosecutor's request 32058
or for other good cause, the hearing shall be held within thirty 32059
days after the trial court's receipt of the recommendation and 32060
plan. 32061

(2)(a) Division (D)(1) of this section does not apply to 32062
on-grounds unsupervised movement of a defendant or person who has 32063
been committed under section 2945.39 or 2945.40 of the Revised 32064
Code, who is a mentally retarded person subject to 32065
institutionalization by court order, and who is being provided 32066
residential habilitation, care, and treatment in a facility 32067
operated by the department of developmental disabilities. 32068

(b) If, pursuant to section 2945.39 of the Revised Code, the 32069
trial court commits a defendant who is found incompetent to stand 32070
trial and who is a mentally retarded person subject to 32071
institutionalization by court order, if the defendant is being 32072
provided residential habilitation, care, and treatment in a 32073
facility operated by the department of developmental disabilities, 32074
if an individual who is conducting a survey for the department of 32075
health to determine the facility's compliance with the 32076
certification requirements of the medicaid program ~~under Chapter~~ 32077
~~5111. of the Revised Code and Title XIX of the "Social Security~~ 32078
~~Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ cites the 32079
defendant's receipt of the residential habilitation, care, and 32080
treatment in the facility as being inappropriate under the 32081
certification requirements, if the defendant's receipt of the 32082

residential habilitation, care, and treatment in the facility 32083
potentially jeopardizes the facility's continued receipt of 32084
federal medicaid moneys, and if as a result of the citation the 32085
chief clinical officer of the facility determines that the 32086
conditions of the defendant's commitment should be changed, the 32087
department of developmental disabilities may cause the defendant 32088
to be removed from the particular facility and, after evaluating 32089
the risks to public safety and the welfare of the defendant and 32090
after determining whether another type of placement is consistent 32091
with the certification requirements, may place the defendant in 32092
another facility that the department selects as an appropriate 32093
facility for the defendant's continued receipt of residential 32094
habilitation, care, and treatment and that is a no less secure 32095
setting than the facility in which the defendant had been placed 32096
at the time of the citation. Within three days after the 32097
defendant's removal and alternative placement under the 32098
circumstances described in division (D)(2)(b) of this section, the 32099
department of developmental disabilities shall notify the trial 32100
court and the prosecutor in writing of the removal and alternative 32101
placement. 32102

The trial court shall set a date for a hearing on the removal 32103
and alternative placement, and the hearing shall be held within 32104
twenty-one days after the trial court's receipt of the notice from 32105
the department of developmental disabilities. At least ten days 32106
before the hearing is held, the trial court shall give the 32107
prosecutor, the department of developmental disabilities, and the 32108
counsel for the defendant written notice of the date, time, and 32109
place of the hearing. At the hearing, the trial court shall 32110
consider the citation issued by the individual who conducted the 32111
survey for the department of health to be prima-facie evidence of 32112
the fact that the defendant's commitment to the particular 32113
facility was inappropriate under the certification requirements of 32114
the medicaid program ~~under Chapter 5111. of the Revised Code and~~ 32115

~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 32116
~~U.S.C.A. 301, as amended,~~ and potentially jeopardizes the 32117
particular facility's continued receipt of federal medicaid 32118
moneys. At the conclusion of the hearing, the trial court may 32119
approve or disapprove the defendant's removal and alternative 32120
placement. If the trial court approves the defendant's removal and 32121
alternative placement, the department of developmental 32122
disabilities may continue the defendant's alternative placement. 32123
If the trial court disapproves the defendant's removal and 32124
alternative placement, it shall enter an order modifying the 32125
defendant's removal and alternative placement, but that order 32126
shall not require the department of developmental disabilities to 32127
replace the defendant for purposes of continued residential 32128
habilitation, care, and treatment in the facility associated with 32129
the citation issued by the individual who conducted the survey for 32130
the department of health. 32131

(E) In making a determination under this section regarding 32132
nonsecured status or termination of commitment, the trial court 32133
shall consider all relevant factors, including, but not limited 32134
to, all of the following: 32135

(1) Whether, in the trial court's view, the defendant or 32136
person currently represents a substantial risk of physical harm to 32137
the defendant or person or others; 32138

(2) Psychiatric and medical testimony as to the current 32139
mental and physical condition of the defendant or person; 32140

(3) Whether the defendant or person has insight into the 32141
defendant's or person's condition so that the defendant or person 32142
will continue treatment as prescribed or seek professional 32143
assistance as needed; 32144

(4) The grounds upon which the state relies for the proposed 32145
commitment; 32146

(5) Any past history that is relevant to establish the defendant's or person's degree of conformity to the laws, rules, regulations, and values of society;

(6) If there is evidence that the defendant's or person's mental illness is in a state of remission, the medically suggested cause and degree of the remission and the probability that the defendant or person will continue treatment to maintain the remissive state of the defendant's or person's illness should the defendant's or person's commitment conditions be altered.

(F) At any hearing held pursuant to division (C) or (D)(1) or (2) of this section, the defendant or the person shall have all the rights of a defendant or person at a commitment hearing as described in section 2945.40 of the Revised Code.

(G) In a hearing held pursuant to division (C) or (D)(1) of this section, the prosecutor has the burden of proof as follows:

(1) For a recommendation of termination of commitment, to show by clear and convincing evidence that the defendant or person remains a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order;

(2) For a recommendation for a change in the conditions of the commitment to a less restrictive status, to show by clear and convincing evidence that the proposed change represents a threat to public safety or a threat to the safety of any person.

(H) In a hearing held pursuant to division (C) or (D)(1) or (2) of this section, the prosecutor shall represent the state or the public interest.

(I) At the conclusion of a hearing conducted under division (D)(1) of this section regarding a recommendation from the designee of the department of ~~mental health~~ mental health and addiction services, managing officer of the institution, or

director of a facility or program, the trial court may approve, 32178
disapprove, or modify the recommendation and shall enter an order 32179
accordingly. 32180

(J)(1) A defendant or person who has been committed pursuant 32181
to section 2945.39 or 2945.40 of the Revised Code continues to be 32182
under the jurisdiction of the trial court until the final 32183
termination of the commitment. For purposes of division (J) of 32184
this section, the final termination of a commitment occurs upon 32185
the earlier of one of the following: 32186

(a) The defendant or person no longer is a mentally ill 32187
person subject to hospitalization by court order or a mentally 32188
retarded person subject to institutionalization by court order, as 32189
determined by the trial court; 32190

(b) The expiration of the maximum prison term or term of 32191
imprisonment that the defendant or person could have received if 32192
the defendant or person had been convicted of the most serious 32193
offense with which the defendant or person is charged or in 32194
relation to which the defendant or person was found not guilty by 32195
reason of insanity; 32196

(c) The trial court enters an order terminating the 32197
commitment under the circumstances described in division 32198
(J)(2)(a)(ii) of this section. 32199

(2)(a) If a defendant is found incompetent to stand trial and 32200
committed pursuant to section 2945.39 of the Revised Code, if 32201
neither of the circumstances described in divisions (J)(1)(a) and 32202
(b) of this section applies to that defendant, and if a report 32203
filed with the trial court pursuant to division (C) of this 32204
section indicates that the defendant presently is competent to 32205
stand trial or if, at any other time during the period of the 32206
defendant's commitment, the prosecutor, the counsel for the 32207
defendant, or the designee of the department of ~~mental health~~ 32208

mental health and addiction services or the managing officer of 32209
the institution or director of the facility or program to which 32210
the defendant is committed files an application with the trial 32211
court alleging that the defendant presently is competent to stand 32212
trial and requesting a hearing on the competency issue or the 32213
trial court otherwise has reasonable cause to believe that the 32214
defendant presently is competent to stand trial and determines on 32215
its own motion to hold a hearing on the competency issue, the 32216
trial court shall schedule a hearing on the competency of the 32217
defendant to stand trial, shall give the prosecutor, the counsel 32218
for the defendant, and the department's designee or the managing 32219
officer of the institution or the director of the facility to 32220
which the defendant is committed notice of the date, time, and 32221
place of the hearing at least fifteen days before the hearing, and 32222
shall conduct the hearing within thirty days of the filing of the 32223
application or of its own motion. If, at the conclusion of the 32224
hearing, the trial court determines that the defendant presently 32225
is capable of understanding the nature and objective of the 32226
proceedings against the defendant and of assisting in the 32227
defendant's defense, the trial court shall order that the 32228
defendant is competent to stand trial and shall be proceeded 32229
against as provided by law with respect to the applicable offenses 32230
described in division (C)(1) of section 2945.38 of the Revised 32231
Code and shall enter whichever of the following additional orders 32232
is appropriate: 32233

(i) If the trial court determines that the defendant remains 32234
a mentally ill person subject to hospitalization by court order or 32235
a mentally retarded person subject to institutionalization by 32236
court order, the trial court shall order that the defendant's 32237
commitment to the department of ~~mental health~~ mental health and 32238
addiction services or to an institution, facility, or program for 32239
the treatment of mental retardation be continued during the 32240
pendency of the trial on the applicable offenses described in 32241

division (C)(1) of section 2945.38 of the Revised Code. 32242

(ii) If the trial court determines that the defendant no 32243
longer is a mentally ill person subject to hospitalization by 32244
court order or a mentally retarded person subject to 32245
institutionalization by court order, the trial court shall order 32246
that the defendant's commitment to the department of ~~mental health~~ 32247
mental health and addiction services or to an institution, 32248
facility, or program for the treatment of mental retardation shall 32249
not be continued during the pendency of the trial on the 32250
applicable offenses described in division (C)(1) of section 32251
2945.38 of the Revised Code. This order shall be a final 32252
termination of the commitment for purposes of division (J)(1)(c) 32253
of this section. 32254

(b) If, at the conclusion of the hearing described in 32255
division (J)(2)(a) of this section, the trial court determines 32256
that the defendant remains incapable of understanding the nature 32257
and objective of the proceedings against the defendant or of 32258
assisting in the defendant's defense, the trial court shall order 32259
that the defendant continues to be incompetent to stand trial, 32260
that the defendant's commitment to the department of ~~mental health~~ 32261
mental health and addiction services or to an institution, 32262
facility, or program for the treatment of mental retardation shall 32263
be continued, and that the defendant remains subject to the 32264
jurisdiction of the trial court pursuant to that commitment, and 32265
to the provisions of this section, until the final termination of 32266
the commitment as described in division (J)(1) of this section. 32267

Sec. 2951.041. (A)(1) If an offender is charged with a 32268
criminal offense, including but not limited to a violation of 32269
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 of 32270
the Revised Code, and the court has reason to believe that drug or 32271
alcohol usage by the offender was a factor leading to the criminal 32272

offense with which the offender is charged or that, at the time of 32273
committing that offense, the offender had a mental illness or was 32274
a person with intellectual disability and that the mental illness 32275
or status as a person with intellectual disability was a factor 32276
leading to the offender's criminal behavior, the court may accept, 32277
prior to the entry of a guilty plea, the offender's request for 32278
intervention in lieu of conviction. The request shall include a 32279
statement from the offender as to whether the offender is alleging 32280
that drug or alcohol usage by the offender was a factor leading to 32281
the criminal offense with which the offender is charged or is 32282
alleging that, at the time of committing that offense, the 32283
offender had a mental illness or was a person with intellectual 32284
disability and that the mental illness or status as a person with 32285
intellectual disability was a factor leading to the criminal 32286
offense with which the offender is charged. The request also shall 32287
include a waiver of the defendant's right to a speedy trial, the 32288
preliminary hearing, the time period within which the grand jury 32289
may consider an indictment against the offender, and arraignment, 32290
unless the hearing, indictment, or arraignment has already 32291
occurred. The court may reject an offender's request without a 32292
hearing. If the court elects to consider an offender's request, 32293
the court shall conduct a hearing to determine whether the 32294
offender is eligible under this section for intervention in lieu 32295
of conviction and shall stay all criminal proceedings pending the 32296
outcome of the hearing. If the court schedules a hearing, the 32297
court shall order an assessment of the offender for the purpose of 32298
determining the offender's eligibility for intervention in lieu of 32299
conviction and recommending an appropriate intervention plan. 32300

If the offender alleges that drug or alcohol usage by the 32301
offender was a factor leading to the criminal offense with which 32302
the offender is charged, the court may order that the offender be 32303
assessed by ~~a program~~ an addiction services provider certified 32304
pursuant to section ~~3793.06~~ 5119.36 of the Revised Code or a 32305

properly credentialed professional for the purpose of determining 32306
the offender's eligibility for intervention in lieu of conviction 32307
and recommending an appropriate intervention plan. The ~~program~~ 32308
addiction services provider or the properly credentialed 32309
professional shall provide a written assessment of the offender to 32310
the court. 32311

(2) The victim notification provisions of division (C) of 32312
section 2930.08 of the Revised Code apply in relation to any 32313
hearing held under division (A)(1) of this section. 32314

(B) An offender is eligible for intervention in lieu of 32315
conviction if the court finds all of the following: 32316

(1) The offender previously has not been convicted of or 32317
pleaded guilty to a felony offense of violence or previously has 32318
been convicted of or pleaded guilty to any felony that is not an 32319
offense of violence and the prosecuting attorney recommends that 32320
the offender be found eligible for participation in intervention 32321
in lieu of treatment under this section, previously has not been 32322
through intervention in lieu of conviction under this section or 32323
any similar regimen, and is charged with a felony for which the 32324
court, upon conviction, would impose a community control sanction 32325
on the offender under division (B)(2) of section 2929.13 of the 32326
Revised Code or with a misdemeanor. 32327

(2) The offense is not a felony of the first, second, or 32328
third degree, is not an offense of violence, is not a violation of 32329
division (A)(1) or (2) of section 2903.06 of the Revised Code, is 32330
not a violation of division (A)(1) of section 2903.08 of the 32331
Revised Code, is not a violation of division (A) of section 32332
4511.19 of the Revised Code or a municipal ordinance that is 32333
substantially similar to that division, and is not an offense for 32334
which a sentencing court is required to impose a mandatory prison 32335
term, a mandatory term of local incarceration, or a mandatory term 32336
of imprisonment in a jail. 32337

(3) The offender is not charged with a violation of section 32338
2925.02, 2925.04, or 2925.06 of the Revised Code, is not charged 32339
with a violation of section 2925.03 of the Revised Code that is a 32340
felony of the first, second, third, or fourth degree, and is not 32341
charged with a violation of section 2925.11 of the Revised Code 32342
that is a felony of the first, second, or third degree. 32343

(4) If an offender alleges that drug or alcohol usage by the 32344
offender was a factor leading to the criminal offense with which 32345
the offender is charged, the court has ordered that the offender 32346
be assessed by ~~a program~~ an addiction services provider certified 32347
pursuant to section ~~3793.06~~ 5119.36 of the Revised Code or a 32348
properly credentialed professional for the purpose of determining 32349
the offender's eligibility for intervention in lieu of conviction 32350
and recommending an appropriate intervention plan, the offender 32351
has been assessed by ~~a program~~ an addiction services provider of 32352
that nature or a properly credentialed professional in accordance 32353
with the court's order, and the ~~program~~ addiction services 32354
provider or properly credentialed professional has filed the 32355
written assessment of the offender with the court. 32356

(5) If an offender alleges that, at the time of committing 32357
the criminal offense with which the offender is charged, the 32358
offender had a mental illness or was a person with intellectual 32359
disability and that the mental illness or status as a person with 32360
intellectual disability was a factor leading to that offense, the 32361
offender has been assessed by a psychiatrist, psychologist, 32362
independent social worker, or professional clinical counselor for 32363
the purpose of determining the offender's eligibility for 32364
intervention in lieu of conviction and recommending an appropriate 32365
intervention plan. 32366

(6) The offender's drug usage, alcohol usage, mental illness, 32367
or intellectual disability, whichever is applicable, was a factor 32368
leading to the criminal offense with which the offender is 32369

charged, intervention in lieu of conviction would not demean the 32370
seriousness of the offense, and intervention would substantially 32371
reduce the likelihood of any future criminal activity. 32372

(7) The alleged victim of the offense was not sixty-five 32373
years of age or older, permanently and totally disabled, under 32374
thirteen years of age, or a peace officer engaged in the officer's 32375
official duties at the time of the alleged offense. 32376

(8) If the offender is charged with a violation of section 32377
2925.24 of the Revised Code, the alleged violation did not result 32378
in physical harm to any person, and the offender previously has 32379
not been treated for drug abuse. 32380

(9) The offender is willing to comply with all terms and 32381
conditions imposed by the court pursuant to division (D) of this 32382
section. 32383

(10) The offender is not charged with an offense that would 32384
result in the offender being disqualified under Chapter 4506. of 32385
the Revised Code from operating a commercial motor vehicle or 32386
would subject the offender to any other sanction under that 32387
chapter. 32388

(C) At the conclusion of a hearing held pursuant to division 32389
(A) of this section, the court shall enter its determination as to 32390
whether the offender is eligible for intervention in lieu of 32391
conviction and as to whether to grant the offender's request. If 32392
the court finds under division (B) of this section that the 32393
offender is eligible for intervention in lieu of conviction and 32394
grants the offender's request, the court shall accept the 32395
offender's plea of guilty and waiver of the defendant's right to a 32396
speedy trial, the preliminary hearing, the time period within 32397
which the grand jury may consider an indictment against the 32398
offender, and arraignment, unless the hearing, indictment, or 32399
arraignment has already occurred. In addition, the court then may 32400

stay all criminal proceedings and order the offender to comply 32401
with all terms and conditions imposed by the court pursuant to 32402
division (D) of this section. If the court finds that the offender 32403
is not eligible or does not grant the offender's request, the 32404
criminal proceedings against the offender shall proceed as if the 32405
offender's request for intervention in lieu of conviction had not 32406
been made. 32407

(D) If the court grants an offender's request for 32408
intervention in lieu of conviction, the court shall place the 32409
offender under the general control and supervision of the county 32410
probation department, the adult parole authority, or another 32411
appropriate local probation or court services agency, if one 32412
exists, as if the offender was subject to a community control 32413
sanction imposed under section 2929.15, 2929.18, or 2929.25 of the 32414
Revised Code. The court shall establish an intervention plan for 32415
the offender. The terms and conditions of the intervention plan 32416
shall require the offender, for at least one year from the date on 32417
which the court grants the order of intervention in lieu of 32418
conviction, to abstain from the use of illegal drugs and alcohol, 32419
to participate in treatment and recovery support services, and to 32420
submit to regular random testing for drug and alcohol use and may 32421
include any other treatment terms and conditions, or terms and 32422
conditions similar to community control sanctions, which may 32423
include community service or restitution, that are ordered by the 32424
court. 32425

(E) If the court grants an offender's request for 32426
intervention in lieu of conviction and the court finds that the 32427
offender has successfully completed the intervention plan for the 32428
offender, including the requirement that the offender abstain from 32429
using illegal drugs and alcohol for a period of at least one year 32430
from the date on which the court granted the order of intervention 32431
in lieu of conviction, the requirement that the offender 32432

participate in treatment and recovery support services, and all 32433
other terms and conditions ordered by the court, the court shall 32434
dismiss the proceedings against the offender. Successful 32435
completion of the intervention plan and period of abstinence under 32436
this section shall be without adjudication of guilt and is not a 32437
criminal conviction for purposes of any disqualification or 32438
disability imposed by law and upon conviction of a crime, and the 32439
court may order the sealing of records related to the offense in 32440
question in the manner provided in sections 2953.31 to 2953.36 of 32441
the Revised Code. 32442

(F) If the court grants an offender's request for 32443
intervention in lieu of conviction and the offender fails to 32444
comply with any term or condition imposed as part of the 32445
intervention plan for the offender, the supervising authority for 32446
the offender promptly shall advise the court of this failure, and 32447
the court shall hold a hearing to determine whether the offender 32448
failed to comply with any term or condition imposed as part of the 32449
plan. If the court determines that the offender has failed to 32450
comply with any of those terms and conditions, it shall enter a 32451
finding of guilty and shall impose an appropriate sanction under 32452
Chapter 2929. of the Revised Code. If the court sentences the 32453
offender to a prison term, the court, after consulting with the 32454
department of rehabilitation and correction regarding the 32455
availability of services, may order continued court-supervised 32456
activity and treatment of the offender during the prison term and, 32457
upon consideration of reports received from the department 32458
concerning the offender's progress in the program of activity and 32459
treatment, may consider judicial release under section 2929.20 of 32460
the Revised Code. 32461

(G) As used in this section: 32462

(1) "Community control sanction" has the same meaning as in 32463
section 2929.01 of the Revised Code. 32464

(2) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section.

(3) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(4) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.

(5) "Person with intellectual disability" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(6) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(H) Whenever the term "mentally retarded person" is used in any statute, rule, contract, grant, or other document, the reference shall be deemed to include a "person with intellectual disability," as defined in this section.

Sec. 2967.22. Whenever it is brought to the attention of the adult parole authority or a department of probation that a parolee, person under a community control sanction, person under transitional control, or releasee appears to be a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the Revised Code, or a mentally retarded person subject to institutionalization by court order, as defined in section 5123.01 of the Revised Code, the parole or probation officer, subject to the approval of the chief of the adult parole authority, the designee of the chief of the adult parole authority, or the chief probation officer, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code. A parolee, person under a community control sanction, or releasee who is involuntarily detained under Chapter 5122. or 5123. of the Revised

Code shall receive credit against the period of parole or 32495
community control or the term of post-release control for the 32496
period of involuntary detention. 32497

If a parolee, person under a community control sanction, 32498
person under transitional control, or releasee escapes from an 32499
institution or facility within the department of ~~mental health~~ 32500
mental health and addiction services or the department of 32501
developmental disabilities, the superintendent of the institution 32502
immediately shall notify the chief of the adult parole authority 32503
or the chief probation officer. Notwithstanding the provisions of 32504
section 5122.26 of the Revised Code, the procedure for the 32505
apprehension, detention, and return of the parolee, person under a 32506
community control sanction, person under transitional control, or 32507
releasee is the same as that provided for the apprehension, 32508
detention, and return of persons who escape from institutions 32509
operated by the department of rehabilitation and correction. If 32510
the escaped parolee, person under transitional control, or 32511
releasee is not apprehended and returned to the custody of the 32512
department of ~~mental health~~ mental health and addiction services 32513
or the department of developmental disabilities within ninety days 32514
after the escape, the parolee, person under transitional control, 32515
or releasee shall be discharged from the custody of the department 32516
of ~~mental health~~ mental health and addiction services or the 32517
department of developmental disabilities and returned to the 32518
custody of the department of rehabilitation and correction. If the 32519
escaped person under a community control sanction is not 32520
apprehended and returned to the custody of the department of 32521
~~mental health~~ mental health and addiction services or the 32522
department of developmental disabilities within ninety days after 32523
the escape, the person under a community control sanction shall be 32524
discharged from the custody of the department of ~~mental health~~ 32525
mental health and addiction services or the department of 32526

developmental disabilities and returned to the custody of the 32527
court that sentenced that person. 32528

Sec. 2981.12. (A) Unclaimed or forfeited property in the 32529
custody of a law enforcement agency, other than property described 32530
in division (A)(2) of section 2981.11 of the Revised Code, shall 32531
be disposed of by order of any court of record that has 32532
territorial jurisdiction over the political subdivision that 32533
employs the law enforcement agency, as follows: 32534

(1) Drugs shall be disposed of pursuant to section 3719.11 of 32535
the Revised Code or placed in the custody of the secretary of the 32536
treasury of the United States for disposal or use for medical or 32537
scientific purposes under applicable federal law. 32538

(2) Firearms and dangerous ordnance suitable for police work 32539
may be given to a law enforcement agency for that purpose. 32540
Firearms suitable for sporting use or as museum pieces or 32541
collectors' items may be sold at public auction pursuant to 32542
division (B) of this section. The agency may sell other firearms 32543
and dangerous ordnance to a federally licensed firearms dealer in 32544
a manner that the court considers proper. The agency shall destroy 32545
any firearms or dangerous ordnance not given to a law enforcement 32546
agency or sold or shall send them to the bureau of criminal 32547
identification and investigation for destruction by the bureau. 32548

(3) Obscene materials shall be destroyed. 32549

(4) Beer, intoxicating liquor, or alcohol seized from a 32550
person who does not hold a permit issued under Chapters 4301. and 32551
4303. of the Revised Code or otherwise forfeited to the state for 32552
an offense under section 4301.45 or 4301.53 of the Revised Code 32553
shall be sold by the division of liquor control if the division 32554
determines that it is fit for sale or shall be placed in the 32555
custody of the investigations unit in the department of public 32556
safety and be used for training relating to law enforcement 32557

activities. The department, with the assistance of the division of 32558
liquor control, shall adopt rules in accordance with Chapter 119. 32559
of the Revised Code to provide for the distribution to state or 32560
local law enforcement agencies upon their request. If any tax 32561
imposed under Title XLIII of the Revised Code has not been paid in 32562
relation to the beer, intoxicating liquor, or alcohol, any moneys 32563
acquired from the sale shall first be used to pay the tax. All 32564
other money collected under this division shall be paid into the 32565
state treasury. Any beer, intoxicating liquor, or alcohol that the 32566
division determines to be unfit for sale shall be destroyed. 32567

(5) Money received by an inmate of a correctional institution 32568
from an unauthorized source or in an unauthorized manner shall be 32569
returned to the sender, if known, or deposited in the inmates' 32570
industrial and entertainment fund of the institution if the sender 32571
is not known. 32572

(6)(a) Any mobile instrumentality forfeited under this 32573
chapter may be given to the law enforcement agency that initially 32574
seized the mobile instrumentality for use in performing its 32575
duties, if the agency wants the mobile instrumentality. The agency 32576
shall take the mobile instrumentality subject to any security 32577
interest or lien on the mobile instrumentality. 32578

(b) Vehicles and vehicle parts forfeited under sections 32579
4549.61 to 4549.63 of the Revised Code may be given to a law 32580
enforcement agency for use in performing its duties. Those parts 32581
may be incorporated into any other official vehicle. Parts that do 32582
not bear vehicle identification numbers or derivatives of them may 32583
be sold or disposed of as provided by rules of the director of 32584
public safety. Parts from which a vehicle identification number or 32585
derivative of it has been removed, defaced, covered, altered, or 32586
destroyed and that are not suitable for police work or 32587
incorporation into an official vehicle shall be destroyed and sold 32588
as junk or scrap. 32589

(7) Computers, computer networks, computer systems, and 32590
computer software suitable for police work may be given to a law 32591
enforcement agency for that purpose or disposed of under division 32592
(B) of this section. 32593

(8) Money seized in connection with a violation of section 32594
2905.32, 2907.21, or 2907.22 of the Revised Code shall be 32595
deposited in the victims of human trafficking fund created by 32596
section 5101.87 of the Revised Code. 32597

(B) Unclaimed or forfeited property that is not described in 32598
division (A) of this section or division (A)(2) of section 2981.11 32599
of the Revised Code, with court approval, may be used by the law 32600
enforcement agency in possession of it. If it is not used by the 32601
agency, it may be sold without appraisal at a public auction to 32602
the highest bidder for cash or disposed of in another manner that 32603
the court considers proper. 32604

(C) Except as provided in divisions (A) and (F) of this 32605
section and after compliance with division (D) of this section 32606
when applicable, any moneys acquired from the sale of property 32607
disposed of pursuant to this section shall be placed in the 32608
general revenue fund of the state, or the general fund of the 32609
county, the township, or the municipal corporation of which the 32610
law enforcement agency involved is an agency. 32611

(D) If the property was in the possession of the law 32612
enforcement agency in relation to a delinquent child proceeding in 32613
a juvenile court, ten per cent of any moneys acquired from the 32614
sale of property disposed of under this section shall be applied 32615
to one or more ~~alcohol and drug~~ community addiction treatment 32616
~~programs~~ services providers that are certified by the department 32617
of ~~alcohol and drug addiction services~~ mental health and addiction
services under section ~~3793.06~~ 5119.36 of the Revised Code. A 32618
juvenile court shall not specify a ~~program~~ services provider, 32619
except as provided in this division, unless the ~~program~~ services 32620
32621

provider is in the same county as the court or in a contiguous 32622
county. If no certified ~~program~~ services provider is located in 32623
any of those counties, the juvenile court may specify a certified 32624
~~program~~ services provider anywhere in Ohio. The remaining ninety 32625
per cent of the proceeds or cash shall be applied as provided in 32626
division (C) of this section. 32627

Each ~~treatment program~~ services provider that receives in any 32628
calendar year forfeited money under this division shall file an 32629
annual report for that year with the attorney general and with the 32630
court of common pleas and board of county commissioners of the 32631
county in which the ~~program~~ services provider is located and of 32632
any other county from which the ~~program~~ services provider received 32633
forfeited money. The ~~program~~ services provider shall file the 32634
report on or before the first day of March in the calendar year 32635
following the calendar year in which the ~~program~~ services provider 32636
received the money. The report shall include statistics on the 32637
number of persons the ~~program~~ services provider served, identify 32638
the types of treatment services it provided to them, and include a 32639
specific accounting of the purposes for which it used the money so 32640
received. No information contained in the report shall identify, 32641
or enable a person to determine the identity of, any person served 32642
by the ~~program~~ services provider. 32643

(E) Each certified ~~alcohol and drug~~ community addiction 32644
~~treatment program~~ services provider that receives in any calendar 32645
year money under this section or under section 2981.13 of the 32646
Revised Code as the result of a juvenile forfeiture order shall 32647
file an annual report for that calendar year with the attorney 32648
general and with the court of common pleas and board of county 32649
commissioners of the county in which the ~~program~~ services provider 32650
is located and of any other county from which the ~~program~~ services 32651
provider received the money. The ~~program~~ services provider shall 32652
file the report on or before the first day of March in the 32653

calendar year following the year in which the ~~program~~ services 32654
provider received the money. The report shall include statistics 32655
on the number of persons served with the money, identify the types 32656
of treatment services provided, and specifically account for how 32657
the money was used. No information in the report shall identify or 32658
enable a person to determine the identity of anyone served by the 32659
~~program~~ services provider. 32660

As used in this division, "juvenile-related forfeiture order" 32661
means any forfeiture order issued by a juvenile court under 32662
section 2981.04 or 2981.05 of the Revised Code and any disposal of 32663
property ordered by a court under section 2981.11 of the Revised 32664
Code regarding property that was in the possession of a law 32665
enforcement agency in relation to a delinquent child proceeding in 32666
a juvenile court. 32667

(F) Each board of county commissioners that recognizes a 32668
citizens' reward program under section 9.92 of the Revised Code 32669
shall notify each law enforcement agency of that county and of a 32670
township or municipal corporation wholly located in that county of 32671
the recognition by filing a copy of its resolution conferring that 32672
recognition with each of those agencies. When the board recognizes 32673
a citizens' reward program and the county includes a part, but not 32674
all, of the territory of a municipal corporation, the board shall 32675
so notify the law enforcement agency of that municipal corporation 32676
of the recognition of the citizens' reward program only if the 32677
county contains the highest percentage of the municipal 32678
corporation's population. 32679

Upon being so notified, each law enforcement agency shall pay 32680
twenty-five per cent of any forfeited proceeds or cash derived 32681
from each sale of property disposed of pursuant to this section to 32682
the citizens' reward program for use exclusively to pay rewards. 32683
No part of the funds may be used to pay expenses associated with 32684
the program. If a citizens' reward program that operates in more 32685

than one county or in another state in addition to this state 32686
receives funds under this section, the funds shall be used to pay 32687
rewards only for tips and information to law enforcement agencies 32688
concerning offenses committed in the county from which the funds 32689
were received. 32690

Receiving funds under this section or section 2981.11 of the 32691
Revised Code does not make the citizens' reward program a 32692
governmental unit or public office for purposes of section 149.43 32693
of the Revised Code. 32694

(G) Any property forfeited under this chapter shall not be 32695
used to pay any fine imposed upon a person who is convicted of or 32696
pleads guilty to an underlying criminal offense or a different 32697
offense arising out of the same facts and circumstances. 32698

(H) Any moneys acquired from the sale of personal effects, 32699
tools, or other property seized because the personal effects, 32700
tools, or other property were used in the commission of a 32701
violation of section 2905.32, 2907.21, or 2907.22 of the Revised 32702
Code or derived from the proceeds of the commission of a violation 32703
of section 2905.32, 2907.21, or 2907.22 of the Revised Code and 32704
disposed of pursuant to this section shall be placed in the 32705
victims of human trafficking fund created by section 5101.87 of 32706
the Revised Code. 32707

Sec. 3101.051. (A) Except as provided in division (B) of this 32708
section, a probate court shall make available to any person for 32709
inspection the records pertaining to the issuance of marriage 32710
licenses as provided under section 149.43 of the Revised Code. 32711

(B) Before it makes available to a person any records 32712
pertaining to the issuance of a marriage license as described in 32713
division (A) of this section, subject to division (C) of this 32714
section, a probate court shall delete or otherwise remove any 32715
social security numbers of the parties to a marriage so that they 32716

are not available to the person inspecting the records. 32717

(C) Division (B) of this section does not apply in any of the 32718
following circumstances: 32719

(1) If the records in question are inspected by authorized 32720
personnel of the division of child support in the department of 32721
job and family services under section ~~5101.31~~ 5101.37 of the 32722
Revised Code; 32723

(2) If the records in question are inspected by law 32724
enforcement personnel for purposes of a criminal investigation; 32725

(3) If the records in question with the social security 32726
numbers are necessary for use in a civil or criminal trial and the 32727
release of the records with the social security numbers is ordered 32728
by a court with jurisdiction over the trial; 32729

(4) If the records in question are inspected by either party 32730
to the marriage to which the records pertain; 32731

(5) If the court possessed the records in question prior to 32732
the effective date of this section. 32733

Sec. 3107.083. Not later than ninety days after June 20, 32734
1996, the director of job and family services shall do all of the 32735
following: 32736

(A)(1) For a parent of a child who, if adopted, will be an 32737
adopted person as defined in section 3107.45 of the Revised Code, 32738
prescribe a form that has the following six components: 32739

(a) A component the parent signs under section 3107.071, 32740
3107.081, or 5103.151 of the Revised Code to indicate the 32741
requirements of section 3107.082 or 5103.152 of the Revised Code 32742
have been met. The component shall be as follows: 32743

"Statement Concerning Ohio Law and Adoption Materials 32744

By signing this component of this form, I acknowledge that it 32745

has been explained to me, and I understand, that, if I check the 32746
space on the next component of this form that indicates that I 32747
authorize the release, the adoption file maintained by the Ohio 32748
Department of Health, which contains identifying information about 32749
me at the time of my child's birth, will be released, on request, 32750
to the adoptive parent when the adoptee is at least age eighteen 32751
but younger than age twenty-one and to the adoptee when he or she 32752
is age twenty-one or older. It has also been explained to me, and 32753
I understand, that I may prohibit the release of identifying 32754
information about me contained in the adoption file by checking 32755
the space on the next component of this form that indicates that I 32756
do not authorize the release of the identifying information. It 32757
has additionally been explained to me, and I understand, that I 32758
may change my mind regarding the decision I make on the next 32759
component of this form at any time and as many times as I desire 32760
by signing, dating, and having filed with the Ohio Department of 32761
Health a denial of release form or authorization of release form 32762
prescribed and provided by the Department of Health and providing 32763
the Department two items of identification. 32764

By signing this component of this form, I also acknowledge 32765
that I have been provided a copy of written materials about 32766
adoption prepared by the Ohio Department of Job and Family 32767
Services, the adoption process and ramifications of consenting to 32768
adoption or entering into a voluntary permanent custody surrender 32769
agreement have been discussed with me, and I have been provided 32770
the opportunity to review the materials and ask questions about 32771
the materials and discussion. 32772

Signature of biological parent: 32773
Signature of witness: 32774
Date: " 32775

(b) A component the parent signs under section 3107.071, 32776
3107.081, or 5103.151 of the Revised Code regarding the parent's 32777

decision whether to allow identifying information about the parent 32778
contained in an adoption file maintained by the department of 32779
health to be released to the parent's child and adoptive parent 32780
pursuant to section 3107.47 of the Revised Code. The component 32781
shall be as follows: 32782

"Statement Regarding Release of Identifying Information 32783

The purpose of this component of this form is to allow a 32784
biological parent to decide whether to allow the Ohio Department 32785
of Health to provide an adoptee and adoptive parent identifying 32786
information about the adoptee's biological parent contained in an 32787
adoption file maintained by the Department. Please check one of 32788
the following spaces: 32789

..... YES, I authorize the Ohio Department of Health to 32790
release identifying information about me, on
request, to the adoptive parent when the adoptee is
at least age eighteen but younger than age
twenty-one and to the adoptee when he or she is age
twenty-one or older.

..... NO, I do not authorize the release of identifying 32791
information about me to the adoptive parent or
adoptee.

Signature of biological parent: 32792

Signature of witness: 32793

Date: " 32794

(c) A component the parent, if the mother of the child, 32795
completes and signs under section 3107.071, 3107.081, or 5103.151 32796
of the Revised Code to indicate, to the extent of the mother's 32797
knowledge, all of the following: 32798

(i) Whether the mother, during her pregnancy, was a recipient 32799
of the ~~medical assistance~~ medicaid program ~~established under~~ 32800
~~Chapter 5111. of the Revised Code~~ or other public health insurance 32801
program and, if so, the dates her eligibility began and ended; 32802

- (ii) Whether the mother, during her pregnancy, was covered by private health insurance and, if so, the dates the coverage began and ended, the name of the insurance provider, the type of coverage, and the identification number of the coverage; 32803
32804
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32806
- (iii) The name and location of the hospital, freestanding birth center, or other place where the mother gave birth and, if different, received medical care immediately after giving birth; 32807
32808
32809
- (iv) The expenses of the obstetrical and neonatal care; 32810
- (v) Whether the mother has been informed that the adoptive parent or the agency or attorney arranging the adoption are to pay expenses involved in the adoption, including expenses the mother has paid and expects to receive or has received reimbursement, and, if so, what expenses are to be or have been paid and an estimate of the expenses; 32811
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32813
32814
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- (vi) Any other information related to expenses the department determines appropriate to be included in this component. 32817
32818
- (d) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent materials, other than photographs of the parent, that the parent requests be given to the child or adoptive parent pursuant to section 3107.68 of the Revised Code. 32819
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- (e) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent photographs of the parent pursuant to section 3107.68 of the Revised Code. 32824
32825
32826
32827
- (f) A component the parent may sign to authorize the agency or attorney arranging the adoption to provide to the child or adoptive parent the first name of the parent pursuant to section 3107.68 of the Revised Code. 32828
32829
32830
32831
- (2) State at the bottom of the form that the parent is to 32832

receive a copy of the form the parent signed. 32833

(3) Provide copies of the form prescribed under this division 32834
to probate and juvenile courts, public children services agencies, 32835
private child placing agencies, private noncustodial agencies, 32836
attorneys, and persons authorized to take acknowledgments. 32837

(B)(1) For a parent of a child who, if adopted, will become 32838
an adopted person as defined in section 3107.39 of the Revised 32839
Code, prescribe a form that has the following five components: 32840

(a) A component the parent signs under section 3107.071, 32841
3107.081, or 5103.151 of the Revised Code to attest that the 32842
requirement of division (A) of section 3107.082 or division (A) of 32843
section 5103.152 of the Revised Code has been met; 32844

(b) A component the parent, if the mother of the child, 32845
completes and signs under section 3107.071, 3107.081, or 5103.151 32846
of the Revised Code to indicate, to the extent of the mother's 32847
knowledge, all of the following: 32848

(i) Whether the mother, during her pregnancy, was a recipient 32849
of the ~~medical assistance~~ medicaid program ~~established under~~ 32850
~~Chapter 5111. of the Revised Code~~ or other public health insurance 32851
program and, if so, the dates her eligibility began and ended; 32852

(ii) Whether the mother, during her pregnancy, was covered by 32853
private health insurance and, if so, the dates the coverage began 32854
and ended, the name of the insurance provider, the type of 32855
coverage, and the identification number of the coverage; 32856

(iii) The name and location of the hospital, freestanding 32857
birth center, or other place where the mother gave birth and, if 32858
different, received medical care immediately after giving birth; 32859

(iv) The expenses of the obstetrical and neonatal care; 32860

(v) Whether the mother has been informed that the adoptive 32861
parent or the agency or attorney arranging the adoption are to pay 32862

expenses involved in the adoption, including expenses the mother 32863
has paid and expects to receive or has received reimbursement for, 32864
and, if so, what expenses are to be or have been paid and an 32865
estimate of the expenses; 32866

(vi) Any other information related to expenses the department 32867
determines appropriate to be included in the component. 32868

(c) A component the parent may sign to authorize the agency 32869
or attorney arranging the adoption to provide to the child or 32870
adoptive parent materials, other than photographs of the parent, 32871
that the parent requests be given to the child or adoptive parent 32872
pursuant to section 3107.68 of the Revised Code. 32873

(d) A component the parent may sign to authorize the agency 32874
or attorney arranging the adoption to provide to the child or 32875
adoptive parent photographs of the parent pursuant to section 32876
3107.68 of the Revised Code. 32877

(e) A component the parent may sign to authorize the agency 32878
or attorney arranging the adoption to provide to the child or 32879
adoptive parent the first name of the parent pursuant to section 32880
3107.68 of the Revised Code. 32881

(2) State at the bottom of the form that the parent is to 32882
receive a copy of the form the parent signed. 32883

(3) Provide copies of the form prescribed under this division 32884
to probate and juvenile courts, public children services agencies, 32885
private child placing agencies, private noncustodial agencies, and 32886
attorneys. 32887

(C) Prepare the written materials about adoption that are 32888
required to be given to parents under division (A) of section 32889
3107.082 and division (A) of section 5103.152 of the Revised Code. 32890
The materials shall provide information about the adoption 32891
process, including ramifications of a parent consenting to a 32892
child's adoption or entering into a voluntary permanent custody 32893

surrender agreement. The materials also shall include referral 32894
information for professional counseling and adoption support 32895
organizations. The director shall provide the materials to 32896
assessors. 32897

(D) Adopt rules in accordance with Chapter 119. of the 32898
Revised Code specifying the documents that must be filed with a 32899
probate court under divisions (B) and (D) of section 3107.081 of 32900
the Revised Code and a juvenile court under divisions (C) and (E) 32901
of section 5103.151 of the Revised Code. 32902

Sec. 3109.15. There is hereby created within the department 32903
of job and family services the children's trust fund board 32904
consisting of fifteen members. The directors of ~~alcohol and drug~~ 32905
~~addiction services~~ mental health and addiction services, health, 32906
and job and family services shall be members of the board. Eight 32907
public members shall be appointed by the governor. These members 32908
shall be persons with demonstrated knowledge in programs for 32909
children, shall be representative of the demographic composition 32910
of this state, and, to the extent practicable, shall be 32911
representative of the following categories: the educational 32912
community; the legal community; the social work community; the 32913
medical community; the voluntary sector; and professional 32914
providers of child abuse and child neglect services. Five of these 32915
members shall be residents of metropolitan statistical areas as 32916
defined by the United States office of management and budget where 32917
the population exceeds four hundred thousand; no two such members 32918
shall be residents of the same metropolitan statistical area. Two 32919
members of the board shall be members of the house of 32920
representatives appointed by the speaker of the house of 32921
representatives and shall be members of two different political 32922
parties. Two members of the board shall be members of the senate 32923
appointed by the president of the senate and shall be members of 32924
two different political parties. All members of the board 32925

appointed by the speaker of the house of representatives or the 32926
president of the senate shall serve until the expiration of the 32927
sessions of the general assembly during which they were appointed. 32928
They may be reappointed to an unlimited number of successive terms 32929
of two years at the pleasure of the speaker of the house of 32930
representatives or president of the senate. Public members shall 32931
serve terms of three years. Each member shall serve until the 32932
member's successor is appointed, or until a period of sixty days 32933
has elapsed, whichever occurs first. No public member may serve 32934
more than two consecutive full terms. All vacancies on the board 32935
shall be filled for the balance of the unexpired term in the same 32936
manner as the original appointment. 32937

Any member of the board may be removed by the member's 32938
appointing authority for misconduct, incompetency, or neglect of 32939
duty after first being given the opportunity to be heard in the 32940
member's own behalf. Pursuant to section 3.17 of the Revised Code, 32941
a member, except a member of the general assembly or a judge of 32942
any court in the state, who fails to attend at least three-fifths 32943
of the regular and special meetings held by the board during any 32944
two-year period forfeits the member's position on the board. 32945

Each member of the board shall serve without compensation but 32946
shall be reimbursed for all actual and necessary expenses incurred 32947
in the performance of official duties. 32948

At the beginning of the first year of each even-numbered 32949
general assembly, the chairperson of the board shall be appointed 32950
by the speaker of the house of representatives from among members 32951
of the board who are members of the house of representatives. At 32952
the beginning of the first year of each odd-numbered general 32953
assembly, the chairperson of the board shall be appointed by the 32954
president of the senate from among the members of the board who 32955
are senate members. 32956

The board shall biennially select a vice-chair from among its 32957

nonlegislative members. 32958

Sec. 3111.72. The contract between the department of job and 32959
family services and a local hospital shall require all of the 32960
following: 32961

(A) That the hospital provide a staff person to meet with 32962
each unmarried mother who gave birth in or en route to the 32963
hospital within twenty-four hours of the birth or before the 32964
mother is released from the hospital; 32965

(B) That the staff person attempt to meet with the father of 32966
the unmarried mother's child if possible; 32967

(C) That the staff person explain to the unmarried mother and 32968
the father, if he is present, the benefit to the child of 32969
establishing a parent and child relationship between the father 32970
and the child and the various proper procedures for establishing a 32971
parent and child relationship; 32972

(D) That the staff person present to the unmarried mother 32973
and, if possible, the father, the pamphlet or statement regarding 32974
the rights and responsibilities of a natural parent that is 32975
prepared and provided by the department of job and family services 32976
pursuant to section 3111.32 of the Revised Code; 32977

(E) That the staff person provide the mother and, if 32978
possible, the father, all forms and statements necessary to 32979
voluntarily establish a parent and child relationship, including, 32980
but not limited to, the acknowledgment of paternity affidavit 32981
prepared by the department of job and family services pursuant to 32982
section 3111.31 of the Revised Code; 32983

(F) That the staff person, at the request of both the mother 32984
and father, help the mother and father complete any form or 32985
statement necessary to establish a parent and child relationship; 32986

(G) That the hospital provide a notary public to notarize an 32987

acknowledgment of paternity affidavit signed by the mother and 32988
father; 32989

(H) That the staff person present to an unmarried mother who 32990
is not participating in the Ohio works first program established 32991
under Chapter 5107. ~~of the Revised Code~~ or receiving ~~medical~~ 32992
~~assistance under Chapter 5111. of the Revised Code~~ medicaid an 32993
application for Title IV-D services; 32994

(I) That the staff person forward any completed 32995
acknowledgment of paternity, no later than ten days after it is 32996
completed, to the office of child support in the department of job 32997
and family services; 32998

(J) That the department of job and family services pay the 32999
hospital twenty dollars for every correctly signed and notarized 33000
acknowledgment of paternity affidavit from the hospital. 33001

Sec. 3119.29. (A) As used in this section and sections 33002
3119.30 to 3119.56 of the Revised Code: 33003

(1) "Cash medical support" means an amount ordered to be paid 33004
in a child support order toward the cost of health insurance 33005
provided by a public entity, another parent, or person with whom 33006
the child resides, through employment or otherwise, or for other 33007
medical cost not covered by insurance. 33008

(2) "Federal poverty line" has the same meaning as defined in 33009
section 5104.01 of the Revised Code. 33010

(3) "Health care" means such medical support that includes 33011
coverage under a health insurance plan, payment of costs of 33012
premiums, ~~co-payments~~ copayments, and deductibles, or payment for 33013
medical expenses incurred on behalf of the child. 33014

(4) "Health insurance coverage" means accessible private 33015
health insurance that provides primary care services within thirty 33016
miles from the residence of the child subject to the child support 33017

order. 33018

(5) "Health plan administrator" means any entity authorized 33019
under Title XXXIX of the Revised Code to engage in the business of 33020
insurance in this state, any health insuring corporation, any 33021
legal entity that is self-insured and provides benefits to its 33022
employees or members, and the administrator of any such entity or 33023
corporation. 33024

(6) "National medical support notice" means a form required 33025
by the "Child Support Performance and Incentive Act of 1998," P.L. 33026
105-200, 112 Stat. 659, 42 U.S.C. 666(a)(19), as amended, and 33027
jointly developed and promulgated by the secretary of health and 33028
human services and the secretary of labor in federal regulations 33029
adopted under that act as modified by the department of job and 33030
family services under section 3119.291 of the Revised Code. 33031

(7) "Person required to provide health insurance coverage" 33032
means the obligor, obligee, or both, required by the court under a 33033
court child support order or by the child support enforcement 33034
agency under an administrative child support order to provide 33035
health insurance coverage pursuant to section 3119.30 of the 33036
Revised Code. 33037

(8) Subject to division (B) of this section, "reasonable 33038
cost" means the contributing cost of private family health 33039
insurance to the person responsible for the health care of the 33040
children subject to the child support order that does not exceed 33041
an amount equal to five per cent of the annual gross income of 33042
that person. 33043

(9) "Title XIX" has the same meaning as ~~defined~~ in section 33044
~~5111.20~~ 5165.01 of the Revised Code. 33045

(B) If the United States secretary of health and human 33046
services issues a regulation defining "reasonable cost" or a 33047
similar term or phrase relevant to the provisions in child support 33048

orders relating to the provision of health care for children 33049
subject to the orders, and if that definition is substantively 33050
different from the meaning of "reasonable cost" as defined in 33051
division (A) of this section, "reasonable cost" as used in this 33052
section shall have the meaning as defined by the United States 33053
secretary of health and human services. 33054

Sec. 3121.441. (A) Notwithstanding the provisions of this 33055
chapter, Chapters 3119., 3123., and 3125., and sections 3770.071 33056
and 5107.20 of the Revised Code providing for the office of child 33057
support in the department of job and family services to collect, 33058
withhold, or deduct spousal support, when a court pursuant to 33059
section 3105.18 or 3105.65 of the Revised Code issues or modifies 33060
an order requiring an obligor to pay spousal support or grants or 33061
modifies a decree of dissolution of marriage incorporating a 33062
separation agreement that provides for spousal support, or at any 33063
time after the issuance, granting, or modification of an order or 33064
decree of that type, the court may permit the obligor to make the 33065
spousal support payments directly to the obligee instead of to the 33066
office if the obligee and the obligor have no minor children born 33067
as a result of their marriage and the obligee has not assigned the 33068
spousal support amounts to the department pursuant to section 33069
~~5101.59~~ ~~or~~ 5107.20 or 5160.38 of the Revised Code. 33070

(B) A court that permits an obligor to make spousal support 33071
payments directly to the obligee pursuant to division (A) of this 33072
section shall order the obligor to make the spousal support 33073
payments as a check, as a money order, or in any other form that 33074
establishes a clear record of payment. 33075

(C) If a court permits an obligor to make spousal support 33076
payments directly to an obligee pursuant to division (A) of this 33077
section and the obligor is in default in making any spousal 33078
support payment to the obligee, the court, upon motion of the 33079

obligee or on its own motion, may rescind the permission granted 33080
under that division. After the rescission, the court shall 33081
determine the amount of arrearages in the spousal support payments 33082
and order the obligor to make to the office of child support in 33083
the department of job and family services any spousal support 33084
payments that are in arrears and any future spousal support 33085
payments. Upon the issuance of the order of the court under this 33086
division, the provisions of this chapter, Chapters 3119., 3123., 33087
and 3125., and sections 3770.071 and 5107.20 of the Revised Code 33088
apply with respect to the collection, withholding, or deduction of 33089
the obligor's spousal support payments that are the subject of 33090
that order of the court. 33091

Sec. 3121.89. As used in sections 3121.891 to 3121.8911 of 33092
the Revised Code: 33093

(A) "Contractor" means an individual who provides services to 33094
an employer as an independent contractor for compensation that is 33095
reported as income other than wages and who is an individual, the 33096
sole shareholder of a corporation, or the sole member of a limited 33097
liability company. "Contractor" does not include any of the 33098
following: 33099

(1) An individual performing intelligence or 33100
counterintelligence functions for a state agency if the head of 33101
the agency has determined that reporting pursuant to this section 33102
could endanger the safety of the individual or compromise an 33103
ongoing investigation or intelligence mission; 33104

(2) A professionally licensed person who is providing 33105
services to the employer under that license; 33106

(3) An individual who will receive for the services provided 33107
under the contract compensation of less than two thousand five 33108
hundred dollars per year or a greater amount that the director of 33109
job and family services establishes by rule adopted under section 33110

3121.896 of the Revised Code. 33111

(B) "Employee" means an individual who is employed to provide 33112
services to an employer for compensation that is reported as 33113
income from wages. "Employee" does not include an individual 33114
performing intelligence or counterintelligence functions for a 33115
state agency, if the head of the agency has determined that 33116
reporting pursuant to this section could endanger the safety of 33117
the employee or compromise an ongoing investigation or 33118
intelligence mission. 33119

(C) "Employer" means any person or governmental entity other 33120
than the federal government for which an individual performs any 33121
service, of whatever nature, as the employee or contractor of such 33122
person, except that: 33123

(1) If the person for whom the individual performs services 33124
does not have control of the payment of compensation for the 33125
services, "employer" means the person having control of the 33126
payment of the compensation. 33127

(2) In the case of a person paying compensation on behalf of 33128
a nonresident alien individual, foreign partnership, or foreign 33129
corporation not engaged in trade or business within the United 33130
States, "employer" means the person paying the compensation. 33131

(3) In the case of compensation paid to a contractor, 33132
"employer" does not include any person or entity that lacks a 33133
federal employer identification number. 33134

(D) "Newly hired employee" means either of the following: 33135

(1) An employee who has not previously been employed by the 33136
employer; 33137

(2) An employee who was previously employed by an employer 33138
but has been separated from that prior employment for at least 33139
sixty consecutive days. 33140

(E) "Professionally licensed person" has the same meaning as 33141
in section 2925.01 of the Revised Code. 33142

Sec. 3121.891. (A) Except as provided in division (B) or (C) 33143
of this section, every employer shall make a new hire report to 33144
the department of job and family services regarding ~~the hiring,~~ 33145
~~rehiring, or return to work as an~~ a newly hired employee or a 33146
contractor of a person who resides, works, or will be assigned to 33147
work in this state to whom the employer anticipates paying 33148
compensation. 33149

(B) An employer with employees or contractors in two or more 33150
states that transmits new hire reports magnetically or 33151
electronically may make the new hire report to another state if 33152
the employer does both of the following: 33153

(1) Notifies the Ohio department of job and family services 33154
and the United States secretary of health and human services in 33155
writing that the employer has designated another state as the 33156
state to which the employer will transmit the report; 33157

(2) Transmits the report to that state in compliance with 33158
federal law. 33159

(C) The department may by rule exempt employers from making 33160
new hire reports on any classification of contractors if the 33161
department determines that exempting the employer will assist the 33162
administration of the new hire reporting requirement. 33163

Sec. 3121.892. (A) An employer shall include all of the 33164
following in each new hire report: 33165

(1) For each employee, the employee's name, address, date of 33166
birth, social security number, and date of hire, ~~rehire, or return~~ 33167
~~to work;~~ 33168

(2) For each contractor, the contractor's name, address, 33169

social security or tax identification number, the date payments 33170
begin, and the length of time the contractor will be performing 33171
services for the employer; 33172

(3) The employer's name, address, and identification number. 33173

(B) The department of job and family services may by rule 33174
require that additional information, specified in the rule, be 33175
included in each new hire report. 33176

Sec. 3121.893. An employer shall make a new hire report for 33177
each newly hired employee or contractor in a manner prescribed by 33178
the department of job and family services. The department may 33179
require that the report include or consist of the submission of a 33180
copy of the United States internal revenue service form W-4 33181
(employee's withholding allowance certificate) for the employee, a 33182
form provided by the department, or any other hiring document or 33183
data storage device or mechanism the department authorizes. An 33184
employer may make the new hire report by mail, fax, magnetic or 33185
electronic means, or other means the department authorizes. If an 33186
employer makes a new hire report by mail, the date of making the 33187
report is the postmark date if the report is mailed in the United 33188
States with first class postage and is addressed as the department 33189
authorizes. An employer shall make the new hire report not later 33190
than twenty days after the date on which the employer hires ~~or~~ 33191
~~rehires~~ an employee ~~or the employee returns to work~~ or the date on 33192
which the employer engages or re-engages the contractor or the 33193
contractor resumes providing services under the contract. 33194

Sec. 3121.898. The department of job and family services 33195
shall use the new hire reports it receives for any of the 33196
following purposes set forth in 42 U.S.C. 653a, as amended, 33197
including: 33198

(A) To locate individuals for the purposes of establishing 33199

paternity and for establishing, modifying, and enforcing child support orders. 33200
33201

(B) As used in this division, "state agency" means every department, bureau, board, commission, office, or other organized body established by the constitution or laws of this state for the exercise of state government; every entity of county government that is subject to the rules of a state agency; and every contractual agent of a state agency. 33202
33203
33204
33205
33206
33207

To make available to any state agency responsible for administering any of the following programs for purposes of verifying program eligibility: 33208
33209
33210

(1) Any Title IV-A program as defined in section 5101.80 of the Revised Code; 33211
33212

(2) The medicaid program ~~authorized by Chapter 5111. of the Revised Code;~~ 33213
33214

(3) The unemployment compensation program authorized by Chapter 4141. of the Revised Code; 33215
33216

(4) The supplemental nutrition assistance program authorized by section 5101.54 of the Revised Code; 33217
33218

(5) Any other program authorized in 42 U.S.C. 1320b-7(b), as amended. 33219
33220

(C) The administration of the employment security program under the director of job and family services. 33221
33222

Sec. 3123.958. The office of child support ~~shall~~ may publish and distribute ~~the first~~ a set of posters throughout the state ~~not later than October 1, 1992. The office shall publish and distribute subsequent sets of posters not less than twice~~ annually. 33223
33224
33225
33226
33227

Sec. 3125.36. (A) Subject to division (B) of this section, 33228

all support orders that are administered by a child support 33229
enforcement agency designated under section 307.981 of the Revised 33230
Code or former section 2301.35 of the Revised Code and are 33231
eligible for Title IV-D services shall be Title IV-D cases under 33232
Title IV-D of the "Social Security Act." Subject to division (B) 33233
of this section, all obligees of support orders administered by 33234
the agency shall be considered to have filed a signed application 33235
for Title IV-D services. 33236

(B) Except as provided in division (D) of this section, a 33237
court that issues or modifies a support order shall require the 33238
obligee under the order to sign, at the time of the issuance or 33239
modification of the order, an application for Title IV-D services 33240
and to file, as soon as possible, the signed application with the 33241
child support enforcement agency that will administer the order. 33242
The application shall be on a form prescribed by the department of 33243
job and family services. Except as provided in division (D) of 33244
this section, a support order that is administered by a child 33245
support enforcement agency, and that is eligible for Title IV-D 33246
services shall be a Title IV-D case under Title IV-D of the 33247
"Social Security Act" only upon the filing of the signed 33248
application for Title IV-D services. 33249

(C) A child support enforcement agency shall make available 33250
an application for Title IV-D services to all persons requesting a 33251
child support enforcement agency's assistance in an action under 33252
sections 3111.01 to 3111.18 of the Revised Code or in an 33253
administrative proceeding brought to establish a parent and child 33254
relationship, to establish or modify an administrative support 33255
order, or to establish or modify an order to provide health 33256
insurance coverage for the children subject to a support order. 33257

(D) An obligee under a support order who has assigned the 33258
right to the support pursuant to section ~~5101.59~~ or 5107.20 or 33259

5160.38 of the Revised Code shall not be required to sign an 33260
application for Title IV-D services. The support order shall be 33261
considered a Title IV-D case. 33262

Sec. 3301.07. The state board of education shall exercise 33263
under the acts of the general assembly general supervision of the 33264
system of public education in the state. In addition to the powers 33265
otherwise imposed on the state board under the provisions of law, 33266
the board shall have the powers described in this section. 33267

(A) The state board shall exercise policy forming, planning, 33268
and evaluative functions for the public schools of the state 33269
except as otherwise provided by law. 33270

(B)(1) The state board shall exercise leadership in the 33271
improvement of public education in this state, and administer the 33272
educational policies of this state relating to public schools, and 33273
relating to instruction and instructional material, building and 33274
equipment, transportation of pupils, administrative 33275
responsibilities of school officials and personnel, and finance 33276
and organization of school districts, educational service centers, 33277
and territory. Consultative and advisory services in such matters 33278
shall be provided by the board to school districts and educational 33279
service centers of this state. 33280

(2) The state board also shall develop a standard of 33281
financial reporting which shall be used by each school district 33282
board of education and ~~educational service center~~ each governing 33283
board of an educational service center, each governing authority 33284
of a community school established under Chapter 3314., each 33285
governing body of a STEM school established under Chapter 3328., 33286
and each board of trustees of a college-preparatory boarding 33287
school established under Chapter 3328. of the Revised Code to make 33288
its financial information and annual budgets for each school 33289
building under its control available to the public in a format 33290

understandable by the average citizen. The format shall show, 33291
~~among other things, both at the district and educational service~~ 33292
~~center level or and at the school building level, as determined~~ 33293
~~appropriate by the department of education, revenue by source; and~~ 33294
~~expenditures for salaries, wages, and benefits of employees,~~ 33295
~~showing such amounts separately for classroom teachers, other~~ 33296
~~employees required to hold licenses issued pursuant to sections~~ 33297
~~3319.22 to 3319.31 of the Revised Code, and all other employees;~~ 33298
~~expenditures other than for personnel, by category, including~~ 33299
~~utilities, textbooks and other educational materials, equipment,~~ 33300
~~permanent improvements, pupil transportation, extracurricular~~ 33301
~~athletics, and other extracurricular activities; and per pupil~~ 33302
~~expenditures for both classroom and nonclassroom purposes, as~~ 33303
~~defined by the standards adopted under section 3302.20 of the~~ 33304
~~Revised Code in the aggregate and for each subgroup of students,~~ 33305
~~as defined by section 3317.40 of the Revised Code, that receives~~ 33306
~~services provided for by state or federal funding. The format~~ 33307
~~shall also include information on total revenue and expenditures,~~ 33308
~~as well as per pupil revenue and expenditures.~~ 33309

(3) Each school district board, governing authority, 33310
governing body, or board of trustees, or its respective designee, 33311
shall annually report, to the department of education, all 33312
financial information required by the standards for financial 33313
reporting, as prescribed by division (B)(2) of this section and 33314
adopted by the state board. The department shall post these 33315
reports in a prominent location on its web site and shall notify 33316
each school when reports are made available. 33317

(C) The state board shall administer and supervise the 33318
allocation and distribution of all state and federal funds for 33319
public school education under the provisions of law, and may 33320
prescribe such systems of accounting as are necessary and proper 33321
to this function. It may require county auditors and treasurers, 33322

boards of education, educational service center governing boards, 33323
treasurers of such boards, teachers, and other school officers and 33324
employees, or other public officers or employees, to file with it 33325
such reports as it may prescribe relating to such funds, or to the 33326
management and condition of such funds. 33327

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, 33328
XLVII, and LI of the Revised Code a reference is made to standards 33329
prescribed under this section or division (D) of this section, 33330
that reference shall be construed to refer to the standards 33331
prescribed under division (D)(2) of this section, unless the 33332
context specifically indicates a different meaning or intent. 33333

(2) The state board shall formulate and prescribe minimum 33334
standards to be applied to all elementary and secondary schools in 33335
this state for the purpose of ~~requiring~~ providing children access 33336
to a general education of high quality. Such standards shall 33337
provide ~~adequately~~ for: the licensing of teachers, administrators, 33338
and other professional personnel ~~and their assignment according to~~ 33339
~~training and qualifications; efficient and effective instructional~~ 33340
~~materials and equipment, including library facilities; the proper~~ 33341
~~organization, administration, and supervision~~ of each school, 33342
including regulations for preparing all necessary records and 33343
reports ~~and the preparation of a statement of policies and~~ 33344
~~objectives for each school; the provision of safe~~ buildings, 33345
grounds, health and sanitary facilities and services; admission of 33346
pupils, and such requirements for their promotion from grade to 33347
grade as will assure that they are capable and prepared for the 33348
level of study to which they are certified; requirements for 33349
graduation; and such other factors as the board finds necessary. 33350

The state board shall base any standards governing the 33351
promotion of students or requirements for graduation on the 33352
ability of students, at any grade level, to earn credits or 33353
advance upon demonstration of mastery of knowledge and skills 33354

through competency-based learning models. Credits of grade level 33355
advancement shall not require a minimum number of days or hours in 33356
a classroom. 33357

The state board shall base any standards governing the 33358
assignment of staff on ensuring each school has a sufficient 33359
number of teachers to ensure a student has an appropriate level of 33360
interaction to meet each student's personal learning goals. 33361

In the formulation and administration of such standards for 33362
nonpublic schools the board shall also consider the particular 33363
needs, methods and objectives of those schools, provided they do 33364
not conflict with the provision of a general education of a high 33365
quality and provided that regular procedures shall be followed for 33366
promotion from grade to grade of pupils who have met the 33367
educational requirements prescribed. 33368

~~In the formulation and administration of such standards as~~ 33369
~~they relate to instructional materials and equipment in public~~ 33370
~~schools, including library materials, the board shall require that~~ 33371
~~the material and equipment be aligned with and promote skills~~ 33372
~~expected under the statewide academic standards adopted under~~ 33373
~~section 3301.079 of the Revised Code.~~ 33374

(3) In addition to the minimum standards required by division 33375
(D)(2) of this section, the state board may formulate and 33376
prescribe the following additional minimum operating standards for 33377
school districts: 33378

(a) Standards for the effective and efficient organization, 33379
administration, and supervision of each school district ~~so that it~~ 33380
~~becomes a thinking and learning organization according to~~ 33381
~~principles of systems design and collaborative professional~~ 33382
~~learning communities research as defined by the superintendent of~~ 33383
~~public instruction, including a focus on the personalized and~~ 33384
~~individualized needs of each student; a shared responsibility~~ 33385

~~among school boards, administrators, faculty, and staff to develop 33386
a common vision, mission, and set of guiding principles; a shared 33387
responsibility among school boards, administrators, faculty, and 33388
staff to engage in a process of collective inquiry, action 33389
orientation, and experimentation to ensure the academic success of 33390
all students; commitment to teaching and learning strategies that 33391
utilize technological tools and emphasize inter disciplinary, 33392
real world, project based, and technology oriented learning 33393
experiences to meet the individual needs of every student; with a 33394
commitment to high expectations for every student and commitment 33395
to closing the achievement gap so that all students achieve core 33396
knowledge and skills in accordance with the statewide academic 33397
standards adopted under section 3301.079 of the Revised Code; 33398
~~commitment to the use of assessments to diagnose the needs of each 33399
student; effective connections and relationships with families and 33400
others that support student success; and commitment to the use of 33401
positive behavior intervention supports throughout a district to 33402
ensure a safe and secure learning environment for all students;~~ 33403~~

(b) Standards for the establishment of business advisory 33404
councils under section 3313.82 of the Revised Code; 33405

(c) Standards for school district buildings that may require+ 33406

~~(i) The the effective and efficient organization, 33407
administration, and supervision of each school district building 33408
so that it becomes a thinking and learning organization according 33409
to principles of systems design and collaborative professional 33410
learning communities research as defined by the state 33411
superintendent, including a focus on the personalized and 33412
individualized needs of each student; a shared responsibility 33413
among building administrators, faculty, and staff to develop a 33414
common vision, mission, and set of guiding principles; a shared 33415
responsibility among building administrators, faculty, and staff 33416
to engage in a process of collective inquiry, action orientation, 33417~~

~~and experimentation to ensure the academic success of all 33418
students; commitment to job embedded professional development and 33419
professional mentoring and coaching; established periods of time 33420
for teachers to pursue planning time for the development of lesson 33421
plans, professional development, and shared learning; commitment 33422
to effective management strategies that allow administrators 33423
reasonable access to classrooms for observation and professional 33424
development experiences; commitment to teaching and learning 33425
strategies that utilize technological tools and emphasize 33426
inter-disciplinary, real-world, project based, and 33427
technology oriented learning experiences to meet the individual 33428
needs of every student; with a commitment to high expectations for 33429
every student and commitment to closing the achievement gap so 33430
that all students achieve core knowledge and skills in accordance 33431
with the statewide academic standards adopted under section 33432
3301.079 of the Revised Code; ~~commitment to the use of assessments 33433
to diagnose the needs of each student; effective connections and 33434
relationships with families and others that support student 33435
success; commitment to the use of positive behavior intervention 33436
supports throughout the building to ensure a safe and secure 33437
learning environment for all students;~~ 33438~~

~~(ii) A school building leadership team to coordinate positive 33439
behavior intervention supports, learning environments, thinking 33440
and learning systems, collaborative planning, planning time, 33441
student academic interventions, student extended learning 33442
opportunities, and other activities identified by the team and 33443
approved by the district board of education. The team shall 33444
include the building principal, representatives from each 33445
collective bargaining unit, a classroom teacher, parents, business 33446
representatives, and others that support student success. 33447~~

~~(E) The state board may require as part of the health 33448
curriculum information developed under section 2108.34 of the 33449~~

Revised Code promoting the donation of anatomical gifts pursuant 33450
to Chapter 2108. of the Revised Code and may provide the 33451
information to high schools, educational service centers, and 33452
joint vocational school district boards of education; 33453

(F) The state board shall prepare and submit annually to the 33454
governor and the general assembly a report on the status, needs, 33455
and major problems of the public schools of the state, with 33456
recommendations for necessary legislative action and a ten-year 33457
projection of the state's public and nonpublic school enrollment, 33458
by year and by grade level. 33459

(G) The state board shall prepare and submit to the director 33460
of budget and management the biennial budgetary requests of the 33461
state board of education, for its agencies and for the public 33462
schools of the state. 33463

(H) The state board shall cooperate with federal, state, and 33464
local agencies concerned with the health and welfare of children 33465
and youth of the state. 33466

(I) The state board shall require such reports from school 33467
districts and educational service centers, school officers, and 33468
employees as are necessary and desirable. The superintendents and 33469
treasurers of school districts and educational service centers 33470
shall certify as to the accuracy of all reports required by law or 33471
state board or state department of education rules to be submitted 33472
by the district or educational service center and which contain 33473
information necessary for calculation of state funding. Any 33474
superintendent who knowingly falsifies such report shall be 33475
subject to license revocation pursuant to section 3319.31 of the 33476
Revised Code. 33477

(J) In accordance with Chapter 119. of the Revised Code, the 33478
state board shall adopt procedures, standards, and guidelines for 33479
the education of children with disabilities pursuant to Chapter 33480

3323. of the Revised Code, including procedures, standards, and 33481
guidelines governing programs and services operated by county 33482
boards of developmental disabilities pursuant to section 3323.09 33483
of the Revised Code. 33484

(K) For the purpose of encouraging the development of special 33485
programs of education for academically gifted children, the state 33486
board shall employ competent persons to analyze and publish data, 33487
promote research, advise and counsel with boards of education, and 33488
encourage the training of teachers in the special instruction of 33489
gifted children. The board may provide financial assistance out of 33490
any funds appropriated for this purpose to boards of education and 33491
educational service center governing boards for developing and 33492
conducting programs of education for academically gifted children. 33493

(L) The state board shall require that all public schools 33494
emphasize and encourage, within existing units of study, the 33495
teaching of energy and resource conservation as recommended to 33496
each district board of education by leading business persons 33497
involved in energy production and conservation, beginning in the 33498
primary grades. 33499

(M) The state board shall formulate and prescribe ~~minimum~~ 33500
standards ~~requiring the use of phonics as a technique in~~ for the 33501
teaching of reading in grades kindergarten through three. In 33502
addition, the state board shall provide in-service training 33503
programs for teachers on the ~~use of phonics as a technique in the~~ 33504
teaching of reading in grades kindergarten through three. 33505

(N) The state board may adopt rules necessary for carrying 33506
out any function imposed on it by law, and may provide rules as 33507
are necessary for its government and the government of its 33508
employees, and may delegate to the superintendent of public 33509
instruction the management and administration of any function 33510
imposed on it by law. It may provide for the appointment of board 33511
members to serve on temporary committees established by the board 33512

for such purposes as are necessary. Permanent or standing 33513
committees shall not be created. 33514

(O) Upon application from the board of education of a school 33515
district, the superintendent of public instruction may issue a 33516
waiver exempting the district from compliance with the standards 33517
adopted under divisions (B)(2) and (D) of this section, as they 33518
relate to the operation of a school operated by the district. The 33519
state board shall adopt standards for the approval or disapproval 33520
of waivers under this division. The state superintendent shall 33521
consider every application for a waiver, and shall determine 33522
whether to grant or deny a waiver in accordance with the state 33523
board's standards. For each waiver granted, the state 33524
superintendent shall specify the period of time during which the 33525
waiver is in effect, which shall not exceed five years. A district 33526
board may apply to renew a waiver. 33527

Sec. 3301.0714. (A) The state board of education shall adopt 33528
rules for a statewide education management information system. The 33529
rules shall require the state board to establish guidelines for 33530
the establishment and maintenance of the system in accordance with 33531
this section and the rules adopted under this section. The 33532
guidelines shall include: 33533

(1) Standards identifying and defining the types of data in 33534
the system in accordance with divisions (B) and (C) of this 33535
section; 33536

(2) Procedures for annually collecting and reporting the data 33537
to the state board in accordance with division (D) of this 33538
section; 33539

(3) Procedures for annually compiling the data in accordance 33540
with division (G) of this section; 33541

(4) Procedures for annually reporting the data to the public 33542

in accordance with division (H) of this section. 33543

(B) The guidelines adopted under this section shall require 33544
the data maintained in the education management information system 33545
to include at least the following: 33546

(1) Student participation and performance data, for each 33547
grade in each school district as a whole and for each grade in 33548
each school building in each school district, that includes: 33549

(a) The numbers of students receiving each category of 33550
instructional service offered by the school district, such as 33551
regular education instruction, vocational education instruction, 33552
specialized instruction programs or enrichment instruction that is 33553
part of the educational curriculum, instruction for gifted 33554
students, instruction for students with disabilities, and remedial 33555
instruction. The guidelines shall require instructional services 33556
under this division to be divided into discrete categories if an 33557
instructional service is limited to a specific subject, a specific 33558
type of student, or both, such as regular instructional services 33559
in mathematics, remedial reading instructional services, 33560
instructional services specifically for students gifted in 33561
mathematics or some other subject area, or instructional services 33562
for students with a specific type of disability. The categories of 33563
instructional services required by the guidelines under this 33564
division shall be the same as the categories of instructional 33565
services used in determining cost units pursuant to division 33566
(C)(3) of this section. 33567

(b) The numbers of students receiving support or 33568
extracurricular services for each of the support services or 33569
extracurricular programs offered by the school district, such as 33570
counseling services, health services, and extracurricular sports 33571
and fine arts programs. The categories of services required by the 33572
guidelines under this division shall be the same as the categories 33573
of services used in determining cost units pursuant to division 33574

(C)(4)(a) of this section.	33575
(c) Average student grades in each subject in grades nine through twelve;	33576 33577
(d) Academic achievement levels as assessed under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code;	33578 33579
(e) The number of students designated as having a disabling condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;	33580 33581 33582
(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;	33583 33584 33585
(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.	33586 33587 33588 33589
(h) Expulsion rates;	33590
(i) Suspension rates;	33591
(j) Dropout rates;	33592
(k) Rates of retention in grade;	33593
(l) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;	33594 33595 33596
(m) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;	33597 33598 33599 33600 33601
(n) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the	33602 33603

Revised Code to permit a comparison of the academic readiness of 33604
kindergarten students. However, no district shall be required to 33605
report to the department the results of any diagnostic assessment 33606
administered to a kindergarten student if the parent of that 33607
student requests the district not to report those results. 33608

(2) Personnel and classroom enrollment data for each school 33609
district, including: 33610

(a) The total numbers of licensed employees and nonlicensed 33611
employees and the numbers of full-time equivalent licensed 33612
employees and nonlicensed employees providing each category of 33613
instructional service, instructional support service, and 33614
administrative support service used pursuant to division (C)(3) of 33615
this section. The guidelines adopted under this section shall 33616
require these categories of data to be maintained for the school 33617
district as a whole and, wherever applicable, for each grade in 33618
the school district as a whole, for each school building as a 33619
whole, and for each grade in each school building. 33620

(b) The total number of employees and the number of full-time 33621
equivalent employees providing each category of service used 33622
pursuant to divisions (C)(4)(a) and (b) of this section, and the 33623
total numbers of licensed employees and nonlicensed employees and 33624
the numbers of full-time equivalent licensed employees and 33625
nonlicensed employees providing each category used pursuant to 33626
division (C)(4)(c) of this section. The guidelines adopted under 33627
this section shall require these categories of data to be 33628
maintained for the school district as a whole and, wherever 33629
applicable, for each grade in the school district as a whole, for 33630
each school building as a whole, and for each grade in each school 33631
building. 33632

(c) The total number of regular classroom teachers teaching 33633
classes of regular education and the average number of pupils 33634
enrolled in each such class, in each of grades kindergarten 33635

through five in the district as a whole and in each school building in the school district.

(d) The number of lead teachers employed by each school district and each school building.

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, the number of limited English proficient students in the district, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(4) Any data required to be collected pursuant to federal law.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. 33667
The guidelines shall require the cost units under this division 33668
(C)(1) to be designed so that each of them may be compiled and 33669
reported in terms of average expenditure per pupil in formula ADM 33670
in the school district, as determined pursuant to section 3317.03 33671
of the Revised Code. 33672

(2) Administrative costs for each school building in the 33673
school district. The guidelines shall require the cost units under 33674
this division (C)(2) to be designed so that each of them may be 33675
compiled and reported in terms of average expenditure per 33676
full-time equivalent pupil receiving instructional or support 33677
services in each building. 33678

(3) Instructional services costs for each category of 33679
instructional service provided directly to students and required 33680
by guidelines adopted pursuant to division (B)(1)(a) of this 33681
section. The guidelines shall require the cost units under 33682
division (C)(3) of this section to be designed so that each of 33683
them may be compiled and reported in terms of average expenditure 33684
per pupil receiving the service in the school district as a whole 33685
and average expenditure per pupil receiving the service in each 33686
building in the school district and in terms of a total cost for 33687
each category of service and, as a breakdown of the total cost, a 33688
cost for each of the following components: 33689

(a) The cost of each instructional services category required 33690
by guidelines adopted under division (B)(1)(a) of this section 33691
that is provided directly to students by a classroom teacher; 33692

(b) The cost of the instructional support services, such as 33693
services provided by a speech-language pathologist, classroom 33694
aide, multimedia aide, or librarian, provided directly to students 33695
in conjunction with each instructional services category; 33696

(c) The cost of the administrative support services related 33697

to each instructional services category, such as the cost of 33698
personnel that develop the curriculum for the instructional 33699
services category and the cost of personnel supervising or 33700
coordinating the delivery of the instructional services category. 33701

(4) Support or extracurricular services costs for each 33702
category of service directly provided to students and required by 33703
guidelines adopted pursuant to division (B)(1)(b) of this section. 33704
The guidelines shall require the cost units under division (C)(4) 33705
of this section to be designed so that each of them may be 33706
compiled and reported in terms of average expenditure per pupil 33707
receiving the service in the school district as a whole and 33708
average expenditure per pupil receiving the service in each 33709
building in the school district and in terms of a total cost for 33710
each category of service and, as a breakdown of the total cost, a 33711
cost for each of the following components: 33712

(a) The cost of each support or extracurricular services 33713
category required by guidelines adopted under division (B)(1)(b) 33714
of this section that is provided directly to students by a 33715
licensed employee, such as services provided by a guidance 33716
counselor or any services provided by a licensed employee under a 33717
supplemental contract; 33718

(b) The cost of each such services category provided directly 33719
to students by a nonlicensed employee, such as janitorial 33720
services, cafeteria services, or services of a sports trainer; 33721

(c) The cost of the administrative services related to each 33722
services category in division (C)(4)(a) or (b) of this section, 33723
such as the cost of any licensed or nonlicensed employees that 33724
develop, supervise, coordinate, or otherwise are involved in 33725
administering or aiding the delivery of each services category. 33726

(D)(1) The guidelines adopted under this section shall 33727
require school districts to collect information about individual 33728

students, staff members, or both in connection with any data 33729
required by division (B) or (C) of this section or other reporting 33730
requirements established in the Revised Code. The guidelines may 33731
also require school districts to report information about 33732
individual staff members in connection with any data required by 33733
division (B) or (C) of this section or other reporting 33734
requirements established in the Revised Code. The guidelines shall 33735
not authorize school districts to request social security numbers 33736
of individual students. The guidelines shall prohibit the 33737
reporting under this section of a student's name, address, and 33738
social security number to the state board of education or the 33739
department of education. The guidelines shall also prohibit the 33740
reporting under this section of any personally identifiable 33741
information about any student, except for the purpose of assigning 33742
the data verification code required by division (D)(2) of this 33743
section, to any other person unless such person is employed by the 33744
school district or the information technology center operated 33745
under section 3301.075 of the Revised Code and is authorized by 33746
the district or technology center to have access to such 33747
information or is employed by an entity with which the department 33748
contracts for the scoring or the development of state assessments. 33749
The guidelines may require school districts to provide the social 33750
security numbers of individual staff members and the county of 33751
residence for a student. Nothing in this section prohibits the 33752
state board of education or department of education from providing 33753
a student's county of residence to the department of taxation to 33754
facilitate the distribution of tax revenue. 33755

(2)(a) The guidelines shall provide for each school district 33756
or community school to assign a data verification code that is 33757
unique on a statewide basis over time to each student whose 33758
initial Ohio enrollment is in that district or school and to 33759
report all required individual student data for that student 33760
utilizing such code. The guidelines shall also provide for 33761

assigning data verification codes to all students enrolled in 33762
districts or community schools on the effective date of the 33763
guidelines established under this section. The assignment of data 33764
verification codes for other entities, as described in division 33765
(D)(2)(c) of this section, the use of those codes, and the 33766
reporting and use of associated individual student data shall be 33767
coordinated by the department in accordance with state and federal 33768
law. 33769

School districts shall report individual student data to the 33770
department through the information technology centers utilizing 33771
the code. The entities described in division (D)(2)(c) of this 33772
section shall report individual student data to the department in 33773
the manner prescribed by the department. 33774

Except as provided in sections 3301.941, 3310.11, 3310.42, 33775
3310.63, 3313.978, and 3317.20 of the Revised Code, at no time 33776
shall the state board or the department have access to information 33777
that would enable any data verification code to be matched to 33778
personally identifiable student data. 33779

(b) Each school district and community school shall ensure 33780
that the data verification code is included in the student's 33781
records reported to any subsequent school district, community 33782
school, or state institution of higher education, as defined in 33783
section 3345.011 of the Revised Code, in which the student 33784
enrolls. Any such subsequent district or school shall utilize the 33785
same identifier in its reporting of data under this section. 33786

(c) The director of any state agency that administers a 33787
publicly funded program providing services to children who are 33788
younger than compulsory school age, as defined in section 3321.01 33789
of the Revised Code, including the directors of health, job and 33790
family services, ~~mental health~~ mental health and addiction 33791
services, and developmental disabilities, shall request and 33792
receive, pursuant to sections 3301.0723 and 3701.62 of the Revised 33793

Code, a data verification code for a child who is receiving those 33794
services. 33795

(E) The guidelines adopted under this section may require 33796
school districts to collect and report data, information, or 33797
reports other than that described in divisions (A), (B), and (C) 33798
of this section for the purpose of complying with other reporting 33799
requirements established in the Revised Code. The other data, 33800
information, or reports may be maintained in the education 33801
management information system but are not required to be compiled 33802
as part of the profile formats required under division (G) of this 33803
section or the annual statewide report required under division (H) 33804
of this section. 33805

(F) Beginning with the school year that begins July 1, 1991, 33806
the board of education of each school district shall annually 33807
collect and report to the state board, in accordance with the 33808
guidelines established by the board, the data required pursuant to 33809
this section. A school district may collect and report these data 33810
notwithstanding section 2151.357 or 3319.321 of the Revised Code. 33811

(G) The state board shall, in accordance with the procedures 33812
it adopts, annually compile the data reported by each school 33813
district pursuant to division (D) of this section. The state board 33814
shall design formats for profiling each school district as a whole 33815
and each school building within each district and shall compile 33816
the data in accordance with these formats. These profile formats 33817
shall: 33818

(1) Include all of the data gathered under this section in a 33819
manner that facilitates comparison among school districts and 33820
among school buildings within each school district; 33821

(2) Present the data on academic achievement levels as 33822
assessed by the testing of student achievement maintained pursuant 33823
to division (B)(1)(d) of this section. 33824

(H)(1) The state board shall, in accordance with the 33825
procedures it adopts, annually prepare a statewide report for all 33826
school districts and the general public that includes the profile 33827
of each of the school districts developed pursuant to division (G) 33828
of this section. Copies of the report shall be sent to each school 33829
district. 33830

(2) The state board shall, in accordance with the procedures 33831
it adopts, annually prepare an individual report for each school 33832
district and the general public that includes the profiles of each 33833
of the school buildings in that school district developed pursuant 33834
to division (G) of this section. Copies of the report shall be 33835
sent to the superintendent of the district and to each member of 33836
the district board of education. 33837

(3) Copies of the reports received from the state board under 33838
divisions (H)(1) and (2) of this section shall be made available 33839
to the general public at each school district's offices. Each 33840
district board of education shall make copies of each report 33841
available to any person upon request and payment of a reasonable 33842
fee for the cost of reproducing the report. The board shall 33843
annually publish in a newspaper of general circulation in the 33844
school district, at least twice during the two weeks prior to the 33845
week in which the reports will first be available, a notice 33846
containing the address where the reports are available and the 33847
date on which the reports will be available. 33848

(I) Any data that is collected or maintained pursuant to this 33849
section and that identifies an individual pupil is not a public 33850
record for the purposes of section 149.43 of the Revised Code. 33851

(J) As used in this section: 33852

(1) "School district" means any city, local, exempted 33853
village, or joint vocational school district and, in accordance 33854
with section 3314.17 of the Revised Code, any community school. As 33855

used in division (L) of this section, "school district" also 33856
includes any educational service center or other educational 33857
entity required to submit data using the system established under 33858
this section. 33859

(2) "Cost" means any expenditure for operating expenses made 33860
by a school district excluding any expenditures for debt 33861
retirement except for payments made to any commercial lending 33862
institution for any loan approved pursuant to section 3313.483 of 33863
the Revised Code. 33864

(K) Any person who removes data from the information system 33865
established under this section for the purpose of releasing it to 33866
any person not entitled under law to have access to such 33867
information is subject to section 2913.42 of the Revised Code 33868
prohibiting tampering with data. 33869

(L)(1) In accordance with division (L)(2) of this section and 33870
the rules adopted under division (L)(10) of this section, the 33871
department of education may sanction any school district that 33872
reports incomplete or inaccurate data, reports data that does not 33873
conform to data requirements and descriptions published by the 33874
department, fails to report data in a timely manner, or otherwise 33875
does not make a good faith effort to report data as required by 33876
this section. 33877

(2) If the department decides to sanction a school district 33878
under this division, the department shall take the following 33879
sequential actions: 33880

(a) Notify the district in writing that the department has 33881
determined that data has not been reported as required under this 33882
section and require the district to review its data submission and 33883
submit corrected data by a deadline established by the department. 33884
The department also may require the district to develop a 33885
corrective action plan, which shall include provisions for the 33886

district to provide mandatory staff training on data reporting 33887
procedures. 33888

(b) Withhold up to ten per cent of the total amount of state 33889
funds due to the district for the current fiscal year and, if not 33890
previously required under division (L)(2)(a) of this section, 33891
require the district to develop a corrective action plan in 33892
accordance with that division; 33893

(c) Withhold an additional amount of up to twenty per cent of 33894
the total amount of state funds due to the district for the 33895
current fiscal year; 33896

(d) Direct department staff or an outside entity to 33897
investigate the district's data reporting practices and make 33898
recommendations for subsequent actions. The recommendations may 33899
include one or more of the following actions: 33900

(i) Arrange for an audit of the district's data reporting 33901
practices by department staff or an outside entity; 33902

(ii) Conduct a site visit and evaluation of the district; 33903

(iii) Withhold an additional amount of up to thirty per cent 33904
of the total amount of state funds due to the district for the 33905
current fiscal year; 33906

(iv) Continue monitoring the district's data reporting; 33907

(v) Assign department staff to supervise the district's data 33908
management system; 33909

(vi) Conduct an investigation to determine whether to suspend 33910
or revoke the license of any district employee in accordance with 33911
division (N) of this section; 33912

(vii) If the district is issued a report card under section 33913
3302.03 of the Revised Code, indicate on the report card that the 33914
district has been sanctioned for failing to report data as 33915
required by this section; 33916

(viii) If the district is issued a report card under section 33917
3302.03 of the Revised Code and incomplete or inaccurate data 33918
submitted by the district likely caused the district to receive a 33919
higher performance rating than it deserved under that section, 33920
issue a revised report card for the district; 33921

(ix) Any other action designed to correct the district's data 33922
reporting problems. 33923

(3) Any time the department takes an action against a school 33924
district under division (L)(2) of this section, the department 33925
shall make a report of the circumstances that prompted the action. 33926
The department shall send a copy of the report to the district 33927
superintendent or chief administrator and maintain a copy of the 33928
report in its files. 33929

(4) If any action taken under division (L)(2) of this section 33930
resolves a school district's data reporting problems to the 33931
department's satisfaction, the department shall not take any 33932
further actions described by that division. If the department 33933
withheld funds from the district under that division, the 33934
department may release those funds to the district, except that if 33935
the department withheld funding under division (L)(2)(c) of this 33936
section, the department shall not release the funds withheld under 33937
division (L)(2)(b) of this section and, if the department withheld 33938
funding under division (L)(2)(d) of this section, the department 33939
shall not release the funds withheld under division (L)(2)(b) or 33940
(c) of this section. 33941

(5) Notwithstanding anything in this section to the contrary, 33942
the department may use its own staff or an outside entity to 33943
conduct an audit of a school district's data reporting practices 33944
any time the department has reason to believe the district has not 33945
made a good faith effort to report data as required by this 33946
section. If any audit conducted by an outside entity under 33947
division (L)(2)(d)(i) or (5) of this section confirms that a 33948

district has not made a good faith effort to report data as 33949
required by this section, the district shall reimburse the 33950
department for the full cost of the audit. The department may 33951
withhold state funds due to the district for this purpose. 33952

(6) Prior to issuing a revised report card for a school 33953
district under division (L)(2)(d)(viii) of this section, the 33954
department may hold a hearing to provide the district with an 33955
opportunity to demonstrate that it made a good faith effort to 33956
report data as required by this section. The hearing shall be 33957
conducted by a referee appointed by the department. Based on the 33958
information provided in the hearing, the referee shall recommend 33959
whether the department should issue a revised report card for the 33960
district. If the referee affirms the department's contention that 33961
the district did not make a good faith effort to report data as 33962
required by this section, the district shall bear the full cost of 33963
conducting the hearing and of issuing any revised report card. 33964

(7) If the department determines that any inaccurate data 33965
reported under this section caused a school district to receive 33966
excess state funds in any fiscal year, the district shall 33967
reimburse the department an amount equal to the excess funds, in 33968
accordance with a payment schedule determined by the department. 33969
The department may withhold state funds due to the district for 33970
this purpose. 33971

(8) Any school district that has funds withheld under 33972
division (L)(2) of this section may appeal the withholding in 33973
accordance with Chapter 119. of the Revised Code. 33974

(9) In all cases of a disagreement between the department and 33975
a school district regarding the appropriateness of an action taken 33976
under division (L)(2) of this section, the burden of proof shall 33977
be on the district to demonstrate that it made a good faith effort 33978
to report data as required by this section. 33979

(10) The state board of education shall adopt rules under Chapter 119. of the Revised Code to implement division (L) of this section.

(M) No information technology center or school district shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)(n) of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (H) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.0715. (A) Except as otherwise required under division (B)(1) of section 3313.608 of the Revised Code, the board of education of each city, local, and exempted village school

district shall administer each applicable diagnostic assessment 34010
developed and provided to the district in accordance with section 34011
3301.079 of the Revised Code to the following: 34012

(1) Each student enrolled in a building that has failed to 34013
make adequate yearly progress for two or more consecutive school 34014
years; 34015

(2) Any student who transfers into the district or to a 34016
different school within the district if each applicable diagnostic 34017
assessment was not administered by the district or school the 34018
student previously attended in the current school year, within 34019
thirty days after the date of transfer. If the district or school 34020
into which the student transfers cannot determine whether the 34021
student has taken any applicable diagnostic assessment in the 34022
current school year, the district or school may administer the 34023
diagnostic assessment to the student. 34024

(3) ~~Each~~ (a) Prior to July 1, 2014, each kindergarten 34025
student, not earlier than four weeks prior to the first day of 34026
school and not later than the first day of October. ~~For~~ 34027

(b) Beginning July 1, 2014, each kindergarten student, not 34028
earlier than the first day of the school year and not later than 34029
the first day of November, except that the language and reading 34030
skills portion of the assessment shall be administered by the 34031
thirtieth day of September to fulfill the requirements of division 34032
(B) of section 3313.608 of the Revised Code. 34033

For the purpose of division (A)(3) of this section, the 34034
district shall administer the kindergarten readiness assessment 34035
provided by the department of education. In no case shall the 34036
results of the readiness assessment be used to prohibit a student 34037
from enrolling in kindergarten. 34038

(4) Each student enrolled in first or second grade. 34039

(B) Each district board shall administer each diagnostic assessment as the board deems appropriate, provided the administration complies with section 3313.608 of the Revised Code. However, the board shall administer any diagnostic assessment at least once annually to all students in the appropriate grade level. A district board may administer any diagnostic assessment in the fall and spring of a school year to measure the amount of academic growth attributable to the instruction received by students during that school year.

(C) Each district board shall utilize and score any diagnostic assessment administered under division (A) of this section in accordance with rules established by the department. After the administration of any diagnostic assessment, each district shall provide a student's completed diagnostic assessment, the results of such assessment, and any other accompanying documents used during the administration of the assessment to the parent of that student, and shall include all such documents and information in any plan developed for the student under division (C) of section 3313.608 of the Revised Code. Each district shall submit to the department, in the manner the department prescribes, the results of the diagnostic assessments administered under this section, regardless of the type of assessment used under section 3313.608 of the Revised Code. The department may issue reports with respect to the data collected.

(D) Each district board shall provide intervention services to students whose diagnostic assessments show that they are failing to make satisfactory progress toward attaining the academic standards for their grade level.

(E) As used in this section, "adequate yearly progress" has the same meaning as in section 3302.01 of the Revised Code.

Sec. 3301.0723. (A) The independent contractor engaged by the department of education to create and maintain for school districts and community schools the student data verification codes required by division (D)(2) of section 3301.0714 of the Revised Code, upon request of the director of any state agency that administers a publicly funded program providing services to children who are younger than compulsory school age, as defined in section 3321.01 of the Revised Code, including the directors of health, job and family services, ~~mental health~~ mental health and addiction services, and developmental disabilities, shall assign a data verification code to a child who is receiving such services and shall provide that code to the director. The contractor also shall provide that code to the department of education.

(B) The director of a state agency that receives a child's data verification code under division (A) of this section shall use that code to submit information for that child to the department of education in accordance with section 3301.0714 of the Revised Code.

(C) A public school that receives from the independent contractor the data verification code for a child assigned under division (A) of this section shall not request or assign to that child another data verification code under division (D)(2) of section 3301.0714 of the Revised Code. That school and any other public school in which the child subsequently enrolls shall use the data verification code assigned under division (A) of this section to report data relative to that student required under section 3301.0714 of the Revised Code.

Sec. 3301.15. The state board of education or its authorized representatives may inspect all institutions under the control of the department of job and family services, the department of ~~mental health~~ mental health and addiction services, the department

of developmental disabilities, and the department of 34102
rehabilitation and correction which employ teachers, and may make 34103
a report on the teaching, discipline, and school equipment in 34104
these institutions to the director of job and family services, the 34105
director of ~~mental health~~ mental health and addiction services, 34106
the director of developmental disabilities, the director of 34107
rehabilitation and correction, and the governor. 34108

Sec. 3301.41. All employees of the former eTech Ohio 34109
commission who transferred to the department of education upon the 34110
abolishment of the commission as prescribed by section 363.570 of 34111
H.B. of the 130th general assembly and who when employed by 34112
that commission or a predecessor agency were included in a 34113
bargaining unit established under Chapter 4117. of the Revised 34114
Code, shall continue to be included in that bargaining unit, are 34115
public employees as defined in section 4117.01 of the Revised 34116
Code, and may collectively bargain with the state board of 34117
education in accordance with that chapter. Otherwise, any employee 34118
hired by the department after the abolishment of the commission, 34119
either to fill vacancies or to fill new positions related to the 34120
transferred employees' duties, shall be exempt from Chapter 4117. 34121
of the Revised Code and shall not be public employees as defined 34122
in section 4117.01 of the Revised Code. 34123

Sec. 3302.042. (A) This section shall ~~operate as a pilot~~ 34124
~~project that applies~~ apply to any school of a city, exempted 34125
village, or local school district that has been ranked according 34126
to performance index score under section 3302.21 of the Revised 34127
Code in the lowest five per cent of all public school buildings 34128
statewide for three or more consecutive school years ~~and is~~ 34129
~~operated by the Columbus city school district. The pilot project~~ 34130
~~shall commence once the department of education establishes~~ 34131
~~implementation guidelines for the pilot project in consultation~~ 34132

~~with the Columbus city school district.~~ 34133

(B) Except as provided in division (D), (E), or (F) of this 34134
section, if the parents or guardians of at least fifty per cent of 34135
the students enrolled in a school to which this section applies, 34136
or if the parents or guardians of at least fifty per cent of the 34137
total number of students enrolled in that school and the schools 34138
of lower grade levels whose students typically matriculate into 34139
that school, by the thirty-first day of December of any school 34140
year in which the school is subject to this section, sign and file 34141
with the school district treasurer a petition requesting the 34142
district board of education to implement one of the following 34143
reforms in the school, and if the validity and sufficiency of the 34144
petition is certified in accordance with division (C) of this 34145
section, the board shall implement the requested reform in the 34146
next school year: 34147

(1) Reopen the school as a community school under Chapter 34148
3314. of the Revised Code; 34149

(2) Replace at least seventy per cent of the school's 34150
personnel who are related to the school's poor academic 34151
performance or, at the request of the petitioners, retain not more 34152
than thirty per cent of the personnel; 34153

(3) Contract with another school district or a nonprofit or 34154
for-profit entity with a demonstrated record of effectiveness to 34155
operate the school; 34156

(4) Turn operation of the school over to the department; 34157

(5) Any other major restructuring of the school that makes 34158
fundamental reforms in the school's staffing or governance. 34159

(C) Not later than thirty days after receipt of a petition 34160
under division (B) of this section, the district treasurer shall 34161
verify the validity and sufficiency of the signatures on the 34162

petition and certify to the district board whether the petition 34163
contains the necessary number of valid signatures to require the 34164
board to implement the reform requested by the petitioners. If the 34165
treasurer certifies to the district board that the petition does 34166
not contain the necessary number of valid signatures, any person 34167
who signed the petition may file an appeal with the county auditor 34168
within ten days after the certification. Not later than thirty 34169
days after the filing of an appeal, the county auditor shall 34170
conduct an independent verification of the validity and 34171
sufficiency of the signatures on the petition and certify to the 34172
district board whether the petition contains the necessary number 34173
of valid signatures to require the board to implement the 34174
requested reform. If the treasurer or county auditor certifies 34175
that the petition contains the necessary number of valid 34176
signatures, the district board shall notify the superintendent of 34177
public instruction and the state board of education of the 34178
certification. 34179

(D) The district board shall not implement the reform 34180
requested by the petitioners in any of the following 34181
circumstances: 34182

(1) The district board has determined that the request is for 34183
reasons other than improving student academic achievement or 34184
student safety. 34185

(2) The state superintendent has determined that 34186
implementation of the requested reform would not comply with the 34187
model of differentiated accountability described in section 34188
3302.041 of the Revised Code. 34189

(3) The petitioners have requested the district board to 34190
implement the reform described in division (B)(4) of this section 34191
and the department has not agreed to take over the school's 34192
operation. 34193

(4) When all of the following have occurred: 34194

(a) After a public hearing on the matter, the district board 34195
issued a written statement explaining the reasons that it is 34196
unable to implement the requested reform and agreeing to implement 34197
one of the other reforms described in division (B) of this 34198
section. 34199

(b) The district board submitted its written statement to the 34200
state superintendent and the state board along with evidence 34201
showing how the alternative reform the district board has agreed 34202
to implement will enable the school to improve its academic 34203
performance. 34204

(c) Both the state superintendent and the state board have 34205
approved implementation of the alternative reform. 34206

(E) If the provisions of this section conflict in any way 34207
with the requirements of federal law, federal law shall prevail 34208
over the provisions of this section. 34209

(F) If a school is restructured under this section, section 34210
3302.10 or 3302.12 of the Revised Code, or federal law, the school 34211
shall not be required to restructure again under state law for 34212
three consecutive years after the implementation of that prior 34213
restructuring. 34214

(G) Beginning not later than six months after the first 34215
petition under this section has been resolved, the department of 34216
education shall annually evaluate the ~~pilot program~~ provisions of 34217
this section and submit a report to the general assembly under 34218
section 101.68 of the Revised Code. Such reports shall contain its 34219
recommendations to the general assembly with respect to the 34220
continuation of the ~~pilot program, its expansion to other school~~ 34221
~~districts, or the enactment of further legislation establishing~~ 34222
~~the program statewide under permanent law~~ provisions of this 34223
section. 34224

Sec. 3302.22. (A) The governor's effective and efficient schools recognition program is hereby created. Each year, the governor shall recognize, in a manner deemed appropriate by the governor, the top ten per cent of all public schools in this state, including ~~schools of city, exempted village, and local school districts, or~~ joint vocational school districts, community schools established under Chapter 3314. ~~of the Revised Code,~~ and STEM schools established under Chapter 3326. of the Revised Code.

(B) The top ten per cent of schools shall be determined by the department of education according to standards established by the department, in consultation with the governor's office of 21st century education. The standards for recognition for each type of school may vary depending upon the unique characteristics of that type of school. The standards shall include, but need not be limited to, both of the following, provided that sufficient data is available for each school:

(1) Student performance, as determined by factors ~~including that may include~~, but not be limited to, performance indicators under section 3302.02 of the Revised Code, report cards issued under section 3302.03 of the Revised Code, performance index score rankings under section 3302.21 of the Revised Code, and any other statewide or national assessment or student performance recognition program the department selects;

(2) Fiscal performance, ~~including which may include~~ cost-effective measures taken by the school.

(C) If applicable, the standards under divisions (B)(1) and (2) of this section may be applied at the school building or district level, depending upon the quality and availability of data.

Sec. 3302.26. (A) As used in this section:

(1) "Expenditure per equivalent pupils" is the total 34255
operating expenditures of a school district divided by the measure 34256
of equivalent pupils. 34257

(2) "Measure of equivalent pupils" is the total number of 34258
students in a school district adjusted for the relative 34259
differences in costs associated with the unique characteristics 34260
and needs of each category of pupil. 34261

(B) The department of education shall create a performance 34262
management section on the department's public web site. The 34263
performance management section shall include information on 34264
academic and financial performance metrics for each school 34265
district to assist schools and districts in providing an effective 34266
and efficient delivery of educational services. The section shall 34267
include a graph that illustrates the relationship between a 34268
district's academic performance, as measured by the performance 34269
index score, and its expenditure per equivalent pupils as compared 34270
to similar districts. The section shall include statistics of 34271
academic and financial performance measures for each school 34272
district to allow for a comparison and benchmarking between 34273
districts. 34274

(C) The department may contract with an independent 34275
organization to develop and host the performance management 34276
section of its web site. 34277

Sec. 3303.41. There is hereby created the governor's council 34278
on people with disabilities. The council shall consist of 34279
twenty-one members of which the majority shall be people with 34280
disabilities as defined in this section, appointed by the governor 34281
for a term of three years except that for initial appointments, 34282
seven members shall be appointed for a term of one year, seven 34283
members shall be appointed for a term of two years, and seven 34284
members shall be appointed for a term of three years. Members may 34285

succeed themselves not more than one time. The governor shall 34286
annually appoint a ~~chairman~~ chairperson who may succeed himself or 34287
herself not more than one time. Members of the council shall serve 34288
without compensation, but shall be paid the actual and necessary 34289
expenses they incur in the performance of their duties. 34290

The council shall meet at least six times annually at such 34291
times and places as may be designated by the ~~chairman~~ chairperson. 34292

The governor's council on people with disabilities shall be 34293
assigned to the ~~rehabilitation services commission~~ opportunities 34294
for Ohioans with disabilities agency for administrative purposes. 34295
The ~~administrator~~ executive director of the ~~rehabilitation~~ 34296
~~services commission~~ opportunities for Ohioans with disabilities 34297
agency shall assign one professional staff person to the council 34298
to serve as executive secretary and other personnel as determined 34299
advisable. 34300

The council shall have the following powers: 34301

(A) To cooperate with the president's committee on employment 34302
of the handicapped; 34303

(B) To cooperate with all employers both public and private 34304
in locating or developing employment opportunities for people with 34305
disabilities; 34306

(C) To encourage and assist in the creation of committees at 34307
the community level; 34308

(D) To assist local, state, and federal agencies to 34309
coordinate their activities for the purpose of securing maximum 34310
utilization of funds and efforts that benefit people with 34311
disabilities; 34312

(E) To encourage cooperation among public and private 34313
employers, unions, and rehabilitation agencies, bureaus, and 34314
organizations both public and private with a specific goal to 34315

facilitate employment of people with disabilities; 34316

(F) To serve in an advisory capacity to the governor's office 34317
directly and as needed to the general assembly on issues relating 34318
to the needs, problems, and other concerns of people with 34319
disabilities; 34320

(G) To conduct educational programs to acquaint the public 34321
with the abilities and accomplishments of people with 34322
disabilities; 34323

(H) To promote the elimination of architectural barriers to 34324
make buildings used by the public accessible and useable by 34325
persons with physical limitations; 34326

(I) To make such rules as it determines advisable for the 34327
conduct of its own business. 34328

The council shall annually report to the governor on council 34329
activities and on the state of ~~Ohio's~~ the people of this state 34330
with disabilities. This report may include any recommendations 34331
believed necessary or desirable to carry out the purposes of this 34332
section. 34333

As used in this section, "person with a disability" means any 34334
individual who has a disability or condition ~~which~~ that, 34335
regardless of its physical or mental origin, imposes a functional 34336
limitation. ~~It~~ 34337

It shall be lawful for any public employee or officer to 34338
serve as a member of the council. 34339

Sec. 3304.11. As used in sections 3304.11 to 3304.27~~7~~ 34340
~~inclusive~~, of the Revised Code: 34341

(A) ~~"Handicapped person" or "disabled person"~~ "Person with a 34342
disability" means any person with a physical or mental ~~disability~~ 34343
~~which impairment that~~ is a substantial handicap impediment to 34344
employment ~~and which is of a nature that~~ who can benefit in terms 34345

~~of an employment outcome from the provision of vocational 34346
rehabilitation services may reasonably be expected to render him 34347
fit to engage in a gainful occupation consistent with his 34348
capacities and abilities, and any person with a physical or mental 34349
disability that constitutes a substantial handicap to employment 34350
for whom vocational rehabilitation services are necessary to 34351
determine his rehabilitation potential. 34352~~

(B) "Physical or mental ~~disability~~ impairment" means a 34353
physical or mental condition that materially limits, contributes 34354
to limiting or, if not corrected, will probably result in limiting 34355
a person's activities or functioning. 34356

(C) "Substantial ~~handicap~~ impediment to employment" means a 34357
physical or mental disability that impedes a person's occupational 34358
performance, by preventing ~~his~~ the person's obtaining, retaining, 34359
or preparing for a gainful occupation consistent with ~~his~~ the 34360
person's capacities and abilities. 34361

(D) "Vocational rehabilitation" and "vocational 34362
rehabilitation services" means any activity or service calculated 34363
to enable a ~~handicapped~~ person with a disability or groups of 34364
~~handicapped~~ persons with disabilities to engage in gainful 34365
occupation and includes, but is not limited to, medical and 34366
vocational evaluation, including diagnostic and related services, 34367
vocational counseling, guidance and placement, including follow-up 34368
services, rehabilitation training, including books and other 34369
training materials, physical restoration, recruitment and training 34370
services designed to provide ~~handicapped~~ persons with disabilities 34371
new employment opportunities, maintenance, occupational tools, 34372
equipment, supplies, transportation, services to families of 34373
~~handicapped~~ persons which with disabilities that contribute 34374
substantially to the rehabilitation of these persons, and any 34375
other goods or service necessary to render a ~~handicapped~~ person 34376
with a disability employable. 34377

(E) "Establishment of a rehabilitation facility" means the expansion, remodeling, or alteration of an existing building, ~~which that~~ is necessary to adapt or to increase the effectiveness of that building for rehabilitation facility purposes, the acquisition of equipment for these purposes, and the initial staffing.

(F) "Construction" means the construction of new buildings, acquisition of land or existing buildings and their expansion, remodeling, alteration and renovation, and the initial staffing and equipment of any new, newly acquired, expanded, remodeled, altered, or renovated buildings.

(G) "Physical restoration services" means those services ~~which that~~ are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition ~~which that~~ is stable or slowly progressive.

(H) "Occupational license" means any license, permit, or other written authority required by any governmental unit in order to engage in any occupation or business.

(I) "Maintenance" means money payments to ~~disabled~~ persons with disabilities who need financial assistance for their subsistence during their vocational rehabilitation.

Sec. 3304.12. (A) The governor, with the advice and consent of the senate, shall appoint ~~a rehabilitation services~~ the opportunities for Ohioans with disabilities commission ~~within the opportunities for Ohioans with disabilities~~ agency consisting of seven members, no more than four of whom shall be members of the same political party and who shall include at least three from rehabilitation professions, including at least one member from the field of services to the blind, and at least four ~~handicapped~~ individuals with disabilities, no less than two nor more than three of whom have received vocational rehabilitation services

offered by a state vocational rehabilitation agency or the 34409
veterans' administration. ~~Such handicapped~~ The members with 34410
disabilities shall be representative of several major categories 34411
of ~~handicapped~~ persons with disabilities served by the ~~commission~~ 34412
opportunities for Ohioans with disabilities agency. 34413

(B) ~~Of the members first appointed to the commission, one~~ 34414
~~shall be appointed for a term of seven years, one for a term of~~ 34415
~~six years, one for a term of five years, one for a term of four~~ 34416
~~years, one for a term of three years, one for a term of two years,~~ 34417
~~and one for a term of one year. Thereafter, terms~~ Terms of office 34418
shall be for seven years, commencing on the ninth day of September 34419
and ending on the eighth day of September, with no person eligible 34420
to serve more than two seven-year terms. Each member shall hold 34421
office from the date of ~~his~~ appointment until the end of the term 34422
for which ~~he~~ the member was appointed. Any member appointed to 34423
fill a vacancy occurring prior to the expiration of the term for 34424
which ~~his~~ the member's predecessor was appointed shall hold office 34425
for the remainder of ~~such~~ that term. Any member shall continue in 34426
office subsequent to the expiration date of ~~his~~ the member's term 34427
until ~~his~~ a successor takes office, or until a period of sixty 34428
days has elapsed, whichever occurs first. ~~Members appointed to the~~ 34429
~~commission after September 1, 1977, shall be handicapped~~ 34430
~~individuals representing those who have received vocational~~ 34431
~~rehabilitation services offered by a state vocational~~ 34432
~~rehabilitaion agency or the veterans' administration until the~~ 34433
~~commission membership includes at least four such individuals.~~ 34434
Members who fail to perform their duties or who are guilty of 34435
misconduct may be removed on written charges preferred by the 34436
governor or by a majority of the commission. 34437

(C) Members of the commission shall be reimbursed for travel 34438
and necessary expenses incurred in the conduct of their duties, 34439
and shall receive an amount fixed pursuant to division (J) of 34440

section 124.15 of the Revised Code while actually engaged in 34441
attendance at meetings or in the performance of their duties. 34442

Sec. 3304.13. The ~~rehabilitation services commission~~ 34443
opportunities for Ohioans with disabilities commission shall hold 34444
its first meeting at the call of the governor, and at that 34445
meeting, shall elect one of its members as ~~chairman~~ chairperson 34446
and adopt rules governing the time and place of regular meetings, 34447
which shall be held not less than once every four months. Special 34448
meetings shall be held at the call of the ~~chairman~~ chairperson or 34449
any three members of the commission. The ~~chairman~~ chairperson 34450
shall serve for four years, unless removed earlier by a majority 34451
vote of the commission, and shall be ineligible to serve as 34452
~~chairman~~ chairperson during the succeeding four years. Each member 34453
of the commission, before entering upon the duties of office, 34454
shall take and subscribe an oath to uphold the constitution and 34455
laws of the United States and this state and to perform the duties 34456
of office honestly, faithfully, and impartially. Each member shall 34457
give a bond of five thousand dollars, with a sufficient surety 34458
approved by the treasurer of state. After approval, the bond shall 34459
be filed with the secretary of state. If the bond is executed by a 34460
surety company, the premiums on it shall be paid from the funds 34461
appropriated for the expenses of the ~~rehabilitation services~~ 34462
~~commission~~ opportunities for Ohioans with disabilities agency. 34463

Sec. ~~3304.16~~ 3304.14. In ~~carrying out~~ For the purposes of 34464
sections 3304.11 to 3304.27 of the Revised Code, the 34465
~~rehabilitation services commission~~ opportunities for Ohioans with 34466
disabilities commission, to the extent feasible, shall conduct a 34467
review and analysis of the effectiveness of and consumer 34468
satisfaction with all of the following: 34469

(A) ~~Shall develop all necessary rules~~ The functions performed 34470
by the opportunities for Ohioans with disabilities agency; 34471

~~(B) Shall prepare and submit to the governor annual reports of activities and expenditures and, prior to each first regular session of the general assembly, an estimate of sums required to carry out the commission's responsibilities The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to persons with disabilities under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;~~ 34472
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~~(C) Shall certify any disbursement of funds available to the commission for vocational rehabilitation activities;~~ 34481
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~~(D) Shall serve as the sole state agency designated to administer the plan under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;~~ 34483
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~~(E) Shall take appropriate action to guarantee rights of and services to handicapped persons;~~ 34486
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~~(F) Shall consult with and advise other state agencies to assist them in meeting the needs of handicapped persons more effectively and to achieve maximum coordination among programs for the handicapped;~~ 34488
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~~(G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons;~~ 34492
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~~(H) Shall maintain an inventory of state services that are available to handicapped persons;~~ 34495
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~~(I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped;~~ 34497
34498

~~(J) May delegate to any officer or employee of the commission any necessary powers and duties, except that the commission shall delegate to the administrator of the commission, as provided in~~ 34499
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~~section 3304.14 of the Revised Code, the power and duty to administer the daily operation and provision of vocational rehabilitation services;~~ 34502
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~~(K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations which may include;~~ 34505
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~~(1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned;~~ 34508
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~~(2) Contracts or other arrangements with public and other nonprofit agencies and organizations for the construction or establishment and operation of vocational rehabilitation programs and facilities;~~ 34511
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~~(3) Cooperative arrangements with the federal government for carrying out sections 3304.11 to 3304.27 of the Revised Code, the "Vocational Rehabilitation Act," 41 Stat. 735 (1920), 29 U.S.C. 31, as amended, or other federal statutes pertaining to vocational rehabilitation, and to this end, may adopt plans and methods of administration found necessary by the federal government for the efficient operation of any joint arrangements or the efficient application of any federal statutes;~~ 34515
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~~(4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability.~~ 34523
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~~(L) May take any appropriate action necessary to obtain federal funds in the maximum amount and most advantageous proportion possible;~~ 34526
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~~(M) May conduct research and demonstration projects, including inquiries concerning the causes of blindness and its prevention, provide training and instruction, including the establishment and maintenance of research fellowships and~~ 34529
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~~traineeships along with all necessary stipends and allowances, 34533
disseminate information, and provide technical assistance relating 34534
to vocational rehabilitation; 34535~~

~~(N) May plan, establish, and operate programs, facilities, 34536
and services relating to vocational rehabilitation; 34537~~

~~(O) May accept and hold, invest, reinvest, or otherwise use 34538
gifts made for the purpose of furthering vocational 34539
rehabilitation; 34540~~

~~(P) May ameliorate the condition of the aged blind or other 34541
severely disabled individuals by establishing a program of home 34542
visitation by commission employees for the purpose of instruction; 34543~~

~~(Q) May establish and manage small business enterprises that 34544
are operated by persons with a substantial handicap to employment, 34545
including blind persons; 34546~~

~~(R) May purchase from insurance companies licensed to do 34547
business in this state any insurance deemed necessary by the 34548
commission for the efficient operation of a suitable vending 34549
facility as defined in division (A) of section 3304.28 of the 34550
Revised Code; 34551~~

~~(S) May accept directly from any state agency, and any state 34552
agency may transfer directly to the commission, surplus computers 34553
and computer equipment to be used for any purposes the commission 34554
considers appropriate, notwithstanding sections 125.12 to 125.14 34555
of the Revised Code The employment outcomes achieved by eligible 34556
individuals receiving services under sections 3304.11 to 3304.27 34557
of the Revised Code, including the availability of health and 34558
other employment benefits in connection with those employment 34559
outcomes. 34560~~

Sec. ~~3304.14~~ 3304.15. (A) There is hereby created the 34561
opportunities for Ohioans with disabilities agency. The agency is 34562

the designated state unit authorized under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended, to provide vocational rehabilitation to eligible persons with disabilities. 34563
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(B) The governor shall appoint an ~~administrator~~ executive director of the ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency to serve at the pleasure of the governor and shall fix the ~~administrator's~~ executive director's compensation. The ~~administrator~~ executive director shall devote the ~~administrator's~~ executive director's entire time to the duties of the ~~administrator's~~ executive director's office, shall hold no other office or position of trust and profit, and shall engage in no other business during the ~~administrator's~~ executive director's term of office. The governor may grant the ~~administrator~~ executive director the authority to appoint, remove, and discipline without regard to sex, race, creed, color, age, or national origin, such other professional, administrative, and clerical staff members as are necessary to carry out the functions and duties of the ~~commission~~ agency. 34566
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(B)(1) The executive director of the opportunities for Ohioans with disabilities agency is the executive and administrative officer of the agency. Whenever the Revised Code imposes a duty on or requires an action of the agency, the executive director shall perform the duty or action on behalf of the agency. The executive director may establish procedures for all of the following: 34581
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(1) The governance of the agency; 34588

(2) The conduct of agency employees and officers; 34589

(3) The performance of agency business; 34590

(4) The custody, use, and preservation of agency records, papers, books, documents, and property. 34591
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(C) The ~~administrator~~ executive director shall have exclusive 34593

authority to administer the daily operation and provision of 34594
vocational rehabilitation services under this chapter. In 34595
exercising that authority, the executive director may do all of 34596
the following: 34597

(1) Adopt rules in accordance with Chapter 119. of the 34598
Revised Code; 34599

(2) Prepare and submit an annual report to the governor; 34600

(3) Certify any disbursement of funds available to the agency 34601
for vocational rehabilitation activities; 34602

(4) Take appropriate action to guarantee rights of services 34603
to people with disabilities; 34604

(5) Consult with and advise other state agencies and 34605
coordinate programs for persons with disabilities; 34606

(6) Comply with the requirements for match as part of budget 34607
submission; 34608

(7) Establish research and demonstration projects; 34609

(8) Accept, hold, invest, reinvest, or otherwise use gifts to 34610
further vocational rehabilitation; 34611

(9) For the purposes of the business enterprise program 34612
administered under sections 3304.28 to 3304.35 of the Revised 34613
Code: 34614

(a) Establish and manage small business entities owned or 34615
operated by visually impaired persons; 34616

(b) Purchase insurance; 34617

(c) Accept computers. 34618

(10) Enter into contracts and other agreements for the 34619
provision of services. 34620

~~(2)~~(D) ~~The administrator~~ executive director shall establish a 34621
fee schedule for vocational rehabilitation services in accordance 34622

with 34 C.F.R. 361.50. 34623

Sec. ~~3304.15~~ 3304.16. The ~~rehabilitation services commission~~ 34624
executive director of the opportunities for Ohioans with 34625
disabilities agency shall establish administrative subdivisions 34626
~~under its control as it determines~~ necessary or appropriate to 34627
carry out ~~its~~ the agency's functions and duties, but there shall 34628
be a bureau of services for the visually impaired and a bureau of 34629
vocational rehabilitation, each of which has as its head a deputy 34630
director appointed by the ~~administrator, subject to commission~~ 34631
~~approval~~ executive director. The ~~commission~~ executive director 34632
shall prescribe the budgets for the government of each division, 34633
and rules for the conduct of its employees, the performance of its 34634
business, and the custody, use, and preservation of the records, 34635
papers, books, documents, and property pertaining thereto. 34636

Sec. 3304.17. The ~~rehabilitation services commission~~ 34637
opportunities for Ohioans with disabilities agency shall provide 34638
vocational rehabilitation services to all eligible ~~handicapped~~ 34639
persons with disabilities, including any ~~handicapped~~ person with a 34640
disability who is eligible under the terms of an agreement or 34641
arrangement with another state or with the federal government. 34642

Sec. 3304.18. The treasurer of state shall be the custodian 34643
of all moneys received from the federal government for vocational 34644
rehabilitation programs and shall disburse the money upon the 34645
certification of the ~~rehabilitation services commission~~ executive 34646
director of the opportunities for Ohioans with disabilities 34647
agency. If federal funds are not available to the state for 34648
vocational rehabilitation purposes, the governor shall include as 34649
part of ~~his~~ the governor's biennial budget request to the general 34650
assembly a request for funds sufficient to support the activities 34651
of the ~~commission~~ agency. 34652

Sec. 3304.181. If the total of all funds available from 34653
nonfederal sources to support the activities of the ~~rehabilitation~~ 34654
~~services commission~~ opportunities for Ohioans with disabilities 34655
agency does not comply with the expenditure requirements of 34 34656
C.F.R. 361.60 and 361.62 for those activities or would cause the 34657
state to lose an allotment or fail to receive a reallotment under 34658
34 C.F.R. 361.65, the ~~commission~~ agency may solicit additional 34659
funds from, and enter into agreements for the use of those funds 34660
with, private or public entities, including local government 34661
entities of this state. The ~~commission~~ agency may continue to 34662
solicit additional funds and enter into agreements until the total 34663
funding available is sufficient for the ~~commission~~ agency to 34664
receive federal funds at the maximum amount and in the most 34665
advantageous proportion possible. 34666

Any agreement entered into between the ~~commission~~ agency and 34667
a private or public entity to provide funds under this section 34668
shall be in accordance with 34 C.F.R. 361.28 and section 3304.182 34669
of the Revised Code. 34670

Sec. 3304.182. Any agreement between the ~~rehabilitation~~ 34671
~~services commission~~ opportunities for Ohioans with disabilities 34672
agency and a private or public entity providing funds under 34673
section 3304.181 of the Revised Code may permit the ~~commission~~ 34674
agency to receive a specified percentage of the funds, but the 34675
percentage shall be not more than twenty-five per cent of the 34676
total funds available under the agreement. The ~~commission~~ agency 34677
may terminate an agreement at any time for just cause. It may 34678
terminate an agreement for any other reason by giving at least 34679
thirty days' notice to the public or private entity. 34680

Any services provided under an agreement entered into under 34681
section 3304.181 of the Revised Code shall be provided by a person 34682
or government entity that meets the accreditation standards 34683

established in rules adopted by the ~~commission~~ agency under 34684
section ~~3304.16~~ 3304.15 of the Revised Code. 34685

Sec. 3304.19. The right of a ~~handicapped~~ person with a 34686
disability to living maintenance under sections 3304.11 to 34687
3304.27, ~~inclusive~~, of the Revised Code, is not transferable or 34688
assignable at law or in equity, and none of the money paid or 34689
payable or rights existing under this ~~act~~ chapter are subject to 34690
execution, levy, attachment, garnishment, or other legal process, 34691
or to the operation of any bankruptcy or insolvency law. 34692

Sec. 3304.20. Any person applying for or receiving vocational 34693
rehabilitation services who is dissatisfied with regard to the 34694
furnishing or denial of services, may file a request for an 34695
administrative review and redetermination of that action in 34696
accordance with rules of the ~~rehabilitation services commission~~ 34697
opportunities for Ohioans with disabilities agency. When the 34698
person is dissatisfied with the finding of this administrative 34699
review, ~~he~~ the person is entitled, in accordance with ~~commission~~ 34700
agency rules and in accordance with Chapter 119. of the Revised 34701
Code, to a fair hearing before the ~~administrator~~ executive 34702
director of the ~~rehabilitation services commission~~ agency. 34703

Sec. 3304.21. No person shall, except for the purposes of 34704
sections 3304.11 to 3304.27, ~~inclusive~~, of the Revised Code, and 34705
in accordance with the rules established by the ~~rehabilitation~~ 34706
~~services commission~~ opportunities for Ohioans with disabilities 34707
agency, solicit, disclose, receive, make use of, authorize, 34708
knowingly permit, participate in, or acquiesce in the use of any 34709
list of names or information concerning persons applying for or 34710
receiving any services from the ~~commission~~ agency, which 34711
information is directly or indirectly derived from the records of 34712
the agency or is acquired in the performance of the person's 34713

official duties. 34714

Sec. 3304.22. No officer or employee of the ~~rehabilitation~~ 34715
~~services opportunities for Ohioans with disabilities~~ commission, 34716
~~the opportunities for Ohioans with disabilities agency,~~ or any 34717
person engaged in the administration of a vocational 34718
rehabilitation program sponsored by or affiliated with the state 34719
shall use or permit the use of any vocational rehabilitation 34720
program for the purpose of interfering with an election for any 34721
partisan political purpose; solicit or receive money for a 34722
partisan political purpose; or require any other person to 34723
contribute any service or money for a partisan political purpose. 34724
Whoever violates this section shall be removed from ~~his~~ the 34725
officer's or employee's office or employment. 34726

Sec. 3304.23. (A) There is hereby created in the 34727
~~rehabilitation services commission~~ opportunities for Ohioans with 34728
disabilities agency a brain injury program consisting of a program 34729
director and at least one support staff person. 34730

(B) To the extent that funds are available, the brain injury 34731
program may do the following: 34732

(1) Identify existing services in this state to assist 34733
survivors and families of survivors of brain injury; 34734

(2) Promote the coordination of services for survivors and 34735
families of survivors of brain injury; 34736

(3) Explore options for delivery of services to survivors and 34737
families of survivors of brain injury; 34738

(4) Explore the establishment of a traumatic brain injury 34739
incidence reporting system to collect information on the incidence 34740
and character of traumatic brain injury in this state; 34741

(5) Promote practices that will reduce the incidence of brain 34742

injury; 34743

(6) Develop training programs on dealing with brain injury 34744
and the special needs of survivors of brain injury; 34745

(7) Identify sources of available funds for services for 34746
survivors and families of survivors of brain injury; 34747

(8) Explore options for the delivery of case management 34748
services to residents of this state who are survivors of brain 34749
injury; 34750

(9) Provide assistance to assure that services for survivors 34751
and families of survivors of brain injury are all of the 34752
following: 34753

(a) Designed to enhance the survivor's ability to lead an 34754
independent and productive life; 34755

(b) Available within close proximity of the survivor's home; 34756

(c) Provided in the least restrictive environment; 34757

(d) Appropriate to the unique needs of the survivor. 34758

(C) The staff of the brain injury program shall prepare a 34759
biennial report on the incidence of brain injury in this state 34760
that shall be submitted to the ~~administrator~~ executive director of 34761
the ~~rehabilitation services commission~~ opportunities for Ohioans 34762
with disabilities agency on or before December 15, 1992, and every 34763
two years thereafter. A copy of the report shall be submitted to 34764
the brain injury advisory committee created under section 3304.231 34765
of the Revised Code. 34766

Sec. 3304.231. There is hereby created a brain injury 34767
advisory committee, which shall advise the ~~administrator~~ executive 34768
director of the ~~rehabilitation services commission~~ opportunities 34769
for Ohioans with disabilities agency and the brain injury program 34770
with regard to unmet needs of survivors of brain injury, 34771

development of programs for survivors and their families, 34772
establishment of training programs for health care professionals, 34773
and any other matter within the province of the brain injury 34774
program. The committee shall consist of not fewer than ~~twenty~~ 34775
nineteen and not more than ~~twenty-two~~ twenty-one members as 34776
follows: 34777

(A) Not fewer than ten and not more than twelve members 34778
appointed by the ~~administrator~~ executive director of the 34779
~~rehabilitation services commission~~ opportunities for Ohioans with 34780
disabilities agency, including all of the following: a survivor of 34781
brain injury, a relative of a survivor of brain injury, a licensed 34782
physician recommended by the Ohio chapter of the American college 34783
of emergency physicians, a licensed physician recommended by the 34784
Ohio state medical association, one other health care 34785
professional, a rehabilitation professional, an individual who 34786
represents the brain injury association of Ohio, and not fewer 34787
than three nor more than five individuals who shall represent the 34788
public; 34789

(B) The directors of the departments of health, ~~alcohol and~~ 34790
~~drug addiction services~~ mental health and drug addiction services, 34791
developmental disabilities, ~~mental health, job and family~~ 34792
~~services~~, aging, and public safety; the medicaid director; the 34793
administrator of workers' compensation; the superintendent of 34794
public instruction; and the ~~administrator~~ executive director of 34795
the ~~rehabilitation services commission~~ opportunities for Ohioans 34796
with disabilities agency. Any of the officials specified in this 34797
division may designate an individual to serve in the official's 34798
place as a member of the committee. 34799

Terms of office of the appointed members shall be two years. 34800
Members may be reappointed. Vacancies shall be filled in the 34801
manner provided for original appointments. Any member appointed to 34802
fill a vacancy occurring prior to the expiration date of the term 34803

for which the member's predecessor was appointed shall hold office 34804
as a member for the remainder of that term. 34805

Members of the committee shall serve without compensation, 34806
but shall be reimbursed for actual and necessary expenses incurred 34807
in the performance of their duties. 34808

Sec. 3304.24. The ~~rehabilitation services~~ opportunities for 34809
Ohioans with disabilities commission shall appoint a consumer 34810
advisory committee. ~~The commission may appoint additional advisory~~ 34811
~~committees it finds necessary.~~ 34812

Sec. 3304.25. The members of the ~~bureau~~ consumer advisory 34813
~~committees~~ committee appointed under section 3304.24 of the 34814
Revised Code shall receive no compensation for their services 34815
except their actual and necessary traveling and other expenses 34816
incurred in the performance of their official duties, which shall 34817
first be approved by the ~~administrator~~ executive director of the 34818
~~rehabilitation services commission~~ opportunities for Ohioans with 34819
disabilities agency. 34820

Sec. 3304.27. All vocational rehabilitation services made 34821
available under sections 3304.11 to 3304.27, ~~inclusive,~~ of the 34822
Revised Code, are made available subject to amendment or repeal of 34823
~~those~~ sections 3304.11 to 3304.27, ~~inclusive,~~ of the Revised Code, 34824
and no ~~disabled~~ person with a disability shall have any claim by 34825
reason of ~~his~~ the person's vocational rehabilitation being 34826
affected in any way by such an amendment or repeal. 34827

Sec. 3304.28. As used in sections 3304.28 to 3304.34 of the 34828
Revised Code: 34829

(A) "Suitable vending facility" means automatic vending 34830
machines, cafeterias, snack bars, cart service shelters, counters, 34831
and other appropriate auxiliary food service equipment determined 34832

to be necessary by the bureau of services for the visually 34833
impaired for the automatic or manual dispensing of foods, 34834
beverages, and other such commodities for sale by persons, no 34835
fewer than one-half of whom are blind, under the supervision of a 34836
licensed blind vendor or an employee of the ~~commission~~ 34837
opportunities for Ohioans with disabilities agency. 34838

(B) "Blind" means either of the following: 34839

(1) Vision twenty/two hundred or less in the better eye with 34840
proper correction; 34841

(2) Field defect in the better eye with proper correction 34842
~~which that~~ contracts the peripheral field so that the diameter of 34843
the visual field subtends an angle no greater than twenty degrees. 34844

(C) "Governmental property" means any real property, 34845
building, or facility owned, leased, or rented by the state or any 34846
board, commission, department, division, or other unit or agency 34847
thereof, but does not include any institution under the management 34848
of the department of rehabilitation and correction pursuant to 34849
section 5120.05 of the Revised Code, or under the management of 34850
the department of youth services created pursuant to section 34851
5139.01 of the Revised Code. 34852

Sec. 3304.41. The ~~rehabilitation services commission~~ 34853
opportunities for Ohioans with disabilities agency shall establish 34854
and administer a program for the use of funds appropriated for 34855
that purpose to provide personal care assistance to enable 34856
eligible severely physically disabled persons to live 34857
independently or work, shall adopt rules in accordance with 34858
Chapter 119. of the Revised Code as necessary to carry out the 34859
purposes of this section, and shall apply to the controlling board 34860
for the release of the funds. 34861

Sec. 3307.51. (A) The state teachers retirement board shall 34862

have prepared annually by or under the supervision of an actuary 34863
an actuarial valuation of the pension assets, liabilities, and 34864
funding requirements of the STRS defined benefit plan. The actuary 34865
shall complete the valuation in accordance with actuarial 34866
standards of practice promulgated by the actuarial standards board 34867
of the American academy of actuaries and prepare a report of the 34868
valuation. The report shall include all of the following: 34869

(1) A summary of the benefit provisions evaluated; 34870

(2) A summary of the census data and financial information 34871
used in the valuation; 34872

(3) A description of the actuarial assumptions, actuarial 34873
cost method, and asset valuation method used in the valuation, 34874
including a statement of the assumed rate of payroll growth and 34875
assumed rate of growth or decline in the number of members 34876
contributing to the retirement system; 34877

(4) A summary of findings that includes a statement of the 34878
actuarial accrued pension liabilities and unfunded actuarial 34879
accrued pension liabilities; 34880

(5) A schedule showing the effect of any changes in the 34881
benefit provisions, actuarial assumptions, or cost methods since 34882
the last annual actuarial valuation; 34883

(6) A statement of whether contributions to the retirement 34884
system are expected to be sufficient to satisfy the funding 34885
objectives established by the board. 34886

The board shall submit the report to the Ohio retirement 34887
study council, the director of budget and management, and the 34888
standing committees of the house of representatives and the senate 34889
with primary responsibility for retirement legislation immediately 34890
upon its availability and not later than the first day of January 34891
following the year for which the valuation was made. 34892

(B) At such times as the state teachers retirement board 34893
determines, and at least once in each quinquennial period, the 34894
board shall have prepared by or under the supervision of an 34895
actuary an actuarial investigation of the mortality, service, and 34896
other experience of the members, retirants, and beneficiaries of 34897
the system, and other system retirants as defined in section 34898
3307.35 of the Revised Code to update the actuarial assumptions 34899
used in the actuarial valuation required by division (A) of this 34900
section. The actuary shall prepare a report of the actuarial 34901
investigation. The report shall be prepared and any recommended 34902
changes in actuarial assumptions shall be made in accordance with 34903
the actuarial standards of practice promulgated by the actuarial 34904
standards board of the American academy of actuaries. The report 34905
shall include all of the following: 34906

(1) A summary of relevant decrement and economic assumption 34907
experience observed over the period of the investigation; 34908

(2) Recommended changes in actuarial assumptions to be used 34909
in subsequent actuarial valuations required by division (A) of 34910
this section; 34911

(3) A measurement of the financial effect of the recommended 34912
changes in actuarial assumptions. 34913

The board shall submit the report to the Ohio retirement 34914
study council and the standing committees of the house of 34915
representatives and the senate with primary responsibility for 34916
retirement legislation not later than the first day of May 34917
following the last fiscal year of the period the report covers. 34918

(C) The board may at any time request the actuary to make any 34919
other studies or actuarial valuations to determine the adequacy of 34920
the normal and deficiency rates of contribution provided by 34921
section 3307.28 of the Revised Code, and those rates may be 34922
adjusted by the board, as recommended by the actuary, effective as 34923

of the first of any year thereafter. 34924

(D) The board shall have prepared by or under the supervision 34925
of an actuary an actuarial analysis of any introduced legislation 34926
expected to have a measurable financial impact on the retirement 34927
system. The actuarial analysis shall be completed in accordance 34928
with the actuarial standards of practice promulgated by the 34929
actuarial standards board of the American academy of actuaries. 34930
The actuary shall prepare a report of the actuarial analysis, 34931
which shall include all of the following: 34932

(1) A summary of the statutory changes that are being 34933
evaluated; 34934

(2) A description of or reference to the actuarial 34935
assumptions and actuarial cost method used in the report; 34936

(3) A description of the participant group or groups included 34937
in the report; 34938

(4) A statement of the financial impact of the legislation, 34939
including the resulting increase, if any, in the employer normal 34940
cost percentage; the increase, if any, in actuarial accrued 34941
liabilities; and the per cent of payroll that would be required to 34942
amortize the increase in actuarial accrued liabilities as a level 34943
per cent of covered payroll for all active members over a period 34944
not to exceed thirty years; 34945

(5) A statement of whether the scheduled contributions to the 34946
system after the proposed change is enacted are expected to be 34947
sufficient to satisfy the funding objectives established by the 34948
board. 34949

Not later than sixty days from the date of introduction of 34950
the legislation, the board shall submit a copy of the actuarial 34951
analysis to the legislative service commission, the standing 34952
committees of the house of representatives and the senate with 34953
primary responsibility for retirement legislation, and the Ohio 34954

retirement study council. 34955

(E) The board shall have prepared annually a report giving a 34956
full accounting of the revenues and costs relating to the 34957
provision of benefits under section 3307.39 of the Revised Code. 34958
The report shall be made as of June 30, 1997, and the thirtieth 34959
day of June of each year thereafter. The report shall include the 34960
following: 34961

(1) A description of the statutory authority for the benefits 34962
provided; 34963

(2) A summary of the benefits; 34964

(3) A summary of the eligibility requirements for the 34965
benefits; 34966

(4) A statement of the number of participants eligible for 34967
the benefits; 34968

(5) A description of the accounting, asset valuation, and 34969
funding method used to provide the benefits; 34970

(6) A statement of the net assets available for the 34971
provisions of benefits as of the last day of the fiscal year; 34972

(7) A statement of any changes in the net assets available 34973
for the provision of benefits, including participant and employer 34974
contributions, net investment income, administrative expenses, and 34975
benefits provided to participants, as of the last day of the 34976
fiscal year; 34977

(8) For the last six consecutive fiscal years, a schedule of 34978
the net assets available for the benefits, the annual cost of 34979
benefits, administrative expenses incurred, and annual employer 34980
contributions allocated for the provision of benefits; 34981

(9) A description of any significant changes that affect the 34982
comparability of the report required under this division; 34983

(10) A statement of the amount paid under division (B) of 34984

section 3307.39 of the Revised Code. 34985

The board shall submit the report to the Ohio retirement 34986
study council, the director of budget and management, and the 34987
standing committees of the house of representatives and the senate 34988
with primary responsibility for retirement legislation immediately 34989
upon its availability and not later than the thirty-first day of 34990
December following the year for which the report was made. 34991

Sec. 3309.21. (A) The school employees retirement board shall 34992
have prepared annually by or under the supervision of an actuary 34993
an actuarial valuation of the pension assets, liabilities, and 34994
funding requirements of the school employees retirement system as 34995
established pursuant to this chapter. The actuary shall complete 34996
the valuation in accordance with actuarial standards of practice 34997
promulgated by the actuarial standards board of the American 34998
academy of actuaries and prepare a report of the valuation. The 34999
report shall include all of the following: 35000

(1) A summary of the benefit provisions evaluated; 35001

(2) A summary of the census data and financial information 35002
used in the valuation; 35003

(3) A description of the actuarial assumptions, actuarial 35004
cost method, and asset valuation method used in the valuation, 35005
including a statement of the assumed rate of payroll growth and 35006
assumed rate of growth or decline in the number of members 35007
contributing to the retirement system; 35008

(4) A summary of findings that includes a statement of the 35009
actuarial accrued pension liabilities and unfunded actuarial 35010
accrued pension liabilities; 35011

(5) A schedule showing the effect of any changes in the 35012
benefit provisions, actuarial assumptions, or cost methods since 35013
the last annual actuarial valuation; 35014

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board. 35015
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The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of May following the year for which the valuation was made. 35018
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(B) At such times as the school employees retirement board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries of the retirement system, and SERS retirants and other system retirants as defined in section 3309.341 of the Revised Code to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following: 35024
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(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation; 35039
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(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section; 35041
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(3) A measurement of the financial effect of the recommended changes in actuarial assumptions. 35044
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The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the rates of contribution as provided by section 3309.49 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

(1) A summary of the statutory changes that are being evaluated;

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;

(3) A description of the participant group or groups included in the report;

(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period

not to exceed thirty years; 35077

(5) A statement of whether the scheduled contributions to the 35078
system after the proposed change is enacted are expected to be 35079
sufficient to satisfy the funding objectives established by the 35080
board. 35081

Not later than sixty days from the date of introduction of 35082
the legislation, the board shall submit a copy of the actuarial 35083
analysis to the legislative service commission, the standing 35084
committees of the house of representatives and the senate with 35085
primary responsibility for retirement legislation, and the Ohio 35086
retirement study council. 35087

(E) The board shall have prepared annually a report giving a 35088
full accounting of the revenues and costs relating to the 35089
provision of benefits under sections 3309.375 and 3309.69 of the 35090
Revised Code. The report shall be made as of June 30, 1997, and 35091
the thirtieth day of June of each year thereafter. The report 35092
shall include the following: 35093

(1) A description of the statutory authority for the benefits 35094
provided; 35095

(2) A summary of the benefits; 35096

(3) A summary of the eligibility requirements for the 35097
benefits; 35098

(4) A statement of the number of participants eligible for 35099
the benefits; 35100

(5) A description of the accounting, asset valuation, and 35101
funding method used to provide the benefits; 35102

(6) A statement of the net assets available for the provision 35103
of the benefits as of the last day of the fiscal year; 35104

(7) A statement of any changes in the net assets available 35105
for the provision of benefits, including participant and employer 35106

contributions, net investment income, administrative expenses, and 35107
benefits provided to participants, as of the last day of the 35108
fiscal year; 35109

(8) For the last six consecutive fiscal years, a schedule of 35110
the net assets available for the benefits, the annual cost of 35111
benefits, administrative expenses incurred, and annual employer 35112
contributions allocated for the provision of benefits; 35113

(9) A description of any significant changes that affect the 35114
comparability of the report required under this division; 35115

(10) A statement of the amount paid under division (E) of 35116
section 3309.69 of the Revised Code. 35117

The board shall submit the report to the Ohio retirement 35118
study council, the director of budget and management, and the 35119
standing committees of the house of representatives and the senate 35120
with primary responsibility for retirement legislation immediately 35121
upon its availability and not later than the thirty-first day of 35122
December following the year for which the report was made. 35123

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the 35124
Revised Code: 35125

(A) "Chartered nonpublic school" means a nonpublic school 35126
that holds a valid charter issued by the state board of education 35127
under section 3301.16 of the Revised Code and meets the standards 35128
established for such schools in rules adopted by the state board. 35129

(B) An "eligible student" is a student who satisfies the 35130
conditions specified in section 3310.03 or 3310.032 of the Revised 35131
Code. 35132

(C) "Parent" has the same meaning as in section 3313.98 of 35133
the Revised Code. 35134

(D) "Resident district" means the school district in which a 35135
student is entitled to attend school under section 3313.64 or 35136

3313.65 of the Revised Code. 35137

(E) "School year" has the same meaning as in section 3313.62 35138
of the Revised Code. 35139

Sec. 3310.02. (A) The educational choice scholarship pilot 35140
program is hereby established. Under the program, the department 35141
of education annually shall pay scholarships to attend chartered 35142
nonpublic schools in accordance with section 3310.08 of the 35143
Revised Code for up to the following number of eligible students: 35144

(1) Thirty thousand in the 2011-2012 school year; 35145

(2) Sixty thousand in the 2012-2013 school year and 35146
thereafter. 35147

(B) If the number of students who apply for a scholarship 35148
exceeds the number of scholarships available under division (A) of 35149
this section for the applicable school year, the department shall 35150
award scholarships in the following order of priority: 35151

(1) First, to eligible students who received scholarships in 35152
the prior school year; 35153

(2) Second, to eligible students with family incomes at or 35154
below two hundred per cent of the federal poverty guidelines, as 35155
defined in section 5101.46 of the Revised Code, who qualify under 35156
division (A) of section 3310.03 of the Revised Code. If the number 35157
of students described in division (B)(2) of this section who apply 35158
for a scholarship exceeds the number of available scholarships 35159
after awards are made under division (B)(1) of this section, the 35160
department shall select students described in division (B)(2) of 35161
this section by lot to receive any remaining scholarships. 35162

(3) Third, to other eligible students who qualify under 35163
division (A) of section 3310.03 of the Revised Code. If the number 35164
of students described in division (B)(3) of this section who apply 35165
for a scholarship exceeds the number of available scholarships 35166

after awards are made under divisions (B)(1) and (2) of this 35167
section, the department shall select students described in 35168
division (B)(3) of this section by lot to receive any remaining 35169
scholarships. 35170

(4) Fourth, to eligible students with family incomes at or 35171
below two hundred per cent of the federal poverty guidelines who 35172
qualify under division ~~(B)~~(D) of section 3310.03 of the Revised 35173
Code. If the number of students described in division (B)(4) of 35174
this section who apply for a scholarship exceeds the number of 35175
available scholarships after awards are made under divisions 35176
(B)(1) to (3) of this section, the department shall select 35177
students described in division (B)(4) of this section by lot to 35178
receive any remaining scholarships. 35179

(5) Fifth, to other eligible students who qualify under 35180
division ~~(B)~~(D) of section 3310.03 of the Revised Code. If the 35181
number of students described in division (B)(5) of this section 35182
who apply for a scholarship exceeds the number of available 35183
scholarships after awards are made under divisions (B)(1) to (4) 35184
of this section, the department shall select students described in 35185
division (B)(5) of this section by lot to receive any remaining 35186
scholarships. 35187

(6) Sixth, to eligible students with family incomes at or 35188
below two hundred per cent of the federal poverty guidelines who 35189
qualify under division (B) of section 3310.03 of the Revised Code. 35190
If the number of students described in division (B)(6) of this 35191
section who apply for a scholarship exceeds the number of 35192
available scholarships after awards are made under divisions 35193
(B)(1) to (5) of this section, the department shall select 35194
students described in division (B)(6) of this section by lot to 35195
receive any remaining scholarships. 35196

(7) Seventh, to other eligible students who qualify under 35197
division (B) of section 3310.03 of the Revised Code. If the number 35198

of students described in division (B)(7) of this section who apply 35199
for a scholarship exceeds the number of available scholarships 35200
after awards are made under divisions (B)(1) to (6) of this 35201
section, the department shall select students described in 35202
division (B)(7) of this section by lot to receive any remaining 35203
scholarships. 35204

Sec. 3310.03. A student is an "eligible student" for purposes 35205
of the educational choice scholarship pilot program if the 35206
student's resident district is not a school district in which the 35207
pilot project scholarship program is operating under sections 35208
3313.974 to 3313.979 of the Revised Code and the student satisfies 35209
one of the conditions in division (A), (B), ~~or (C)~~, or (D) of this 35210
section: 35211

(A)(1) The student is enrolled in a school building operated 35212
by the student's resident district that, on the report card issued 35213
under section 3302.03 of the Revised Code published prior to the 35214
first day of July of the school year for which a scholarship is 35215
sought, did not receive a rating as described in division ~~(G)~~(H) 35216
of this section, and to which any or a combination of any of the 35217
following apply for two of the three most recent report cards 35218
published prior to the first day of July of the school year for 35219
which a scholarship is sought: 35220

(a) The building was declared to be in a state of academic 35221
emergency or academic watch under section 3302.03 of the Revised 35222
Code as that section existed prior to ~~the effective date of this~~ 35223
~~amendment~~ March 22, 2013. 35224

(b) The building received a grade of "D" or "F" for the 35225
performance index score under division (A)(1)(b) or (B)(1)(b) of 35226
section 3302.03 of the Revised Code and for the value-added 35227
progress dimension under division (A)(1)(e) or (B)(1)(e) of 35228
section 3302.03 of the Revised Code for the 2012-2013 or 2013-2014 35229

school year, or both; or if the building serves only grades ten 35230
through twelve, the building received a grade of "D" or "F" for 35231
the performance index score under division (A)(1)(b) or (B)(1)(b) 35232
of section 3302.03 of the Revised Code and had a four-year 35233
adjusted cohort graduation rate of less than seventy-five per 35234
cent. 35235

(c) The building received an overall grade of "D" or "F" 35236
under division (C)(3) of section 3302.03 of the Revised Code or a 35237
grade of "F" for the value-added progress dimension under division 35238
(C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 35239
school year or any school year thereafter. 35240

(2) The student is eligible to enroll in kindergarten in the 35241
school year for which a scholarship is sought and otherwise would 35242
be assigned under section 3319.01 of the Revised Code to a school 35243
building described in division (A)(1) of this section. 35244

(3) The student is enrolled in a community school established 35245
under Chapter 3314. of the Revised Code but otherwise would be 35246
assigned under section 3319.01 of the Revised Code to a building 35247
described in division (A)(1) of this section. 35248

(4) The student is enrolled in a school building operated by 35249
the student's resident district or in a community school 35250
established under Chapter 3314. of the Revised Code and otherwise 35251
would be assigned under section 3319.01 of the Revised Code to a 35252
school building described in division (A)(1) of this section in 35253
the school year for which the scholarship is sought. 35254

(5) The student is eligible to enroll in kindergarten in the 35255
school year for which a scholarship is sought, or is enrolled in a 35256
community school established under Chapter 3314. of the Revised 35257
Code, and all of the following apply to the student's resident 35258
district: 35259

(a) The district has in force an intradistrict open 35260

enrollment policy under which no student in kindergarten or the 35261
community school student's grade level, respectively, is 35262
automatically assigned to a particular school building; 35263

(b) In the most recent rating published prior to the first 35264
day of July of the school year for which scholarship is sought, 35265
the district did not receive a rating described in division ~~(G)~~(H) 35266
of this section, and in at least two of the three most recent 35267
report cards published prior to the first day of July of that 35268
school year, any or a combination of the following apply to the 35269
district: 35270

(i) The district was declared to be in a state of academic 35271
emergency under section 3302.03 of the Revised Code as it existed 35272
prior to ~~the effective date of this amendment~~ March 22, 2013. 35273

(ii) The district received a grade of "D" or "F" for the 35274
performance index score under division (A)(1)(b) or (B)(1)(b) of 35275
section 3302.03 of the Revised Code and for the value-added 35276
progress dimension under division (A)(1)(e) or (B)(1)(e) of 35277
section 3302.03 of the Revised Code for the 2012-2013 or 2013-2014 35278
school year, or both. 35279

(c) The district received an overall grade of "D" or "F" 35280
under division (C)(3) of section 3302.03 of the Revised Code or a 35281
grade of "F" for the value-added progress dimension under division 35282
(C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 35283
school year or any school year thereafter. 35284

(B)(1) The student is enrolled in a school building operated 35285
by the student's resident district and to which both of the 35286
following apply: 35287

(a) The building was ranked, for at least two of the three 35288
most recent rankings published under section 3302.21 of the 35289
Revised Code prior to the first day of July of the school year for 35290
which a scholarship is sought, in the lowest ten per cent of all 35291

public school buildings according to performance index score under 35292
section 3302.21 of the Revised Code. 35293

(b) The building was not declared to be excellent or 35294
effective, or the equivalent of such ratings as determined by the 35295
department of education, under section 3302.03 of the Revised Code 35296
in the most recent rating published prior to the first day of July 35297
of the school year for which a scholarship is sought. 35298

(2) The student is eligible to enroll in kindergarten in the 35299
school year for which a scholarship is sought and otherwise would 35300
be assigned under section 3319.01 of the Revised Code to a school 35301
building described in division (B)(1) of this section. 35302

(3) The student is enrolled in a community school established 35303
under Chapter 3314. of the Revised Code but otherwise would be 35304
assigned under section 3319.01 of the Revised Code to a building 35305
described in division (B)(1) of this section. 35306

(4) The student is enrolled in a school building operated by 35307
the student's resident district or in a community school 35308
established under Chapter 3314. of the Revised Code and otherwise 35309
would be assigned under section 3319.01 of the Revised Code to a 35310
school building described in division (B)(1) of this section in 35311
the school year for which the scholarship is sought. 35312

(C) The student is enrolled in a nonpublic school at the time 35313
the school is granted a charter by the state board of education 35314
under section 3301.16 of the Revised Code and the student meets 35315
the standards of division (B) of section 3310.031 of the Revised 35316
Code. 35317

(D) For the 2016-2017 school year and each school year 35318
thereafter, the student is in any of grades kindergarten through 35319
three, is enrolled in a school building that is operated by the 35320
student's resident district, and to which both of the following 35321
apply: 35322

(1) The building, in at least two of the three most recent ratings of school buildings published prior to the first day of July of the school year for which a scholarship is sought, received a grade of "D" or "F" for making progress in improving literacy in grades kindergarten through three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code; 35323
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(2) The building did not receive a grade of "A" for making progress in improving literacy in grades kindergarten through three under division (B)(1)(g) or (C)(1)(g) of section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought. 35329
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(E) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply: 35335
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(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) ~~or~~, (B)(1), or (D) of this section; 35340
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(2) The student takes each assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school; 35344
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(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences. 35347
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~~(E)~~(F)(1) The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings 35351
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of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(5) of this section.

(2) The department shall cease awarding first-time scholarships pursuant to divisions (B)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (B)(1) of this section.

(3) The department shall cease awarding first-time scholarships pursuant to division (D) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (D) of this section.

(4) However, students who have received scholarships in the prior school year remain eligible students pursuant to division ~~(D)~~(E) of this section.

~~(F)~~(G) The state board of education shall adopt rules defining excused absences for purposes of division ~~(D)~~(E)(3) of this section.

~~(G)~~(H)(1) A student who satisfies only the conditions prescribed in divisions (A)(1) to (4) of this section shall not be eligible for a scholarship if the student's resident building meets any of the following in the most recent rating under section

3302.03 of the Revised Code published prior to the first day of 35385
July of the school year for which a scholarship is sought: 35386

(a) The building has an overall designation of excellent or 35387
effective under section 3302.03 of the Revised Code as it existed 35388
prior to ~~the effective date of this amendment~~ March 22, 2013. 35389

(b) For the 2012-2013 or 2013-2014 school year or both, the 35390
building has a grade of "A" or "B" for the performance index score 35391
under division (A)(1)(b) or (B)(1)(b) of section 3302.03 of the 35392
Revised Code and for the value-added progress dimension under 35393
division (A)(1)(e) or (B)(1)(e) of section 3302.03 of the Revised 35394
Code; or if the building serves only grades ten through twelve, 35395
the building received a grade of "A" or "B" for the performance 35396
index score under division (A)(1)(b) or (B)(1)(b) of section 35397
3302.03 of the Revised Code and had a four-year adjusted cohort 35398
graduation rate of greater than or equal to seventy-five per cent. 35399

(c) For the 2014-2015 school year or any school year 35400
thereafter, the building has a grade of "A" or "B" under division 35401
(C)(3) of section 3302.03 of the Revised Code and a grade of "A" 35402
for the value-added progress dimension under division (C)(1)(e) of 35403
section 3302.03 of the Revised Code; or if the building serves 35404
only grades ten through twelve, the building received a grade of 35405
"A" or "B" for the performance index score under division 35406
(C)(1)(b) of section 3302.03 of the Revised Code and had a 35407
four-year adjusted cohort graduation rate of greater than or equal 35408
to seventy-five per cent. 35409

(2) A student who satisfies only the conditions prescribed in 35410
division (A)(5) of this section shall not be eligible for a 35411
scholarship if the student's resident district meets any of the 35412
following in the most recent rating under section 3302.03 of the 35413
Revised Code published prior to the first day of July of the 35414
school year for which a scholarship is sought: 35415

(a) The district has an overall designation of excellent or 35416
effective under section 3302.03 of the Revised Code as it existed 35417
prior to ~~the effective date of this amendment~~ March 22, 2013. 35418

(b) The district has a grade of "A" or "B" for the 35419
performance index score under division (A)(1)(b) or (B)(1)(b) of 35420
section 3302.03 of the Revised Code and for the value-added 35421
progress dimension under division (A)(1)(e) or (B)(1)(e) of 35422
section 3302.03 of the Revised Code for the 2012-2013 and 35423
2013-2014 school years. 35424

(c) The district has an overall grade of "A" or "B" under 35425
division (C)(3) of section 3302.03 of the Revised Code and a grade 35426
of "A" for the value-added progress dimension under division 35427
(C)(1)(e) of section 3302.03 of the Revised Code for the 2014-2015 35428
school year or any school year thereafter. 35429

Sec. 3310.032. (A) A student is an "eligible student" for 35430
purposes of the expansion of the educational choice scholarship 35431
pilot program under this section if the student's resident 35432
district is not a school district in which the pilot project 35433
scholarship program is operating under sections 3313.974 to 35434
3313.979 of the Revised Code and the student's family income is at 35435
or below two hundred per cent of the federal poverty guidelines, 35436
as defined in section 5101.46 of the Revised Code. 35437

(B) In each fiscal year for which the general assembly 35438
appropriates funds for purposes of this section, the department of 35439
education shall pay scholarships to attend chartered nonpublic 35440
schools in accordance with section 3310.08 of the Revised Code. 35441
The number of scholarships awarded under this section shall not 35442
exceed the number that can be funded with appropriations made by 35443
the general assembly for this purpose. 35444

(C) Scholarships under this section shall be awarded as 35445
follows: 35446

(1) For the 2013-2014 school year, to eligible students who 35447
are entering kindergarten in that school year for the first time; 35448

(2) For each subsequent school year, scholarships shall be 35449
awarded to eligible students in the next grade level above the 35450
highest grade level awarded in the preceding school year, in 35451
addition to the grade levels for which students received 35452
scholarships in the preceding school year. 35453

(D) If the number of eligible students who apply for a 35454
scholarship under this section exceeds the scholarships available 35455
based on the appropriation for this section, the department shall 35456
award scholarships in the following order of priority: 35457

(1) First, to eligible students who received scholarships 35458
under this section in the prior school year; 35459

(2) Second, to eligible students with family incomes at or 35460
below one hundred per cent of the federal poverty guidelines. If 35461
the number of students described in division (D)(2) of this 35462
section who apply for a scholarship exceeds the number of 35463
available scholarships after awards are made under division (D)(1) 35464
of this section, the department shall select students described in 35465
division (D)(2) of this section by lot to receive any remaining 35466
scholarships. 35467

(3) Third, to other eligible students who qualify under this 35468
section. If the number of students described in division (D)(3) of 35469
this section exceeds the number of available scholarships after 35470
awards are made under divisions (D)(1) and (2) of this section, 35471
the department shall select students described in division (D)(3) 35472
of this section by lot to receive any remaining scholarships. 35473

(E) A student who receives a scholarship under this section 35474
remains an eligible student and may continue to receive 35475
scholarships under this section in subsequent school years until 35476
the student completes grade twelve, so long as the student 35477

satisfies the conditions specified in divisions (E)(2) and (3) of section 3310.03 of the Revised Code. 35478
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Once a scholarship is awarded under this section, the student shall remain eligible for that scholarship for the current school year and subsequent school years even if the student's family income rises above the amount specified in division (A) of this section, provided the student remains enrolled in a chartered nonpublic school. 35480
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Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct, with differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 of the Revised Code is a district-wide program that may award scholarships to students who do not attend district schools that face academic challenges, whereas the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code is limited to students of individual district school buildings that face academic challenges and to students from low-income families. 35486
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Sec. 3310.06. It is the policy adopted by the general assembly that the educational choice scholarship pilot program shall be construed as one of several educational options available for students enrolled in academic emergency or academic watch school buildings or for students from low-income families. Students may be enrolled in the schools of the student's resident district, in a community school established under Chapter 3314. of the Revised Code, in the schools of another school district pursuant to an open enrollment policy adopted under section 35500
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3313.98 of the Revised Code, in a chartered nonpublic school with 35509
or without a scholarship under the educational choice scholarship 35510
pilot program, or in other schools as the law may provide. 35511

Sec. 3310.08. (A) The amount paid for an eligible student 35512
under the educational choice scholarship pilot program shall be 35513
the lesser of the tuition of the chartered nonpublic school in 35514
which the student is enrolled or the maximum amount prescribed in 35515
section 3310.09 of the Revised Code. 35516

(B)(1) The department of education shall pay to the parent of 35517
each eligible student for whom a scholarship is awarded under the 35518
program, or to the student if at least eighteen years of age, 35519
periodic partial payments of the scholarship. 35520

(2) The department shall proportionately reduce or terminate 35521
the payments for any student who withdraws from a chartered 35522
nonpublic school prior to the end of the school year. 35523

(C)(1) The department shall deduct from the payments made to 35524
each school district under Chapter 3317., and if necessary, 35525
sections 321.24 and 323.156 of the Revised Code, the amount paid 35526
under division (B) of this section for each eligible student 35527
awarded who qualifies for a scholarship under the program section 35528
3310.03 of the Revised Code and who is entitled under section 35529
3313.64 or 3313.65 of the Revised Code to attend school in the 35530
district. In the case of a student entitled to attend school in a 35531
school district under division (B)(2)(a) of section 3313.64 or 35532
division (C) of section 3313.65 of the Revised Code, the 35533
department shall deduct the payments from the school district that 35534
includes the student in its average daily membership as reported 35535
to the department under section 3317.03 of the Revised Code, as 35536
determined by the department. 35537

(2) If the department reduces or terminates payments to a 35538

parent or a student, as prescribed in division (B)(2) of this 35539
section, and the student enrolls in the schools of the student's 35540
resident district or in a community school, established under 35541
Chapter 3314. of the Revised Code, before the end of the school 35542
year, the department shall proportionally restore to the resident 35543
district the amount deducted for that student under division 35544
(C)(1) of this section. 35545

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of the 35546
Revised Code: 35547

(A) "Alternative public provider" means either of the 35548
following providers that agrees to enroll a child in the 35549
provider's special education program to implement the child's 35550
individualized education program and to which the eligible 35551
applicant owes fees for the services provided to the child: 35552

(1) A school district that is not the school district in 35553
which the child is entitled to attend school or the child's school 35554
district of residence, if different; 35555

(2) A public entity other than a school district. 35556

(B) "Child with a disability" and "individualized education 35557
program" have the same meanings as in section 3323.01 of the 35558
Revised Code. 35559

(C) "Eligible applicant" means any of the following: 35560

(1) Either of the natural or adoptive parents of a qualified 35561
special education child, except as otherwise specified in this 35562
division. When the marriage of the natural or adoptive parents of 35563
the student has been terminated by a divorce, dissolution of 35564
marriage, or annulment, or when the natural or adoptive parents of 35565
the student are living separate and apart under a legal separation 35566
decree, and a court has issued an order allocating the parental 35567
rights and responsibilities with respect to the child, "eligible 35568

applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated.

(2) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency;

(3) The guardian of a qualified special education child, when a court has appointed a guardian for the child;

(4) The grandparent of a qualified special education child, when the grandparent is the child's attorney in fact under a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when the grandparent has executed a caregiver authorization affidavit under sections 3109.65 to 3109.73 of the Revised Code;

(5) The surrogate parent appointed for a qualified special education child pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code;

(6) A qualified special education child, if the child does not have a custodian or guardian and the child is at least eighteen years of age.

(D) "Entitled to attend school" means entitled to attend school in a school district under sections 3313.64 and 3313.65 of the Revised Code.

(E) "Formula ADM" ~~and "formula amount" have~~ has the same ~~meanings~~ meaning as in section 3317.02 of the Revised Code.

(F) "Qualified special education child" is a child for whom all of the following conditions apply:

(1) The child is at least five years of age and less than

twenty-two years of age. 35599

(2) The school district in which the child is entitled to 35600
attend school, or the child's school district of residence if 35601
different, has identified the child as a child with a disability. 35602

(3) The school district in which the child is entitled to 35603
attend school, or the child's school district of residence if 35604
different, has developed an individualized education program under 35605
Chapter 3323. of the Revised Code for the child. 35606

(4) The child either: 35607

(a) Was enrolled in the schools of the school district in 35608
which the child is entitled to attend school in any grade from 35609
kindergarten through twelve in the school year prior to the school 35610
year in which a scholarship is first sought for the child; 35611

(b) Is eligible to enter school in any grade kindergarten 35612
through twelve in the school district in which the child is 35613
entitled to attend school in the school year in which a 35614
scholarship is first sought for the child. 35615

(5) The department of education has not approved a 35616
scholarship for the child under the educational choice scholarship 35617
pilot program, under sections 3310.01 to 3310.17 of the Revised 35618
Code, the autism scholarship program, under section 3310.41 of the 35619
Revised Code, or the pilot project scholarship program, under 35620
sections 3313.974 to 3313.979 of the Revised Code for the same 35621
school year in which a scholarship under the Jon Peterson special 35622
needs scholarship program is sought. 35623

(6) The child and the child's parents are in compliance with 35624
the state compulsory attendance law under Chapter 3321. of the 35625
Revised Code. 35626

(G) "Registered private provider" means a nonpublic school or 35627
other nonpublic entity that has been registered by the 35628

superintendent of public instruction under section 3310.58 of the Revised Code. 35629
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(H) "Scholarship" means a scholarship awarded under the Jon Peterson special needs scholarship program pursuant to sections 3310.51 to 3310.64 of the Revised Code. 35631
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(I) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code. A community school established under Chapter 3314. of the Revised Code is not a "school district of residence" for purposes of sections 3310.51 to 3310.64 of the Revised Code. 35634
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(J) "School year" has the same meaning as in section 3313.62 of the Revised Code. 35639
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(K) "Special education program" means a school or facility that provides special education and related services to children with disabilities. 35641
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Sec. 3310.56. (A) The amount of the scholarship awarded and paid to an eligible applicant for services for a qualified special education child under the Jon Peterson special needs scholarship program in each school year shall be the least of the amounts prescribed in divisions (A)(1), (2), ~~or~~ and (3) of this section, as follows: 35644
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(1) The amount of fees charged for that school year by the alternative public provider or registered private provider; 35650
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(2) The sum of the amounts calculated under divisions (A)(2)(a) and (b) of this section: 35652
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(a) ~~The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009~~ 35654
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The per pupil amount of the opportunity grant calculated under division (A)(1) of section 3317.022 for the school district in 35657
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which the child is entitled to attend school; 35659

(b) An amount ~~equal to \$5,732 times the following multiple~~ 35660
prescribed for the child's disability as follows: 35661

(i) For a student in category one, ~~0.2892~~ the amount 35662
specified in division (A) of section 3317.013 of the Revised Code; 35663

(ii) For a student in category two, ~~0.3691~~ the amount 35664
specified in division (B) of section 3317.013 of the Revised Code; 35665

(iii) For a student in category three, ~~1.7695~~ the amount 35666
specified in division (C) of section 3317.013 of the Revised Code; 35667

(iv) For a student in category four, ~~2.3646~~ the amount 35668
specified in division (D) of section 3317.013 of the Revised Code; 35669

(v) For a student in category five, ~~3.1129~~ the amount 35670
specified in division (E) of section 3317.013 of the Revised Code; 35671

(vi) For a student in category six, ~~4.7342~~ the amount 35672
specified in division (F) of section 3317.013 of the Revised Code. 35673

~~Before applying the multiples specified in divisions~~ 35674
~~(A)(2)(b)(i) to (vi) of this section, they first shall be adjusted~~ 35675
~~by multiplying them by 0.90.~~ 35676

(3) Twenty thousand dollars. 35677

(B) As used in division (A)(2)(b) of this section, a child 35678
with a disability is in: 35679

(1) "Category one" if the ~~child's primary or only identified~~ 35680
~~disability is a speech and language disability, as this term is~~ 35681
~~defined pursuant to Chapter 3323. child is receiving special~~ 35682
education services for a disability specified in division (A) of 35683
section 3317.013 of the Revised Code; 35684

(2) "Category two" if the child is ~~identified as specific~~ 35685
~~learning disabled or developmentally disabled, as these terms are~~ 35686
~~defined pursuant to Chapter 3323. of the Revised Code, or as~~ 35687

~~having an other health impairment minor, as defined in section 3317.02 receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code;~~ 35688
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(3) ~~"Category three" if the child is identified as vision impaired, hearing disabled, or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. receiving special education services for a disability specified in division (C) of section 3317.013 of the Revised Code;~~ 35691
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(4) ~~"Category four" if the child is identified as orthopedically disabled, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment major, as defined in section 3317.02 receiving special education services for a disability specified in division (D) of section 3317.013 of the Revised Code;~~ 35696
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(5) ~~"Category five" if the child is identified as having multiple disabilities, as this term is defined pursuant to Chapter 3323. receiving special education services for a disability specified in division (E) of section 3317.013 of the Revised Code;~~ 35702
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(6) ~~"Category six" if the child is identified as autistic, having traumatic brain injuries, or both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. receiving special education services for a disability specified in division (F) of section 3317.013 of the Revised Code.~~ 35706
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Sec. 3311.05. (A) ~~The territory within the territorial limits of a county, or the territory included in a district formed under section 3311.053 of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center. If the educational service center in which the territory of a local~~ 35711
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~~school district is located is dissolved under section 3311.0510 of~~ 35719
~~the Revised Code, the territory of that local school district~~ 35720
~~shall not constitute part of any educational service center. An~~ 35721
~~educational service center is a regional public entity that~~ 35722
~~provides services to public and nonpublic schools and local~~ 35723
~~governments with whom they enter into an agreement to provide~~ 35724
~~those services.~~ 35725

(B) A county school financing district created under section 35726
3311.50 of the Revised Code is not the school district described 35727
in division (A) of this section or any other school district but 35728
is a taxing district. 35729

Sec. 3311.051. For purposes of this section, "client" means 35730
any local government, local, city, or exempted village school 35731
district, STEM school, community school, or chartered nonpublic 35732
school. 35733

The management and control of an educational service center 35734
shall be vested in a governing board selected in accordance with 35735
this section. Beginning on the effective date of this section, no 35736
election shall be held to elect governing board members, as 35737
formerly provided by section 3313.01 of the Revised Code, as that 35738
section existed prior to the effective date of this section. 35739
Beginning on the effective date of this section, the governing 35740
board of an educational service center shall consist of one or 35741
more persons who are appointed by the governing authority of the 35742
clients that have entered into agreements to receive services from 35743
the service center under sections 3313.843 to 3313.846 of the 35744
Revised Code. 35745

(A) All members of the governing board of any existing 35746
educational service center serving unexpired terms on the 35747
effective date of this section may continue in office until the 35748
expiration of their terms. If an elected member leaves office for 35749

any reason prior to the expiration of that member's term the 35750
vacancy shall be filled only in the manner provided in the 35751
educational service center governance plan described in division 35752
(B) of this section. 35753

(B) Subject to division (A) of this section, the number and 35754
terms of office of members of an educational service center 35755
governing board, the allocation of members to each of the 35756
participating clients, and the general governing structure of an 35757
educational service center shall be determined by a majority of 35758
the clients that have entered into an agreement with that 35759
educational service center under sections 3313.843 to 3313.846 of 35760
the Revised Code as memorialized in an educational service center 35761
governance plan. Each service center's plan shall be filed with 35762
the state board of education. 35763

(C) The members of the governing board with a plan in effect 35764
under this section may revise or rescind the plan. The revision or 35765
rescission of a plan shall be submitted to the state board. 35766

(D) Nothing in this section prohibits members of an 35767
educational service center governing board from serving on a joint 35768
vocational school district board of education as set forth in 35769
section 3311.19 of the Revised Code. 35770

Sec. 3311.053. ~~(A) The boards of education of up to five~~ 35771
~~adjoining~~ educational service centers may, by identical 35772
~~resolutions plans~~ adopted by a majority of the members of each 35773
governing board within any sixty-day period, combine such 35774
educational service centers into one educational service center. 35775
The ~~resolutions plans~~ shall state the name of the new center, 35776
which may be styled as a "joint educational service center." The 35777
~~resolutions plans~~ shall also indicate ~~whether~~ manner in which 35778
~~governing board of the new educational service center is to be~~ 35779
~~formed in accordance with division (B) of this section, in~~ 35780

~~accordance with division (A) of section 3311.054 of the Revised Code, or in accordance with section 3311.057 of the Revised Code~~ 35781
~~members will be selected.~~ 35782
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A copy of each ~~resolution plan~~ shall be filed with the state 35784
board of education. The new educational service center shall be 35785
created and the governing boards of the participating educational 35786
service centers shall be dissolved and a new governing board 35787
established thirty days after the date on which the last 35788
~~resolution plan~~ was filed with the state board. 35789

(B) The initial ~~and future~~ members of a new governing board 35790
established in accordance with this ~~division section~~ shall be 35791
~~appointed as follows:~~ 35792

~~(1) If two educational service centers combine, each center's~~ 35793
~~governing board, prior to its dissolution, shall appoint two~~ 35794
~~members to the new governing board and the four members so~~ 35795
~~selected shall select a fifth member within ten days of the date~~ 35796
~~on which the last of the four members is appointed.~~ 35797

~~(2) If three educational service centers combine, each~~ 35798
~~center's governing board, prior to its dissolution, shall appoint~~ 35799
~~one member to the new governing board and the three members so~~ 35800
~~selected shall select the remaining two members of the governing~~ 35801
~~board within ten days of the date on which the last of the three~~ 35802
~~members is appointed.~~ 35803

~~(3) If four educational service centers combine, each~~ 35804
~~center's governing board, prior to its dissolution, shall appoint~~ 35805
~~one member to the new governing board and the four members so~~ 35806
~~selected shall select the remaining member of the governing board~~ 35807
~~within ten days of the date on which the last of the four members~~ 35808
~~is appointed.~~ 35809

~~(4) If five educational service centers combine, each~~ 35810
~~center's governing board, prior to its dissolution, shall appoint~~ 35811

~~one member to the new governing board.~~ 35812

~~If the members appointed to a new governing board by the governing boards of the combining educational service centers are unable to agree on the selection of the remaining members of the new governing board within ten days, the probate judge of the county in which the greatest number of pupils under the supervision of the new educational service center reside shall appoint the remaining members.~~ 35813
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~~Electors of the new educational service center shall elect a new governing board at the next general election occurring in an odd numbered year and more than ninety days after the date of the appointment of the last member to the initial governing board. Members shall serve for the duration of the term to which they are elected or until their successors are elected and qualified. At such election, two members shall be elected to terms of two years and three members shall be elected to terms of four years. Thereafter, their successors shall be elected in the same manner and for the same terms as members of governing boards of all educational service centers. Each candidate for election as a member of the educational service center governing board shall file a nominating petition in accordance with section 3513.255 of the Revised Code selected in the manner outlined by the plan described in division (B) of section 3111.051 of the Revised Code.~~ 35820
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~~(C) If there is any transition period between the effective date of the merger of the service centers and the assumption of control of the new service center by the new board, the plans shall include provisions for an interim governing board which shall be appointed to govern the new service center until the time the new board is appointed and assumes control of the service center. The funds of each former educational service center shall be paid over in full to the governing board of the new educational service center, and the legal title to all property of the former~~ 35835
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governing boards shall become vested in the new governing board. 35844

The governing board of an educational service center created 35845
under this section shall honor all contracts made by the former 35846
governing boards. 35847

Sec. 3311.0510. (A) If all of the client school districts of 35848
an educational service center have terminated their agreements 35849
with the service center under division (D) of section 3313.843 of 35850
the Revised Code, upon the latest effective date of the 35851
terminations, the governing board of that service center shall be 35852
abolished and such service center shall be dissolved by order of 35853
the superintendent of public instruction. The superintendent's 35854
order shall provide for the equitable division and disposition of 35855
the assets, property, debts, and obligations of the service center 35856
among the school districts that were client school districts of 35857
the service center for the service center's last fiscal year of 35858
operation. The superintendent's order shall provide that the tax 35859
duplicate of each of those school districts shall be bound for and 35860
assume the district's equitable share of the outstanding 35861
indebtedness of the service center. The superintendent's order is 35862
final and is not appealable. 35863

Immediately upon the abolishment of the service center 35864
governing board pursuant to this section, the superintendent of 35865
public instruction shall appoint a qualified individual to 35866
administer the dissolution of the service center and to implement 35867
the terms of the superintendent's dissolution order. 35868

Prior to distributing assets to any school district under 35869
this section, but after paying in full other debts and obligations 35870
of the service center under this section, the superintendent of 35871
public instruction may assess against the remaining assets of the 35872
service center the amount of the costs incurred by the department 35873
of education in performing the superintendent's duties under this 35874

division, including the fees, if any, owed to the individual 35875
appointed to administer the superintendent's dissolution order. 35876
Any excess cost incurred by the department under this division 35877
shall be divided equitably among the school districts that were 35878
client school districts of the service center for the service 35879
center's last fiscal year of operation. Each district's share of 35880
that excess cost shall be bound against the tax duplicate of that 35881
district. 35882

(B) A final audit of the former service center shall be 35883
performed in accordance with procedures established by the auditor 35884
of state. 35885

(C) The public records of an educational service center that 35886
is dissolved under this section shall be transferred in accordance 35887
with this division. Public records maintained by the service 35888
center in connection with services provided by the service center 35889
to local school districts of which the territory of the service 35890
center is or previously was made up shall be transferred to each 35891
of the respective local school districts. Public records 35892
maintained by the service center in connection with services 35893
provided to client school districts shall be transferred to each 35894
of the respective client school districts. All other public 35895
records maintained by the service center at the time the service 35896
center ceases operations shall be transferred to the Ohio 35897
historical society for analysis and disposition by the society in 35898
its capacity as archives administrator for the state and its 35899
political subdivisions pursuant to division (C) of section 149.30 35900
and section 149.31 of the Revised Code. 35901

(D) As used in this section, "client school district" ~~has the~~ 35902
~~same meaning as in section 3317.11 of the Revised Code~~ means a 35903
city, exempted village, or local school district that has entered 35904
into an agreement under section 3313.843 or 3313.845 of the 35905
Revised Code to receive any services from an educational service 35906

center. 35907

Sec. 3311.19. (A) The management and control of a joint 35908
vocational school district shall be vested in the joint vocational 35909
school district board of education. Where a joint vocational 35910
school district is composed only of two or more local school 35911
districts located in one county, or when all the participating 35912
districts are in one county and the boards of such participating 35913
districts so choose, the educational service center governing 35914
board of the county in which the joint vocational school district 35915
is located shall serve as the joint vocational school district 35916
board of education. Where a joint vocational school district is 35917
composed of local school districts of more than one county, or of 35918
any combination of city, local, or exempted village school 35919
districts or educational service centers, unless administration by 35920
the educational service center governing board has been chosen by 35921
all the participating districts in one county pursuant to this 35922
section, the board of education of the joint vocational school 35923
district shall be composed of one or more persons who are members 35924
of the boards of education from each of the city or exempted 35925
village school districts or members of the educational service 35926
centers' governing boards affected to be appointed by the boards 35927
of education or governing boards of such school districts and 35928
educational service centers. In such joint vocational school 35929
districts the number and terms of members of the joint vocational 35930
school district board of education and the allocation of a given 35931
number of members to each of the city and exempted village 35932
districts and educational service centers shall be determined in 35933
the plan for such district, provided that each such joint 35934
vocational school district board of education shall be composed of 35935
an odd number of members. 35936

(B) Notwithstanding division (A) of this section, a governing 35937
board of an educational service center that has members of its 35938

governing board serving on a joint vocational school district 35939
board of education may make a request to the joint vocational 35940
district board that the joint vocational school district plan be 35941
revised to provide for one or more members of boards of education 35942
of ~~local~~ school districts that have entered into an agreement 35943
under section 3313.843 or 3313.845 of the Revised Code to receive 35944
any services from an educational service center and are ~~within the~~ 35945
~~territory of the educational service district and~~ within the joint 35946
vocational school district to serve in the place of or in addition 35947
to its educational service center governing board members. If 35948
agreement is obtained among a majority of the boards of education 35949
and governing boards that have a member serving on the joint 35950
vocational school district board of education and among a majority 35951
of the ~~local school district~~ boards of education ~~included in the~~ 35952
~~district and located within the territory~~ of school districts that 35953
have entered into an agreement under section 3313.843 or 3313.845 35954
of the Revised Code to receive any services from the educational 35955
service center whose board requests the substitution or addition, 35956
the state board of education may revise the joint vocational 35957
school district plan to conform with such agreement. 35958

(C) If the board of education of any school district or 35959
educational service center governing board included within a joint 35960
vocational district that has had its board or governing board 35961
membership revised under division (B) of this section requests the 35962
joint vocational school district board to submit to the state 35963
board of education a revised plan under which one or more joint 35964
vocational board members chosen in accordance with a plan revised 35965
under such division would again be chosen in the manner prescribed 35966
by division (A) of this section, the joint vocational board shall 35967
submit the revised plan to the state board of education, provided 35968
the plan is agreed to by a majority of the boards of education 35969
represented on the joint vocational board, a majority of the ~~local~~ 35970
~~school district~~ boards of school districts that have entered into 35971

an agreement under section 3313.843 or 3313.845 of the Revised 35972
Code to receive any services from an educational service center 35973
that are included within the joint vocational district, and each 35974
educational service center governing board affected by such plan. 35975
The state board of education may revise the joint vocational 35976
school district plan to conform with the revised plan. 35977

(D) The vocational schools in such joint vocational school 35978
district shall be available to all youth of school age within the 35979
joint vocational school district subject to the rules adopted by 35980
the joint vocational school district board of education in regard 35981
to the standards requisite to admission. A joint vocational school 35982
district board of education shall have the same powers, duties, 35983
and authority for the management and operation of such joint 35984
vocational school district as is granted by law, except by this 35985
chapter and Chapters 124., 3317., 3323., and 3331. of the Revised 35986
Code, to a board of education of a city school district, and shall 35987
be subject to all the provisions of law that apply to a city 35988
school district, except such provisions in this chapter and 35989
Chapters 124., 3317., 3323., and 3331. of the Revised Code. 35990

(E) Where a governing board of an educational service center 35991
has been designated to serve as the joint vocational school 35992
district board of education, the educational service center 35993
superintendent shall be the executive officer for the joint 35994
vocational school district, and the governing board may provide 35995
for additional compensation to be paid to the educational service 35996
center superintendent by the joint vocational school district, but 35997
the educational service center superintendent shall have no 35998
continuing tenure other than that of educational service center 35999
superintendent. The superintendent of schools of a joint 36000
vocational school district shall exercise the duties and authority 36001
vested by law in a superintendent of schools pertaining to the 36002
operation of a school district and the employment and supervision 36003

of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, such board may appoint the educational service center superintendent as the treasurer of the joint vocational school district.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this section and section 3313.12 of the Revised Code.

Sec. 3311.22. A governing board of an educational service center may propose, by resolution adopted by majority vote of its full membership, or qualified electors of the area affected equal in number to at least fifty-five per cent of the qualified

electors voting at the last general election residing within that 36035
portion of a school district, or districts proposed to be 36036
transferred may propose, by petition, the transfer of a part or 36037
all of one or more local school districts to another local school 36038
district or districts within the territory of the educational 36039
service center. Such transfers may be made only to local school 36040
districts adjoining the school district that is proposed to be 36041
transferred, unless the board of education of the district 36042
proposed to be transferred has entered into an agreement pursuant 36043
to section 3313.42 of the Revised Code, in which case such 36044
transfers may be made to any local school district within the 36045
territory of the educational service center. 36046

When a governing board of an educational service center 36047
adopts a resolution proposing a transfer of school territory it 36048
shall forthwith file a copy of such resolution, together with an 36049
accurate map of the territory described in the resolution, with 36050
the board of education of each school district whose boundaries 36051
would be altered by such proposal. A governing board of an 36052
educational service center proposing a transfer of territory under 36053
the provisions of this section shall at its next regular meeting 36054
that occurs not earlier than thirty days after the adoption by the 36055
governing board of a resolution proposing such transfer, adopt a 36056
resolution making the transfer effective at any time prior to the 36057
next succeeding first day of July, unless, prior to the expiration 36058
of such thirty-day period, qualified electors residing in the area 36059
proposed to be transferred, equal in number to a majority of the 36060
qualified electors voting at the last general election, file a 36061
petition of referendum against such transfer. 36062

Any petition of transfer or petition of referendum filed 36063
under the provisions of this section shall be filed at the office 36064
of the educational service center superintendent. The person 36065
presenting the petition shall be given a receipt containing 36066

thereon the time of day, the date, and the purpose of the 36067
petition. 36068

The educational service center superintendent shall cause the 36069
board of elections to check the sufficiency of signatures on any 36070
petition of transfer or petition of referendum filed under this 36071
section and, if found to be sufficient, the superintendent shall 36072
present the petition to the educational service center governing 36073
board at a meeting of the board which shall occur not later than 36074
thirty days following the filing of the petition. 36075

Upon presentation to the educational service center governing 36076
board of a proposal to transfer territory as requested by petition 36077
of fifty-five per cent of the qualified electors voting at the 36078
last general election or a petition of referendum against a 36079
proposal of the county board to transfer territory, the governing 36080
board shall promptly certify the proposal to the board of 36081
elections for the purpose of having the proposal placed on the 36082
ballot at the next general or primary election which occurs not 36083
less than ninety days after the date of such certification, or at 36084
a special election, the date of which shall be specified in the 36085
certification, which date shall not be less than ninety days after 36086
the date of such certification. Signatures on a petition of 36087
transfer or petition of referendum may be withdrawn up to and 36088
including the above mentioned meeting of the educational service 36089
center governing board only by order of the board upon testimony 36090
of the petitioner concerned under oath before the board that the 36091
petitioner's signature was obtained by fraud, duress, or 36092
misrepresentation. 36093

If a petition is filed with the educational service center 36094
governing board which proposes the transfer of a part or all of 36095
the territory included in a resolution of transfer previously 36096
adopted by the educational service center governing board, no 36097
action shall be taken on such petition if within the thirty-day 36098

period after the adoption of the resolution of transfer a 36099
referendum petition is filed. After the election, if the proposed 36100
transfer fails to receive a majority vote, action on such petition 36101
shall then be processed under this section as though originally 36102
filed under the provisions hereof. If no referendum petition is 36103
filed within the thirty-day period after the adoption of the 36104
resolution of transfer, no action shall be taken on such petition. 36105

If a petition is filed with the educational service center 36106
governing board which proposes the transfer of a part or all of 36107
the territory included in a petition previously filed by electors 36108
no action shall be taken on such new petition. 36109

Upon certification of a proposal to the board or boards of 36110
elections pursuant to this section, the board or boards of 36111
elections shall make the necessary arrangements for the submission 36112
of such question to the electors of the county or counties 36113
qualified to vote thereon, and the election shall be conducted and 36114
canvassed and the results shall be certified in the same manner as 36115
in regular elections for the election of members of a board of 36116
education. 36117

The persons qualified to vote upon a proposal are the 36118
electors residing in the district or districts containing 36119
territory that is proposed to be transferred. If the proposed 36120
transfer be approved by at least a majority of the electors voting 36121
on the proposal, the educational service center governing board 36122
shall make such transfer at any time prior to the next succeeding 36123
first day of July. If the proposed transfer is not approved by at 36124
least a majority of the electors voting on the proposal, the 36125
question of transferring any property included in the territory 36126
covered by the proposal shall not be submitted to electors at any 36127
election prior to the first general election the date of which is 36128
at least two years after the date of the original election, or the 36129
first primary election held in an even-numbered year the date of 36130

which is at least two years after the date of the original 36131
election. A transfer shall be subject to the approval of the 36132
receiving board or boards of education, unless the proposal was 36133
initiated by the educational service center governing board, in 36134
which case, if the transfer is opposed by the board of education 36135
offered the territory, the local board may, within thirty days, 36136
following the receipt of the notice of transfer, appeal to the 36137
state board of education which shall then either approve or 36138
disapprove the transfer. 36139

Following an election upon a proposed transfer initiated by a 36140
petition the board of education that is offered territory shall, 36141
within thirty days following receipt of the proposal, either 36142
accept or reject the transfer. 36143

When an entire school district is proposed to be transferred 36144
to two or more school districts and the offer is rejected by any 36145
one of the receiving boards of education, none of the territory 36146
included in the proposal shall be transferred. 36147

Upon the acceptance of territory by the receiving board or 36148
boards of education the educational service center governing board 36149
offering the territory shall file with the county auditor and with 36150
the state board of education an accurate map showing the 36151
boundaries of the territory transferred. 36152

Upon the making of such transfer, the net indebtedness of the 36153
former district from which territory was transferred shall be 36154
apportioned between the acquiring school district and that portion 36155
of the former school district remaining after the transfer in the 36156
ratio which the assessed valuation of the territory transferred to 36157
the acquiring school district bears to the assessed valuation of 36158
the original school district as of the effective date of the 36159
transfer. As used in this section "net indebtedness" means the 36160
difference between the par value of the outstanding and unpaid 36161
bonds and notes of the school district and the amount held in the 36162

sinking fund and other indebtedness retirement funds for their 36163
redemption. 36164

~~If an entire district is transferred, any indebtedness of the 36165
former district incurred as a result of a loan made under section 36166
3317.64 of the Revised Code is hereby canceled and such 36167
indebtedness shall not be apportioned among any districts 36168
acquiring the territory. 36169~~

Upon the making of any transfer under this section, the funds 36170
of the district from which territory was transferred shall be 36171
divided equitably by the educational service center governing 36172
board between the acquiring district and any part of the original 36173
district remaining after the transfer. 36174

If an entire district is transferred the board of education 36175
of such district is thereby abolished or if a member of the board 36176
of education lives in that part of a school district transferred 36177
the member becomes a nonresident of the school district from which 36178
the territory was transferred and such member ceases to be a 36179
member of the board of education of such district. 36180

The legal title of all property of the board of education in 36181
the territory transferred shall become vested in the board of 36182
education of the school district to which such territory is 36183
transferred. 36184

Subsequent to June 30, 1959, if an entire district is 36185
transferred, foundation program moneys accruing to a district 36186
accepting school territory under the provisions of this section or 36187
former section 3311.22 of the Revised Code, shall not be less, in 36188
any year during the next succeeding three years following the 36189
transfer, than the sum of the amounts received by the districts 36190
separately in the year in which the transfer was consummated. 36191

Sec. 3311.231. A governing board of an educational service 36192

center may propose, by resolution adopted by majority vote of its 36193
full membership, or qualified electors of the area affected equal 36194
in number to not less than fifty-five per cent of the qualified 36195
electors voting at the last general election residing within that 36196
portion of a school district proposed to be transferred may 36197
propose, by petition, the transfer of a part or all of one or more 36198
local school districts within the territory of the center to an 36199
adjoining educational service center or to an adjoining city or 36200
exempted village school district. 36201

A governing board of an educational service center adopting a 36202
resolution proposing a transfer of school territory under this 36203
section shall file a copy of such resolution together with an 36204
accurate map of the territory described in the resolution, with 36205
the board of education of each school district whose boundaries 36206
would be altered by such proposal. Where a transfer of territory 36207
is proposed by a governing board of an educational service center 36208
under this section, the governing board shall, at its next regular 36209
meeting that occurs not earlier than the thirtieth day after the 36210
adoption by the governing board of the resolution proposing such 36211
transfer, adopt a resolution making the transfer as originally 36212
proposed, effective at any time prior to the next succeeding first 36213
day of July, unless, prior to the expiration of such thirty-day 36214
period, qualified electors residing in the area proposed to be 36215
transferred, equal in number to a majority of the qualified 36216
electors voting at the last general election, file a petition of 36217
referendum against such transfer. 36218

Any petition of transfer or petition of referendum under the 36219
provisions of this section shall be filed at the office of the 36220
educational service center superintendent. The person presenting 36221
the petition shall be given a receipt containing thereon the time 36222
of day, the date, and the purpose of the petition. 36223

The educational service center superintendent shall cause the 36224

board of elections to check the sufficiency of signatures on any 36225
such petition, and, if found to be sufficient, the superintendent 36226
shall present the petition to the educational service center 36227
governing board at a meeting of said governing board which shall 36228
occur not later than thirty days following the filing of said 36229
petition. 36230

The educational service center governing board shall promptly 36231
certify the proposal to the board of elections of such counties in 36232
which school districts whose boundaries would be altered by such 36233
proposal are located for the purpose of having the proposal placed 36234
on the ballot at the next general or primary election which occurs 36235
not less than ninety days after the date of such certification or 36236
at a special election, the date of which shall be specified in the 36237
certification, which date shall not be less than ninety days after 36238
the date of such certification. 36239

Signatures on a petition of transfer or petition of 36240
referendum may be withdrawn up to and including the above 36241
mentioned meeting of the educational service center governing 36242
board only by order of the governing board upon testimony of the 36243
petitioner concerned under oath before the board that the 36244
petitioner's signature was obtained by fraud, duress, or 36245
misrepresentation. 36246

If a petition is filed with the educational service center 36247
governing board which proposes the transfer of a part or all of 36248
the territory included either in a petition previously filed by 36249
electors or in a resolution of transfer previously adopted by the 36250
educational service center governing board, no action shall be 36251
taken on such new petition as long as the previously initiated 36252
proposal is pending before the governing board or is subject to an 36253
election. 36254

Upon certification of a proposal to the board or boards of 36255
elections pursuant to this section, the board or boards of 36256

elections shall make the necessary arrangements for the submission 36257
of such question to the electors of the county or counties 36258
qualified to vote thereon, and the election shall be conducted and 36259
canvassed and the results shall be certified in the same manner as 36260
in regular elections for the election of members of a board of 36261
education. 36262

The persons qualified to vote upon a proposal are the 36263
electors residing in the district or districts containing 36264
territory that is proposed to be transferred. If the proposed 36265
transfer is approved by at least a majority of the electors voting 36266
on the proposal, the educational service center governing board 36267
shall make such transfer at any time prior to the next succeeding 36268
first day of July, subject to the approval of the receiving board 36269
of education in case of a transfer to a city or exempted village 36270
school district, and subject to the approval of the educational 36271
service center governing board of the receiving center, in case of 36272
a transfer to an educational service center. If the proposed 36273
transfer is not approved by at least a majority of the electors 36274
voting on the proposal, the question of transferring any property 36275
included in the territory covered by the proposal shall not be 36276
submitted to electors at any election prior to the first general 36277
election the date of which is at least two years after the date of 36278
the original election, or the first primary election held in an 36279
even-numbered year the date of which is at least two years after 36280
the date of the original election. 36281

Where a territory is transferred under this section to a city 36282
or exempted village school district, the board of education of 36283
such district shall, and where territory is transferred to an 36284
educational service center the governing board of such educational 36285
service center shall, within thirty days following receipt of the 36286
proposal, either accept or reject the transfer. 36287

Where a governing board of an educational service center 36288

adopts a resolution accepting territory transferred to the 36289
educational service center under the provisions of sections 36290
3311.231 and 3311.24 of the Revised Code, the governing board 36291
shall, at the time of the adoption of the resolution accepting the 36292
territory, designate the school district to which the accepted 36293
territory shall be annexed. 36294

When an entire school district is proposed to be transferred 36295
to two or more adjoining school districts and the offer is 36296
rejected by any one of the receiving boards of education, none of 36297
the territory included in the proposal shall be transferred. 36298

Upon the acceptance of territory by the receiving board or 36299
boards of education the educational service center governing board 36300
offering the territory shall file with the county auditor of each 36301
county affected by the transfer and with the state board of 36302
education an accurate map showing the boundaries of the territory 36303
transferred. 36304

Upon the making of such transfer, the net indebtedness of the 36305
former district from which territory was transferred shall be 36306
apportioned between the acquiring school district and the portion 36307
of the former school district remaining after the transfer in the 36308
ratio which the assessed valuation of the territory transferred to 36309
the acquiring school district bears to the assessed valuation of 36310
the original school district as of the effective date of the 36311
transfer. As used in this section "net indebtedness" means the 36312
difference between the par value of the outstanding and unpaid 36313
bonds and notes of the school district and the amount held in the 36314
sinking fund and other indebtedness retirement funds for their 36315
redemption. 36316

~~If an entire district is transferred, any indebtedness of the 36317
former district incurred as a result of a loan made under section 36318
3317.64 of the Revised Code is hereby canceled and such 36319
indebtedness shall not be apportioned among any districts 36320~~

~~acquiring the territory.~~ 36321

Upon the making of any transfer under this section, the funds 36322
of the district from which territory was transferred shall be 36323
divided equitably by the educational service center governing 36324
board, between the acquiring district and any part of the original 36325
district remaining after the transfer. 36326

If an entire district is transferred the board of education 36327
of such district is thereby abolished or if a member of the board 36328
of education lives in that part of a school district transferred 36329
the member becomes a nonresident of the school district from which 36330
the territory was transferred and such member ceases to be a 36331
member of the board of education of such district. 36332

The legal title of all property of the board of education in 36333
the territory transferred shall become vested in the board of 36334
education of the school district to which such territory is 36335
transferred. 36336

If an entire district is transferred, foundation program 36337
moneys accruing to a district receiving school territory under the 36338
provisions of this section shall not be less, in any year during 36339
the next succeeding three years following the transfer, than the 36340
sum of the amounts received by the districts separately in the 36341
year in which the transfer was consummated. 36342

Sec. 3311.38. The state board of education may conduct, or 36343
may direct the superintendent of public instruction to conduct, 36344
studies where there is evidence of need for transfer of local, 36345
exempted village, or city school districts, or parts of any such 36346
districts, to contiguous or noncontiguous local, exempted village, 36347
or city school districts. Such studies shall include a study of 36348
the effect of any proposal upon any portion of a school district 36349
remaining after such proposed transfer. The state board, in 36350
conducting such studies and in making recommendations as a result 36351

thereof, shall consider the possibility of improving school 36352
district organization as well as the desires of the residents of 36353
the school districts which would be affected. 36354

(A) After the adoption of recommendations growing out of any 36355
such study, or upon receipt of a resolution adopted by majority 36356
vote of the full membership of the board of any city, local, or 36357
exempted village school district requesting that the entire 36358
district be transferred to another city, local, or exempted 36359
village school district, the state board may propose by resolution 36360
the transfer of territory, which may consist of part or all of the 36361
territory of a local, exempted village, or city school district to 36362
a contiguous local, exempted village, or city school district. 36363

The state board shall thereupon file a copy of such proposal 36364
with the board of education of each school district whose 36365
boundaries would be altered by the proposal and with the governing 36366
board of any educational service center in which such school 36367
district is located. 36368

The state board may, not less than thirty days following the 36369
adoption of the resolution proposing the transfer of territory, 36370
certify the proposal to the board of elections of the county or 36371
counties in which any of the territory of the proposed district is 36372
located, for the purpose of having the proposal placed on the 36373
ballot at the next general election or at a primary election 36374
occurring not less than ninety days after the adoption of such 36375
resolution. 36376

If any proposal has been previously initiated pursuant to 36377
section 3311.22, 3311.231, or 3311.26 of the Revised Code which 36378
affects any of the territory affected by the proposal of the state 36379
board, the proposal of the state board shall not be placed on the 36380
ballot while the previously initiated proposal is subject to an 36381
election. 36382

Upon certification of a proposal to the board of elections of 36383
any county pursuant to this section, the board of elections of 36384
such county shall make the necessary arrangements for the 36385
submission of such question to the electors of the county 36386
qualified to vote thereon, and the election shall be counted and 36387
canvassed and the results shall be certified in the same manner as 36388
in regular elections for the election of members of a board of 36389
education. 36390

The electors qualified to vote upon a proposal are the 36391
electors residing in the local, exempted village, or city school 36392
districts, containing territory proposed to be transferred. 36393

If the proposed transfer be approved by a majority of the 36394
electors voting on the proposal, the state board, subject to the 36395
approval of the board of education of the district to which the 36396
territory would be transferred, shall make such transfer prior to 36397
the next succeeding July 1. 36398

(B) If a study conducted in accordance with this section 36399
involves a school district with less than four thousand dollars of 36400
assessed value for each pupil in the total student count 36401
determined under section 3317.03 of the Revised Code, the state 36402
board of education, with the approval of the educational service 36403
center governing board, and upon recommendation by the state 36404
superintendent of public instruction, may by resolution transfer 36405
all or any part of such a school district to any city, exempted 36406
village, or local school district which has more than twenty-five 36407
thousand pupils in average daily membership. Such resolution of 36408
transfer shall be adopted only after the board of education of the 36409
receiving school district has adopted a resolution approving the 36410
proposed transfer. For the purposes of this division, the assessed 36411
value shall be as certified in accordance with section 3317.021 of 36412
the Revised Code. 36413

(C) Upon the making of a transfer of an entire school 36414

district pursuant to this section, the indebtedness of the 36415
district transferred shall be assumed in full by the acquiring 36416
district and the funds of the district transferred shall be paid 36417
over in full to the acquiring district, ~~except that any~~ 36418
~~indebtedness of the transferred district incurred as a result of a~~ 36419
~~loan made under section 3317.64 of the Revised Code is hereby~~ 36420
~~anceled and shall not be assumed by the acquiring district.~~ 36421

(D) Upon the making of a transfer pursuant to this section, 36422
when only part of a district is transferred, the net indebtedness 36423
of each original district of which only a part is taken by the 36424
acquiring district shall be apportioned between the acquiring 36425
district and the original district in the ratio which the assessed 36426
valuation of the part taken by the acquiring district bears to the 36427
assessed valuation of the original district as of the effective 36428
date of the transfer. As used in this section "net indebtedness" 36429
means the difference between the par value of the outstanding and 36430
unpaid bonds and notes of the school district and the amount held 36431
in the sinking fund and other indebtedness retirement funds for 36432
their redemption. 36433

(E) Upon the making of a transfer pursuant to this section, 36434
when only part of a district is transferred, the funds of the 36435
district from which territory was transferred shall be divided 36436
equitably by the state board between the acquiring district and 36437
that part of the former district remaining after the transfer. 36438

(F) If an entire school district is transferred, the board of 36439
education of such district is thereby abolished. If part of a 36440
school district is transferred, any member of the board of 36441
education who is a legal resident of that part which is 36442
transferred shall thereby cease to be a member of that board. 36443

If an entire school district is transferred, foundation 36444
program moneys accruing to a district accepting school territory 36445
under the provisions of this section shall not be less, in any 36446

year during the next succeeding three years following the 36447
transfer, than the sum of the amounts received by the districts 36448
separately in the year in which the transfer became effective. 36449

Sec. 3311.78. Notwithstanding any provision of the Revised 36450
Code to the contrary, a municipal school district shall be subject 36451
to this section instead of sections ~~3317.13~~, 3317.14, and 3317.141 36452
of the Revised Code. 36453

(A) As used in this section, "principal" includes an 36454
assistant principal. 36455

(B) The board of education of each municipal school district 36456
annually shall adopt a differentiated salary schedule for teachers 36457
based upon performance as described in division (D) of this 36458
section. The board also annually shall adopt a differentiated 36459
salary schedule for principals based upon performance as described 36460
in division (D) of this section. 36461

For each teacher or principal hired on or after ~~the effective~~ 36462
~~date of this section~~ October 1, 2012, the board shall determine 36463
the teacher's or principal's initial placement on the applicable 36464
salary schedule based on years of experience and area of licensure 36465
and any other factors the board considers appropriate. For each 36466
teacher hired prior to ~~the effective date of this section~~ October 36467
1, 2012, the board shall initially place the teacher on the 36468
applicable salary schedule so that the teacher's annual salary on 36469
the schedule is comparable to the teacher's annual salary for the 36470
school year immediately prior to the school year covered by the 36471
schedule. For each principal hired prior to ~~the effective date of~~ 36472
~~this section~~ October 1, 2012, the board shall initially place the 36473
principal on the applicable salary schedule consistent with the 36474
principal's employment contract. 36475

(C) The salary of a teacher shall not be reduced unless such 36476
reduction is accomplished as part of a negotiated collective 36477

bargaining agreement. The salary of a principal shall not be 36478
reduced during the term of the principal's employment contract 36479
unless such reduction is by mutual agreement of the board and the 36480
principal or is part of a uniform plan affecting the entire 36481
district. 36482

(D) For purposes of the schedules, the board shall measure a 36483
teacher's or principal's performance by considering all of the 36484
following: 36485

(1) The level of license issued under section 3319.22 of the 36486
Revised Code that the teacher or principal holds; 36487

(2) Whether the teacher or principal is a highly qualified 36488
teacher, as defined in section 3319.074 of the Revised Code; 36489

(3) Ratings received by the teacher or principal on 36490
performance evaluations conducted under section 3311.80 or 3311.84 36491
of the Revised Code; 36492

(4) Any specialized training and experience in the assigned 36493
position. 36494

(E) The salary schedules adopted under this section may 36495
provide for additional compensation for teachers or principals who 36496
perform duties, not contracted for under a supplemental contract, 36497
that the board determines warrant additional compensation. Those 36498
duties may include, but are not limited to, assignment to a school 36499
building eligible for funding under Title I of the "Elementary and 36500
Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; 36501
assignment to a building in "school improvement" status under the 36502
"No Child Left Behind Act of 2001," as defined in section 3302.01 36503
of the Revised Code; teaching in a grade level or subject area in 36504
which the board has determined there is a shortage within the 36505
district; assignment to a hard-to-staff school, as determined by 36506
the board; or teaching in a school with an extended school day or 36507
school year. 36508

(F) The chief executive officer of the district, or the chief executive officer's designee, annually shall review the salary of each teacher and principal and make a recommendation to the board. Based on the recommendation, the board may increase a teacher's or principal's salary based on the teacher's or principal's performance and duties as provided for in divisions (D) and (E) of this section. The performance-based increase for a teacher or principal rated as accomplished shall be greater than the performance-based increase for a teacher or principal rated as proficient. Notwithstanding division (C) of this section, division (C) of section 3319.02, and section 3319.12 of the Revised Code, the board may decrease the teacher's or principal's salary if the teacher or principal will perform fewer or different duties described in division (E) of this section in the school year for which the salary is decreased.

(G) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after ~~the effective date of this section~~ October 1, 2012. However, the board and the teachers' labor organization shall negotiate the implementation of the differentiated salary schedule for teachers and may negotiate additional factors regarding teacher salaries, provided those factors are consistent with this section.

Sec. 3312.08. Each fiscal agent selected by the department of education pursuant to section 3312.07 of the Revised Code shall do all of the following:

(A) Enter into performance contracts with the department in accordance with section 3312.09 of the Revised Code for the implementation of state and regional education initiatives and school improvement efforts;

(B) Receive federal and state funds, including federal funds 36540
for the provision of special education and related services, as 36541
specified in the performance contracts, and disburse those funds 36542
as specified in the performance contracts to educational service 36543
centers, information technology centers, and other regional 36544
service providers. However, any funds owed to an educational 36545
service center in accordance with an agreement entered into under 36546
section ~~3317.11~~ 3313.843, 3313.844, or 3313.845 of the Revised 36547
Code shall be paid directly to the service center by the 36548
department ~~in accordance with that section~~ and any operating funds 36549
appropriated for an information technology center shall be paid 36550
directly to the information technology center by the department 36551
pursuant to section 3301.075 of the Revised Code. 36552

(C) Implement any expenditure of funds recommended by the 36553
advisory council for the region pursuant to section 3312.04 of the 36554
Revised Code or required by the terms of any performance contract, 36555
unless there are insufficient funds available to the region to pay 36556
for the expenditure or the expenditure violates a provision of the 36557
Revised Code, a rule of the state board of education regarding 36558
such expenditure, or the terms of a performance contract; 36559

(D) Exercise fiscal oversight of the implementation of state 36560
and regional education initiatives and school improvement efforts. 36561

Sec. 3313.01. In local and exempted village school districts 36562
~~an educational service centers, except as provided in section~~ 36563
~~3311.054 and 3311.056 of the Revised Code,~~ the board of education 36564
~~or governing board of an educational service center~~ shall consist 36565
of five members who shall be electors residing in the territory 36566
composing the respective districts and shall be elected at large 36567
in their respective districts. 36568

Sec. 3313.11. Notwithstanding division (D) of section 3311.19 36569

and division (D) of section 3311.52 of the Revised Code, this 36570
section does not apply to any joint vocational or cooperative 36571
education school district. 36572

A vacancy in any board of education may be caused by death, 36573
nonresidence, resignation, removal from office, failure of a 36574
person elected or appointed to qualify within ten days after the 36575
organization of the board or of appointment or election, removal 36576
from the district, or absence from meetings of the board for a 36577
period of ninety days, if such absence is caused by reasons 36578
declared insufficient by a two-thirds vote of the remaining 36579
members of the board, which vote must be taken and entered upon 36580
the records of the board not less than thirty days after such 36581
absence. 36582

If the board members are selected by appointment pursuant to 36583
division (B) or (F) of section 3311.71 of the Revised Code, the 36584
appointing authority responsible for the appointment shall fill 36585
any such vacancy by appointment of an individual to serve the 36586
remainder of the unexpired term from a slate of at least three 36587
persons proposed by the municipal school district nominating panel 36588
established under that section. If the member creating the vacancy 36589
resides in a municipal school district but not in the municipal 36590
corporation containing the greatest portion of the district's 36591
territory, the individuals included on such slate shall also 36592
reside in the municipal school district but not in the municipal 36593
corporation containing the greatest portion of the district's 36594
territory. 36595

If the board members are selected by election, the board 36596
shall fill any such vacancy at its next regular or special 36597
meeting, not earlier than ten days after such vacancy occurs. A 36598
majority vote of all the remaining members of the board may fill 36599
any such vacancy. Immediately after such a vote, the treasurer of 36600
the board of education shall give written notice to the board of 36601

elections responsible for conducting elections for that school 36602
district that a vacancy has been filled, and the name of the 36603
person appointed to fill the vacancy. Each person selected by the 36604
board or probate court to fill a vacancy shall hold office for the 36605
shorter of the following periods: until the completion of the 36606
unexpired term, or until the first day of January immediately 36607
following the next regular board of education election taking 36608
place more than ninety days after a person is selected by the 36609
board or probate court to fill the vacancy. At that election, a 36610
special election to fill the vacancy shall be held in accordance 36611
with laws controlling regular elections for board of education 36612
members, except that no such special election shall be held if the 36613
unexpired term ends on or before the first day of January 36614
immediately following that regular board of education election. 36615
The term of a person chosen at a special election under this 36616
section shall begin on the first day of January immediately 36617
following the election, and the person shall serve for the 36618
remainder of the unexpired term. Whenever the need for a special 36619
election under this section becomes known, the board of education 36620
shall immediately give written notice of this fact to the board of 36621
elections responsible for conducting the regular board of 36622
education election for that school district. 36623

A vacancy in the governing board of an educational service 36624
center shall be filled according to the terms of the plan filed 36625
pursuant to division (B) of section 3311.051 of the Revised Code. 36626

The term of a board of education member shall not be 36627
lengthened by the member's resignation and subsequent selection by 36628
the board or probate court under this section. 36629

Sec. 3313.35. Notwithstanding division (D) of section 3311.19 36630
and division (D) of section 3311.52 of the Revised Code, the 36631
provisions of this section that apply to a city school district do 36632

not apply to a joint vocational or cooperative education school 36633
district unless otherwise specified. 36634

Except in city, joint vocational, and cooperative education 36635
school districts, the prosecuting attorney of the county shall be 36636
the legal adviser of all boards of education and the governing 36637
board of an educational service center in the county in which the 36638
prosecuting attorney is serving. The prosecuting attorney shall 36639
prosecute all actions against a member or officer of a board for 36640
malfeasance or misfeasance in office, and ~~he~~ the prosecuting 36641
attorney shall be the legal counsel of such boards or the officers 36642
thereof in all civil actions brought by or against them and shall 36643
conduct such actions in ~~his~~ the official capacity of prosecuting 36644
attorney. In the case of educational service centers ~~created under~~ 36645
~~section 3311.053 of the Revised Code that serve school districts~~ 36646
in more than one county, the legal adviser shall be the 36647
prosecuting attorney of the county in which the largest number of 36648
pupils ~~supervised~~ served by the governing board of the educational 36649
service center reside. In joint vocational and cooperative 36650
education school districts the legal adviser shall be the 36651
prosecuting attorney of the most populous county containing a 36652
school district which is a member of the joint vocational or 36653
cooperative education school district. When such civil action is 36654
between two or more boards in the same county, the prosecuting 36655
attorney shall not be required to act for either of them. In city 36656
school districts, the city director of law shall be the legal 36657
adviser and attorney for the board thereof, and shall perform the 36658
same services for such board as required of the prosecuting 36659
attorney for other boards of the county. Such duties shall devolve 36660
upon any official serving in a capacity similar to that of 36661
prosecuting attorney or city director of law for the territory 36662
wherein a school district is situated regardless of ~~his~~ the 36663
official's official designation. In a district which becomes a 36664
city school district pursuant to section 3311.10 of the Revised 36665

Code, the legal adviser shall be the solicitor or director of law 36666
of the largest of the municipal corporations all or a part of 36667
which is included within the school district boundaries. No 36668
compensation in addition to such officer's regular salary shall be 36669
allowed for such services. 36670

Sec. 3313.372. (A) As used in this section, "energy 36671
conservation measure" means an installation or modification of an 36672
installation in, or remodeling of, a building, to reduce energy 36673
consumption. It includes: 36674

(1) Insulation of the building structure and systems within 36675
the building; 36676

(2) Storm windows and doors, multiglazed windows and doors, 36677
heat absorbing or heat reflective glazed and coated window and 36678
door systems, additional glazing, reductions in glass area, and 36679
other window and door system modifications that reduce energy 36680
consumption; 36681

(3) Automatic energy control systems; 36682

(4) Heating, ventilating, or air conditioning system 36683
modifications or replacements; 36684

(5) Caulking and weatherstripping; 36685

(6) Replacement or modification of lighting fixtures to 36686
increase the energy efficiency of the system without increasing 36687
the overall illumination of a facility, unless such increase in 36688
illumination is necessary to conform to the applicable state or 36689
local building code for the proposed lighting system; 36690

(7) Energy recovery systems; 36691

(8) Cogeneration systems that produce steam or forms of 36692
energy such as heat, as well as electricity, for use primarily 36693
within a building or complex of buildings; 36694

(9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure. 36695
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(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms: 36698
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(1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase. 36705
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(2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase. 36707
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The provisions of any installment payment contract entered into pursuant to this section shall provide that all payments, except payments for repairs and obligations on termination of the contract prior to its expiration, be stated as a percentage of calculated energy, water, or waste water cost savings, avoided operating costs, and avoided capital costs attributable to the one or more measures over a defined period of time. Those payments shall be made only to the extent that the savings and avoided costs described in this division actually occur. 36709
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An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section. 36718
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(C) The board may issue the notes of the school district 36725

signed by the president and the treasurer of the board and 36726
specifying the terms of the purchase and securing the deferred 36727
payments provided in this section, payable at the times provided 36728
and bearing interest at a rate not exceeding the rate determined 36729
as provided in section 9.95 of the Revised Code. The notes may 36730
contain an option for prepayment and shall not be subject to 36731
Chapter 133. of the Revised Code. In the resolution authorizing 36732
the notes, the board may provide, without the vote of the electors 36733
of the district, for annually levying and collecting taxes in 36734
amounts sufficient to pay the interest on and retire the notes, 36735
except that the total net indebtedness of the district without a 36736
vote of the electors incurred under this and all other sections of 36737
the Revised Code, except section 3318.052 of the Revised Code, 36738
shall not exceed one per cent of the district's tax valuation. 36739
Revenues derived from local taxes or otherwise, for the purpose of 36740
conserving energy or for defraying the current operating expenses 36741
of the district, may be applied to the payment of interest and the 36742
retirement of such notes. The notes may be sold at private sale or 36743
given to the contractor under the installment payment contract 36744
authorized by division (B) of this section. 36745

(D) Debt incurred under this section shall not be included in 36746
the calculation of the net indebtedness of a school district under 36747
section 133.06 of the Revised Code. 36748

(E) No school district board shall enter into an installment 36749
payment contract under division (B) of this section unless it 36750
first obtains a report of the costs of the energy conservation 36751
measures and the savings thereof as described under division (G) 36752
of section 133.06 of the Revised Code as a requirement for issuing 36753
energy securities, makes a finding that the amount spent on such 36754
measures is not likely to exceed the amount of money it would save 36755
in energy costs and resultant operational and maintenance costs as 36756
described in that division, except that that finding shall cover 36757

the ensuing fifteen years, and the Ohio school facilities 36758
commission determines that the district board's findings are 36759
reasonable and approves the contract as described in that 36760
division. 36761

The district board shall monitor the savings and maintain a 36762
report of those savings, which shall be submitted to the 36763
commission in the same manner as required by division (G) of 36764
section 133.06 of the Revised Code in the case of energy 36765
securities. 36766

Sec. 3313.376. As used in this section, "client school 36767
district" ~~has the same meaning as in section 3317.11 of the~~ 36768
~~Revised Code~~ means a city, exempted village, or local school 36769
district that has entered into an agreement under section 3313.843 36770
or 3313.845 of the Revised Code to receive any services from an 36771
educational service center. 36772

For the purpose of obtaining quantity discounts in purchasing 36773
textbooks; computer equipment, including computer software; school 36774
buses; and natural gas, electricity, and other utility services, 36775
the governing boards of two or more educational service centers 36776
may enter into agreements, including installment purchase and 36777
lease-purchase contracts, to jointly purchase such commodities to 36778
be utilized by client school districts of the educational service 36779
centers. 36780

Sec. 3313.42. (A) When in the judgment of a board of 36781
education of any school district in this state, lying adjacent to 36782
a school district of another state, the best interests of the 36783
public schools can be promoted by purchasing school grounds, 36784
repairing or erecting a schoolhouse, and maintaining them jointly 36785
between the two adjacent school districts, the board of education 36786
of the school district of this state so situated may enter into an 36787

agreement with the school authorities of said adjacent school 36788
district for the purpose of purchasing school grounds, repairing 36789
or constructing a school building, purchasing school furniture, 36790
equipment, appliances, fuel, employing teachers, and maintaining a 36791
school. The board of education of this state may levy taxes and 36792
perform such other duties in maintaining such joint school as are 36793
otherwise provided by law for maintaining the public schools in 36794
this state. 36795

In carrying out this section the school district shall pay 36796
such proportion of the cost of purchasing school grounds, 36797
repairing or erecting a building, and in maintaining the joint 36798
school as is equitable and just in the judgment of the board of 36799
education and trustees of the two adjacent school districts. 36800

~~(B) In any school district that has entered into an agreement 36801
under division (A) of this section, the state minimum teacher 36802
salary requirements prescribed by section 3317.13 of the Revised 36803
Code do not apply if the total expenditures by the school district 36804
for teacher salaries in any school year equals or exceeds the 36805
total minimum expenditures that would have been required in that 36806
year if such minimum teacher salary requirements did apply. 36807~~

~~(C)~~ Notwithstanding sections 3319.01, 3319.02, and 3313.22 of 36808
the Revised Code, the board of education of a local school 36809
district that has entered into an agreement with an adjacent 36810
school district in another state under division (A) of this 36811
section may contract with the educational service center within 36812
which the local school district is located for the service center 36813
to provide any administrative services specified in the agreement 36814
to the local school district and the adjacent district. If such an 36815
agreement provides for the duties of a district treasurer, 36816
superintendent, or principals to be performed by the service 36817
center, the local school district is not required to employ 36818
persons to perform such duties. 36819

Sec. 3313.48. (A) The board of education of each city, 36820
exempted village, local, and joint vocational school district 36821
shall provide for the free education of the youth of school age 36822
within the district under its jurisdiction, at such places as will 36823
be most convenient for the attendance of the largest number 36824
thereof. ~~Except as provided in section 3313.481 of the Revised~~ 36825
~~Code, each~~ Each school so provided and each chartered nonpublic 36826
school shall be open for instruction with pupils in attendance, 36827
including scheduled classes, supervised activities, and approved 36828
education options but excluding lunch and breakfast periods and 36829
extracurricular activities, for not less than ~~one hundred~~ 36830
~~eighty-two days~~ four hundred fifty-five hours in the case of 36831
pupils in kindergarten unless such pupils are provided all-day 36832
kindergarten, as defined in section 3321.05 of the Revised Code, 36833
in which case the pupils shall be in attendance for nine hundred 36834
ten hours; nine hundred ten hours in the case of pupils in grades 36835
one through six; and one thousand one hours in the case of pupils 36836
in grades seven through twelve in each school year, which may 36837
include all of the following: 36838

(A)(1) ~~Up to four~~ the equivalent of two school days per year 36839
~~in which classes are dismissed one half day early or the~~ 36840
~~equivalent amount of time during a different number of days during~~ 36841
~~which pupils would otherwise be in attendance but are not required~~ 36842
~~to attend~~ for the purpose of individualized parent-teacher 36843
conferences and reporting periods; 36844

(B)(2) ~~Up to the equivalent of two~~ school days per year 36845
~~during which pupils would otherwise be in attendance but are not~~ 36846
~~required to attend~~ for professional meetings of teachers ~~when such~~ 36847
~~days occur during a regular school week and schools are not in~~ 36848
~~session;~~ 36849

(C) ~~The number of days the school is closed as a result of~~ 36850

~~public calamity, as provided in section 3317.01 of the Revised Code (3) Morning and afternoon recess periods of not more than fifteen minutes duration per period for pupils in grades kindergarten through six.~~

~~The state board of education shall adopt standards for defining "school day" as used in sections 3313.48 and 3317.01 of the Revised Code.~~

~~Except as otherwise provided in this section, each day for grades seven through twelve shall consist of not less than five clock hours with pupils in attendance, except in such emergency situations, including lack of classroom space, as are approved by the state board of education. Except as otherwise provided in this section, each day for grades one through six shall consist of not less than five clock hours with pupils in attendance which may include fifteen minute morning and afternoon recess periods, except in such emergency situations, including lack of classroom space, as are approved by the state board of education.~~

(B) Prior to making any change in the hours or days in which a high school under its jurisdiction is open for instruction, the board of education of each city, exempted village, and local school district shall consider the compatibility of the proposed change with the scheduling needs of any joint vocational school district in which any of the high school's students are also enrolled. The board shall consider the impact of the proposed change on student access to the instructional programs offered by the joint vocational school district, incentives for students to participate in career-technical education, transportation, and the timing of graduation. The board shall provide the joint vocational school district board with advance notice of the proposed change and the two boards shall enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the joint vocational school district prior to implementation of

the change. 36883

(C) Prior to making any change in the hours or days in which 36884
a school under its jurisdiction is open for instruction, the board 36885
of education of each city, exempted village, and local school 36886
district shall consider the compatibility of the proposed change 36887
with the scheduling needs of any community school established 36888
under Chapter 3314. of the Revised Code to which the district is 36889
required to transport students under sections 3314.09 and 3327.01 36890
of the Revised Code. The board shall consider the impact of the 36891
proposed change on student access to the instructional programs 36892
offered by the community school, transportation, and the timing of 36893
graduation. The board shall provide the sponsor, governing 36894
authority, and operator of the community school with advance 36895
notice of the proposed change, and the board and the governing 36896
authority, or operator if such authority is delegated to the 36897
operator, shall enter into a written agreement prescribing 36898
reasonable accommodations to meet the scheduling needs of the 36899
community school prior to implementation of the change. 36900

(D) Prior to making any change in the hours or days in which 36901
the schools under its jurisdiction are open for instruction, the 36902
board of education of each city, exempted village, and local 36903
school district shall consult with the chartered nonpublic schools 36904
to which the district is required to transport students under 36905
section 3327.01 of the Revised Code and shall consider the effect 36906
of the proposed change on the schedule for transportation of those 36907
students to their nonpublic schools. The governing authority of a 36908
chartered nonpublic school shall consult with each school district 36909
board of education that transports students to the chartered 36910
nonpublic school under section 3327.01 of the Revised Code prior 36911
to making any change in the hours or days in which the nonpublic 36912
school is open for instruction. 36913

(E) The state board of education shall not adopt or enforce 36914

any rule or standard that imposes on chartered nonpublic schools 36915
the procedural requirements imposed on school districts by 36916
divisions (B) and (C) of this section. 36917

Sec. 3313.481. Wherever in Title XXXIII of the Revised Code 36918
the term "school day" is used, unless otherwise specified, that 36919
term shall be construed to mean the time during a calendar day 36920
that a school is open for instruction pursuant to the schedule 36921
adopted by the board of education of the school district or the 36922
governing authority of the chartered nonpublic school in 36923
accordance with section 3313.48 of the Revised Code. 36924

Sec. 3313.483. (A) A board of education, upon the adoption of 36925
a resolution stating that it may be financially unable to open on 36926
the day or to remain open for instruction on all days set forth in 36927
its adopted school calendar and pay all obligated expenses, or the 36928
superintendent of public instruction upon the issuance of written 36929
notification under division (B) of section 3313.489 of the Revised 36930
Code, shall request the auditor of state to determine whether such 36931
situation exists. The auditor shall deliver a copy of each request 36932
from a board of education to the superintendent of public 36933
instruction. In the case of a school district not under a fiscal 36934
emergency pursuant to Chapter 3316. of the Revised Code the 36935
auditor shall not issue a finding under this section until written 36936
notification is received from the superintendent pursuant to 36937
section 3313.487 of the Revised Code. 36938

(B) If the auditor of state finds that the board of education 36939
has attempted to avail itself to the fullest extent authorized by 36940
law of all lawful revenue sources available to it except those 36941
authorized by section 5705.21 of the Revised Code, the auditor 36942
shall certify that finding to the superintendent of public 36943
instruction and the state board of education and shall certify the 36944
operating deficit the district will have at the end of the fiscal 36945

year if it commences or continues operating its instructional 36946
program in accordance with its adopted school calendar and pays 36947
all obligated expenses. 36948

(C) No board of education may delay the opening of its 36949
schools or close its schools for financial reasons. Upon the 36950
request of the superintendent of public instruction, the attorney 36951
general shall seek injunctive relief and any other relief required 36952
to enforce this prohibition in the court of common pleas of 36953
Franklin county. The court of common pleas of Franklin county has 36954
exclusive original jurisdiction over all such actions. 36955

(D) Upon the receipt of any certification of an operating 36956
deficit from the auditor of state, a board of education shall make 36957
application to a commercial bank, underwriter, or other 36958
prospective lender or purchaser of its obligations for a loan in 36959
an amount sufficient to enable the district to open or remain open 36960
for instruction on all days set forth in its adopted school 36961
calendar but not to exceed the amount of the deficit certified. 36962

(E)(1) Any board of education that has applied for and been 36963
denied a loan from a commercial bank, underwriter, or other 36964
prospective lender or purchaser of its obligations pursuant to 36965
division (D) of this section shall submit to the superintendent of 36966
public instruction a plan for implementing reductions in the 36967
school district's budget; apply for a loan from a commercial bank, 36968
underwriter, or other prospective lender or purchaser of its 36969
obligations in an amount not to exceed its certified deficit; and 36970
provide the superintendent such information as the superintendent 36971
requires concerning its application for such a loan. The board of 36972
education of a school district declared to be under a fiscal watch 36973
pursuant to division (A) of section 3316.03 of the Revised Code 36974
may, upon approval of the superintendent, utilize the financial 36975
plan required by section 3316.04 of the Revised Code, or 36976
applicable parts thereof, as the plan required under this 36977

division. The board of education of a school district declared to 36978
be under a fiscal emergency pursuant to division (B) of section 36979
3316.03 of the Revised Code may utilize the financial recovery 36980
plan for the district, or applicable parts thereof, as the plan 36981
required under this division. Except for the plan of a school 36982
district under a fiscal emergency, the superintendent shall 36983
evaluate, make recommendations concerning, and approve or 36984
disapprove each plan. When a plan is submitted, the superintendent 36985
shall immediately notify the members of the general assembly whose 36986
legislative districts include any or all of the territory of the 36987
school district submitting the plan. 36988

(2) The superintendent shall submit to the controlling board 36989
a copy of each plan the superintendent approves, or each plan 36990
submitted by a district under a fiscal emergency pursuant to 36991
division (B) of section 3316.03 of the Revised Code, and the 36992
general terms of each proposed loan, and shall make 36993
recommendations regarding the plan and whether a proposed loan to 36994
the board of education should be approved for payment as provided 36995
in division (E)(3) of this section. The controlling board shall 36996
approve or disapprove the plan and the proposed loan presented to 36997
it by the superintendent. In the case of a district not under a 36998
fiscal emergency pursuant to division (B) of section 3316.03 of 36999
the Revised Code, the controlling board may require a board of 37000
education to implement the superintendent's recommendations for 37001
expenditure reductions or impose other requirements. Loan 37002
repayments shall be in accordance with a schedule approved by the 37003
superintendent, except that the principal amount of the loan shall 37004
be payable in monthly, semiannual, or annual installments of 37005
principal and interest that are substantially equal principal and 37006
interest installments. Except as otherwise provided in division 37007
(E)(2) of this section, repayment shall be made no later than the 37008
fifteenth day of June of the second fiscal year following the 37009
approval of the loan. A school district with a certified deficit 37010

in excess of either twenty-five million dollars or fifteen per 37011
cent of the general fund expenditures of the district during the 37012
fiscal year shall repay the loan no later than the fifteenth day 37013
of June of the tenth fiscal year following the approval of the 37014
loan. In deciding whether to approve or disapprove a proposed 37015
loan, the controlling board shall consider the deficit certified 37016
by the auditor of state pursuant to this section. A board of 37017
education that has an outstanding loan approved pursuant to this 37018
section with a repayment date of more than two fiscal years after 37019
the date of approval of such loan may not apply for another loan 37020
with such a repayment date until the outstanding loan has been 37021
repaid. 37022

(3) If a board of education has submitted and received 37023
controlling board approval of a plan and proposed loan in 37024
accordance with this section, the superintendent of public 37025
instruction shall report to the controlling board the actual 37026
amounts loaned to the board of education. Such board of education 37027
shall request the superintendent to pay any funds the board of 37028
education would otherwise receive pursuant to Chapter 3306. of the 37029
Revised Code first directly to the holders of the board of 37030
education's notes, or an agent thereof, such amounts as are 37031
specified under the terms of the loan. Such payments shall be made 37032
only from and to the extent of money appropriated by the general 37033
assembly for purposes of such sections. No note or other 37034
obligation of the board of education under the loan constitutes an 37035
obligation nor a debt or a pledge of the faith, credit, or taxing 37036
power of the state, and the holder or owner of such note or 37037
obligation has no right to have taxes levied by the general 37038
assembly for the payment of such note or obligation, and such note 37039
or obligation shall contain a statement to that effect. 37040

(4) Pursuant to the terms of such a loan, a board of 37041
education may issue its notes in anticipation of the collection of 37042

its voted levies for current expenses or its receipt of such state 37043
funds or both. Such notes shall be issued in accordance with 37044
division (E) of section 133.10 of the Revised Code and constitute 37045
Chapter 133. securities to the extent such division and the 37046
otherwise applicable provisions of Chapter 133. of the Revised 37047
Code are not inconsistent with this section, provided that in any 37048
event sections 133.24 and 5705.21 and divisions (A), (B), (C), and 37049
(E)(2) of section 133.10 of the Revised Code do not apply to such 37050
notes. 37051

(5) Notwithstanding section 133.36 or 3313.17, any other 37052
section of the Revised Code, or any other provision of law, a 37053
board of education that has received a loan under this section may 37054
not declare bankruptcy, so long as any portion of such loan 37055
remains unpaid. 37056

(F) Under this section and ~~sections~~ section 3313.4810 and 37057
~~3313.4811~~, "board of education" or "district board" includes the 37058
financial planning and supervision commission of a school district 37059
under a fiscal emergency pursuant to Chapter 3316. of the Revised 37060
Code where such commission chooses to exercise the powers and 37061
duties otherwise required of the district board of education under 37062
this section and ~~sections~~ section 3313.4810 and ~~3313.4811~~ of the 37063
Revised Code. 37064

Sec. 3313.484. No loan shall be approved under sections 37065
3313.483 to ~~3313.4811~~ 3313.4810 of the Revised Code after March 1, 37066
1998. 37067

By the last day of June each year, the department of 37068
education shall calculate and pay a subsidy to every school 37069
district that during the current fiscal year paid and was 37070
obligated to pay interest on a loan under sections 3313.483 to 37071
~~3313.4811~~ 3313.4810 of the Revised Code in excess of two per cent 37072
simple interest. The amount of the subsidy shall equal the 37073

difference between the amount of interest the district paid and 37074
was obligated to pay during the year and the interest that the 37075
district would have been obligated to pay if the interest rate on 37076
the loan had been two per cent per year. 37077

Sec. 3313.488. (A) Within fifteen days ~~of~~ after the date a 37078
~~board of education requests that its school district be made~~ 37079
~~subject to this section as authorized by section 3317.62 of the~~ 37080
~~Revised Code, or~~ the state board of education ~~has issued~~ issues an 37081
order under section 3313.487 of the Revised Code making a school 37082
district subject to this section, the district's board of 37083
education shall prepare a fiscal statement of expenses and 37084
expenditures for the remainder of the current fiscal year. The 37085
fiscal statement shall be submitted to the superintendent of 37086
public instruction and shall set forth all revenues to be received 37087
by the district during the remainder of the fiscal year and their 37088
sources, the expenses to be incurred by the district during the 37089
remainder of the fiscal year, the outstanding and unpaid expenses 37090
at the time the fiscal statement is prepared and the date or dates 37091
by which such expenses must be paid, and such other information as 37092
the superintendent requires to enable the superintendent to ensure 37093
that during the remainder of the fiscal year, the district will 37094
not incur any expenses that will further impair its ability to 37095
operate an instructional program that meets or exceeds the minimum 37096
standards of the state board of education and requirements of the 37097
Revised Code during the current and ensuing fiscal years with the 37098
revenue available to it from existing revenue sources. The fiscal 37099
statement shall be presented in such detail and form as the 37100
superintendent prescribes. Beginning the tenth day after the 37101
fiscal statement is submitted and for the remainder of the fiscal 37102
year, the board shall not make any expenditure of money, make any 37103
employment, purchase, or rental contract, give any order involving 37104
the expenditure of money, or increase any wage or salary schedule 37105

unless the superintendent of public instruction has approved the 37106
fiscal statement in writing and the expenditure, contract, order, 37107
or schedule has been approved in writing by the superintendent as 37108
being in conformity with the fiscal statement. 37109

Any contract or expenditure made, order given, or schedule 37110
adopted or put into effect without the written approval of the 37111
superintendent of public instruction is void, and no warrant shall 37112
be issued in payment of any amount due thereon. 37113

(B) A board of education subject to division (A) of this 37114
section shall prepare a fiscal statement of expenses and 37115
expenditures for the ensuing fiscal year. The fiscal statement 37116
shall be submitted to the superintendent of public instruction and 37117
shall set forth all revenues to be received by the district during 37118
such year and their source, the expenses to be incurred by the 37119
district during such year, the outstanding and unpaid expenses on 37120
the first day of such fiscal year, the date or dates by which such 37121
expenses must be paid, and such other information as the 37122
superintendent requires to enable the superintendent to ensure 37123
that during such year, the district will not incur any expenses 37124
that will further impair its ability to operate an instructional 37125
program that meets or exceeds the minimum standards of the state 37126
board of education and requirements of the Revised Code during 37127
such year with the revenue available to it from existing revenue 37128
sources. The fiscal statement shall be presented at the time and 37129
in such detail and form as the superintendent prescribes. During 37130
the fiscal year following the year in which a board of education 37131
first becomes subject to division (A) of this section it shall not 37132
make any expenditure of money, make any employment, purchase, or 37133
rental contract, give any order involving the expenditure of 37134
money, or increase any wage or salary schedule unless the 37135
superintendent of public instruction has approved the fiscal 37136
statement submitted under this division in writing and has 37137

approved the expenditure, contract, order, or schedule in writing 37138
as being in conformity with the fiscal statement. 37139

Any contract or expenditure made, order given, or schedule 37140
adopted or put into effect without the written approval of the 37141
superintendent of public instruction is void, and no warrant shall 37142
be issued in payment of any amount due thereon. 37143

(C) The state board of education shall examine any fiscal 37144
statement presented to and approved by the superintendent of 37145
public instruction under division (B) of this section and shall 37146
determine whether the data set forth in the fiscal statement are 37147
factual and based upon assumptions that in its judgment are 37148
reasonable expectations consistent with acceptable governmental 37149
budget and accounting practices. If the state board so determines 37150
and finds that the revenues and expenditures in the fiscal 37151
statement are in balance for the fiscal year and the fiscal 37152
statement will enable the district to operate during such year 37153
without interrupting its school calendar, it shall certify its 37154
determination and finding to the district at least thirty days 37155
prior to the beginning of the fiscal year, and the district shall 37156
thereupon cease to be subject to this section. If the state board 37157
does not make such a determination and finding, the board of 37158
education and school district are subject to this division and 37159
division (B) of this section in the ensuing fiscal year and each 37160
fiscal year thereafter until the state board makes a 37161
determination, finding, and certification under this division. 37162

(D) Any officer, employee, or other person who knowingly 37163
expends or authorizes the expenditure of any public funds or 37164
knowingly authorizes or executes any contract, order, or schedule 37165
contrary to division (A) or (B) of this section or who knowingly 37166
expends or authorizes the expenditure of any public funds on any 37167
such void contract, order, or schedule is jointly and severally 37168
liable in person and upon any official bond that the officer, 37169

employee, or other person has given to such school district to the 37170
extent of any payments on the void claim, not to exceed twenty 37171
thousand dollars. The attorney general at the written request of 37172
the superintendent of public instruction shall enforce this 37173
liability by civil action brought in any court of appropriate 37174
jurisdiction in the name of and on behalf of the school district. 37175

(E) During each month that a board of education is subject to 37176
division (A), (B), or (C) of this section, the superintendent of 37177
public instruction shall submit a report to the speaker of the 37178
house of representatives and the president of the senate on the 37179
financial condition of the school district. The report shall 37180
contain the date by which the superintendent anticipates the 37181
district will cease to be subject to such divisions, the 37182
district's plans for becoming exempt from such section, and such 37183
other information the superintendent determines appropriate or the 37184
speaker of the house of representatives or president of the senate 37185
requests. 37186

In addition to the other reports required under this 37187
division, on the thirty-first day of each school district fiscal 37188
year following a fiscal year in which a school district first 37189
becomes subject to this section, the superintendent shall submit a 37190
written report to the speaker of the house of representatives and 37191
the president of the senate. The report shall include 37192
recommendations to the general assembly for strengthening the 37193
financial condition of school districts based upon the experiences 37194
of the superintendent and the state board in exercising their 37195
powers under this section and sections 3313.483 and 3313.487 of 37196
the Revised Code. 37197

(F) This section does not apply to a school district declared 37198
to be under a fiscal emergency pursuant to division (B) of section 37199
3316.03 of the Revised Code. 37200

Sec. 3313.4810. Any school district receiving a loan under 37201
section 3313.483 ~~or 3317.64~~ of the Revised Code in excess of seven 37202
per cent of the general fund expenditures of the district during 37203
the fiscal year in which the loan is received and that has 37204
received a loan under that section within the last five years is 37205
subject to section 3313.488 of the Revised Code for the duration 37206
of the fiscal year in which the district receives the loan and 37207
during the ensuing two fiscal years. The controlling board may not 37208
relieve a school district to which this section applies from any 37209
requirements imposed under section 3313.483 ~~or 3317.64~~ of the 37210
Revised Code to implement recommendations of the superintendent of 37211
public instruction for expenditure reduction and may not modify 37212
any other requirements imposed under such section upon such a 37213
district as a condition for receiving the loan unless expressly 37214
authorized to do so by law. The superintendent of public 37215
instruction shall, among any recommendations ~~he~~ the superintendent 37216
makes for expenditure reduction under section 3313.483 ~~or 3317.63~~ 37217
of the Revised Code affecting the number of employees of a school 37218
district to which this section applies, provide wherever possible 37219
for the retention of teachers who are actually involved in the 37220
daily teaching of students in the classroom. 37221

Sec. 3313.533. (A) The board of education of a city, exempted 37222
village, or local school district may adopt a resolution to 37223
establish and maintain an alternative school in accordance with 37224
this section. The resolution shall specify, but not necessarily be 37225
limited to, all of the following: 37226

(1) The purpose of the school, which purpose shall be to 37227
serve students who are on suspension, who are having truancy 37228
problems, who are experiencing academic failure, who have a 37229
history of class disruption, who are exhibiting other academic or 37230
behavioral problems specified in the resolution, or who have been 37231

discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code; 37232
37233

(2) The grades served by the school, which may include any of grades kindergarten through twelve; 37234
37235

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following: 37236
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(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school; 37243
37244
37245
37246

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district; 37247
37248
37249

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public. 37250
37251
37252

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following: 37253
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(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the ~~state~~ board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer; 37256
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(2) Restrictions on student participation in extracurricular or interscholastic activities;	37263 37264
(3) A requirement that students wear uniforms prescribed by the district board of education.	37265 37266
(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.	37267 37268 37269 37270 37271 37272
(D) An alternative school may be established in all or part of a school building.	37273 37274
(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.	37275 37276 37277 37278 37279 37280 37281 37282 37283 37284 37285
(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.	37286 37287 37288 37289 37290
(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.	37291 37292 37293

(1) In addition to the specifications authorized under	37294
division (B) of this section, any plan adopted under that division	37295
for an alternative school to which division (G) of this section	37296
also applies shall include the following:	37297
(a) A description of the educational program provided at the	37298
alternative school, which shall include:	37299
(i) Provisions for the school to be configured in clusters or	37300
small learning communities;	37301
(ii) Provisions for the incorporation of education technology	37302
into the curriculum;	37303
(iii) Provisions for accelerated learning programs in reading	37304
and mathematics.	37305
(b) A method to determine the reading and mathematics level	37306
of each student assigned to the alternative school and a method to	37307
continuously monitor each student's progress in those areas. The	37308
methods employed under this division shall be aligned with the	37309
curriculum adopted by the school district board of education under	37310
section 3313.60 of the Revised Code.	37311
(c) A plan for social services to be provided at the	37312
alternative school, such as, but not limited to, counseling	37313
services, psychological support services, and enrichment programs;	37314
(d) A plan for a student's transition from the alternative	37315
school back to a school operated by the school district;	37316
(e) A requirement that the alternative school maintain	37317
financial records in a manner that is compatible with the form	37318
prescribed for school districts by the auditor of state to enable	37319
the district to comply with any rules adopted by the auditor of	37320
state.	37321
(2) Notwithstanding division (A)(2) of this section, any	37322
alternative school to which division (G) of this section applies	37323

shall include only grades six through twelve. 37324

(3) Notwithstanding anything in division (A)(3)(a) of this 37325
section to the contrary, the characteristics of students who may 37326
be assigned to an alternative school to which division (G) of this 37327
section applies shall include only disruptive and low-performing 37328
students. 37329

(H) When any district board of education determines to 37330
contract with a nonprofit or for profit entity to operate an 37331
alternative school under this section, the board shall use the 37332
procedure set forth in this division. 37333

(1) The board shall publish notice of a request for proposals 37334
in a newspaper of general circulation in the district once each 37335
week for a period of two consecutive weeks, or as provided in 37336
section 7.16 of the Revised Code, prior to the date specified by 37337
the board for receiving proposals. Notices of requests for 37338
proposals shall contain a general description of the subject of 37339
the proposed contract and the location where the request for 37340
proposals may be obtained. The request for proposals shall include 37341
all of the following information: 37342

(a) Instructions and information to respondents concerning 37343
the submission of proposals, including the name and address of the 37344
office where proposals are to be submitted; 37345

(b) Instructions regarding communications, including at least 37346
the names, titles, and telephone numbers of persons to whom 37347
questions concerning a proposal may be directed; 37348

(c) A description of the performance criteria that will be 37349
used to evaluate whether a respondent to which a contract is 37350
awarded is meeting the district's educational standards or the 37351
method by which such performance criteria will be determined; 37352

(d) Factors and criteria to be considered in evaluating 37353
proposals, the relative importance of each factor or criterion, 37354

and a description of the evaluation procedures to be followed; 37355

(e) Any terms or conditions of the proposed contract, 37356
including any requirement for a bond and the amount of such bond; 37357

(f) Documents that may be incorporated by reference into the 37358
request for proposals, provided that the request for proposals 37359
specifies where such documents may be obtained and that such 37360
documents are readily available to all interested parties. 37361

(2) After the date specified for receiving proposals, the 37362
board shall evaluate the submitted proposals and may hold 37363
discussions with any respondent to ensure a complete understanding 37364
of the proposal and the qualifications of such respondent to 37365
execute the proposed contract. Such qualifications shall include, 37366
but are not limited to, all of the following: 37367

(a) Demonstrated competence in performance of the required 37368
services as indicated by effective implementation of educational 37369
programs in reading and mathematics and at least three years of 37370
experience successfully serving a student population similar to 37371
the student population assigned to the alternative school; 37372

(b) Demonstrated performance in the areas of cost 37373
containment, the provision of educational services of a high 37374
quality, and any other areas determined by the board; 37375

(c) Whether the respondent has the resources to undertake the 37376
operation of the alternative school and to provide qualified 37377
personnel to staff the school; 37378

(d) Financial responsibility. 37379

(3) The board shall select for further review at least three 37380
proposals from respondents the board considers qualified to 37381
operate the alternative school in the best interests of the 37382
students and the district. If fewer than three proposals are 37383
submitted, the board shall select each proposal submitted. The 37384

board may cancel a request for proposals or reject all proposals 37385
at any time prior to the execution of a contract. 37386

The board may hold discussions with any of the three selected 37387
respondents to clarify or revise the provisions of a proposal or 37388
the proposed contract to ensure complete understanding between the 37389
board and the respondent of the terms under which a contract will 37390
be entered. Respondents shall be accorded fair and equal treatment 37391
with respect to any opportunity for discussion regarding 37392
clarifications or revisions. The board may terminate or 37393
discontinue any further discussion with a respondent upon written 37394
notice. 37395

(4) Upon further review of the three proposals selected by 37396
the board, the board shall award a contract to the respondent the 37397
board considers to have the most merit, taking into consideration 37398
the scope, complexity, and nature of the services to be performed 37399
by the respondent under the contract. 37400

(5) Except as provided in division (H)(6) of this section, 37401
the request for proposals, submitted proposals, and related 37402
documents shall become public records under section 149.43 of the 37403
Revised Code after the award of the contract. 37404

(6) Any respondent may request in writing that the board not 37405
disclose confidential or proprietary information or trade secrets 37406
contained in the proposal submitted by the respondent to the 37407
board. Any such request shall be accompanied by an offer of 37408
indemnification from the respondent to the board. The board shall 37409
determine whether to agree to the request and shall inform the 37410
respondent in writing of its decision. If the board agrees to 37411
nondisclosure of specified information in a proposal, such 37412
information shall not become a public record under section 149.43 37413
of the Revised Code. If the respondent withdraws its proposal at 37414
any time prior to the execution of a contract, the proposal shall 37415
not be a public record under section 149.43 of the Revised Code. 37416

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section.

Sec. 3313.60. Notwithstanding division (D) of section 3311.52 of the Revised Code, divisions (A) to (E) of this section do not apply to any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(A) The board of education of each city ~~and~~ exempted village, and local school district, ~~the governing board of each educational service center,~~ and the board of each cooperative education school district established pursuant to section 3311.521 of the Revised Code, shall prescribe a curriculum for all schools under ~~their~~ its control. Except as provided in division (E) of this section, in any such curriculum there shall be included the study of the following subjects:

(1) The language arts, including reading, writing, spelling, oral and written English, and literature;

(2) Geography, the history of the United States and of Ohio, and national, state, and local government in the United States, including a balanced presentation of the relevant contributions to society of men and women of African, Mexican, Puerto Rican, and American Indian descent as well as other ethnic and racial groups in Ohio and the United States;

(3) Mathematics;

(4) Natural science, including instruction in the conservation of natural resources;

(5) Health education, which shall include instruction in:

(a) The nutritive value of foods, including natural and

organically produced foods, the relation of nutrition to health, 37447
and the use and effects of food additives; 37448

(b) The harmful effects of and legal restrictions against the 37449
use of drugs of abuse, alcoholic beverages, and tobacco; 37450

(c) Venereal disease education, except that upon written 37451
request of the student's parent or guardian, a student shall be 37452
excused from taking instruction in venereal disease education; 37453

(d) In grades kindergarten through six, instruction in 37454
personal safety and assault prevention, except that upon written 37455
request of the student's parent or guardian, a student shall be 37456
excused from taking instruction in personal safety and assault 37457
prevention; 37458

(e) In grades seven through twelve, age-appropriate 37459
instruction in dating violence prevention education, which shall 37460
include instruction in recognizing dating violence warning signs 37461
and characteristics of healthy relationships. 37462

In order to assist school districts in developing a dating 37463
violence prevention education curriculum, the department of 37464
education shall provide on its web site links to free curricula 37465
addressing dating violence prevention. 37466

If the parent or legal guardian of a student less than 37467
eighteen years of age submits to the principal of the student's 37468
school a written request to examine the dating violence prevention 37469
instruction materials used at that school, the principal, within a 37470
reasonable period of time after the request is made, shall allow 37471
the parent or guardian to examine those materials at that school. 37472

(6) Physical education; 37473

(7) The fine arts, including music; 37474

(8) First aid, including a training program in 37475
cardiopulmonary resuscitation, safety, and fire prevention, except 37476

that upon written request of the student's parent or guardian, a 37477
student shall be excused from taking instruction in 37478
cardiopulmonary resuscitation. 37479

(B) Except as provided in division (E) of this section, every 37480
school or school district shall include in the requirements for 37481
promotion from the eighth grade to the ninth grade one year's 37482
course of study of American history. A board may waive this 37483
requirement for academically accelerated students who, in 37484
accordance with procedures adopted by the board, are able to 37485
demonstrate mastery of essential concepts and skills of the eighth 37486
grade American history course of study. 37487

(C) As specified in divisions (B)(6) and (C)(6) of section 37488
3313.603 of the Revised Code, except as provided in division (E) 37489
of this section, every high school shall include in the 37490
requirements for graduation from any curriculum one-half unit each 37491
of American history and government. 37492

(D) Except as provided in division (E) of this section, basic 37493
instruction or demonstrated mastery in geography, United States 37494
history, the government of the United States, the government of 37495
the state of Ohio, local government in Ohio, the Declaration of 37496
Independence, the United States Constitution, and the Constitution 37497
of the state of Ohio shall be required before pupils may 37498
participate in courses involving the study of social problems, 37499
economics, foreign affairs, United Nations, world government, 37500
socialism, and communism. 37501

(E) For each cooperative education school district 37502
established pursuant to section 3311.521 of the Revised Code and 37503
each city, exempted village, and local school district that has 37504
territory within such a cooperative district, the curriculum 37505
adopted pursuant to divisions (A) to (D) of this section shall 37506
only include the study of the subjects that apply to the grades 37507
operated by each such school district. The curriculums for such 37508

schools, when combined, shall provide to each student of these 37509
districts all of the subjects required under divisions (A) to (D) 37510
of this section. 37511

(F) The board of education of any cooperative education 37512
school district established pursuant to divisions (A) to (C) of 37513
section 3311.52 of the Revised Code shall prescribe a curriculum 37514
for the subject areas and grade levels offered in any school under 37515
its control. 37516

(G) Upon the request of any parent or legal guardian of a 37517
student, the board of education of any school district shall 37518
permit the parent or guardian to promptly examine, with respect to 37519
the parent's or guardian's own child: 37520

(1) Any survey or questionnaire, prior to its administration 37521
to the child; 37522

(2) Any textbook, workbook, software, video, or other 37523
instructional materials being used by the district in connection 37524
with the instruction of the child; 37525

(3) Any completed and graded test taken or survey or 37526
questionnaire filled out by the child; 37527

(4) Copies of the statewide academic standards and each model 37528
curriculum developed pursuant to section 3301.079 of the Revised 37529
Code, which copies shall be available at all times during school 37530
hours in each district school building. 37531

Sec. 3313.603. (A) As used in this section: 37532

(1) "One unit" means a minimum of one hundred twenty hours of 37533
course instruction, except that for a laboratory course, "one 37534
unit" means a minimum of one hundred fifty hours of course 37535
instruction. 37536

(2) "One-half unit" means a minimum of sixty hours of course 37537
instruction, except that for physical education courses, "one-half 37538

unit" means a minimum of one hundred twenty hours of course instruction. 37539
37540

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows: 37541
37542
37543
37544
37545

(1) English language arts, four units; 37546

(2) Health, one-half unit; 37547

(3) Mathematics, three units; 37548

(4) Physical education, one-half unit; 37549

(5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following: 37550
37551
37552

(a) Biological sciences, one unit; 37553

(b) Physical sciences, one unit. 37554

(6) History and government, one unit, which shall comply with division (M) of this section and shall include both of the following: 37555
37556
37557

(a) American history, one-half unit; 37558

(b) American government, one-half unit. 37559

(7) Social studies, two units. 37560

(8) Elective units, seven units until September 15, 2003, and six units thereafter. 37561
37562

Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or foreign language. 37563
37564
37565

(C) Beginning with students who enter ninth grade for the 37566

first time on or after July 1, 2010, except as provided in 37567
divisions (D) to (F) of this section, the requirements for 37568
graduation from every public and chartered nonpublic high school 37569
shall include twenty units that are designed to prepare students 37570
for the workforce and college. The units shall be distributed as 37571
follows: 37572

- (1) English language arts, four units; 37573
- (2) Health, one-half unit, which shall include instruction in 37574
nutrition and the benefits of nutritious foods and physical 37575
activity for overall health; 37576
- (3) Mathematics, four units, which shall include one unit of 37577
algebra II or the equivalent of algebra II; 37578
- (4) Physical education, one-half unit; 37579
- (5) Science, three units with inquiry-based laboratory 37580
experience that engages students in asking valid scientific 37581
questions and gathering and analyzing information, which shall 37582
include the following, or their equivalent: 37583
 - (a) Physical sciences, one unit; 37584
 - (b) Life sciences, one unit; 37585
 - (c) Advanced study in one or more of the following sciences, 37586
one unit: 37587
 - (i) Chemistry, physics, or other physical science; 37588
 - (ii) Advanced biology or other life science; 37589
 - (iii) Astronomy, physical geology, or other earth or space 37590
science. 37591
- (6) History and government, one unit, which shall comply with 37592
division (M) of this section and shall include both of the 37593
following: 37594
 - (a) American history, one-half unit; 37595

(b) American government, one-half unit. 37596

(7) Social studies, two units. 37597

Each school shall integrate the study of economics and 37598
financial literacy, as expressed in the social studies academic 37599
content standards adopted by the state board of education under 37600
division (A)(1) of section 3301.079 of the Revised Code and the 37601
academic content standards for financial literacy and 37602
entrepreneurship adopted under division (A)(2) of that section, 37603
into one or more existing social studies credits required under 37604
division (C)(7) of this section, or into the content of another 37605
class, so that every high school student receives instruction in 37606
those concepts. In developing the curriculum required by this 37607
paragraph, schools shall use available public-private partnerships 37608
and resources and materials that exist in business, industry, and 37609
through the centers for economics education at institutions of 37610
higher education in the state. 37611

(8) Five units consisting of one or any combination of 37612
foreign language, fine arts, business, career-technical education, 37613
family and consumer sciences, technology, agricultural education, 37614
a junior reserve officer training corps (JROTC) program approved 37615
by the congress of the United States under title 10 of the United 37616
States Code, or English language arts, mathematics, science, or 37617
social studies courses not otherwise required under division (C) 37618
of this section. 37619

Ohioans must be prepared to apply increased knowledge and 37620
skills in the workplace and to adapt their knowledge and skills 37621
quickly to meet the rapidly changing conditions of the 37622
twenty-first century. National studies indicate that all high 37623
school graduates need the same academic foundation, regardless of 37624
the opportunities they pursue after graduation. The goal of Ohio's 37625
system of elementary and secondary education is to prepare all 37626
students for and seamlessly connect all students to success in 37627

life beyond high school graduation, regardless of whether the next 37628
step is entering the workforce, beginning an apprenticeship, 37629
engaging in post-secondary training, serving in the military, or 37630
pursuing a college degree. 37631

The Ohio core curriculum is the standard expectation for all 37632
students entering ninth grade for the first time at a public or 37633
chartered nonpublic high school on or after July 1, 2010. A 37634
student may satisfy this expectation through a variety of methods, 37635
including, but not limited to, integrated, applied, 37636
career-technical, and traditional coursework. 37637

Whereas teacher quality is essential for student success in 37638
completing the Ohio core curriculum, the general assembly shall 37639
appropriate funds for strategic initiatives designed to strengthen 37640
schools' capacities to hire and retain highly qualified teachers 37641
in the subject areas required by the curriculum. Such initiatives 37642
are expected to require an investment of \$120,000,000 over five 37643
years. 37644

Stronger coordination between high schools and institutions 37645
of higher education is necessary to prepare students for more 37646
challenging academic endeavors and to lessen the need for academic 37647
remediation in college, thereby reducing the costs of higher 37648
education for Ohio's students, families, and the state. The state 37649
board and the chancellor of the Ohio board of regents shall 37650
develop policies to ensure that only in rare instances will 37651
students who complete the Ohio core curriculum require academic 37652
remediation after high school. 37653

School districts, community schools, and chartered nonpublic 37654
schools shall integrate technology into learning experiences 37655
across the curriculum in order to maximize efficiency, enhance 37656
learning, and prepare students for success in the 37657
technology-driven twenty-first century. Districts and schools 37658
shall use distance and web-based course delivery as a method of 37659

providing or augmenting all instruction required under this 37660
division, including laboratory experience in science. Districts 37661
and schools shall utilize technology access and electronic 37662
learning opportunities provided by the ~~eTech Ohio commission~~ 37663
chancellor, the Ohio learning network, education technology 37664
centers, public television stations, and other public and private 37665
providers. 37666

(D) Except as provided in division (E) of this section, a 37667
student who enters ninth grade on or after July 1, 2010, and 37668
before July 1, 2014, may qualify for graduation from a public or 37669
chartered nonpublic high school even though the student has not 37670
completed the Ohio core curriculum prescribed in division (C) of 37671
this section if all of the following conditions are satisfied: 37672

(1) After the student has attended high school for two years, 37673
as determined by the school, the student and the student's parent, 37674
guardian, or custodian sign and file with the school a written 37675
statement asserting the parent's, guardian's, or custodian's 37676
consent to the student's graduating without completing the Ohio 37677
core curriculum and acknowledging that one consequence of not 37678
completing the Ohio core curriculum is ineligibility to enroll in 37679
most state universities in Ohio without further coursework. 37680

(2) The student and parent, guardian, or custodian fulfill 37681
any procedural requirements the school stipulates to ensure the 37682
student's and parent's, guardian's, or custodian's informed 37683
consent and to facilitate orderly filing of statements under 37684
division (D)(1) of this section. 37685

(3) The student and the student's parent, guardian, or 37686
custodian and a representative of the student's high school 37687
jointly develop an individual career plan for the student that 37688
specifies the student matriculating to a two-year degree program, 37689
acquiring a business and industry credential, or entering an 37690
apprenticeship. 37691

(4) The student's high school provides counseling and support 37692
for the student related to the plan developed under division 37693
(D)(3) of this section during the remainder of the student's high 37694
school experience. 37695

(5) The student successfully completes, at a minimum, the 37696
curriculum prescribed in division (B) of this section. 37697

The department of education, in collaboration with the 37698
chancellor, shall analyze student performance data to determine if 37699
there are mitigating factors that warrant extending the exception 37700
permitted by division (D) of this section to high school classes 37701
beyond those entering ninth grade before July 1, 2014. The 37702
department shall submit its findings and any recommendations not 37703
later than August 1, 2014, to the speaker and minority leader of 37704
the house of representatives, the president and minority leader of 37705
the senate, the chairpersons and ranking minority members of the 37706
standing committees of the house of representatives and the senate 37707
that consider education legislation, the state board of education, 37708
and the superintendent of public instruction. 37709

(E) Each school district and chartered nonpublic school 37710
retains the authority to require an even more rigorous minimum 37711
curriculum for high school graduation than specified in division 37712
(B) or (C) of this section. A school district board of education, 37713
through the adoption of a resolution, or the governing authority 37714
of a chartered nonpublic school may stipulate any of the 37715
following: 37716

(1) A minimum high school curriculum that requires more than 37717
twenty units of academic credit to graduate; 37718

(2) An exception to the district's or school's minimum high 37719
school curriculum that is comparable to the exception provided in 37720
division (D) of this section but with additional requirements, 37721
which may include a requirement that the student successfully 37722

complete more than the minimum curriculum prescribed in division 37723
(B) of this section; 37724

(3) That no exception comparable to that provided in division 37725
(D) of this section is available. 37726

(F) A student enrolled in a dropout prevention and recovery 37727
program, which program has received a waiver from the department, 37728
may qualify for graduation from high school by successfully 37729
completing a competency-based instructional program administered 37730
by the dropout prevention and recovery program in lieu of 37731
completing the Ohio core curriculum prescribed in division (C) of 37732
this section. The department shall grant a waiver to a dropout 37733
prevention and recovery program, within sixty days after the 37734
program applies for the waiver, if the program meets all of the 37735
following conditions: 37736

(1) The program serves only students not younger than sixteen 37737
years of age and not older than twenty-one years of age. 37738

(2) The program enrolls students who, at the time of their 37739
initial enrollment, either, or both, are at least one grade level 37740
behind their cohort age groups or experience crises that 37741
significantly interfere with their academic progress such that 37742
they are prevented from continuing their traditional programs. 37743

(3) The program requires students to attain at least the 37744
applicable score designated for each of the assessments prescribed 37745
under division (B)(1) of section 3301.0710 of the Revised Code or, 37746
to the extent prescribed by rule of the state board under division 37747
(D)(6) of section 3301.0712 of the Revised Code, division (B)(2) 37748
of that section. 37749

(4) The program develops an individual career plan for the 37750
student that specifies the student's matriculating to a two-year 37751
degree program, acquiring a business and industry credential, or 37752
entering an apprenticeship. 37753

(5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work. If a high school so permits, it shall award high school credit for successful completion of the advanced work and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative

education school district, or the governing authority of the 37785
chartered nonpublic school as meeting the high school curriculum 37786
requirements. 37787

Each high school shall record on the student's high school 37788
transcript all high school credit awarded under division (G) of 37789
this section. In addition, if the student completed a seventh- or 37790
eighth-grade fine arts course described in division (K) of this 37791
section and the course qualified for high school credit under that 37792
division, the high school shall record that course on the 37793
student's high school transcript. 37794

(H) The department shall make its individual academic career 37795
plan available through its Ohio career information system web site 37796
for districts and schools to use as a tool for communicating with 37797
and providing guidance to students and families in selecting high 37798
school courses. 37799

(I) Units earned in English language arts, mathematics, 37800
science, and social studies that are delivered through integrated 37801
academic and career-technical instruction are eligible to meet the 37802
graduation requirements of division (B) or (C) of this section. 37803

(J) The state board, in consultation with the chancellor, 37804
shall adopt a statewide plan implementing methods for students to 37805
earn units of high school credit based on a demonstration of 37806
subject area competency, instead of or in combination with 37807
completing hours of classroom instruction. The state board shall 37808
adopt the plan not later than March 31, 2009, and commence phasing 37809
in the plan during the 2009-2010 school year. The plan shall 37810
include a standard method for recording demonstrated proficiency 37811
on high school transcripts. Each school district and community 37812
school shall comply with the state board's plan adopted under this 37813
division and award units of high school credit in accordance with 37814
the plan. The state board may adopt existing methods for earning 37815
high school credit based on a demonstration of subject area 37816

competency as necessary prior to the 2009-2010 school year. 37817

(K) This division does not apply to students who qualify for 37818
graduation from high school under division (D) or (F) of this 37819
section, or to students pursuing a career-technical instructional 37820
track as determined by the school district board of education or 37821
the chartered nonpublic school's governing authority. 37822
Nevertheless, the general assembly encourages such students to 37823
consider enrolling in a fine arts course as an elective. 37824

Beginning with students who enter ninth grade for the first 37825
time on or after July 1, 2010, each student enrolled in a public 37826
or chartered nonpublic high school shall complete two semesters or 37827
the equivalent of fine arts to graduate from high school. The 37828
coursework may be completed in any of grades seven to twelve. Each 37829
student who completes a fine arts course in grade seven or eight 37830
may elect to count that course toward the five units of electives 37831
required for graduation under division (C)(8) of this section, if 37832
the course satisfied the requirements of division (G) of this 37833
section. In that case, the high school shall award the student 37834
high school credit for the course and count the course toward the 37835
five units required under division (C)(8) of this section. If the 37836
course in grade seven or eight did not satisfy the requirements of 37837
division (G) of this section, the high school shall not award the 37838
student high school credit for the course but shall count the 37839
course toward the two semesters or the equivalent of fine arts 37840
required by this division. 37841

(L) Notwithstanding anything to the contrary in this section, 37842
the board of education of each school district and the governing 37843
authority of each chartered nonpublic school may adopt a policy to 37844
excuse from the high school physical education requirement each 37845
student who, during high school, has participated in 37846
interscholastic athletics, marching band, or cheerleading for at 37847
least two full seasons or in the junior reserve officer training 37848

corps for at least two full school years. If the board or 37849
authority adopts such a policy, the board or authority shall not 37850
require the student to complete any physical education course as a 37851
condition to graduate. However, the student shall be required to 37852
complete one-half unit, consisting of at least sixty hours of 37853
instruction, in another course of study. In the case of a student 37854
who has participated in the junior reserve officer training corps 37855
for at least two full school years, credit received for that 37856
participation may be used to satisfy the requirement to complete 37857
one-half unit in another course of study. 37858

(M) It is important that high school students learn and 37859
understand United States history and the governments of both the 37860
United States and the state of Ohio. Therefore, beginning with 37861
students who enter ninth grade for the first time on or after July 37862
1, 2012, the study of American history and American government 37863
required by divisions (B)(6) and (C)(6) of this section shall 37864
include the study of all of the following documents: 37865

(1) The Declaration of Independence; 37866

(2) The Northwest Ordinance; 37867

(3) The Constitution of the United States with emphasis on 37868
the Bill of Rights; 37869

(4) The Ohio Constitution. 37870

The study of each of the documents prescribed in divisions 37871
(M)(1) to (4) of this section shall include study of that document 37872
in its original context. 37873

The study of American history and government required by 37874
divisions (B)(6) and (C)(6) of this section shall include the 37875
historical evidence of the role of documents such as the 37876
Federalist Papers and the Anti-Federalist Papers to firmly 37877
establish the historical background leading to the establishment 37878
of the provisions of the Constitution and Bill of Rights. 37879

Sec. 3313.6013. (A) As used in this section, "~~dual enrollment~~ advanced standing program" means a program that enables a student to earn credit toward a degree from an institution of higher education while enrolled in high school or that enables a student to complete coursework while enrolled in high school that may earn credit toward a degree from an institution of higher education upon the student's attainment of a specified score on an examination covering the coursework. ~~Dual enrollment~~ Advanced standing programs may include any of the following:

(1) The ~~post secondary enrollment options~~ college credit plus program established under Chapter 3365. of the Revised Code;

(2) Advanced placement courses;

(3) ~~Any similar program established pursuant to an agreement between a school district or chartered nonpublic high school and an institution of higher education~~ International baccalaureate program credits.

(B) Each city, local, exempted village, and joint vocational school district and each chartered nonpublic high school shall provide students enrolled in grades nine through twelve with the opportunity to participate in ~~a dual enrollment~~ an advanced standing program. For this purpose, each ~~school~~ district ~~and chartered nonpublic high or~~ school shall offer at least one ~~dual enrollment~~ advanced standing program in accordance with division (B)(1) or (2) of this section, as applicable.

(1) ~~A city, local, or exempted village school district meets the requirements of this division through its mandatory participation in the post secondary enrollment options program established under Chapter 3365. of the Revised Code. However, a city, local, or exempted village school district may offer any other dual enrollment program, in addition to the post secondary enrollment options program, and each joint vocational school~~

~~district shall offer at least one other dual enrollment program, 37911
to students in good standing, as defined by the partnership for 37912
continued learning under section 3301.42 of the Revised Code as it 37913
existed prior to October 16, 2009, or as subsequently defined by 37914
the department of education. 37915~~

~~(2) A chartered nonpublic high school that elects to 37916
participate in the post-secondary enrollment options program 37917
established under Chapter 3365. of the Revised Code meets the 37918
requirements of this division. Each chartered nonpublic high 37919
school that elects not to participate in the post-secondary 37920
enrollment options program instead shall offer at least one other 37921
dual enrollment program to students in good standing, as defined 37922
by the partnership for continued learning under section 3301.42 of 37923
the Revised Code as it existed prior to October 16, 2009, or as 37924
subsequently defined by the department of education. 37925~~

(C) Each school district and each chartered nonpublic high 37926
school shall provide information about the ~~dual enrollment~~ 37927
advanced standing programs offered by the district or school to 37928
all students enrolled in grades eight through eleven. 37929

Sec. 3313.6016. (A) Beginning in the 2011-2012 school year, 37930
the department of education shall administer a pilot program 37931
requiring daily physical activity for students. Any school 37932
district; community school established under Chapter 3314. of the 37933
Revised Code; science, technology, engineering, and mathematics 37934
school established under Chapter 3326. of the Revised Code; or 37935
chartered nonpublic school annually may elect to participate in 37936
the pilot program by notifying the department of its interest by a 37937
date established by the department. If a school district elects to 37938
participate in the pilot program, each school building operated by 37939
the district shall be required to participate. To the maximum 37940
extent possible, the department shall seek to include in the pilot 37941

program districts and schools that are located in urban, suburban, 37942
and rural areas distributed geographically throughout the state. 37943
The department shall administer the pilot program in accordance 37944
with this section. 37945

(B) Except as provided in division (C) of this section, each 37946
district or school participating in the pilot program shall 37947
require all students in each of grades kindergarten through twelve 37948
to engage in at least thirty minutes of moderate to rigorous 37949
physical activity each school day, exclusive of recess. Physical 37950
activity engaged in during the following may count toward the 37951
daily requirement: 37952

(1) A physical education course; 37953

(2) A program or activity occurring before or after the 37954
regular school day, as defined in section 3313.814 of the Revised 37955
Code, that is sponsored or approved by the school of attendance, 37956
provided school officials are able to monitor students' 37957
participation to ensure compliance with the requirement. 37958

(C) None of the following shall be subject to the requirement 37959
of division (B) of this section: 37960

(1) Any student enrolled in the ~~post-secondary enrollment~~ 37961
~~options~~ college credit plus program established under Chapter 37962
3365. of the Revised Code; 37963

(2) Any student enrolled in a career-technical education 37964
program operated by the district or school; 37965

(3) Any student enrolled in a dropout prevention and recovery 37966
program operated by the district or school. 37967

(D) For any period in which a student is participating in 37968
interscholastic athletics, marching band, cheerleading, or a 37969
junior reserve officer training corps program, the district or 37970
school may excuse the student from the requirement of division (B) 37971

of this section. 37972

(E) The district or school may excuse any kindergarten 37973
student who is not enrolled in all-day kindergarten, as defined in 37974
section 3321.05 of the Revised Code, from the requirement of 37975
division (B) of this section. 37976

(F) Each district or school annually shall report to the 37977
department, in the manner prescribed by the department, how the 37978
district or school implemented the thirty minutes of daily 37979
physical activity and the financial costs of implementation. The 37980
department shall issue an annual report of the data collected 37981
under this division. 37982

Sec. 3313.62. The school year shall begin on the first day of 37983
July of each calendar year and close on the thirtieth day of June 37984
of the succeeding calendar year. ~~A school week shall consist of~~ 37985
~~five days, and a school month of four school weeks.~~ A chartered 37986
nonpublic school may be open for instruction with pupils in 37987
attendance on any day of the week, including Saturday or Sunday. 37988

Sec. 3313.64. (A) As used in this section and in section 37989
3313.65 of the Revised Code: 37990

(1)(a) Except as provided in division (A)(1)(b) of this 37991
section, "parent" means either parent, unless the parents are 37992
separated or divorced or their marriage has been dissolved or 37993
annulled, in which case "parent" means the parent who is the 37994
residential parent and legal custodian of the child. When a child 37995
is in the legal custody of a government agency or a person other 37996
than the child's natural or adoptive parent, "parent" means the 37997
parent with residual parental rights, privileges, and 37998
responsibilities. When a child is in the permanent custody of a 37999
government agency or a person other than the child's natural or 38000
adoptive parent, "parent" means the parent who was divested of 38001

parental rights and responsibilities for the care of the child and 38002
the right to have the child live with the parent and be the legal 38003
custodian of the child and all residual parental rights, 38004
privileges, and responsibilities. 38005

(b) When a child is the subject of a power of attorney 38006
executed under sections 3109.51 to 3109.62 of the Revised Code, 38007
"parent" means the grandparent designated as attorney in fact 38008
under the power of attorney. When a child is the subject of a 38009
caretaker authorization affidavit executed under sections 3109.64 38010
to 3109.73 of the Revised Code, "parent" means the grandparent 38011
that executed the affidavit. 38012

(2) "Legal custody," "permanent custody," and "residual 38013
parental rights, privileges, and responsibilities" have the same 38014
meanings as in section 2151.011 of the Revised Code. 38015

(3) "School district" or "district" means a city, local, or 38016
exempted village school district and excludes any school operated 38017
in an institution maintained by the department of youth services. 38018

(4) Except as used in division (C)(2) of this section, "home" 38019
means a home, institution, foster home, group home, or other 38020
residential facility in this state that receives and cares for 38021
children, to which any of the following applies: 38022

(a) The home is licensed, certified, or approved for such 38023
purpose by the state or is maintained by the department of youth 38024
services. 38025

(b) The home is operated by a person who is licensed, 38026
certified, or approved by the state to operate the home for such 38027
purpose. 38028

(c) The home accepted the child through a placement by a 38029
person licensed, certified, or approved to place a child in such a 38030
home by the state. 38031

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.	38032 38033
(5) "Agency" means all of the following:	38034
(a) A public children services agency;	38035
(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;	38036 38037 38038 38039 38040 38041
(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.	38042 38043 38044 38045
(6) A child is placed for adoption if either of the following occurs:	38046 38047
(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.	38048 38049 38050 38051
(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.	38052 38053 38054
(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.	38055 38056
(8) "Child," unless otherwise indicated, includes preschool children with disabilities.	38057 38058
(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of	38059 38060 38061

the Revised Code. 38062

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division. 38063
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(1) A child shall be admitted to the schools of the school district in which the child's parent resides. 38068
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(2) A Except as provided in division (B) of section 2151.362 and section 3317.30 of the Revised Code, a child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies: 38070
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(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent. 38075
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(b) The child resides in a home. 38078

(c) The child requires special education. 38079

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies: 38080
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(a) The placement for adoption has been terminated. 38086

(b) Another school district is required to admit the child under division (B)(1) of this section. 38087
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Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education 38089
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program outside of the district or its schools in compliance with 38092
Chapter 3323. of the Revised Code. 38093

(C) A district shall not charge tuition for children admitted 38094
under division (B)(1) or (3) of this section. If the district 38095
admits a child under division (B)(2) of this section, tuition 38096
shall be paid to the district that admits the child as provided in 38097
divisions (C)(1) to (3) of this section, unless division (C)(4) of 38098
this section applies to the child: 38099

(1) If the child receives special education in accordance 38100
with Chapter 3323. of the Revised Code, the school district of 38101
residence, as defined in section 3323.01 of the Revised Code, 38102
shall pay tuition for the child in accordance with section 38103
3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code 38104
regardless of who has custody of the child or whether the child 38105
resides in a home. 38106

(2) For a child that does not receive special education in 38107
accordance with Chapter 3323. of the Revised Code, except as 38108
otherwise provided in division (C)(2)(d) of this section, if the 38109
child is in the permanent or legal custody of a government agency 38110
or person other than the child's parent, tuition shall be paid by: 38111

(a) The district in which the child's parent resided at the 38112
time the court removed the child from home or at the time the 38113
court vested legal or permanent custody of the child in the person 38114
or government agency, whichever occurred first; 38115

(b) If the parent's residence at the time the court removed 38116
the child from home or placed the child in the legal or permanent 38117
custody of the person or government agency is unknown, tuition 38118
shall be paid by the district in which the child resided at the 38119
time the child was removed from home or placed in legal or 38120
permanent custody, whichever occurred first; 38121

(c) If a school district cannot be established under division 38122

(C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(4) Division (C)(4) of this section applies to any child who is admitted to a school district under division (B)(2) of this section, resides in a home that is not a foster home ~~or~~, a home maintained by the department of youth services, a detention

facility established under section 2152.41 of the Revised Code, or 38154
a juvenile facility established under section 2151.65 of the 38155
Revised Code, receives educational services at the home or 38156
facility in which the child resides pursuant to a contract between 38157
the home or facility and the school district providing those 38158
services, and does not receive special education. 38159

In the case of a child to which division (C)(4) of this 38160
section applies, the total educational cost to be paid for the 38161
child shall be determined by a formula approved by the department 38162
of education, which formula shall be designed to calculate a per 38163
diem cost for the educational services provided to the child for 38164
each day the child is served and shall reflect the total actual 38165
cost incurred in providing those services. The department shall 38166
certify the total educational cost to be paid for the child to 38167
both the school district providing the educational services and, 38168
if different, the school district that is responsible to pay 38169
tuition for the child. The department shall deduct the certified 38170
amount from the state basic aid funds payable under Chapter 3317. 38171
of the Revised Code to the district responsible to pay tuition and 38172
shall pay that amount to the district providing the educational 38173
services to the child. 38174

(D) Tuition required to be paid under divisions (C)(2) and 38175
(3)(a) of this section shall be computed in accordance with 38176
section 3317.08 of the Revised Code. Tuition required to be paid 38177
under division (C)(3)(b) of this section shall be computed in 38178
accordance with section 3317.081 of the Revised Code. If a home 38179
fails to pay the tuition required by division (C)(3)(b) of this 38180
section, the board of education providing the education may 38181
recover in a civil action the tuition and the expenses incurred in 38182
prosecuting the action, including court costs and reasonable 38183
attorney's fees. If the prosecuting attorney or city director of 38184
law represents the board in such action, costs and reasonable 38185

attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the child's physician certifying that the child's medical condition may require emergency medical attention. The statement shall be supported by such other evidence as the board may require.

(4) Any child residing with a person other than the child's parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the

location indicated in the parent's statement. 38248

(7) A child under the age of twenty-two years residing with a 38249
parent who has a contract to purchase a house in a school district 38250
outside the district where the parent is residing and who is 38251
waiting upon the date of closing of the mortgage loan for the 38252
purchase of such house is entitled to attend school for a period 38253
of time in the district where the house is being purchased. In 38254
order to be entitled to such attendance, the parent shall provide 38255
the district superintendent with the following: 38256

(a) A sworn statement explaining the situation, revealing the 38257
location of the house being purchased, and stating the parent's 38258
intent to reside there; 38259

(b) A statement from a real estate broker or bank officer 38260
confirming that the parent has a contract to purchase the house, 38261
that the parent is waiting upon the date of closing of the 38262
mortgage loan, and that the house is at the location indicated in 38263
the parent's statement. 38264

The district superintendent shall establish a period of time 38265
not to exceed ninety days during which the child entitled to 38266
attend school under division (F)(6) or (7) of this section may 38267
attend without tuition obligation. A student attending a school 38268
under division (F)(6) or (7) of this section shall be eligible to 38269
participate in interscholastic athletics under the auspices of 38270
that school, provided the board of education of the school 38271
district where the student's parent resides, by a formal action, 38272
releases the student to participate in interscholastic athletics 38273
at the school where the student is attending, and provided the 38274
student receives any authorization required by a public agency or 38275
private organization of which the school district is a member 38276
exercising authority over interscholastic sports. 38277

(8) A child whose parent is a full-time employee of a city, 38278

local, or exempted village school district, or of an educational 38279
service center, may be admitted to the schools of the district 38280
where the child's parent is employed, or in the case of a child 38281
whose parent is employed by an educational service center, in the 38282
district that serves the location where the parent's job is 38283
primarily located, provided the district board of education 38284
establishes such an admission policy by resolution adopted by a 38285
majority of its members. Any such policy shall take effect on the 38286
first day of the school year and the effective date of any 38287
amendment or repeal may not be prior to the first day of the 38288
subsequent school year. The policy shall be uniformly applied to 38289
all such children and shall provide for the admission of any such 38290
child upon request of the parent. No child may be admitted under 38291
this policy after the first day of classes of any school year. 38292

(9) A child who is with the child's parent under the care of 38293
a shelter for victims of domestic violence, as defined in section 38294
3113.33 of the Revised Code, is entitled to attend school free in 38295
the district in which the child is with the child's parent, and no 38296
other school district shall be required to pay tuition for the 38297
child's attendance in that school district. 38298

The enrollment of a child in a school district under this 38299
division shall not be denied due to a delay in the school 38300
district's receipt of any records required under section 3313.672 38301
of the Revised Code or any other records required for enrollment. 38302
Any days of attendance and any credits earned by a child while 38303
enrolled in a school district under this division shall be 38304
transferred to and accepted by any school district in which the 38305
child subsequently enrolls. The state board of education shall 38306
adopt rules to ensure compliance with this division. 38307

(10) Any child under the age of twenty-two years whose parent 38308
has moved out of the school district after the commencement of 38309
classes in the child's senior year of high school is entitled, 38310

subject to the approval of that district board, to attend school 38311
in the district in which the child attended school at the time of 38312
the parental move for the remainder of the school year and for one 38313
additional semester or equivalent term. A district board may also 38314
adopt a policy specifying extenuating circumstances under which a 38315
student may continue to attend school under division (F)(10) of 38316
this section for an additional period of time in order to 38317
successfully complete the high school curriculum for the 38318
individualized education program developed for the student by the 38319
high school pursuant to section 3323.08 of the Revised Code. 38320

(11) As used in this division, "grandparent" means a parent 38321
of a parent of a child. A child under the age of twenty-two years 38322
who is in the custody of the child's parent, resides with a 38323
grandparent, and does not require special education is entitled to 38324
attend the schools of the district in which the child's 38325
grandparent resides, provided that, prior to such attendance in 38326
any school year, the board of education of the school district in 38327
which the child's grandparent resides and the board of education 38328
of the school district in which the child's parent resides enter 38329
into a written agreement specifying that good cause exists for 38330
such attendance, describing the nature of this good cause, and 38331
consenting to such attendance. 38332

In lieu of a consent form signed by a parent, a board of 38333
education may request the grandparent of a child attending school 38334
in the district in which the grandparent resides pursuant to 38335
division (F)(11) of this section to complete any consent form 38336
required by the district, including any authorization required by 38337
sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised 38338
Code. Upon request, the grandparent shall complete any consent 38339
form required by the district. A school district shall not incur 38340
any liability solely because of its receipt of a consent form from 38341
a grandparent in lieu of a parent. 38342

Division (F)(11) of this section does not create, and shall 38343
not be construed as creating, a new cause of action or substantive 38344
legal right against a school district, a member of a board of 38345
education, or an employee of a school district. This section does 38346
not affect, and shall not be construed as affecting, any 38347
immunities from defenses to tort liability created or recognized 38348
by Chapter 2744. of the Revised Code for a school district, 38349
member, or employee. 38350

(12) A child under the age of twenty-two years is entitled to 38351
attend school in a school district other than the district in 38352
which the child is entitled to attend school under division (B), 38353
(C), or (E) of this section provided that, prior to such 38354
attendance in any school year, both of the following occur: 38355

(a) The superintendent of the district in which the child is 38356
entitled to attend school under division (B), (C), or (E) of this 38357
section contacts the superintendent of another district for 38358
purposes of this division; 38359

(b) The superintendents of both districts enter into a 38360
written agreement that consents to the attendance and specifies 38361
that the purpose of such attendance is to protect the student's 38362
physical or mental well-being or to deal with other extenuating 38363
circumstances deemed appropriate by the superintendents. 38364

While an agreement is in effect under this division for a 38365
student who is not receiving special education under Chapter 3323. 38366
of the Revised Code and notwithstanding Chapter 3327. of the 38367
Revised Code, the board of education of neither school district 38368
involved in the agreement is required to provide transportation 38369
for the student to and from the school where the student attends. 38370

A student attending a school of a district pursuant to this 38371
division shall be allowed to participate in all student 38372
activities, including interscholastic athletics, at the school 38373

where the student is attending on the same basis as any student 38374
who has always attended the schools of that district while of 38375
compulsory school age. 38376

(13) All school districts shall comply with the 38377
"McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et 38378
seq., for the education of homeless children. Each city, local, 38379
and exempted village school district shall comply with the 38380
requirements of that act governing the provision of a free, 38381
appropriate public education, including public preschool, to each 38382
homeless child. 38383

When a child loses permanent housing and becomes a homeless 38384
person, as defined in 42 U.S.C.A. 11481(5), or when a child who is 38385
such a homeless person changes temporary living arrangements, the 38386
child's parent or guardian shall have the option of enrolling the 38387
child in either of the following: 38388

(a) The child's school of origin, as defined in 42 U.S.C.A. 38389
11432(g)(3)(C); 38390

(b) The school that is operated by the school district in 38391
which the shelter where the child currently resides is located and 38392
that serves the geographic area in which the shelter is located. 38393

(14) A child under the age of twenty-two years who resides 38394
with a person other than the child's parent is entitled to attend 38395
school in the school district in which that person resides if both 38396
of the following apply: 38397

(a) That person has been appointed, through a military power 38398
of attorney executed under section 574(a) of the "National Defense 38399
Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 38400
U.S.C. 1044b, or through a comparable document necessary to 38401
complete a family care plan, as the parent's agent for the care, 38402
custody, and control of the child while the parent is on active 38403
duty as a member of the national guard or a reserve unit of the 38404

armed forces of the United States or because the parent is a 38405
member of the armed forces of the United States and is on a duty 38406
assignment away from the parent's residence. 38407

(b) The military power of attorney or comparable document 38408
includes at least the authority to enroll the child in school. 38409

The entitlement to attend school in the district in which the 38410
parent's agent under the military power of attorney or comparable 38411
document resides applies until the end of the school year in which 38412
the military power of attorney or comparable document expires. 38413

(G) A board of education, after approving admission, may 38414
waive tuition for students who will temporarily reside in the 38415
district and who are either of the following: 38416

(1) Residents or domiciliaries of a foreign nation who 38417
request admission as foreign exchange students; 38418

(2) Residents or domiciliaries of the United States but not 38419
of Ohio who request admission as participants in an exchange 38420
program operated by a student exchange organization. 38421

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 38422
3327.04, and 3327.06 of the Revised Code, a child may attend 38423
school or participate in a special education program in a school 38424
district other than in the district where the child is entitled to 38425
attend school under division (B) of this section. 38426

(I)(1) Notwithstanding anything to the contrary in this 38427
section or section 3313.65 of the Revised Code, a child under 38428
twenty-two years of age may attend school in the school district 38429
in which the child, at the end of the first full week of October 38430
of the school year, was entitled to attend school as otherwise 38431
provided under this section or section 3313.65 of the Revised 38432
Code, if at that time the child was enrolled in the schools of the 38433
district but since that time the child or the child's parent has 38434
relocated to a new address located outside of that school district 38435

and within the same county as the child's or parent's address 38436
immediately prior to the relocation. The child may continue to 38437
attend school in the district, and at the school to which the 38438
child was assigned at the end of the first full week of October of 38439
the current school year, for the balance of the school year. 38440
Division (I)(1) of this section applies only if both of the 38441
following conditions are satisfied: 38442

(a) The board of education of the school district in which 38443
the child was entitled to attend school at the end of the first 38444
full week in October and of the district to which the child or 38445
child's parent has relocated each has adopted a policy to enroll 38446
children described in division (I)(1) of this section. 38447

(b) The child's parent provides written notification of the 38448
relocation outside of the school district to the superintendent of 38449
each of the two school districts. 38450

(2) At the beginning of the school year following the school 38451
year in which the child or the child's parent relocated outside of 38452
the school district as described in division (I)(1) of this 38453
section, the child is not entitled to attend school in the school 38454
district under that division. 38455

(3) Any person or entity owing tuition to the school district 38456
on behalf of the child at the end of the first full week in 38457
October, as provided in division (C) of this section, shall 38458
continue to owe such tuition to the district for the child's 38459
attendance under division (I)(1) of this section for the lesser of 38460
the balance of the school year or the balance of the time that the 38461
child attends school in the district under division (I)(1) of this 38462
section. 38463

(4) A pupil who may attend school in the district under 38464
division (I)(1) of this section shall be entitled to 38465
transportation services pursuant to an agreement between the 38466

district and the district in which the child or child's parent has 38467
relocated unless the districts have not entered into such 38468
agreement, in which case the child shall be entitled to 38469
transportation services in the same manner as a pupil attending 38470
school in the district under interdistrict open enrollment as 38471
described in division (H) of section 3313.981 of the Revised Code, 38472
regardless of whether the district has adopted an open enrollment 38473
policy as described in division (B)(1)(b) or (c) of section 38474
3313.98 of the Revised Code. 38475

(J) This division does not apply to a child receiving special 38476
education. 38477

A school district required to pay tuition pursuant to 38478
division (C)(2) or (3) of this section or section 3313.65 of the 38479
Revised Code shall have an amount deducted under division (C) of 38480
section 3317.023 of the Revised Code equal to its own tuition rate 38481
for the same period of attendance. A school district entitled to 38482
receive tuition pursuant to division (C)(2) or (3) of this section 38483
or section 3313.65 of the Revised Code shall have an amount 38484
credited under division (C) of section 3317.023 of the Revised 38485
Code equal to its own tuition rate for the same period of 38486
attendance. If the tuition rate credited to the district of 38487
attendance exceeds the rate deducted from the district required to 38488
pay tuition, the department of education shall pay the district of 38489
attendance the difference from amounts deducted from all 38490
districts' payments under division (C) of section 3317.023 of the 38491
Revised Code but not credited to other school districts under such 38492
division and from appropriations made for such purpose. The 38493
treasurer of each school district shall, by the fifteenth day of 38494
January and July, furnish the superintendent of public instruction 38495
a report of the names of each child who attended the district's 38496
schools under divisions (C)(2) and (3) of this section or section 38497
3313.65 of the Revised Code during the preceding six calendar 38498

months, the duration of the attendance of those children, the 38499
school district responsible for tuition on behalf of the child, 38500
and any other information that the superintendent requires. 38501

Upon receipt of the report the superintendent, pursuant to 38502
division (C) of section 3317.023 of the Revised Code, shall deduct 38503
each district's tuition obligations under divisions (C)(2) and (3) 38504
of this section or section 3313.65 of the Revised Code and pay to 38505
the district of attendance that amount plus any amount required to 38506
be paid by the state. 38507

(K) In the event of a disagreement, the superintendent of 38508
public instruction shall determine the school district in which 38509
the parent resides. 38510

(L) Nothing in this section requires or authorizes, or shall 38511
be construed to require or authorize, the admission to a public 38512
school in this state of a pupil who has been permanently excluded 38513
from public school attendance by the superintendent of public 38514
instruction pursuant to sections 3301.121 and 3313.662 of the 38515
Revised Code. 38516

(M) In accordance with division (B)(1) of this section, a 38517
child whose parent is a member of the national guard or a reserve 38518
unit of the armed forces of the United States and is called to 38519
active duty, or a child whose parent is a member of the armed 38520
forces of the United States and is ordered to a temporary duty 38521
assignment outside of the district, may continue to attend school 38522
in the district in which the child's parent lived before being 38523
called to active duty or ordered to a temporary duty assignment 38524
outside of the district, as long as the child's parent continues 38525
to be a resident of that district, and regardless of where the 38526
child lives as a result of the parent's active duty status or 38527
temporary duty assignment. However, the district is not 38528
responsible for providing transportation for the child if the 38529
child lives outside of the district as a result of the parent's 38530

active duty status or temporary duty assignment. 38531

Sec. 3313.646. (A) The board of education of a school 38532
district, except a cooperative education district established 38533
pursuant to section 3311.521 of the Revised Code, may establish 38534
and operate a ~~preschool~~ program to provide services to 38535
preschool-age children, provided the board has demonstrated a need 38536
for the program. A board may use school funds in support of 38537
preschool programs. The board shall maintain, operate, and admit 38538
children to any such program pursuant to rules adopted by such 38539
board and the rules of the state board of education adopted under 38540
sections 3301.52 to 3301.57 of the Revised Code. 38541

A board of education may establish fees or tuition, which may 38542
be graduated in proportion to family income, for participation in 38543
a preschool program. In cases where payment of fees or tuition 38544
would create a hardship for the child's parent or guardian, the 38545
board may waive any such fees or tuition. 38546

(B) No board of education that is not receiving funds under 38547
the "Head Start Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, on 38548
March 17, 1989, shall compete for funds under the "Head Start Act" 38549
with any grantee receiving funds under that act. 38550

(C) A board of education may contract with any of the 38551
following preschool providers to provide ~~preschool programs~~ 38552
services to preschool-age children, other than ~~programs for units~~ 38553
~~described by divisions (B) and (C) of those services for which the~~ 38554
district is eligible to receive funding under section 3317.05 38555
3317.0213 of the Revised Code, ~~for children of the school~~ 38556
~~district:~~ 38557

(1) Any organization receiving funds under the "Head Start 38558
Act"; 38559

(2) Any nonsectarian eligible nonpublic school as defined in 38560

division (H) of section 3301.52 of the Revised Code; 38561

(3) Any child care provider licensed under Chapter 5104. of 38562
the Revised Code. 38563

Boards may contract to provide ~~preschool programs~~ services to 38564
preschool-age children only with such organizations whose staff 38565
meet the requirements of rules adopted under section 3301.53 of 38566
the Revised Code or those of the child development associate 38567
credential established by the national association for the 38568
education of young children. 38569

(D) A contract entered into under division (C) of this 38570
section may provide for the board of education to lease school 38571
facilities to the preschool provider or to furnish transportation, 38572
utilities, or staff for the preschool program. 38573

(E) The treasurer of any board of education operating a 38574
preschool program pursuant to this section shall keep an account 38575
of all funds used to operate the program in the same manner as the 38576
treasurer would any other funds of the district pursuant to this 38577
chapter. 38578

Sec. 3313.65. (A) As used in this section and section 3313.64 38579
of the Revised Code: 38580

(1) A person is "in a residential facility" if the person is 38581
a resident or a resident patient of an institution, home, or other 38582
residential facility that is: 38583

(a) Licensed as a nursing home, residential care facility, or 38584
home for the aging by the director of health under section 3721.02 38585
of the Revised Code; 38586

(b) Maintained as a county home or district home by the board 38587
of county commissioners or a joint board of county commissioners 38588
under Chapter 5155. of the Revised Code; 38589

(c) Operated or administered by a board of alcohol, drug 38590

addiction, and mental health services under section 340.03 ~~or~~ 38591
~~340.06~~ of the Revised Code, or provides residential care pursuant 38592
to contracts made under section 340.03 ~~or 340.033~~ of the Revised 38593
Code; 38594

(d) Maintained as a state institution for the mentally ill 38595
under Chapter 5119. of the Revised Code; 38596

(e) Licensed by the department of ~~mental health~~ mental health 38597
and addiction services under section ~~5119.20~~ 5119.33 or ~~5119.22~~ 38598
5119.34 of the Revised Code; 38599

(f) Licensed as a residential facility by the department of 38600
developmental disabilities under section 5123.19 of the Revised 38601
Code; 38602

(g) Operated by the veteran's administration or another 38603
agency of the United States government; 38604

(h) Operated by the Ohio veterans' home. 38605

(2) A person is "in a correctional facility" if any of the 38606
following apply: 38607

(a) The person is an Ohio resident and is: 38608

(i) Imprisoned, as defined in section 1.05 of the Revised 38609
Code; 38610

(ii) Serving a term in a community-based correctional 38611
facility or a district community-based correctional facility; 38612

(iii) Required, as a condition of parole, a post-release 38613
control sanction, a community control sanction, transitional 38614
control, or early release from imprisonment, as a condition of 38615
shock parole or shock probation granted under the law in effect 38616
prior to July 1, 1996, or as a condition of a furlough granted 38617
under the version of section 2967.26 of the Revised Code in effect 38618
prior to March 17, 1998, to reside in a halfway house or other 38619
community residential center licensed under section 2967.14 of the 38620

Revised Code or a similar facility designated by the court of 38621
common pleas that established the condition or by the adult parole 38622
authority. 38623

(b) The person is imprisoned in a state correctional 38624
institution of another state or a federal correctional institution 38625
but was an Ohio resident at the time the sentence was imposed for 38626
the crime for which the person is imprisoned. 38627

(3) A person is "in a juvenile residential placement" if the 38628
person is an Ohio resident who is under twenty-one years of age 38629
and has been removed, by the order of a juvenile court, from the 38630
place the person resided at the time the person became subject to 38631
the court's jurisdiction in the matter that resulted in the 38632
person's removal. 38633

(4) "Community control sanction" has the same meaning as in 38634
section 2929.01 of the Revised Code. 38635

(5) "Post-release control sanction" has the same meaning as 38636
in section 2967.01 of the Revised Code. 38637

(B) If the circumstances described in division (C) of this 38638
section apply, the determination of what school district must 38639
admit a child to its schools and what district, if any, is liable 38640
for tuition shall be made in accordance with this section, rather 38641
than section 3313.64 of the Revised Code. 38642

(C) A child who does not reside in the school district in 38643
which the child's parent resides and for whom a tuition obligation 38644
previously has not been established under division (C)(2) of 38645
section 3313.64 of the Revised Code shall be admitted to the 38646
schools of the district in which the child resides if at least one 38647
of the child's parents is in a residential or correctional 38648
facility or a juvenile residential placement and the other parent, 38649
if living and not in such a facility or placement, is not known to 38650
reside in this state. 38651

(D) Regardless of who has custody or care of the child, 38652
whether the child resides in a home, or whether the child receives 38653
special education, if a district admits a child under division (C) 38654
of this section, tuition shall be paid to that district as 38655
follows: 38656

(1) If the child's parent is in a juvenile residential 38657
placement, by the district in which the child's parent resided at 38658
the time the parent became subject to the jurisdiction of the 38659
juvenile court; 38660

(2) If the child's parent is in a correctional facility, by 38661
the district in which the child's parent resided at the time the 38662
sentence was imposed; 38663

(3) If the child's parent is in a residential facility, by 38664
the district in which the parent resided at the time the parent 38665
was admitted to the residential facility, except that if the 38666
parent was transferred from another residential facility, tuition 38667
shall be paid by the district in which the parent resided at the 38668
time the parent was admitted to the facility from which the parent 38669
first was transferred; 38670

(4) In the event of a disagreement as to which school 38671
district is liable for tuition under division (C)(1), (2), or (3) 38672
of this section, the superintendent of public instruction shall 38673
determine which district shall pay tuition. 38674

(E) If a child covered by division (D) of this section 38675
receives special education in accordance with Chapter 3323. of the 38676
Revised Code, the tuition shall be paid in accordance with section 38677
3323.13 or 3323.14 of the Revised Code. Tuition for children who 38678
do not receive special education shall be paid in accordance with 38679
division (J) of section 3313.64 of the Revised Code. 38680

Sec. 3313.714. (A) As used in this section: 38681

(1) "Board of education" means the board of education of a city, local, exempted village, or joint vocational school district.

(2) "Healthcheck" means the early and periodic screening, diagnosis, and treatment program, a component of the ~~medical assistance~~ medicaid program established under Title XIX of the ~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 302, as amended, and Chapter 5111. of the Revised Code.~~

(3) "Pupil" means a person under age twenty-two enrolled in the schools of a city, local, exempted village, or joint vocational school district.

(4) "Parent" means either parent with the following exceptions:

(a) If one parent has custody by court order, "parent" means the parent with custody.

(b) If neither parent has legal custody, "parent" means the person or government entity with legal custody.

(c) The child's legal guardian or a person who has accepted responsibility for the health, safety, and welfare of the child.

(B) At the request of the department of ~~job and family services~~ medicaid, a board of education shall establish and conduct a healthcheck program for pupils enrolled in the schools of the district who are medicaid recipients ~~of medical assistance under Chapter 5111. of the Revised Code.~~ At the request of a board of education, the department may authorize the board to establish a healthcheck program. A board that establishes a healthcheck program shall enter into a ~~medical assistance~~ medicaid provider agreement with the department.

A healthcheck program established by a board of education shall be conducted in accordance with rules adopted by the

~~medicaid~~ director of ~~job and family services~~ under division (F) of 38712
this section. The healthcheck program shall include all of the 38713
following components: 38714

(1) A comprehensive health and development history; 38715

(2) A comprehensive physical examination; 38716

(3) A developmental assessment; 38717

(4) A nutritional assessment; 38718

(5) A vision assessment; 38719

(6) A hearing assessment; 38720

(7) An immunization assessment; 38721

(8) Lead screening and laboratory tests ordered by a doctor 38722
of medicine or osteopathic medicine as part of one of the other 38723
components; 38724

(9) Such other assessment as may be required by the 38725
department of ~~job and family services~~ medicaid in accordance with 38726
the requirements of the healthcheck program. 38727

All services included in a board of education's healthcheck 38728
program that the board provided under sections 3313.67, 3313.673, 38729
3313.68, 3313.69, and 3313.71 of the Revised Code during the 38730
1990-1991 school year shall continue to be provided to ~~medical~~ 38731
~~assistance~~ medicaid recipients by the board pursuant to those 38732
sections. The services shall be considered part of the healthcheck 38733
program for medicaid recipients of ~~medical assistance~~, and the 38734
board shall be eligible for ~~reimbursement~~ payment from the state 38735
department in accordance with this division for providing the 38736
services. 38737

The department shall ~~reimburse~~ pay boards of education for 38738
healthcheck program services provided under this division at the 38739
rates paid under the ~~medical assistance~~ medicaid program to 38740
physicians, dentists, nurses, and other providers of healthcheck 38741

services. 38742

(C) Each board of education that conducts a healthcheck 38743
program shall determine for each pupil enrolled in the schools of 38744
the district whether the pupil is a ~~medical assistance~~ medicaid 38745
recipient. The department of ~~job and family services~~ medicaid and 38746
county departments of ~~human services~~ job and family services shall 38747
assist the board in making these determinations. Except as 38748
necessary to carry out the purposes of this section, all 38749
information received by a board under this division shall be 38750
confidential. 38751

Before the first day of October of each year, each board that 38752
conducts a healthcheck program shall send the parent of each pupil 38753
who is under age eighteen and a medicaid recipient ~~of medical~~ 38754
~~assistance~~ notice that the pupil will be examined under the 38755
district's healthcheck program unless the parent notifies the 38756
board that the parent denies consent for the examination. The 38757
notice shall include a form to be used by the parent to indicate 38758
that the parent denies consent. The denial shall be effective only 38759
if the form is signed by the parent and returned to the board or 38760
the school in which the pupil is enrolled. If the parent does not 38761
return a signed form indicating denial of consent within two weeks 38762
after the date the notice is sent, the school district and the 38763
department of ~~job and family services~~ medicaid shall deem the 38764
parent to have consented to examination of the parent's child 38765
under the healthcheck program. In the case of a pupil age eighteen 38766
or older, the notice shall be given to the pupil, and the school 38767
district and the department of ~~job and family services~~ medicaid 38768
shall deem the pupil to have consented to examination unless the 38769
pupil returns the signed form indicating the pupil's denial of 38770
consent. 38771

(D)(1) As used in this division: 38772

(a) "Nonfederal share" means the portion of expenditures for 38773

services that is required under the ~~medical assistance~~ medicaid 38774
program to be paid for with state or local government funds. 38775

(b) "Federal financial participation" means the portion of 38776
expenditures for services that is ~~reimbursed~~ payable under the 38777
~~medical assistance~~ medicaid program with federal funds. 38778

(2) At the request of a board of education, the state 38779
department may enter into an agreement with the board under which 38780
the board provides medical services to a medicaid recipient of 38781
~~medical assistance~~ that are ~~reimbursable~~ payable under the ~~medical~~ 38782
~~assistance~~ medicaid program but not under the healthcheck program. 38783
The agreement may be for a term specified in the agreement and 38784
renewable by mutual consent of the board and the department, or 38785
may continue in force as long as agreeable to the board and the 38786
department. 38787

The board shall use state or local funds of the district to 38788
pay the nonfederal share of expenditures for services provided 38789
under this division. Prior to entering into or renewing an 38790
agreement and at any other time requested by the department while 38791
the agreement is in force, the board shall certify to the 38792
department in accordance with the rules adopted under division (F) 38793
of this section that it will have sufficient state or local funds 38794
to pay the nonfederal share of expenditures under this division. 38795
If the board fails to make the certification, the department shall 38796
not enter into or renew the agreement. If an agreement has been 38797
entered into, it shall be void unless the board makes the 38798
certification not later than fifteen days after receiving notice 38799
from the department that the certification is due. The board shall 38800
report to the department, in accordance with the rules, the amount 38801
of state or local funds it spends to provide services under this 38802
division. 38803

The department shall ~~reimburse~~ pay the board the federal 38804
financial participation allowed for the board's expenditures for 38805

services under this division. The total of the nonfederal share 38806
spent by the board and the federal financial participation 38807
~~reimbursed paid~~ by the department for a service rendered under 38808
this division shall be an amount agreed to by the board and the 38809
department, but shall not exceed the maximum ~~reimbursable payable~~ 38810
amount for that service under rules adopted ~~by the director of job~~ 38811
~~and family services~~ under ~~Chapter 5111. section 5164.02~~ of the 38812
Revised Code. The rules adopted under division (F) of this section 38813
shall include procedures under which the department will recover 38814
from a board overpayments and subsequent federal audit 38815
disallowances of federal financial participation ~~reimbursed paid~~ 38816
by the department. 38817

(E) A board of education shall provide services under 38818
division (D) of this section and under its healthcheck program as 38819
provided in division (E)(1), (2), or (3) of this section: 38820

(1) By having the services performed by physicians, dentists, 38821
and nurses employed by the board; 38822

(2) By contracting with physicians, dentists, nurses, and 38823
other providers of services who have ~~medical assistance~~ medicaid 38824
provider agreements with the department of ~~job and family services~~ 38825
medicaid; 38826

(3) By having some of the services performed by persons 38827
described in division (E)(1) of this section and others performed 38828
by persons described in division (E)(2) of this section. 38829

(F) The medicaid ~~director of job and family services~~ shall 38830
adopt rules in accordance with Chapter 119. of the Revised Code 38831
governing healthcheck programs conducted under this section and 38832
services provided under division (D) of this section. 38833

Sec. 3313.715. The board of education of a school district 38834
may request from the director of developmental disabilities the 38835

appropriate identification numbers for all students residing in 38836
the district who are ~~medical assistance~~ medicaid recipients ~~under~~ 38837
~~Chapter 5111. of the Revised Code.~~ The director shall furnish such 38838
numbers upon receipt of lists of student names furnished by the 38839
district board, in such form as the director may require. 38840

The medicaid director ~~of job and family services~~ shall 38841
provide the director of developmental disabilities with the data 38842
necessary for compliance with this section. 38843

Section 3319.321 of the Revised Code does not apply to the 38844
release of student names or other data to the director of 38845
developmental disabilities for the purposes of this section. 38846
Chapter 1347. of the Revised Code does not apply to information 38847
required to be kept by a school board or the departments of ~~job~~ 38848
~~and family services~~ medicaid or developmental disabilities to the 38849
extent necessary to comply with this section and section 3313.714 38850
of the Revised Code. However, any such information or data shall 38851
be used only for the specific legal purposes of such boards and 38852
departments and shall not be released to any unauthorized person. 38853

Sec. 3313.82. The board of education of each ~~city and~~ 38854
~~exempted village~~ school district and the governing board of each 38855
educational service center shall appoint a business advisory 38856
council, except that a school district that has entered into an 38857
agreement under section 3313.843 or 3313.845 of the Revised Code 38858
to receive any services from an educational service center is not 38859
required to appoint a council if the school district and 38860
educational service center agree that the educational service 38861
center's council will represent the business of the district. The 38862
council shall advise and provide recommendations to the board on 38863
matters specified by the board including, but not necessarily 38864
limited to, the delineation of employment skills and the 38865
development of curriculum to instill these skills; changes in the 38866

economy and in the job market, and the types of employment in 38867
which future jobs are most likely to be available; and suggestions 38868
for developing a working relationship among businesses, labor 38869
organizations, and educational personnel ~~in the district or in the~~ 38870
~~territory of the educational service center.~~ Each board shall 38871
determine the membership and organization of its council. 38872
Notwithstanding division (D) of section 3311.19 and division (D) 38873
of section 3311.52 of the Revised Code, this section shall not 38874
apply to the board of education of any joint vocational school 38875
district or any cooperative education school district created 38876
pursuant to divisions (A) to (C) of section 3311.52 of the Revised 38877
Code. 38878

Sec. 3313.83. (A)(1) For the purpose of pooling resources, 38879
operating more cost effectively, minimizing administrative 38880
overhead, encouraging the sharing of resource development, and 38881
diminishing duplication, the boards of education of two or more 38882
city, local, or exempted village school districts each having a 38883
majority of its territory in a county with a population greater 38884
than one million two hundred thousand, by adopting identical 38885
resolutions, may enter into an agreement providing for the 38886
creation of a regional student education district for the purpose 38887
of funding the following for students enrolled in those school 38888
districts, including students diagnosed as autistic and students 38889
with special needs, and their immediate family members: 38890

(a) Special education services; 38891

(b) Behavioral health services for persons with special 38892
needs. 38893

If more than eight boards of education adopt resolutions to 38894
form a regional student education district, the boards may meet at 38895
facilities of the educational service center of the county to 38896
discuss membership in the district. 38897

(2) The territory of a regional student education district at any time shall be composed of the combined territories of the school districts that are parties to the agreement at that time. Services funded by a regional student education district shall be available to all individuals enrolled in a school district that is a part of the regional student education district and members of their immediate family.

(3) The agreement may be amended pursuant to terms and procedures mutually agreed to by the boards of education that are parties to the agreement.

(B) Each regional student education district shall be governed by a board of directors. The superintendent of each board of education that is a party to the agreement shall serve on the board of directors. The agreement shall provide for the terms of office of directors. Directors shall receive no compensation, but shall be reimbursed, from the special fund of the regional student education district, for the reasonable and necessary expenses they incur in the performance of their duties for the district. The agreement shall provide for the conduct of the board's initial organizational meeting and for the frequency of subsequent meetings and quorum requirements. At its first meeting, the board shall designate from among its members a president and secretary in the manner provided in the agreement.

The board of directors of a regional student education district is a body corporate and politic, is capable of suing and being sued, is capable of contracting within the limits of this section and the agreement governing the district, and is capable of accepting gifts, donations, bequests, or other grants of money for use in paying its expenses. The district is a public office and its directors are public officials within the meaning of section 117.01 of the Revised Code, the board of directors is a public body within the meaning of section 121.22 of the Revised

Code, and records of the board and of the district are public 38930
records within the meaning of section 149.43 of the Revised Code. 38931

The agreement shall require the board to designate a 38932
permanent location for its offices and meeting place, and may 38933
provide for the use of such facilities and property for the 38934
provision of services by the agencies with which the board 38935
contracts under division (C) of this section. 38936

(C)(1) To provide the services identified in division (A)(1) 38937
of this section, the board of directors of a regional student 38938
education district shall provide for the hiring of employees or 38939
shall contract with one or more entities. Except as provided in 38940
division (C)(2) of this section, any entity with which the board 38941
of directors contracts to provide the services identified in 38942
division (A)(1)(b) of this section shall be a qualified nonprofit, 38943
nationally accredited agency to which both of the following apply: 38944

(a) The agency is licensed or certified by the departments of 38945
~~mental health, mental health and addiction services and~~ job and 38946
family services, ~~and alcohol and drug addiction services.~~ 38947

(b) The agency provides school-based behavioral health 38948
services. 38949

(2) The board of directors may contract with an entity that 38950
does not meet the conditions stated in division (C)(1) of this 38951
section if the services to be provided by the entity are only 38952
incidental to the services identified in division (A)(1)(b) of 38953
this section. 38954

(3) The board of directors may levy a tax throughout the 38955
district as provided in section 5705.2111 of the Revised Code. The 38956
board of directors shall provide for the creation of a special 38957
fund to hold the proceeds of any tax levied under section 38958
5705.2111 of the Revised Code and any gifts, donations, bequests, 38959
or other grants of money coming into the possession of the 38960

district. A regional student education district is a subdivision, 38961
and the board of directors is a governing body, within the meaning 38962
of section 135.01 of the Revised Code. The board of directors may 38963
not issue securities or otherwise incur indebtedness. 38964

(4) The adoption or rejection by electors of a tax levy to 38965
fund a regional student education district pursuant to section 38966
5705.2111 of the Revised Code does not alter the duty of each 38967
school district member of the regional student education district 38968
to provide special education and related services as required 38969
under Chapter 3323. of the Revised Code. On the expiration of a 38970
regional student education district levy, the state, member school 38971
districts of the regional student education district, and any 38972
other governmental entity shall not be obligated to provide 38973
replacement funding for the revenues under the expired levy. The 38974
tax levy, in whole or in part, shall not be considered a levy for 38975
current operating expenses pursuant to division (A) of section 38976
3317.01 of the Revised Code for any of the school districts that 38977
are members of the regional student education district. 38978

(D)(1) The agreement shall provide for the manner of 38979
appointing an individual or entity to perform the duties of fiscal 38980
officer of the regional student education district. The agreement 38981
shall specify the length of time the individual or entity shall 38982
perform those duties and whether the individual or entity may be 38983
reappointed upon the completion of a term. The fiscal officer may 38984
receive compensation for performing the duties of the position and 38985
be reimbursed for reasonable expenses of performing those duties 38986
from the regional student education district's special fund. 38987

(2) The legal advisor of the board of directors of a regional 38988
student education district shall be the prosecuting attorney of 38989
the most populous county containing a school district that is a 38990
member of the regional student education district. The prosecuting 38991
attorney shall prosecute all actions against a member of the board 38992

of directors for malfeasance or misfeasance in office and shall be 38993
the legal counsel for the board and its members in all other 38994
actions brought by or against them and shall conduct those actions 38995
in the prosecuting attorney's official capacity. No compensation 38996
in addition to the prosecuting attorney's regular salary shall be 38997
allowed. 38998

(E) The board of directors of a regional student education 38999
district shall procure a policy or policies of insurance insuring 39000
the board, the fiscal officer, and the legal representative 39001
against liability on account of damage or injury to persons and 39002
property. Before procuring such insurance the board shall adopt a 39003
resolution setting forth the amount of insurance to be purchased, 39004
the necessity of the insurance, and a statement of its estimated 39005
premium cost. Insurance procured pursuant to this section shall be 39006
from one or more recognized insurance companies authorized to do 39007
business in this state. The cost of the insurance shall be paid 39008
from the district's special fund. 39009

A regional student education district is a political 39010
subdivision within the meaning of section 2744.01 of the Revised 39011
Code. 39012

(F)(1) The board of education of a school district having a 39013
majority of its territory in the county may join an existing 39014
regional student education district by adopting a resolution 39015
requesting to join as a party to the agreement and upon approval 39016
by the boards of education that currently are parties to the 39017
agreement. If a tax is levied in the regional student education 39018
district under section 5705.2111 of the Revised Code, a board of 39019
education may join the district only after a majority of qualified 39020
electors in the school district voting on the question vote in 39021
favor of levying the tax throughout the school district. A board 39022
of education joining an existing district shall have the same 39023
powers, rights, and obligations under the agreement as other 39024

boards of education that are parties to the agreement. 39025

(2) A board of education that is a party to an agreement 39026
under this section may withdraw the school district from a 39027
regional student education district by adopting a resolution. The 39028
withdrawal shall take effect on the date provided in the 39029
resolution. If a tax is levied in the regional student education 39030
district under section 5705.2111 of the Revised Code, the 39031
resolution shall take effect not later than the first day of 39032
January following adoption of the resolution. Beginning with the 39033
first day of January following adoption of the resolution, any tax 39034
levied under section 5705.2111 of the Revised Code shall not be 39035
levied within the territory of the withdrawing school district. 39036
Any collection of tax levied in the territory of the withdrawing 39037
school district under that section that has not been settled and 39038
distributed when the resolution takes effect shall be credited to 39039
the district's special fund. 39040

(G) An agreement entered into under this section shall 39041
provide for the manner of the regional student education 39042
district's dissolution. The district shall cease to exist when not 39043
more than one school district remains in the district, and the 39044
levy of any tax under section 5705.2111 of the Revised Code shall 39045
not be extended on the tax lists in any tax year beginning after 39046
the dissolution of the district. The agreement shall provide that, 39047
upon dissolution of the district, any unexpended balance in the 39048
district's special fund shall be divided among the school 39049
districts that are parties to the agreement immediately before 39050
dissolution in proportion to the taxable valuation of taxable 39051
property in the districts, and credited to their respective 39052
general funds. 39053

Sec. 3313.841. The boards of education and governing boards 39054
of two or more city, local, joint vocational, or exempted village 39055

school districts or educational service centers may contract in 39056
accordance with the terms of this section for the sharing on a 39057
cooperative basis of the services of supervisory teachers, special 39058
instruction teachers, special education teachers, and other 39059
licensed personnel necessary to conduct approved cooperative 39060
classes for special education and related services and gifted 39061
education. 39062

The boards of two or more districts or service centers 39063
desiring to enroll students in such classes shall each adopt 39064
resolutions indicating such desire and designating one of the 39065
participating districts or service centers as the funding agent 39066
for purposes of this section. The district or service center 39067
designated as the funding agent shall enter into an employment 39068
contract with each licensed teacher whose services are to be 39069
shared among the participating districts and service centers. In 39070
turn, the funding agent shall enter into contracts with each of 39071
the districts and service centers which have adopted resolutions 39072
agreeing to participate in the cooperative program upon terms 39073
agreed to by all parties to such contract. Such contracts between 39074
districts and service centers shall set forth the services to be 39075
provided by the licensed teacher employed by the funding agent 39076
whose services are to be shared by the participating districts and 39077
service centers and the basis for computing the amounts to be paid 39078
for such services to the funding agent by the participating 39079
districts and service centers. 39080

For purposes of ~~division (B) of section 3317.05~~ 3317.0213 of 39081
the Revised Code, the funding agent shall count all pupils 39082
enrolled in cooperative programs for pupils with disabilities as 39083
pupils enrolled in such programs in the funding agent district. 39084
Upon receipt of payment for such programs, the funding agent 39085
district shall credit the account of districts participating in 39086
the cooperative program for the amounts due under contracts 39087

entered into under the terms of this section in proportion to the 39088
number of resident students enrolled in the cooperative program 39089
from each participating district and service center. 39090

In determining the terms of the contract entered into by the 39091
funding agent district or service center and the participating 39092
districts and service centers, the superintendent of schools of 39093
each participating board of education and governing board shall 39094
serve as a committee which shall recommend such terms to such 39095
boards. 39096

Sec. 3313.843. (A) Notwithstanding division (D) of section 39097
3311.52 of the Revised Code, this section does not apply to any 39098
cooperative education school district. 39099

(B)(1) The board of education of each city, exempted village, 39100
or local school district with an average daily student enrollment 39101
of sixteen thousand or less, reported for the district on the most 39102
recent report card issued under section 3302.03 of the Revised 39103
Code, shall enter into an agreement with the governing board of an 39104
educational service center, under which the educational service 39105
center governing board will provide services to the district. 39106

(2) The board of education of a city, exempted village, or 39107
local school district with an average daily student enrollment of 39108
more than sixteen thousand may enter into an agreement with the 39109
governing board of an educational service center, under which the 39110
educational service center governing board will provide services 39111
to the district. 39112

(3) Services provided under an agreement entered into under 39113
division (B)(1) or (2) of this section shall be specified in the 39114
agreement, and may include any of the following: supervisory 39115
teachers; in-service and continuing education programs for 39116
district personnel; curriculum services; research and development 39117
programs; academic instruction for which the governing board 39118

employs teachers pursuant to section 3319.02 of the Revised Code; 39119
assistance in the provision of special accommodations and classes 39120
for students with disabilities; or any other services the district 39121
board and service center governing board agree can be better 39122
provided by the service center and are not provided under an 39123
agreement entered into under section 3313.845 of the Revised Code. 39124
Services included in the agreement shall be provided to the 39125
district in the manner specified in the agreement. The district 39126
board of education shall reimburse the educational service center 39127
governing board pursuant to ~~section 3317.11 of the Revised Code~~ 39128
terms specified in the agreement entered into under this section. 39129

~~Beginning with the 2012-2013 school year, the board of any 39130
district described in division (B)(2) of this section may elect 39131
not to receive the supervisory services for which supervisory 39132
units are paid under division (B) of section 3317.11 of the 39133
Revised Code, provided that election is specified in the 39134
agreement.~~ 39135

(C) Any agreement entered into pursuant to this section shall 39136
be filed with the department of education by the first day of July 39137
of the school year for which the agreement is in effect. 39138

(D)(1) An agreement for services from an educational service 39139
center entered into under this section may be terminated by the 39140
school district board of education, at its option, by notifying 39141
the governing board of the service center by March 1, 2012, or by 39142
the first day of January of any odd-numbered year thereafter, that 39143
the district board intends to terminate the agreement in that 39144
year, and that termination shall be effective on the thirtieth day 39145
of June of that year. The failure of a district board to notify an 39146
educational service center of its intent to terminate an agreement 39147
by March 1, 2012, shall result in renewal of the existing 39148
agreement for the following school year. Thereafter, the failure 39149
of a district board to notify an educational service center of its 39150

intent to terminate an agreement by the first day of January of an odd-numbered year shall result in renewal of the existing agreement for the following two school years.

(2) If the school district that terminates an agreement for services under division (D)(1) of this section is also subject to the requirement of division (B)(1) of this section, the district board shall enter into a new agreement with any educational service center so that the new agreement is effective on the first day of July of that same year.

Sec. 3313.845. The board of education of a city, exempted village, or local school district and the governing board of an educational service center may enter into an agreement under which the educational service center will provide services to the school district. Services provided under the agreement and the amount to be paid for such services shall be mutually agreed to by the district board of education and the service center governing board, and shall be specified in the agreement. Payment for services specified in the agreement shall be made pursuant to ~~division (D) of section 3317.11 of the Revised Code and shall not include any deduction under division (B), (C), or (F) of that section~~ the terms of that agreement. Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education.

The authority granted under this section to the boards of education of city, exempted village, and local school districts is in addition to the authority granted to such boards under section 3313.843 of the Revised Code.

Sec. 3313.88. (A)(1) Prior to the first day of August of each school year, the board of education of any school district or the governing authority of any chartered nonpublic school may submit

to the department of education a plan to require students to 39181
access and complete classroom lessons posted on the district's or 39182
nonpublic school's web portal or web site in order to make up days 39183
in that school year on which it is necessary to close schools for 39184
any of the reasons specified in division (B) of section 3317.01 of 39185
the Revised Code in excess of the number of days permitted under 39186
sections 3313.48, 3313.481, and 3317.01 of the Revised Code. 39187

39188
Prior to the first day of August of each school year, the 39189
governing authority of any community school established under 39190
Chapter 3314. that is not an internet- or computer-based community 39191
school, as defined in section 3314.02 of the Revised Code, may 39192
submit to the department a plan to require students to access and 39193
complete classroom lessons posted on the school's web portal or 39194
web site in order to make up days or hours in that school year on 39195
which it is necessary to close the school for any of the reasons 39196
specified in division ~~(L)~~(H)(4) of section 3314.08 of the Revised 39197
Code so that the school is in compliance with the minimum number 39198
of hours required under Chapter 3314. of the Revised Code. 39199

A plan submitted by a school district board or chartered 39200
nonpublic school governing authority shall provide for making up 39201
any number of days, up to a maximum of three days. A plan 39202
submitted by a community school governing authority shall provide 39203
for making up any number of hours, up to a maximum of the 39204
equivalent of three days. Provided the plan meets all requirements 39205
of this section, the department shall permit the board or 39206
governing authority to implement the plan for the applicable 39207
school year. 39208

(2) Each plan submitted under this section by a school 39209
district board of education shall include the written consent of 39210
the teachers' employee representative designated under division 39211

(B) of section 4117.04 of the Revised Code. 39212

(3) Each plan submitted under this section shall provide for 39213
the following: 39214

(a) Not later than the first day of November of the school 39215
year, each classroom teacher shall develop a sufficient number of 39216
lessons for each course taught by the teacher that school year to 39217
cover the number of make-up days or hours specified in the plan. 39218
The teacher shall designate the order in which the lessons are to 39219
be posted on the district's, community school's, or nonpublic 39220
school's web portal or web site in the event of a school closure. 39221
Teachers may be granted up to one professional development day to 39222
create lesson plans for those lessons. 39223

(b) To the extent possible and necessary, a classroom teacher 39224
shall update or replace, based on current instructional progress, 39225
one or more of the lesson plans developed under division (A)(3)(a) 39226
of this section before they are posted on the web portal or web 39227
site under division (A)(3)(c) of this section or distributed under 39228
division (B) of this section. 39229

(c) As soon as practicable after a school closure, a district 39230
or school employee responsible for web portal or web site 39231
operations shall make the designated lessons available to students 39232
on the district's, community school's, or nonpublic school's 39233
portal or site. A lesson shall be posted for each course that was 39234
scheduled to meet on the day or hours of the closure. 39235

(d) Each student enrolled in a course for which a lesson is 39236
posted on the portal or site shall be granted a two-week period 39237
from the date of posting to complete the lesson. The student's 39238
classroom teacher shall grade the lesson in the same manner as 39239
other lessons. The student may receive an incomplete or failing 39240
grade if the lesson is not completed on time. 39241

(e) If a student does not have access to a computer at the 39242

student's residence and the plan does not include blizzard bags 39243
under division (B) of this section, the student shall be permitted 39244
to work on the posted lessons at school after the student's school 39245
reopens. If the lessons were posted prior to the reopening, the 39246
student shall be granted a two-week period from the date of the 39247
reopening, rather than from the date of posting as otherwise 39248
required under division (A)(3)(d) of this section, to complete the 39249
lessons. The district board or community school or nonpublic 39250
school governing authority may provide the student access to a 39251
computer before, during, or after the regularly scheduled school 39252
day or may provide a substantially similar paper lesson in order 39253
to complete the lessons. 39254

(B)(1) In addition to posting classroom lessons online under 39255
division (A) of this section, the board of education of any school 39256
district or governing authority of any community or chartered 39257
nonpublic school may include in the plan distribution of "blizzard 39258
bags," which are paper copies of the lessons posted online. 39259

(2) If a school opts to use blizzard bags, teachers shall 39260
prepare paper copies in conjunction with the lessons to be posted 39261
online and update the paper copies whenever the teacher updates 39262
the online lesson plans. 39263

(3) The board of education of any school district or 39264
governing authority of any community or chartered nonpublic school 39265
that opts to use blizzard bags shall specify in the plan the 39266
method of distribution of blizzard bag lessons, which may include, 39267
but not be limited to, requiring distribution by a specific 39268
deadline or requiring distribution prior to anticipated school 39269
closure as directed by the superintendent of a school district or 39270
the principal, director, chief administrative officer, or the 39271
equivalent, of a school. 39272

(4) Students shall turn in completed lessons in accordance 39273
with division (A)(3)(d) of this section. 39274

(C)(1) No school district that implements a plan in 39275
accordance with this section shall be considered to have failed to 39276
comply with division (B) of section 3317.01 of the Revised Code 39277
with respect to the number of make-up days specified in the plan. 39278

(2) No community school that implements a plan in accordance 39279
with this section shall be considered to have failed to comply 39280
with the minimum number of hours required under Chapter 3314. of 39281
the Revised Code with respect to the number of make-up hours 39282
specified in the plan. 39283

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 39284
and division (D) of section 3311.52 of the Revised Code, the 39285
provisions of this section and sections 3313.981 to 3313.983 of 39286
the Revised Code that apply to a city school district do not apply 39287
to a joint vocational or cooperative education school district 39288
unless expressly specified. 39289

(A) As used in this section and sections 3313.981 to 3313.983 39290
of the Revised Code: 39291

(1) "Parent" means either of the natural or adoptive parents 39292
of a student, except under the following conditions: 39293

(a) When the marriage of the natural or adoptive parents of 39294
the student has been terminated by a divorce, dissolution of 39295
marriage, or annulment or the natural or adoptive parents of the 39296
student are living separate and apart under a legal separation 39297
decree and the court has issued an order allocating the parental 39298
rights and responsibilities with respect to the student, "parent" 39299
means the residential parent as designated by the court except 39300
that "parent" means either parent when the court issues a shared 39301
parenting decree. 39302

(b) When a court has granted temporary or permanent custody 39303
of the student to an individual or agency other than either of the 39304

natural or adoptive parents of the student, "parent" means the 39305
legal custodian of the child. 39306

(c) When a court has appointed a guardian for the student, 39307
"parent" means the guardian of the student. 39308

(2) "Native student" means a student entitled under section 39309
3313.64 or 3313.65 of the Revised Code to attend school in a 39310
district adopting a resolution under this section. 39311

(3) "Adjacent district" means a city, exempted village, or 39312
local school district having territory that abuts the territory of 39313
a district adopting a resolution under this section. 39314

(4) "Adjacent district student" means a student entitled 39315
under section 3313.64 or 3313.65 of the Revised Code to attend 39316
school in an adjacent district. 39317

(5) "Adjacent district joint vocational student" means an 39318
adjacent district student who enrolls in a city, exempted village, 39319
or local school district pursuant to this section and who also 39320
enrolls in a joint vocational school district that does not 39321
contain the territory of the district for which that student is a 39322
native student and does contain the territory of the city, 39323
exempted village, or local district in which the student enrolls. 39324

~~(6) "Formula amount" has the same meaning as in section 39325
3317.02 of the Revised Code. 39326~~

~~(7) "Adjusted formula amount" means the sum of the formula 39327
amount plus the per pupil amount of the base funding supplements 39328
specified in divisions (C)(1) to (4) of section 3317.012 of the 39329
Revised Code for fiscal year 2009. 39330~~

~~(8) "Poverty line" means the poverty line established by the 39331
director of the United States office of management and budget as 39332
revised by the director secretary of the office of community 39333
health and human services in accordance with section 673(2) of the 39334~~

"Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 39335
9902, as amended. 39336

~~(9)~~(7) "IEP" has the same meaning as in section 3323.01 of 39337
the Revised Code. 39338

~~(10)~~(8) "Other district" means a city, exempted village, or 39339
local school district having territory outside of the territory of 39340
a district adopting a resolution under this section. 39341

~~(11)~~(9) "Other district student" means a student entitled 39342
under section 3313.64 or 3313.65 of the Revised Code to attend 39343
school in an other district. 39344

~~(12)~~(10) "Other district joint vocational student" means a 39345
student who is enrolled in any city, exempted village, or local 39346
school district and who also enrolls in a joint vocational school 39347
district that does not contain the territory of the district for 39348
which that student is a native student in accordance with a policy 39349
adopted under section 3313.983 of the Revised Code. 39350

(B)(1) The board of education of each city, local, and 39351
exempted village school district shall adopt a resolution 39352
establishing for the school district one of the following 39353
policies: 39354

(a) A policy that entirely prohibits the enrollment of 39355
students from adjacent districts or other districts, other than 39356
students for whom tuition is paid in accordance with section 39357
3317.08 of the Revised Code; 39358

(b) A policy that permits enrollment of students from all 39359
adjacent districts in accordance with policy statements contained 39360
in the resolution; 39361

(c) A policy that permits enrollment of students from all 39362
other districts in accordance with policy statements contained in 39363
the resolution. 39364

(2) A policy permitting enrollment of students from adjacent or from other districts, as applicable, shall provide for all of the following:

(a) Application procedures, including deadlines for application and for notification of students and the superintendent of the applicable district whenever an adjacent or other district student's application is approved.

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:

(i) The establishment of district capacity limits by grade level, school building, and education program;

(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;

(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disability, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been 39395
subject to disciplinary proceedings, except that if an applicant 39396
has been suspended or expelled by the student's district for ten 39397
consecutive days or more in the term for which admission is sought 39398
or in the term immediately preceding the term for which admission 39399
is sought, the procedures may include a provision denying 39400
admission of such applicant. 39401

(D)(1) Each school board permitting only enrollment of 39402
adjacent district students shall provide information about the 39403
policy adopted under this section, including the application 39404
procedures and deadlines, to the superintendent and the board of 39405
education of each adjacent district and, upon request, to the 39406
parent of any adjacent district student. 39407

(2) Each school board permitting enrollment of other district 39408
students shall provide information about the policy adopted under 39409
this section, including the application procedures and deadlines, 39410
upon request, to the board of education of any other school 39411
district or to the parent of any student anywhere in the state. 39412

(E) Any school board shall accept all credits toward 39413
graduation earned in adjacent or other district schools by an 39414
adjacent or other district student or a native student. 39415

(F)(1) No board of education may adopt a policy discouraging 39416
or prohibiting its native students from applying to enroll in the 39417
schools of an adjacent or any other district that has adopted a 39418
policy permitting such enrollment, except that: 39419

(a) A district may object to the enrollment of a native 39420
student in an adjacent or other district in order to maintain an 39421
appropriate racial balance. 39422

(b) The board of education of a district receiving funds 39423
under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, 39424
may adopt a resolution objecting to the enrollment of its native 39425

students in adjacent or other districts if at least ten per cent 39426
of its students are included in the determination of the United 39427
States secretary of education made under section 20 U.S.C.A. 39428
238(a). 39429

(2) If a board objects to enrollment of native students under 39430
this division, any adjacent or other district shall refuse to 39431
enroll such native students unless tuition is paid for the 39432
students in accordance with section 3317.08 of the Revised Code. 39433
An adjacent or other district enrolling such students may not 39434
receive funding for those students in accordance with section 39435
3313.981 of the Revised Code. 39436

(G) The state board of education shall monitor school 39437
districts to ensure compliance with this section and the 39438
districts' policies. The board may adopt rules requiring uniform 39439
application procedures, deadlines for application, notification 39440
procedures, and record-keeping requirements for all school boards 39441
that adopt policies permitting the enrollment of adjacent or other 39442
district students, as applicable. If the state board adopts such 39443
rules, no school board shall adopt a policy that conflicts with 39444
those rules. 39445

(H) A resolution adopted by a board of education under this 39446
section that entirely prohibits the enrollment of students from 39447
adjacent and from other school districts does not abrogate any 39448
agreement entered into under section 3313.841 or 3313.92 of the 39449
Revised Code or any contract entered into under section 3313.90 of 39450
the Revised Code between the board of education adopting the 39451
resolution and the board of education of any adjacent or other 39452
district or prohibit these boards of education from entering into 39453
any such agreement or contract. 39454

(I) Nothing in this section shall be construed to permit or 39455
require the board of education of a city, exempted village, or 39456
local school district to exclude any native student of the 39457

district from enrolling in the district. 39458

Sec. 3313.981. (A) The state board of education shall adopt 39459
rules requiring all of the following: 39460

(1) The board of education of each city, exempted village, 39461
and local school district to annually report to the department of 39462
education all of the following: 39463

(a) The number of adjacent district or other district 39464
students, as applicable, and adjacent district or other district 39465
joint vocational students, as applicable, enrolled in the district 39466
and the number of native students enrolled in adjacent or other 39467
districts, in accordance with a policy adopted under division (B) 39468
of section 3313.98 of the Revised Code; 39469

(b) Each adjacent district or other district student's or 39470
adjacent district or other district joint vocational student's 39471
date of enrollment in the district; 39472

(c) The full-time equivalent number of adjacent district or 39473
other district students enrolled in ~~vocational~~ each of the 39474
categories of career-technical education programs or classes 39475
described in ~~division (A) of~~ section 3317.014 of the Revised Code 39476
~~and the full-time equivalent number of such students enrolled in~~ 39477
~~vocational education programs or classes described in division (B)~~ 39478
~~of that section;~~ 39479

(d) Each native student's date of enrollment in an adjacent 39480
or other district. 39481

(2) The board of education of each joint vocational school 39482
district to annually report to the department all of the 39483
following: 39484

(a) The number of adjacent district or other district joint 39485
vocational students, as applicable, enrolled in the district; 39486

(b) The full-time equivalent number of adjacent district or 39487

~~other district joint vocational students enrolled in vocational~~ 39488
~~each category of career-technical~~ education programs or classes 39489
~~described in division (A) of~~ section 3317.014 of the Revised Code 39490
~~and the full-time equivalent number of such students enrolled in~~ 39491
~~vocational education programs or classes described in division (B)~~ 39492
~~of that section;~~ 39493

(c) For each adjacent district or other district joint 39494
vocational student, the city, exempted village, or local school 39495
district in which the student is also enrolled. 39496

(3) Prior to the first full school week in October each year, 39497
the superintendent of each city, local, or exempted village school 39498
district that admits adjacent district or other district students 39499
or adjacent district or other district joint vocational students 39500
in accordance with a policy adopted under division (B) of section 39501
3313.98 of the Revised Code to notify each adjacent or other 39502
district where those students are entitled to attend school under 39503
section 3313.64 or 3313.65 of the Revised Code of the number of 39504
the adjacent or other district's native students who are enrolled 39505
in the superintendent's district under the policy. 39506

The rules shall provide for the method of counting students 39507
who are enrolled for part of a school year in an adjacent or other 39508
district or as an adjacent district or other district joint 39509
vocational student. 39510

(B) From the payments made to a city, exempted village, or 39511
local school district under Chapter 3317. of the Revised Code and, 39512
if necessary, from the payments made to the district under 39513
sections 321.24 and 323.156 of the Revised Code, the department of 39514
education shall annually subtract both of the following: 39515

(1) An amount equal to the number of the district's native 39516
students reported under division (A)(1) of this section who are 39517
enrolled in adjacent or other school districts pursuant to 39518

policies adopted by such districts under division (B) of section 39519
3313.98 of the Revised Code multiplied by ~~the adjusted formula~~ 39520
~~amount~~ \$5,704; 39521

(2) The excess costs computed in accordance with division (E) 39522
of this section for any such native students receiving special 39523
education and related services in adjacent or other school 39524
districts or as an adjacent district or other district joint 39525
vocational student; 39526

(3) For ~~the full-time equivalent number~~ each of the 39527
district's native students reported under division (A)(1)(c) or 39528
(2)(b) of this section as enrolled in ~~vocational~~ career-technical 39529
education programs or classes described in section 3317.014 of the 39530
Revised Code, ~~an~~ the per pupil amount equal to ~~\$5,732 times the~~ 39531
~~applicable multiple~~ prescribed by that section for the student's 39532
respective career-technical category, on a full-time equivalency 39533
basis. 39534

(C) To the payments made to a city, exempted village, or 39535
local school district under Chapter 3317. of the Revised Code, the 39536
department of education shall annually add all of the following: 39537

(1) An amount equal to ~~the adjusted formula amount~~ \$5,704 39538
multiplied by the remainder obtained by subtracting the number of 39539
adjacent district or other district joint vocational students from 39540
the number of adjacent district or other district students 39541
enrolled in the district, as reported under division (A)(1) of 39542
this section; 39543

(2) The excess costs computed in accordance with division (E) 39544
of this section for any adjacent district or other district 39545
students, except for any adjacent or other district joint 39546
vocational students, receiving special education and related 39547
services in the district; 39548

(3) For ~~the full-time equivalent number~~ each of the adjacent 39549

or other district students who are not adjacent district or other 39550
district joint vocational students and are reported under division 39551
(A)(1)(c) of this section as enrolled in ~~vocational~~ 39552
career-technical education programs or classes described in 39553
section 3317.014 of the Revised Code, ~~an~~ the per pupil amount 39554
~~equal to \$5,732 times the applicable multiple~~ prescribed by that 39555
section for the student's respective career-technical category, on 39556
a full-time equivalency basis; 39557

(4) An amount equal to the number of adjacent district or 39558
other district joint vocational students reported under division 39559
(A)(1) of this section multiplied by an amount equal to twenty per 39560
cent of the adjusted formula amount. 39561

(D) To the payments made to a joint vocational school 39562
district under Chapter 3317. of the Revised Code, the department 39563
of education shall add, for each adjacent district or other 39564
district joint vocational student reported under division (A)(2) 39565
of this section, both of the following: 39566

(1) ~~The adjusted formula amount \$5,704;~~ 39567

(2) ~~An~~ The per pupil amount ~~equal to the full-time equivalent~~ 39568
~~number~~ for each of the students reported pursuant to division 39569
(A)(2)(b) of this section ~~times \$5,732 times the applicable~~ 39570
~~multiple~~ prescribed by section 3317.014 of the Revised Code for 39571
the student's respective career-technical category, on a full-time 39572
equivalency basis. 39573

(E)(1) A city, exempted village, or local school board 39574
providing special education and related services to an adjacent or 39575
other district student in accordance with an IEP shall, pursuant 39576
to rules of the state board, compute the excess costs to educate 39577
such student as follows: 39578

(a) Subtract ~~the adjusted formula amount \$5,704~~ from the 39579
actual costs to educate the student; 39580

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its formula ADM certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop

designated in accordance with the board's transportation policy. 39612
Pursuant to rules of the state board of education, such board may 39613
reimburse the parent from funds received for pupil transportation 39614
under section 3317.0212 of the Revised Code, or other provisions 39615
of law, for the reasonable cost of transportation from the 39616
student's home to the designated school bus stop if the student's 39617
family has an income below the federal poverty line. 39618

Sec. 3314.015. (A) The department of education shall be 39619
responsible for the oversight of any and all sponsors of the 39620
community schools established under this chapter and shall provide 39621
technical assistance to schools and sponsors in their compliance 39622
with applicable laws and the terms of the contracts entered into 39623
under section 3314.03 of the Revised Code and in the development 39624
and start-up activities of those schools. In carrying out its 39625
duties under this section, the department shall do all of the 39626
following: 39627

(1) In providing technical assistance to proposing parties, 39628
governing authorities, and sponsors, conduct training sessions and 39629
distribute informational materials; 39630

(2) Approve entities to be sponsors of community schools; 39631

(3) Monitor and evaluate, as required under section 3314.016 39632
of the Revised Code, the effectiveness of any and all sponsors in 39633
their oversight of the schools with which they have contracted; 39634

(4) By December thirty-first of each year, issue a report to 39635
the governor, the speaker of the house of representatives, the 39636
president of the senate, and the chairpersons of the house and 39637
senate committees principally responsible for education matters 39638
regarding the effectiveness of academic programs, operations, and 39639
legal compliance and of the financial condition of all community 39640
schools established under this chapter and on the performance of 39641
community school sponsors; 39642

(5) From time to time, make legislative recommendations to 39643
the general assembly designed to enhance the operation and 39644
performance of community schools. 39645

(B)(1) Except as provided in sections 3314.021 and 3314.027 39646
of the Revised Code, no entity listed in division (C)(1) of 39647
section 3314.02 of the Revised Code shall enter into a preliminary 39648
agreement under division (C)(2) of section 3314.02 of the Revised 39649
Code until it has received approval from the department of 39650
education to sponsor community schools under this chapter and has 39651
entered into a written agreement with the department regarding the 39652
manner in which the entity will conduct such sponsorship. The 39653
department shall adopt in accordance with Chapter 119. of the 39654
Revised Code rules containing criteria, procedures, and deadlines 39655
for processing applications for such approval, for oversight of 39656
sponsors, for imposing temporary limits on sponsors under division 39657
(F) of this section, for revocation of the approval of sponsors 39658
under division (C) of this section, and for entering into written 39659
agreements with sponsors. The rules shall require an entity to 39660
submit evidence of the entity's ability and willingness to comply 39661
with the provisions of division (D) of section 3314.03 of the 39662
Revised Code. The rules also shall require entities approved as 39663
sponsors on and after June 30, 2005, to demonstrate a record of 39664
financial responsibility and successful implementation of 39665
educational programs. If an entity seeking approval on or after 39666
June 30, 2005, to sponsor community schools in this state sponsors 39667
or operates schools in another state, at least one of the schools 39668
sponsored or operated by the entity must be comparable to or 39669
better than the performance of Ohio schools in need of continuous 39670
improvement under section 3302.03 of the Revised Code, as 39671
determined by the department. 39672

Subject to section 3314.016 of the Revised Code, an entity 39673
that sponsors community schools may enter into preliminary 39674

agreements and sponsor up to one hundred schools, provided each 39675
school and the contract for sponsorship meets the requirements of 39676
this chapter. 39677

(2) The state board of education shall determine, pursuant to 39678
criteria specified in rules adopted in accordance with Chapter 39679
119. of the Revised Code, whether the mission proposed to be 39680
specified in the contract of a community school to be sponsored by 39681
a state university board of trustees or the board's designee under 39682
division (C)(1)(e) of section 3314.02 of the Revised Code complies 39683
with the requirements of that division. Such determination of the 39684
state board is final. 39685

(3) The state board of education shall determine, pursuant to 39686
criteria specified in rules adopted in accordance with Chapter 39687
119. of the Revised Code, if any tax-exempt entity under section 39688
501(c)(3) of the Internal Revenue Code that is proposed to be a 39689
sponsor of a community school is an education-oriented entity for 39690
purpose of satisfying the condition prescribed in division 39691
(C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such 39692
determination of the state board is final. 39693

(C) If at any time the state board of education finds that a 39694
sponsor is not in compliance or is no longer willing to comply 39695
with its contract with any community school or with the 39696
department's rules for sponsorship, the state board or designee 39697
shall conduct a hearing in accordance with Chapter 119. of the 39698
Revised Code on that matter. If after the hearing, the state board 39699
or designee has confirmed the original finding, the department of 39700
education may revoke the sponsor's approval to sponsor community 39701
schools. In that case, the department's office of Ohio school 39702
sponsorship, established under section 3314.029 of the Revised 39703
Code, may assume the sponsorship of any schools with which the 39704
sponsor has contracted until the earlier of the expiration of two 39705
school years or until a new sponsor as described in division 39706

(C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The office of Ohio school sponsorship may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division. Community schools sponsored under this division shall not apply to the limit on directly authorized community schools under division (A)(3) of section 3314.029 of the Revised Code. However, nothing in this division shall preclude a community school affected by this division from applying for sponsorship under that section.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship under division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In lieu of revoking a sponsor's authority to sponsor community schools under division (C) of this section, if the department finds that a sponsor is not in compliance with applicable laws and administrative rules, the department may require the sponsor to remedy the conditions causing the sponsor not to be compliant and may place temporary limits on the breadth and scope of the sponsor's authority until the sponsor implements remedies to the satisfaction of the department.

(G) In carrying out its duties under this chapter, the

department shall not impose requirements on community schools or 39739
their sponsors that are not permitted by law or duly adopted 39740
rules. 39741

Sec. 3314.029. This section establishes the Ohio school 39742
sponsorship program. The department of education shall establish 39743
an office of Ohio school sponsorship to perform the department's 39744
duties prescribed by this section. 39745

(A)(1) Notwithstanding anything to the contrary in this 39746
chapter, but subject to section 3314.20 of the Revised Code, any 39747
person, group of individuals, or entity may apply to the 39748
department for direct authorization to establish a community 39749
school and, upon approval of the application, may establish the 39750
school. Notwithstanding anything to the contrary in this chapter, 39751
the governing authority of an existing community school, upon the 39752
expiration or termination of its contract with the school's 39753
sponsor entered into under section 3314.03 of the Revised Code, 39754
may apply to the department for direct authorization to continue 39755
operating the school and, upon approval of the application, may 39756
continue to operate the school. 39757

Each application submitted to the department shall include 39758
the following: 39759

(a) Evidence that the applicant will be able to comply with 39760
division (C) of this section; 39761

(b) A statement indicating that the applicant agrees to 39762
comply with all applicable provisions of this chapter, including 39763
the requirement to be established as a nonprofit corporation or 39764
public benefit corporation in accordance with division (A)(1) of 39765
section 3314.03 of the Revised Code; 39766

(c) A statement attesting that no unresolved finding of 39767
recovery has been issued by the auditor of state against any 39768

person, group of individuals, or entity that is a party to the 39769
application and that no person who is party to the application has 39770
been a member of the governing authority of any community school 39771
that has permanently closed and against which an unresolved 39772
finding of recovery has been issued by the auditor of state. In 39773
the case of an application submitted by the governing authority of 39774
an existing community school, a person who is party to the 39775
application shall include each individual member of that governing 39776
authority. 39777

(d) A statement that the school will be nonsectarian in its 39778
programs, admission policies, employment practices, and all other 39779
operations, and will not be operated by a sectarian school or 39780
religious institution; 39781

(e) A statement of whether the school is to be created by 39782
converting all or part of an existing public school or educational 39783
service center building or is to be a new start-up school. If it 39784
is a converted public school or service center building, the 39785
statement shall include a specification of any duties or 39786
responsibilities of an employer that the board of education or 39787
service center governing board that operated the school or 39788
building before conversion is delegating to the governing 39789
authority of the community school with respect to all or any 39790
specified group of employees, provided the delegation is not 39791
prohibited by a collective bargaining agreement applicable to such 39792
employees. 39793

(f) A statement that the school's teachers will be licensed 39794
in the manner prescribed by division (A)(10) of section 3314.03 of 39795
the Revised Code; 39796

(g) A statement that the school will comply with all of the 39797
provisions of law enumerated in divisions (A)(11)(d) and (e) of 39798
section 3314.03 of the Revised Code and of division (A)(11)(h) of 39799
that section, if applicable; 39800

(h) A statement that the school's graduation and curriculum requirements will comply with division (A)(11)(f) of section 3314.03 of the Revised Code; 39801
39802
39803

(i) A description of each of the following: 39804

(i) The school's mission and educational program, the characteristics of the students the school is expected to attract, the ages and grade levels of students, and the focus of the curriculum; 39805
39806
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39808

(ii) The school's governing authority, which shall be in compliance with division (E) of section 3314.02 of the Revised Code; 39809
39810
39811

(iii) The school's admission and dismissal policies, which shall be in compliance with divisions (A)(5) and (6) of section 3314.03 of the Revised Code; 39812
39813
39814

(iv) The school's business plan, including a five-year financial forecast; 39815
39816

(v) In the case of an application to establish a community school, the applicant's resources and capacity to establish and operate the school; 39817
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39819

(vi) The school's academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments; 39820
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(vii) The facilities to be used by the school and their locations; 39824
39825

(viii) A description of the learning opportunities that will be offered to students including both classroom-based and nonclassroom-based learning opportunities that are in compliance with criteria for student participation established by the department under division ~~(L)~~(H)(2) of section 3314.08 of the 39826
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39828
39829
39830

Revised Code. 39831

(2) Subject to division (A)(3) of this section, the 39832
department shall approve each application, unless, within thirty 39833
days after receipt of the application, the department determines 39834
that the application does not satisfy the requirements of division 39835
(A)(1) of this section and provides the applicant a written 39836
explanation of the reasons for the determination. In that case, 39837
the department shall grant the applicant thirty days to correct 39838
the insufficiencies in the application. If the department 39839
determines that the insufficiencies have been corrected, it shall 39840
approve the application. If the department determines that the 39841
insufficiencies have not been corrected, it shall deny the 39842
application and provide the applicant with a written explanation 39843
of the reasons for the denial. The denial of an application may be 39844
appealed in accordance with section 119.12 of the Revised Code. 39845

(3) For each of five school years, beginning with the school 39846
year that begins in the calendar year in which this section takes 39847
effect, the department may approve up to twenty applications for 39848
community schools to be established or to continue operation under 39849
division (A) of this section; however, of the twenty applications 39850
that may be approved each school year, only up to five may be for 39851
the establishment of new schools. 39852

(4) Notwithstanding division (A)(2) of this section, the 39853
department may deny an application submitted by the governing 39854
authority of an existing community school, if a previous sponsor 39855
of that school did not renew its contract with the school entered 39856
into under section 3314.03 of the Revised Code. 39857

(B) The department and the governing authority of each 39858
community school authorized under this section shall enter into a 39859
contract under section 3314.03 of the Revised Code. 39860
Notwithstanding division (A)(13) of that section, the contract 39861
with an existing community school may begin at any time during the 39862

academic year. The length of the initial contract of any community 39863
school under this section may be for any term up to five years. 39864
The contract may be renewed in accordance with division (E) of 39865
that section. The contract may provide for the school's governing 39866
authority to pay a fee for oversight and monitoring of the school 39867
that does not exceed three per cent of the total amount of 39868
payments for operating expenses that the school receives from the 39869
state. 39870

(C) The department may require a community school authorized 39871
under this section to post and file with the superintendent of 39872
public instruction a bond payable to the state or to file with the 39873
state superintendent a guarantee, which shall be used to pay the 39874
state any moneys owed by the community school in the event the 39875
school closes. 39876

(D) Except as otherwise provided in this section, a community 39877
school authorized under this section shall comply with all 39878
applicable provisions of this chapter. The department may take any 39879
action that a sponsor may take under this chapter to enforce the 39880
school's compliance with this division and the terms of the 39881
contract entered into under division (B) of this section. 39882

(E) Not later than December 31, 2012, and annually 39883
thereafter, the department shall issue a report on the program, 39884
including information about the number of community schools 39885
participating in the program and their compliance with the 39886
provisions of this chapter. In its fifth report, the department 39887
shall include a complete evaluation of the program and 39888
recommendations regarding the program's continuation. Each report 39889
shall be provided to the general assembly, in accordance with 39890
section 101.68 of the Revised Code, and to the governor. 39891

Sec. 3314.03. A copy of every contract entered into under 39892
this section shall be filed with the superintendent of public 39893

instruction. The department of education shall make available on 39894
its web site a copy of every approved, executed contract filed 39895
with the superintendent under this section. 39896

(A) Each contract entered into between a sponsor and the 39897
governing authority of a community school shall specify the 39898
following: 39899

(1) That the school shall be established as either of the 39900
following: 39901

(a) A nonprofit corporation established under Chapter 1702. 39902
of the Revised Code, if established prior to April 8, 2003; 39903

(b) A public benefit corporation established under Chapter 39904
1702. of the Revised Code, if established after April 8, 2003. 39905

(2) The education program of the school, including the 39906
school's mission, the characteristics of the students the school 39907
is expected to attract, the ages and grades of students, and the 39908
focus of the curriculum; 39909

(3) The academic goals to be achieved and the method of 39910
measurement that will be used to determine progress toward those 39911
goals, which shall include the statewide achievement assessments; 39912

(4) Performance standards by which the success of the school 39913
will be evaluated by the sponsor; 39914

(5) The admission standards of section 3314.06 of the Revised 39915
Code and, if applicable, section 3314.061 of the Revised Code; 39916

(6)(a) Dismissal procedures; 39917

(b) A requirement that the governing authority adopt an 39918
attendance policy that includes a procedure for automatically 39919
withdrawing a student from the school if the student without a 39920
legitimate excuse fails to participate in one hundred five 39921
consecutive hours of the learning opportunities offered to the 39922
student. 39923

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	39924 39925
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.	39926 39927 39928 39929 39930 39931
(9) The facilities to be used and their locations;	39932
(10) Qualifications of teachers, including the following:	39933
(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;	39934 39935 39936 39937 39938
(b) A requirement that each classroom teacher initially hired by the school on or after July 1, 2013, and employed to provide instruction in physical education hold a valid license issued pursuant to section 3319.22 of the Revised Code for teaching physical education.	39939 39940 39941 39942 39943
(11) That the school will comply with the following requirements:	39944 39945
(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.	39946 39947 39948
(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.	39949 39950 39951
(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other	39952 39953

operations, and will not be operated by a sectarian school or 39954
religious institution. 39955

(d) The school will comply with sections 9.90, 9.91, 109.65, 39956
121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 39957
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 39958
3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 39959
3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 39960
3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 39961
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 39962
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 39963
3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 39964
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 39965
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 39966
4123., 4141., and 4167. of the Revised Code as if it were a school 39967
district and will comply with section 3301.0714 of the Revised 39968
Code in the manner specified in section 3314.17 of the Revised 39969
Code. 39970

(e) The school shall comply with Chapter 102. and section 39971
2921.42 of the Revised Code. 39972

(f) The school will comply with sections 3313.61, 3313.611, 39973
and 3313.614 of the Revised Code, except that for students who 39974
enter ninth grade for the first time before July 1, 2010, the 39975
requirement in sections 3313.61 and 3313.611 of the Revised Code 39976
that a person must successfully complete the curriculum in any 39977
high school prior to receiving a high school diploma may be met by 39978
completing the curriculum adopted by the governing authority of 39979
the community school rather than the curriculum specified in Title 39980
XXXIII of the Revised Code or any rules of the state board of 39981
education. Beginning with students who enter ninth grade for the 39982
first time on or after July 1, 2010, the requirement in sections 39983
3313.61 and 3313.611 of the Revised Code that a person must 39984
successfully complete the curriculum of a high school prior to 39985

receiving a high school diploma shall be met by completing the 39986
Ohio core curriculum prescribed in division (C) of section 39987
3313.603 of the Revised Code, unless the person qualifies under 39988
division (D) or (F) of that section. Each school shall comply with 39989
the plan for awarding high school credit based on demonstration of 39990
subject area competency, adopted by the state board of education 39991
under division (J) of section 3313.603 of the Revised Code. 39992

(g) The school governing authority will submit within four 39993
months after the end of each school year a report of its 39994
activities and progress in meeting the goals and standards of 39995
divisions (A)(3) and (4) of this section and its financial status 39996
to the sponsor and the parents of all students enrolled in the 39997
school. 39998

(h) The school, unless it is an internet- or computer-based 39999
community school, will comply with section 3313.801 of the Revised 40000
Code as if it were a school district. 40001

(i) If the school is the recipient of moneys from a grant 40002
awarded under the federal race to the top program, Division (A), 40003
Title XIV, Sections 14005 and 14006 of the "American Recovery and 40004
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 40005
school will pay teachers based upon performance in accordance with 40006
section 3317.141 and will comply with section 3319.111 of the 40007
Revised Code as if it were a school district. 40008

(12) Arrangements for providing health and other benefits to 40009
employees; 40010

(13) The length of the contract, which shall begin at the 40011
beginning of an academic year. No contract shall exceed five years 40012
unless such contract has been renewed pursuant to division (E) of 40013
this section. 40014

(14) The governing authority of the school, which shall be 40015
responsible for carrying out the provisions of the contract; 40016

(15) A financial plan detailing an estimated school budget 40017
for each year of the period of the contract and specifying the 40018
total estimated per pupil expenditure amount for each such year. 40019
~~The plan shall specify for each year the base formula amount that~~ 40020
~~will be used for purposes of funding calculations under section~~ 40021
~~3314.08 of the Revised Code. This base formula amount for any year~~ 40022
~~shall not exceed the formula amount defined under section 3317.02~~ 40023
~~of the Revised Code. The plan may also specify for any year a~~ 40024
~~percentage figure to be used for reducing the per pupil amount of~~ 40025
~~the subsidy calculated pursuant to section 3317.029 of the Revised~~ 40026
~~Code the school is to receive that year under section 3314.08 of~~ 40027
~~the Revised Code.~~ 40028

(16) Requirements and procedures regarding the disposition of 40029
employees of the school in the event the contract is terminated or 40030
not renewed pursuant to section 3314.07 of the Revised Code; 40031

(17) Whether the school is to be created by converting all or 40032
part of an existing public school or educational service center 40033
building or is to be a new start-up school, and if it is a 40034
converted public school or service center building, specification 40035
of any duties or responsibilities of an employer that the board of 40036
education or service center governing board that operated the 40037
school or building before conversion is delegating to the 40038
governing authority of the community school with respect to all or 40039
any specified group of employees provided the delegation is not 40040
prohibited by a collective bargaining agreement applicable to such 40041
employees; 40042

(18) Provisions establishing procedures for resolving 40043
disputes or differences of opinion between the sponsor and the 40044
governing authority of the community school; 40045

(19) A provision requiring the governing authority to adopt a 40046
policy regarding the admission of students who reside outside the 40047
district in which the school is located. That policy shall comply 40048

with the admissions procedures specified in sections 3314.06 and 40049
3314.061 of the Revised Code and, at the sole discretion of the 40050
authority, shall do one of the following: 40051

(a) Prohibit the enrollment of students who reside outside 40052
the district in which the school is located; 40053

(b) Permit the enrollment of students who reside in districts 40054
adjacent to the district in which the school is located; 40055

(c) Permit the enrollment of students who reside in any other 40056
district in the state. 40057

(20) A provision recognizing the authority of the department 40058
of education to take over the sponsorship of the school in 40059
accordance with the provisions of division (C) of section 3314.015 40060
of the Revised Code; 40061

(21) A provision recognizing the sponsor's authority to 40062
assume the operation of a school under the conditions specified in 40063
division (B) of section 3314.073 of the Revised Code; 40064

(22) A provision recognizing both of the following: 40065

(a) The authority of public health and safety officials to 40066
inspect the facilities of the school and to order the facilities 40067
closed if those officials find that the facilities are not in 40068
compliance with health and safety laws and regulations; 40069

(b) The authority of the department of education as the 40070
community school oversight body to suspend the operation of the 40071
school under section 3314.072 of the Revised Code if the 40072
department has evidence of conditions or violations of law at the 40073
school that pose an imminent danger to the health and safety of 40074
the school's students and employees and the sponsor refuses to 40075
take such action. 40076

(23) A description of the learning opportunities that will be 40077
offered to students including both classroom-based and 40078

non-classroom-based learning opportunities that is in compliance 40079
with criteria for student participation established by the 40080
department under division ~~(L)~~(H)(2) of section 3314.08 of the 40081
Revised Code; 40082

(24) The school will comply with sections 3302.04 and 40083
3302.041 of the Revised Code, except that any action required to 40084
be taken by a school district pursuant to those sections shall be 40085
taken by the sponsor of the school. However, the sponsor shall not 40086
be required to take any action described in division (F) of 40087
section 3302.04 of the Revised Code. 40088

(25) Beginning in the 2006-2007 school year, the school will 40089
open for operation not later than the thirtieth day of September 40090
each school year, unless the mission of the school as specified 40091
under division (A)(2) of this section is solely to serve dropouts. 40092
In its initial year of operation, if the school fails to open by 40093
the thirtieth day of September, or within one year after the 40094
adoption of the contract pursuant to division (D) of section 40095
3314.02 of the Revised Code if the mission of the school is solely 40096
to serve dropouts, the contract shall be void. 40097

(B) The community school shall also submit to the sponsor a 40098
comprehensive plan for the school. The plan shall specify the 40099
following: 40100

(1) The process by which the governing authority of the 40101
school will be selected in the future; 40102

(2) The management and administration of the school; 40103

(3) If the community school is a currently existing public 40104
school or educational service center building, alternative 40105
arrangements for current public school students who choose not to 40106
attend the converted school and for teachers who choose not to 40107
teach in the school or building after conversion; 40108

(4) The instructional program and educational philosophy of 40109

the school; 40110

(5) Internal financial controls. 40111

(C) A contract entered into under section 3314.02 of the 40112
Revised Code between a sponsor and the governing authority of a 40113
community school may provide for the community school governing 40114
authority to make payments to the sponsor, which is hereby 40115
authorized to receive such payments as set forth in the contract 40116
between the governing authority and the sponsor. The total amount 40117
of such payments for oversight and monitoring of the school shall 40118
not exceed three per cent of the total amount of payments for 40119
operating expenses that the school receives from the state. 40120

(D) The contract shall specify the duties of the sponsor 40121
which shall be in accordance with the written agreement entered 40122
into with the department of education under division (B) of 40123
section 3314.015 of the Revised Code and shall include the 40124
following: 40125

(1) Monitor the community school's compliance with all laws 40126
applicable to the school and with the terms of the contract; 40127

(2) Monitor and evaluate the academic and fiscal performance 40128
and the organization and operation of the community school on at 40129
least an annual basis; 40130

(3) Report on an annual basis the results of the evaluation 40131
conducted under division (D)(2) of this section to the department 40132
of education and to the parents of students enrolled in the 40133
community school; 40134

(4) Provide technical assistance to the community school in 40135
complying with laws applicable to the school and terms of the 40136
contract; 40137

(5) Take steps to intervene in the school's operation to 40138
correct problems in the school's overall performance, declare the 40139

school to be on probationary status pursuant to section 3314.073 40140
of the Revised Code, suspend the operation of the school pursuant 40141
to section 3314.072 of the Revised Code, or terminate the contract 40142
of the school pursuant to section 3314.07 of the Revised Code as 40143
determined necessary by the sponsor; 40144

(6) Have in place a plan of action to be undertaken in the 40145
event the community school experiences financial difficulties or 40146
closes prior to the end of a school year. 40147

(E) Upon the expiration of a contract entered into under this 40148
section, the sponsor of a community school may, with the approval 40149
of the governing authority of the school, renew that contract for 40150
a period of time determined by the sponsor, but not ending earlier 40151
than the end of any school year, if the sponsor finds that the 40152
school's compliance with applicable laws and terms of the contract 40153
and the school's progress in meeting the academic goals prescribed 40154
in the contract have been satisfactory. Any contract that is 40155
renewed under this division remains subject to the provisions of 40156
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 40157

(F) If a community school fails to open for operation within 40158
one year after the contract entered into under this section is 40159
adopted pursuant to division (D) of section 3314.02 of the Revised 40160
Code or permanently closes prior to the expiration of the 40161
contract, the contract shall be void and the school shall not 40162
enter into a contract with any other sponsor. A school shall not 40163
be considered permanently closed because the operations of the 40164
school have been suspended pursuant to section 3314.072 of the 40165
Revised Code. 40166

Sec. 3314.042. The governing authority of each community 40167
school shall comply with the standards for financial reporting 40168
adopted under division (B)(2) of section 3301.07 of the Revised 40169
Code. 40170

Sec. 3314.074. Divisions (A) and (B) of this section apply 40171
only to the extent permitted under Chapter 1702. of the Revised 40172
Code. 40173

(A) If any community school established under this chapter 40174
permanently closes and ceases its operation as a community school, 40175
the assets of that school shall be distributed first to the 40176
retirement funds of employees of the school, employees of the 40177
school, and private creditors who are owed compensation, and then 40178
any remaining funds shall be paid to the department of education 40179
for redistribution to the school districts in which the students 40180
who were enrolled in the school at the time it ceased operation 40181
were entitled to attend school under section 3313.64 or 3313.65 of 40182
the Revised Code. The amount distributed to each school district 40183
shall be proportional to the district's share of the total 40184
enrollment in the community school. 40185

(B) If a community school closes and ceases to operate as a 40186
community school and the school has received computer hardware or 40187
software from the former Ohio SchoolNet commission or the former 40188
eTech Ohio commission, such hardware or software shall be ~~returned~~ 40189
turned over to the ~~eTech Ohio commission~~ department of education, 40190
~~and the eTech Ohio commission~~ which shall redistribute the 40191
hardware and software, to the extent such redistribution is 40192
possible, to school districts in conformance with the provisions 40193
of the programs operated and administered by the eTech Ohio 40194
commission. 40195

(C) If the assets of the school are insufficient to pay all 40196
persons or entities to whom compensation is owed, the 40197
prioritization of the distribution of the assets to individual 40198
persons or entities within each class of payees may be determined 40199
by decree of a court in accordance with this section and Chapter 40200
1702. of the Revised Code. 40201

~~Sec. 3314.08. The deductions under division (C) and the payments under division (D) of this section for fiscal years 2012 and 2013 shall be made in accordance with section 3314.088 of the Revised Code.~~

(A) As used in this section:

(1) ~~"Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.~~

(2) ~~"IEP" has the same meaning as in section 3323.01 of the Revised Code.~~

(3) ~~"Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.~~

(4) ~~"Applicable vocational education weight" means:~~

(a) ~~For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;~~

(b) ~~For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.~~

(5) ~~"Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.~~

(6) ~~A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.~~

(7) ~~"Poverty based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of~~

~~poverty based assistance a community school is entitled to receive 40231~~
~~pursuant to divisions (D)(5) to (9) of this section in any year, 40232~~
~~as specified in the school's financial plan for the year pursuant 40233~~
~~to division (A)(15) of section 3314.03 of the Revised Code. 40234~~

~~(8) "All day kindergarten" has the same meaning as in section 40235~~
~~3321.05 of the Revised Code. 40236~~

~~(9)(a) "Category one limited English proficient student" 40237~~
~~means a limited English proficient student described in division 40238~~
~~(A) of section 3317.016 of the Revised Code. 40239~~

~~(b) "Category two limited English proficient student" means a 40240~~
~~limited English proficient student described in division (B) of 40241~~
~~section 3317.016 of the Revised Code. 40242~~

~~(c) "Category three limited English proficient student" means 40243~~
~~a limited English proficient student described in division (C) of 40244~~
~~section 3317.016 of the Revised Code. 40245~~

~~(d) "Category four limited English proficient student" means 40246~~
~~a limited English proficient student described in division (D) of 40247~~
~~section 3317.016 of the Revised Code. 40248~~

~~(2)(a) "Category one special education student" means a 40249~~
~~student who is receiving special education services for a 40250~~
~~disability specified in division (A) of section 3317.013 of the 40251~~
~~Revised Code. 40252~~

~~(b) "Category two special education student" means a student 40253~~
~~who is receiving special education services for a disability 40254~~
~~specified in division (B) of section 3317.013 of the Revised Code. 40255~~

~~(c) "Category three special education student" means a 40256~~
~~student who is receiving special education services for a 40257~~
~~disability specified in division (C) of section 3317.013 of the 40258~~
~~Revised Code. 40259~~

~~(d) "Category four special education student" means a student 40260~~

who is receiving special education services for a disability 40261
specified in division (D) of section 3317.013 of the Revised Code. 40262

(e) "Category five special education student" means a student 40263
who is receiving special education services for a disability 40264
specified in division (E) of section 3317.013 of the Revised Code. 40265

(f) "Category six special education student" means a student 40266
who is receiving special education services for a disability 40267
specified in division (F) of section 3317.013 of the Revised Code. 40268

(3) "IEP" has the same meaning as in section 3323.01 of the 40269
Revised Code. 40270

(4) "Resident district" means the school district in which a 40271
student is entitled to attend school under section 3313.64 or 40272
3313.65 of the Revised Code. 40273

(5) "State education aid" has the same meaning as in section 40274
5751.20 of the Revised Code. 40275

(B) The state board of education shall adopt rules requiring 40276
both of the following: 40277

(1) The board of education of each city, exempted village, 40278
and local school district to annually report the number of 40279
students entitled to attend school in the district who are 40280
enrolled in ~~grades one~~ each grade kindergarten through twelve in a 40281
community school established under this chapter, ~~the number of~~ 40282
~~students entitled to attend school in the district who are~~ 40283
~~enrolled in kindergarten in a community school, the number of~~ 40284
~~those kindergartners who are enrolled in all-day kindergarten in~~ 40285
~~their community school,~~ and for each child, the community school 40286
in which the child is enrolled. 40287

(2) The governing authority of each community school 40288
established under this chapter to annually report all of the 40289
following: 40290

(a) The number of students enrolled in grades one through 40291
twelve and the full-time equivalent number of students enrolled in 40292
kindergarten in the school who are not receiving special education 40293
and related services pursuant to an IEP; 40294

(b) The number of enrolled students in grades one through 40295
twelve and the full-time equivalent number of enrolled students in 40296
kindergarten, who are receiving special education and related 40297
services pursuant to an IEP; 40298

(c) The number of students reported under division (B)(2)(b) 40299
of this section receiving special education and related services 40300
pursuant to an IEP for a disability described in each of divisions 40301
(A) to (F) of section 3317.013 of the Revised Code; 40302

(d) The full-time equivalent number of students reported 40303
under divisions (B)(2)(a) and (b) of this section who are enrolled 40304
in ~~vocational~~ career-technical education programs or classes 40305
described in each of divisions (A) ~~and (B)~~ to (E) of section 40306
3317.014 of the Revised Code that are provided by the community 40307
school; 40308

(e) Twenty per cent of the number of students reported under 40309
divisions (B)(2)(a) and (b) of this section who are not reported 40310
under division (B)(2)(d) of this section but who are enrolled in 40311
~~vocational~~ career-technical education programs or classes 40312
described in each of divisions (A) ~~and (B)~~ to (E) of section 40313
3317.014 of the Revised Code at a joint vocational school district 40314
~~under a contract between the community school and the joint~~ 40315
~~vocational school district and are entitled to attend school in a~~ 40316
~~city, local, or exempted village school district whose territory~~ 40317
~~is part of the territory of the joint vocational school district~~ 40318
or another district in the career-technical planning district to 40319
which the school is assigned; 40320

(f) ~~The number of enrolled preschool children with~~ 40321

~~disabilities receiving special education services in a state funded unit;~~ 40322
40323

~~(g) The community school's base formula amount;~~ 40324

~~(h) The number of students reported under divisions (B)(2)(a) and (b) of this section who are category one to four limited English proficiency students described in each of divisions (A) to (D) of section 3317.016 of the Revised Code;~~ 40325
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40328

~~(g) The number of students reported under divisions (B)(2)(a) and (b) who are economically disadvantaged, as defined by the department;~~ 40329
40330
40331

~~(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;~~ 40332
40333

~~(i) Any poverty based assistance reduction factor that applies to a school year under section 3313.64 or 3313.65 of the Revised Code.~~ 40334
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40336

A school district board and a community school governing authority shall include in their respective reports under division (B) of this section any child admitted in accordance with division (A)(2) of section 3321.01 of the Revised Code. 40337
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~~(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet or computer based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.~~ 40341
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~~(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (c) of this section who are enrolled in grades one through twelve, and one half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the sum of the base formula amount of that community school plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

~~(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:~~

~~(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;~~

~~(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one half of the amount calculated as prescribed in division (C)(2)(a) of this section.~~

~~(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;~~

~~(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that~~

~~community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty based assistance the school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of that community school. The per pupil amount of that aid for the district shall be calculated by the department.~~

~~(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;~~

~~(b) One half of the district's students who are enrolled in all day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;~~

~~(c) One half of the district's students who are enrolled in all day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.~~

~~The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.~~

~~(6) An amount equal to the sum of the amounts obtained when,~~

~~for each community school where the district's students are 40415
enrolled, the district's per pupil amount received under division 40416
(F) of section 3317.029 of the Revised Code, as adjusted by any 40417
poverty based assistance reduction factor of that community 40418
school, is multiplied by the number of the district's students 40419
enrolled in the community school who are identified as 40420
limited English proficient. 40421~~

~~(7) An amount equal to the sum of the amounts obtained when, 40422
for each community school where the district's students are 40423
enrolled, the district's per pupil amount received under division 40424
(G) of section 3317.029 of the Revised Code, as adjusted by any 40425
poverty based assistance reduction factor of that community 40426
school, is multiplied by the sum of the following: 40427~~

~~(a) The number of the district's students enrolled in grades 40428
one through twelve in that community school; 40429~~

~~(b) One half of the number of the district's students 40430
enrolled in kindergarten in that community school. 40431~~

~~The district's per pupil amount under division (G) of section 40432
3317.029 of the Revised Code is the district's amount per teacher 40433
calculated under division (G)(1) or (2) of that section divided by 40434
17. 40435~~

~~(8) An amount equal to the sum of the amounts obtained when, 40436
for each community school where the district's students are 40437
enrolled, the district's per pupil amount received under divisions 40438
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 40439
by any poverty based assistance reduction factor of that community 40440
school, is multiplied by the sum of the following: 40441~~

~~(a) The number of the district's students enrolled in grades 40442
one through twelve in that community school; 40443~~

~~(b) One half of the number of the district's students 40444
enrolled in kindergarten in that community school. 40445~~

~~The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.~~

~~(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.~~

~~(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet or computer based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.~~

~~(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus~~

~~one half of the kindergarten students in the school, reported 40478
under divisions (B)(2)(a), (b), and (c) of this section who are 40479
not receiving special education and related services pursuant to 40480
an IEP for a disability described in section 3317.013 of the 40481
Revised Code is multiplied by the sum of the community school's 40482
base formula amount plus the per pupil amount of the base funding 40483
supplements specified in divisions (C)(1) to (4) of section 40484
3317.012 of the Revised Code. 40485~~

~~(2) The sum of the following amounts: 40486~~

~~(a) For each student reported under division (B)(2)(c) of 40487
this section as enrolled in the school in grades one through 40488
twelve and receiving special education and related services 40489
pursuant to an IEP for a disability described in section 3317.013 40490
of the Revised Code, the following amount: 40491~~

~~(the school's base formula amount plus 40492
the per pupil amount of the base funding supplements specified in 40493
divisions (C)(1) to (4) of section 3317.012 of the Revised Code) 40494~~

~~+ (the applicable special education weight X the 40495
community school's base formula amount); 40496~~

~~(b) For each student reported under division (B)(2)(c) of 40497
this section as enrolled in kindergarten and receiving special 40498
education and related services pursuant to an IEP for a disability 40499
described in section 3317.013 of the Revised Code, one half of the 40500
amount calculated under the formula prescribed in division 40501
(D)(2)(a) of this section. 40502~~

~~(3) An amount received from federal funds to provide special 40503
education and related services to students in the community 40504
school, as determined by the superintendent of public instruction. 40505~~

~~(4) For each student reported under division (B)(2)(d) of 40506
this section as enrolled in vocational education programs or 40507
classes that are described in section 3317.014 of the Revised 40508~~

~~Code, are provided by the community school, and are comparable as 40509
determined by the superintendent of public instruction to school 40510
district vocational education programs and classes eligible for 40511
state weighted funding under section 3317.014 of the Revised Code, 40512
an amount equal to the applicable vocational education weight 40513
times the community school's base formula amount times the 40514
percentage of time the student spends in the vocational education 40515
programs or classes. 40516~~

~~(5) An amount equal to the sum of the amounts obtained when, 40517
for each school district where the community school's students are 40518
entitled to attend school, the number of that district's students 40519
enrolled in the community school who are included in the 40520
district's poverty student count is multiplied by the per pupil 40521
amount of poverty based assistance that school district receives 40522
that year pursuant to division (C) of section 3317.029 of the 40523
Revised Code, as adjusted by any poverty based assistance 40524
reduction factor of the community school. The per pupil amount of 40525
aid shall be determined as described in division (C)(4) of this 40526
section. 40527~~

~~(6) An amount equal to the sum of the amounts obtained when, 40528
for each school district where the community school's students are 40529
entitled to attend school, the district's per pupil amount of aid 40530
received under division (E) of section 3317.029 of the Revised 40531
Code, as adjusted by any poverty based assistance reduction factor 40532
of the community school, is multiplied by the sum of the 40533
following: 40534~~

~~(a) The number of the district's students reported under 40535
division (B)(2)(a) of this section who are enrolled in grades one 40536
to three in that community school and who are not receiving 40537
special education and related services pursuant to an IEP; 40538~~

~~(b) One half of the district's students who are enrolled in 40539
all-day or any other kindergarten class in that community school 40540~~

~~and who are not receiving special education and related services 40541
pursuant to an IEP; 40542~~

~~(c) One half of the district's students who are enrolled in 40543
all-day kindergarten in that community school and who are not 40544
receiving special education and related services pursuant to an 40545
IEP. 40546~~

~~The district's per pupil amount of aid under division (E) of 40547
section 3317.029 of the Revised Code shall be determined as 40548
described in division (C)(5) of this section. 40549~~

~~(7) An amount equal to the sum of the amounts obtained when, 40550
for each school district where the community school's students are 40551
entitled to attend school, the number of that district's students 40552
enrolled in the community school who are identified as 40553
limited English proficient is multiplied by the district's per 40554
pupil amount received under division (F) of section 3317.029 of 40555
the Revised Code, as adjusted by any poverty based assistance 40556
reduction factor of the community school. 40557~~

~~(8) An amount equal to the sum of the amounts obtained when, 40558
for each school district where the community school's students are 40559
entitled to attend school, the district's per pupil amount 40560
received under division (G) of section 3317.029 of the Revised 40561
Code, as adjusted by any poverty based assistance reduction factor 40562
of the community school, is multiplied by the sum of the 40563
following: 40564~~

~~(a) The number of the district's students enrolled in grades 40565
one through twelve in that community school; 40566~~

~~(b) One half of the number of the district's students 40567
enrolled in kindergarten in that community school. 40568~~

~~The district's per pupil amount under division (G) of section 40569
3317.029 of the Revised Code shall be determined as described in 40570
division (C)(7) of this section. 40571~~

~~(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty based assistance reduction factor of the community school, is multiplied by the sum of the following:~~

~~(a) The number of the district's students enrolled in grades one through twelve in that community school;~~

~~(b) One half of the number of the district's students enrolled in kindergarten in that community school.~~

~~The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.~~

~~(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one half of the number of that district's students enrolled in kindergarten, in the community school as reported under divisions (B)(2)(a) and (b) of this section.~~

~~(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that~~

~~student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.~~

~~(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.~~

~~(F) A community school may apply to the department of education for preschool children with disabilities unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received such unit funding as a school district operated school before it became a community school shall retain any units awarded to it as a school district operated school provided the school continues to meet eligibility standards for the unit.~~

~~A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.~~

(G)(1) Except as provided in division (C)(2) of this section, and subject to divisions (C)(3) and (4) of this section, on a full-time equivalency basis, for each student enrolled in a community school established under this chapter, the department of education annually shall deduct from the state education aid of a student's resident district and, if necessary, from the payment

made to the district under sections 321.24 and 323.156 of the 40635
Revised Code and pay to the community school the sum of the 40636
following: 40637

(a) An opportunity grant of (\$250,000 - the school's 40638
valuation per pupil) X 0.02. 40639

Each community school's valuation per pupil shall be zero. 40640

(b) The per pupil amount of targeted assistance funds 40641
calculated under section 3317.0217 of the Revised Code for the 40642
student's resident district, as determined by the department; 40643

(c) Additional state aid for special education and related 40644
services provided under Chapter 3323. of the Revised Code as 40645
follows: 40646

(i) If the student is a category one special education 40647
student, the amount specified in division (A) of section 3317.013 40648
of the Revised Code; 40649

(ii) If the student is a category two special education 40650
student, the amount specified in division (B) of section 3317.013 40651
of the Revised Code; 40652

(iii) If the student is a category three special education 40653
student, the amount specified in division (C) of section 3317.013 40654
of the Revised Code; 40655

(iv) If the student is a category four special education 40656
student, the amount specified in division (D) of section 3317.013 40657
of the Revised Code; 40658

(v) If the student is a category five special education 40659
student, the amount specified in division (E) of section 3317.013 40660
of the Revised Code; 40661

(vi) If the student is a category six special education 40662
student, the amount specified in division (F) of section 3317.013 40663
of the Revised Code. 40664

(d) If the student is in kindergarten, the per pupil amount of early childhood access funds calculated under division (A)(4) of section 3317.022 of the Revised Code for the student's resident district, as determined by the department, X the full-time equivalency of the student; 40665
40666
40667
40668
40669

(e) If the student is economically disadvantaged, \$500 X the resident district's economically disadvantaged index; 40670
40671

(f) Limited English proficiency funds as follows: 40672

(i) If the student is a category one limited English proficiency student, the amount specified in division (A) of section 3317.016 of the Revised Code; 40673
40674
40675

(ii) If the student is a category two limited English proficiency student, the amount specified in division (B) of section 3317.016 of the Revised Code; 40676
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40678

(iii) If the student is a category three limited English proficiency student, the amount specified in division (C) of section 3317.016 of the Revised Code; 40679
40680
40681

(iv) If the student is a category four limited English proficiency student, the amount specified in division (D) of section 3317.016 of the Revised Code. 40682
40683
40684

(g) Gifted funds in an amount of \$50 for each enrolled student. 40685
40686

(2) When deducting from the state education aid of a student's resident district for students enrolled in an internet- or computer-based community school and making payments to such school under this section, the department shall make the deductions and payments described in only divisions (C)(1)(a), (c), (e), (f), and (g) of this section. 40687
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40692

No deductions or payments shall be made for a student enrolled in such school under division (C)(1)(b) or (d) of this 40693
40694

section. 40695

(3) The department shall deduct from the aggregate amount 40696
paid under division (C)(1) of this section fifteen per cent of the 40697
sum of the amount paid under division (C)(1)(c) of this section 40698
and transfer that amount to the special education exceptional cost 40699
fund created in section 3317.0215 of the Revised Code. A community 40700
school may apply for funds from the special education exceptional 40701
cost fund if it satisfies the criteria in section 3317.0214 of the 40702
Revised Code. 40703

(4) If the sum of the payments computed under division (C)(1) 40704
of this section for the students entitled to attend school in a 40705
particular school district under sections 3313.64 and 3313.65 of 40706
the Revised Code exceeds the sum of that district's state 40707
education aid and its payment under sections 321.24 and 323.156 of 40708
the Revised Code, the department shall calculate and apply a 40709
proration factor to the payments to all community schools under 40710
that division for the students entitled to attend school in that 40711
district. 40712

(D) A board of education sponsoring a community school may 40713
utilize local funds to make enhancement grants to the school or 40714
may agree, either as part of the contract or separately, to 40715
provide any specific services to the community school at no cost 40716
to the school. 40717

~~(H)~~(E) A community school may not levy taxes or issue bonds 40718
secured by tax revenues. 40719

~~(I)~~(F) No community school shall charge tuition for the 40720
enrollment of any student. 40721

~~(J)~~(G)(1)(a) A community school may borrow money to pay any 40722
necessary and actual expenses of the school in anticipation of the 40723
receipt of any portion of the payments to be received by the 40724
school pursuant to division ~~(D)~~(C) of this section. The school may 40725

issue notes to evidence such borrowing. The proceeds of the notes 40726
shall be used only for the purposes for which the anticipated 40727
receipts may be lawfully expended by the school. 40728

(b) A school may also borrow money for a term not to exceed 40729
fifteen years for the purpose of acquiring facilities. 40730

(2) Except for any amount guaranteed under section 3318.50 of 40731
the Revised Code, the state is not liable for debt incurred by the 40732
governing authority of a community school. 40733

~~(K) For purposes of determining the number of students for 40734
which divisions (D)(5) and (6) of this section applies in any 40735
school year, a community school may submit to the department of 40736
job and family services, no later than the first day of March, a 40737
list of the students enrolled in the school. For each student on 40738
the list, the community school shall indicate the student's name, 40739
address, and date of birth and the school district where the 40740
student is entitled to attend school. Upon receipt of a list under 40741
this division, the department of job and family services shall 40742
determine, for each school district where one or more students on 40743
the list is entitled to attend school, the number of students 40744
residing in that school district who were included in the 40745
department's report under section 3317.10 of the Revised Code. The 40746
department shall make this determination on the basis of 40747
information readily available to it. Upon making this 40748
determination and no later than ninety days after submission of 40749
the list by the community school, the department shall report to 40750
the state department of education the number of students on the 40751
list who reside in each school district who were included in the 40752
department's report under section 3317.10 of the Revised Code. In 40753
complying with this division, the department of job and family 40754
services shall not report to the state department of education any 40755
personally identifiable information on any student. 40756~~

~~(L)~~(H) The department of education shall adjust the amounts 40757

subtracted and paid under ~~divisions~~ division (C) and ~~(D)~~ of this 40758
section to reflect any enrollment of students in community schools 40759
for less than the equivalent of a full school year. The state 40760
board of education within ninety days after April 8, 2003, shall 40761
adopt in accordance with Chapter 119. of the Revised Code rules 40762
governing the payments to community schools under this section ~~and~~ 40763
~~section 3314.13 of the Revised Code~~ including initial payments in 40764
a school year and adjustments and reductions made in subsequent 40765
periodic payments to community schools and corresponding 40766
deductions from school district accounts as provided under 40767
~~divisions~~ division (C) and ~~(D)~~ of this section ~~and section 3314.13~~ 40768
~~of the Revised Code~~. For purposes of this section ~~and section~~ 40769
~~3314.13 of the Revised Code~~: 40770

(1) A student shall be considered enrolled in the community 40771
school for any portion of the school year the student is 40772
participating at a college under Chapter 3365. of the Revised 40773
Code. 40774

(2) A student shall be considered to be enrolled in a 40775
community school for the period of time beginning on the later of 40776
the date on which the school both has received documentation of 40777
the student's enrollment from a parent and the student has 40778
commenced participation in learning opportunities as defined in 40779
the contract with the sponsor, or thirty days prior to the date on 40780
which the student is entered into the education management 40781
information system established under section 3301.0714 of the 40782
Revised Code. For purposes of applying this division and divisions 40783
~~(L)~~(H)(3) and (4) of this section to a community school student, 40784
"learning opportunities" shall be defined in the contract, which 40785
shall describe both classroom-based and non-classroom-based 40786
learning opportunities and shall be in compliance with criteria 40787
and documentation requirements for student participation which 40788
shall be established by the department. Any student's instruction 40789

time in non-classroom-based learning opportunities shall be 40790
certified by an employee of the community school. A student's 40791
enrollment shall be considered to cease on the date on which any 40792
of the following occur: 40793

(a) The community school receives documentation from a parent 40794
terminating enrollment of the student. 40795

(b) The community school is provided documentation of a 40796
student's enrollment in another public or private school. 40797

(c) The community school ceases to offer learning 40798
opportunities to the student pursuant to the terms of the contract 40799
with the sponsor or the operation of any provision of this 40800
chapter. 40801

Except as otherwise specified in this paragraph, beginning in 40802
the 2011-2012 school year, any student who completed the prior 40803
school year in an internet- or computer-based community school 40804
shall be considered to be enrolled in the same school in the 40805
subsequent school year until the student's enrollment has ceased 40806
as specified in division ~~(L)~~(H)(2) of this section. The department 40807
shall continue subtracting and paying amounts for the student 40808
under ~~divisions~~ division (C) and ~~(D)~~ of this section without 40809
interruption at the start of the subsequent school year. However, 40810
if the student without a legitimate excuse fails to participate in 40811
the first one hundred five consecutive hours of learning 40812
opportunities offered to the student in that subsequent school 40813
year, the student shall be considered not to have re-enrolled in 40814
the school for that school year and the department shall 40815
recalculate the payments to the school for that school year to 40816
account for the fact that the student is not enrolled. 40817

(3) The department shall determine each community school 40818
student's percentage of full-time equivalency based on the 40819
percentage of learning opportunities offered by the community 40820

school to that student, reported either as number of hours or 40821
number of days, is of the total learning opportunities offered by 40822
the community school to a student who attends for the school's 40823
entire school year. However, no internet- or computer-based 40824
community school shall be credited for any time a student spends 40825
participating in learning opportunities beyond ten hours within 40826
any period of twenty-four consecutive hours. Whether it reports 40827
hours or days of learning opportunities, each community school 40828
shall offer not less than nine hundred twenty hours of learning 40829
opportunities during the school year. 40830

(4) With respect to the calculation of full-time equivalency 40831
under division ~~(L)~~(H)(3) of this section, the department shall 40832
waive the number of hours or days of learning opportunities not 40833
offered to a student because the community school was closed 40834
during the school year due to disease epidemic, hazardous weather 40835
conditions, law enforcement emergencies, inoperability of school 40836
buses or other equipment necessary to the school's operation, 40837
damage to a school building, or other temporary circumstances due 40838
to utility failure rendering the school building unfit for school 40839
use, so long as the school was actually open for instruction with 40840
students in attendance during that school year for not less than 40841
the minimum number of hours required by this chapter. The 40842
department shall treat the school as if it were open for 40843
instruction with students in attendance during the hours or days 40844
waived under this division. 40845

~~(M)~~(I) The department of education shall reduce the amounts 40846
paid under ~~division (D)~~ of this section to reflect payments made 40847
to colleges under division (B) of section 3365.07 of the Revised 40848
Code ~~or through alternative funding agreements entered into under~~ 40849
~~rules adopted under section 3365.12 of the Revised Code.~~ 40850

~~(N)~~(J)(1) No student shall be considered enrolled in any 40851
internet- or computer-based community school or, if applicable to 40852

the student, in any community school that is required to provide 40853
the student with a computer pursuant to division (C) of section 40854
3314.22 of the Revised Code, unless both of the following 40855
conditions are satisfied: 40856

(a) The student possesses or has been provided with all 40857
required hardware and software materials and all such materials 40858
are operational so that the student is capable of fully 40859
participating in the learning opportunities specified in the 40860
contract between the school and the school's sponsor as required 40861
by division (A)(23) of section 3314.03 of the Revised Code; 40862

(b) The school is in compliance with division (A) of section 40863
3314.22 of the Revised Code, relative to such student. 40864

(2) In accordance with policies adopted jointly by the 40865
superintendent of public instruction and the auditor of state, the 40866
department shall reduce the amounts otherwise payable under 40867
division ~~(D)~~(C) of this section to any community school that 40868
includes in its program the provision of computer hardware and 40869
software materials to any student, if such hardware and software 40870
materials have not been delivered, installed, and activated for 40871
each such student in a timely manner or other educational 40872
materials or services have not been provided according to the 40873
contract between the individual community school and its sponsor. 40874

The superintendent of public instruction and the auditor of 40875
state shall jointly establish a method for auditing any community 40876
school to which this division pertains to ensure compliance with 40877
this section. 40878

The superintendent, auditor of state, and the governor shall 40879
jointly make recommendations to the general assembly for 40880
legislative changes that may be required to assure fiscal and 40881
academic accountability for such schools. 40882

~~(O)~~(K)(1) If the department determines that a review of a 40883

community school's enrollment is necessary, such review shall be 40884
completed and written notice of the findings shall be provided to 40885
the governing authority of the community school and its sponsor 40886
within ninety days of the end of the community school's fiscal 40887
year, unless extended for a period not to exceed thirty additional 40888
days for one of the following reasons: 40889

(a) The department and the community school mutually agree to 40890
the extension. 40891

(b) Delays in data submission caused by either a community 40892
school or its sponsor. 40893

(2) If the review results in a finding that additional 40894
funding is owed to the school, such payment shall be made within 40895
thirty days of the written notice. If the review results in a 40896
finding that the community school owes moneys to the state, the 40897
following procedure shall apply: 40898

(a) Within ten business days of the receipt of the notice of 40899
findings, the community school may appeal the department's 40900
determination to the state board of education or its designee. 40901

(b) The board or its designee shall conduct an informal 40902
hearing on the matter within thirty days of receipt of such an 40903
appeal and shall issue a decision within fifteen days of the 40904
conclusion of the hearing. 40905

(c) If the board has enlisted a designee to conduct the 40906
hearing, the designee shall certify its decision to the board. The 40907
board may accept the decision of the designee or may reject the 40908
decision of the designee and issue its own decision on the matter. 40909

(d) Any decision made by the board under this division is 40910
final. 40911

(3) If it is decided that the community school owes moneys to 40912
the state, the department shall deduct such amount from the 40913

school's future payments in accordance with guidelines issued by 40914
the superintendent of public instruction. 40915

~~(P)~~(L) The department shall not subtract from a school 40916
district's state aid account ~~under division (C) of this section~~ 40917
and shall not pay to a community school under division ~~(D)~~(C) of 40918
this section any amount for any of the following: 40919

(1) Any student who has graduated from the twelfth grade of a 40920
public or nonpublic high school; 40921

(2) Any student who is not a resident of the state; 40922

(3) Any student who was enrolled in the community school 40923
during the previous school year when assessments were administered 40924
under section 3301.0711 of the Revised Code but did not take one 40925
or more of the assessments required by that section and was not 40926
excused pursuant to division (C)(1) or (3) of that section, unless 40927
the superintendent of public instruction grants the student a 40928
waiver from the requirement to take the assessment and a parent is 40929
not paying tuition for the student pursuant to section 3314.26 of 40930
the Revised Code. The superintendent may grant a waiver only for 40931
good cause in accordance with rules adopted by the state board of 40932
education. 40933

(4) Any student who has attained the age of twenty-two years, 40934
except for veterans of the armed services whose attendance was 40935
interrupted before completing the recognized twelve-year course of 40936
the public schools by reason of induction or enlistment in the 40937
armed forces and who apply for enrollment in a community school 40938
not later than four years after termination of war or their 40939
honorable discharge. If, however, any such veteran elects to 40940
enroll in special courses organized for veterans for whom tuition 40941
is paid under federal law, or otherwise, the department shall not 40942
subtract from a school district's state aid account ~~under division~~ 40943
~~(C) of this section~~ and shall not pay to a community school under 40944

division ~~(D)~~(C) of this section any amount for that veteran. 40945

Sec. 3314.082. A community school shall be considered a 40946
school district and its governing authority shall be considered a 40947
board of education for the purpose of applying to any state or 40948
federal agency for grants that a school district may receive under 40949
federal or state law or any appropriations act of the general 40950
assembly. The governing authority of a community school may apply 40951
to any private entity for additional funds. 40952

Sec. 3314.083. If the department of education pays a joint 40953
vocational school district under division ~~(G)(4)~~(C)(3) of section 40954
3317.16 of the Revised Code for excess costs of providing special 40955
education and related services to a student with a disability who 40956
is enrolled in a community school, as calculated under division 40957
~~(G)(2)~~(C)(1) of that section, the department shall deduct the 40958
amount of that payment from the amount calculated for payment to 40959
the community school under section 3314.08 of the Revised Code. 40960

Sec. 3314.084. (A) As used in this section: 40961

(1) "Formula ADM" has the same meaning as in section 3317.03 40962
of the Revised Code. 40963

(2) "Home" has the same meaning as in section 3313.64 of the 40964
Revised Code. 40965

(3) "School district of residence" has the same meaning as in 40966
section 3323.01 of the Revised Code; however, a community school 40967
established under this chapter is not a "school district of 40968
residence" for purposes of this section. 40969

(B) Notwithstanding anything to the contrary in section 40970
3314.08 or 3317.03 of the Revised Code, all of the following apply 40971
in the case of a child who is enrolled in a community school and 40972
is also living in a home: 40973

(1) For purposes of the report required under division (B)(1) 40974
of section 3314.08 of the Revised Code, the child's school 40975
district of residence, and not the school district in which the 40976
home that the child is living in is located, shall be considered 40977
to be the school district in which the child is entitled to attend 40978
school. That school district of residence, therefore, shall make 40979
the report required under division (B)(1) of section 3314.08 of 40980
the Revised Code with respect to the child. 40981

(2) For purposes of the report required under division (B)(2) 40982
of section 3314.08 of the Revised Code, the community school shall 40983
report the name of the child's school district of residence. 40984

(3) The child's school district of residence shall count the 40985
child in that district's formula ADM. 40986

(4) The school district in which the home that the child is 40987
living in is located shall not count the child in that district's 40988
formula ADM. 40989

(5) The ~~Department~~ department of ~~Education~~ education shall 40990
deduct the applicable amounts prescribed under division (C) of 40991
section 3314.08 ~~and division (D) of section 3314.13~~ of the Revised 40992
Code from the child's school district of residence and shall not 40993
deduct those amounts from the school district in which the home 40994
that the child is living in is located. 40995

(6) The ~~Department~~ department shall make the payments 40996
prescribed in ~~divisions (D) and (E)~~ division (C) of section 40997
3314.08 ~~and section 3314.13~~ of the Revised Code, as applicable, to 40998
the community school. 40999

Sec. 3314.085. The department of education shall pay to each 41000
community school the amount approved for that school under section 41001
3317.162 of the Revised Code by the lead district of the 41002
career-technical planning district to which the school has been 41003

assigned. 41004

Sec. 3314.087. (A) As used in this section: 41005

(1) "Career-technical program" means ~~vocational~~ 41006
career-technical programs or classes described in division (A) ~~or,~~ 41007
(B), (C), (D), or (E) of section 3317.014 of the Revised Code in 41008
which a student is enrolled. 41009

(2) "Formula ADM," "category one ~~or two vocational~~ through 41010
five career-technical education ADM," and "FTE basis" have the 41011
same meanings as in section 3317.02 of the Revised Code. 41012

(3) "Resident school district" means the city, exempted 41013
village, or local school district in which a student is entitled 41014
to attend school under section 3313.64 or 3313.65 of the Revised 41015
Code. 41016

(B) Notwithstanding anything to the contrary in this chapter 41017
or Chapter 3317. of the Revised Code, a student enrolled in a 41018
community school may simultaneously enroll in the career-technical 41019
program operated by the student's resident school district. On an 41020
FTE basis, the student's resident school district shall count the 41021
student in the category one ~~or two vocational~~ through five 41022
career-technical education ADM for the proportion of the time the 41023
student is enrolled in the district's career-technical program 41024
and, accordingly, the department of education shall calculate 41025
funds under Chapter 3317. for the district attributable to the 41026
student for the proportion of time the student attends the 41027
career-technical program. The community school shall count the 41028
student in its enrollment report under section 3314.08 of the 41029
Revised Code and shall report to the department the proportion of 41030
time that the student attends classes at the community school. The 41031
department shall pay the community school and deduct from the 41032
student's resident school district the amount computed for the 41033

student under section 3314.08 of the Revised Code in proportion to 41034
the fraction of the time on an FTE basis that the student attends 41035
classes at the community school. "Full-time equivalency" for a 41036
community school student, as defined in division ~~(L)~~(H) of section 41037
3314.08 of the Revised Code, does not apply to the student. 41038

Sec. 3314.091. (A) A school district is not required to 41039
provide transportation for any native student enrolled in a 41040
community school if the district board of education has entered 41041
into an agreement with the community school's governing authority 41042
that designates the community school as responsible for providing 41043
or arranging for the transportation of the district's native 41044
students to and from the community school. For any such agreement 41045
to be effective, it must be certified by the superintendent of 41046
public instruction as having met all of the following 41047
requirements: 41048

(1) It is submitted to the department of education by a 41049
deadline which shall be established by the department. 41050

(2) In accordance with divisions (C)(1) and (2) of this 41051
section, it specifies qualifications, such as residing a minimum 41052
distance from the school, for students to have their 41053
transportation provided or arranged. 41054

(3) The transportation provided by the community school is 41055
subject to all provisions of the Revised Code and all rules 41056
adopted under the Revised Code pertaining to pupil transportation. 41057

(4) The sponsor of the community school also has signed the 41058
agreement. 41059

(B)(1) For the school year that begins on July 1, 2007, a 41060
school district is not required to provide transportation for any 41061
native student enrolled in a community school, if the community 41062
school during the previous school year transported the students 41063

enrolled in the school or arranged for the students' 41064
transportation, even if that arrangement consisted of having 41065
parents transport their children to and from the school, but did 41066
not enter into an agreement to transport or arrange for 41067
transportation for those students under division (A) of this 41068
section, and if the governing authority of the community school by 41069
July 15, 2007, submits written notification to the district board 41070
of education stating that the governing authority is accepting 41071
responsibility for providing or arranging for the transportation 41072
of the district's native students to and from the community 41073
school. 41074

(2) For any school year subsequent to the school year that 41075
begins on July 1, 2007, a school district is not required to 41076
provide transportation for any native student enrolled in a 41077
community school if the governing authority of the community 41078
school, by the thirty-first day of January of the previous school 41079
year, submits written notification to the district board of 41080
education stating that the governing authority is accepting 41081
responsibility for providing or arranging for the transportation 41082
of the district's native students to and from the community 41083
school. If the governing authority of the community school has 41084
previously accepted responsibility for providing or arranging for 41085
the transportation of a district's native students to and from the 41086
community school, under division (B)(1) or (2) of this section, 41087
and has since relinquished that responsibility under division 41088
(B)(3) of this section, the governing authority shall not accept 41089
that responsibility again unless the district board consents to 41090
the governing authority's acceptance of that responsibility. 41091

(3) A governing authority's acceptance of responsibility 41092
under division (B)(1) or (2) of this section shall cover an entire 41093
school year, and shall remain in effect for subsequent school 41094
years unless the governing authority submits written notification 41095

to the district board that the governing authority is 41096
relinquishing the responsibility. However, a governing authority 41097
shall not relinquish responsibility for transportation before the 41098
end of a school year, and shall submit the notice relinquishing 41099
responsibility by the thirty-first day of January, in order to 41100
allow the school district reasonable time to prepare 41101
transportation for its native students enrolled in the school. 41102

(C)(1) A community school governing authority that enters 41103
into an agreement under division (A) of this section, or that 41104
accepts responsibility under division (B) of this section, shall 41105
provide or arrange transportation free of any charge for each of 41106
its enrolled students who is required to be transported under 41107
section 3327.01 of the Revised Code or who would otherwise be 41108
transported by the school district under the district's 41109
transportation policy. The governing authority shall report to the 41110
department of education the number of students transported or for 41111
whom transportation is arranged under this section in accordance 41112
with rules adopted by the state board of education. 41113

(2) The governing authority may provide or arrange 41114
transportation for any other enrolled student who is not eligible 41115
for transportation in accordance with division (C)(1) of this 41116
section and may charge a fee for such service up to the actual 41117
cost of the service. 41118

(3) Notwithstanding anything to the contrary in division 41119
(C)(1) or (2) of this section, a community school governing 41120
authority shall provide or arrange transportation free of any 41121
charge for any disabled student enrolled in the school for whom 41122
the student's individualized education program developed under 41123
Chapter 3323. of the Revised Code specifies transportation. 41124

(D)(1) If a school district board and a community school 41125
governing authority elect to enter into an agreement under 41126
division (A) of this section, the department of education shall 41127

make payments to the community school according to the terms of 41128
the agreement for each student actually transported under division 41129
(C)(1) of this section. 41130

If a community school governing authority accepts 41131
transportation responsibility under division (B) of this section, 41132
the department shall make payments to the community school for 41133
each student actually transported or for whom transportation is 41134
arranged by the community school under division (C)(1) of this 41135
section, calculated as follows: 41136

(a) For any fiscal year which the general assembly has 41137
specified that transportation payments to school districts be 41138
based on an across-the-board percentage of the district's payment 41139
for the previous school year, the per pupil payment to the 41140
community school shall be the following quotient: 41141

(i) The total amount calculated for the school district in 41142
which the child is entitled to attend school for student 41143
transportation other than transportation of children with 41144
disabilities; divided by 41145

(ii) The number of students included in the district's 41146
transportation ADM for the current fiscal year, as reported under 41147
division (B)~~(13)~~(20) of section 3317.03 of the Revised Code, plus 41148
the number of students enrolled in the community school not 41149
counted in the district's transportation ADM who are transported 41150
under division (B)(1) or (2) of this section. 41151

(b) For any fiscal year which the general assembly has 41152
specified that the transportation payments to school districts be 41153
calculated in accordance with section 3317.0212 of the Revised 41154
Code and any rules of the state board of education implementing 41155
that section, the payment to the community school shall be the 41156
amount so calculated that otherwise would be paid to the school 41157
district in which the student is entitled to attend school by the 41158

method of transportation the district would have used. The 41159
community school, however, is not required to use the same method 41160
to transport that student. 41161

(c) Divisions (D)(1)(a) and (b) of this section do not apply 41162
to fiscal years 2012 and 2013. Rather, for each of those fiscal 41163
years, the per pupil payment to a community school for 41164
transporting a student shall be the total amount paid under former 41165
section 3306.12 of the Revised Code for fiscal year 2011 to the 41166
school district in which the child is entitled to attend school 41167
divided by that district's "qualifying ridership," as defined in 41168
that section for fiscal year 2011. 41169

As used in this division "entitled to attend school" means 41170
entitled to attend school under section 3313.64 or 3313.65 of the 41171
Revised Code. 41172

(2) The department shall deduct the payment under division 41173
(D)(1) of this section from the state education aid, as defined in 41174
section 3314.08 of the Revised Code, and, if necessary, the 41175
payment under sections 321.14 and 323.156 of the Revised Code, 41176
that is otherwise paid to the school district in which the student 41177
enrolled in the community school is entitled to attend school. The 41178
department shall include the number of the district's native 41179
students for whom payment is made to a community school under 41180
division (D)(1) of this section in the calculation of the 41181
district's transportation payment under section 3317.0212 of the 41182
Revised Code and the operating appropriations act. 41183

(3) A community school shall be paid under division (D)(1) of 41184
this section only for students who are eligible as specified in 41185
section 3327.01 of the Revised Code and division (C)(1) of this 41186
section, and whose transportation to and from school is actually 41187
provided, who actually utilized transportation arranged, or for 41188
whom a payment in lieu of transportation is made by the community 41189
school's governing authority. To qualify for the payments, the 41190

community school shall report to the department, in the form and 41191
manner required by the department, data on the number of students 41192
transported or whose transportation is arranged, the number of 41193
miles traveled, cost to transport, and any other information 41194
requested by the department. 41195

(4) A community school shall use payments received under this 41196
section solely to pay the costs of providing or arranging for the 41197
transportation of students who are eligible as specified in 41198
section 3327.01 of the Revised Code and division (C)(1) of this 41199
section, which may include payments to a parent, guardian, or 41200
other person in charge of a child in lieu of transportation. 41201

(E) Except when arranged through payment to a parent, 41202
guardian, or person in charge of a child, transportation provided 41203
or arranged for by a community school pursuant to an agreement 41204
under this section is subject to all provisions of the Revised 41205
Code, and all rules adopted under the Revised Code, pertaining to 41206
the construction, design, equipment, and operation of school buses 41207
and other vehicles transporting students to and from school. The 41208
drivers and mechanics of the vehicles are subject to all 41209
provisions of the Revised Code, and all rules adopted under the 41210
Revised Code, pertaining to drivers and mechanics of such 41211
vehicles. The community school also shall comply with sections 41212
3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) 41213
of section 3327.16 of the Revised Code and, subject to division 41214
(C)(1) of this section, sections 3327.01 and 3327.02 of the 41215
Revised Code, as if it were a school district. 41216

Sec. 3314.092. The governing authority of a community school 41217
established under this chapter shall consult with each school 41218
district board of education that transports students to the 41219
community school under sections 3314.09 and 3327.01 of the Revised 41220
Code prior to making any change in the hours or days in which the 41221

community school is open for instruction. 41222

Sec. 3314.11. (A) The board of education of each city, 41223
exempted village, and local school district monthly shall review 41224
enrollment for students enrolled in community schools established 41225
under this chapter and entitled to attend school in the district 41226
under section 3313.64 or 3313.65 of the Revised Code. For each 41227
student, the district shall verify to the department of education 41228
both of the following: 41229

(1) The community school in which the student is enrolled; 41230

(2) That the student is entitled to attend school in the 41231
district under section 3313.64 or 3313.65 of the Revised Code. 41232

(B) For purposes of its initial reporting of the school 41233
districts its students are entitled to attend, the governing 41234
authority of a community school may adopt a policy that prescribes 41235
the number of documents listed in division (E) of this section 41236
required to verify a student's residency. This policy, if adopted, 41237
shall supersede any policy concerning the number of documents for 41238
initial residency verification adopted by the district the student 41239
is entitled to attend. If a community school does not adopt a 41240
policy under this division, the policy of the school district in 41241
which the student is entitled to attend shall prevail. 41242

(C) In making the determinations under this section, the 41243
school district in which a parent or child resides is the location 41244
the parent or student has established as the primary residence and 41245
where substantial family activity takes place. 41246

(D) If a district's determination under division (A) of this 41247
section of the school district a student is entitled to attend 41248
under section 3313.64 or 3313.65 of the Revised Code differs from 41249
a community school's determination under division (B) of this 41250
section, the community school shall provide the school district 41251

that made the determination under division (A) of this section 41252
with documentation of the student's residency and shall make a 41253
good faith effort to accurately identify the correct residence of 41254
the student. 41255

(E) For purposes of this section, the following documents may 41256
serve as evidence of primary residence: 41257

(1) A deed, mortgage, lease, current home owner's or renter's 41258
insurance declaration page, or current real property tax bill; 41259

(2) A utility bill or receipt of utility installation issued 41260
within ninety days of enrollment; 41261

(3) A paycheck or paystub issued to the parent or student 41262
within ninety days of the date of enrollment that includes the 41263
address of the parent's or student's primary residence; 41264

(4) The most current available bank statement issued to the 41265
parent or student that includes the address of the parent's or 41266
student's primary residence; 41267

(5) Any other official document issued to the parent or 41268
student that includes the address of the parent's or student's 41269
primary residence. The superintendent of public instruction shall 41270
develop guidelines for determining what qualifies as an "official 41271
document" under this division. 41272

(F) When a student loses permanent housing and becomes a 41273
homeless child or youth, as defined in 42 U.S.C. 11434a, or when a 41274
child who is such a homeless child or youth changes temporary 41275
living arrangements, the district in which the student is entitled 41276
to attend school shall be determined in accordance with division 41277
(F)(13) of section 3313.64 of the Revised Code and the 41278
"McKinney-Vento Homeless Assistance Act," 42 U.S.C. 11431 et seq. 41279

(G) In the event of a disagreement as to which school 41280
district a student is entitled to attend, the community school, 41281

after complying with division (D) of this section, but not more 41282
than sixty days after the monthly deadline established by the 41283
department of education for reporting of community school 41284
enrollment, may present the matter to the superintendent of public 41285
instruction. Not later than thirty days after the community school 41286
presents the matter, the state superintendent, or the state 41287
superintendent's designee, shall determine which district the 41288
student is entitled to attend and shall direct any necessary 41289
adjustments to payments and deductions under ~~sections~~ section 41290
3314.08 ~~and 3314.13~~ of the Revised Code based on that 41291
determination. 41292

Sec. 3314.26. (A) Each internet- or computer-based community 41293
school shall withdraw from the school any student who, for two 41294
consecutive school years, has failed to participate in the spring 41295
administration of any assessment prescribed under section 41296
3301.0710 or 3301.0712 of the Revised Code for the student's grade 41297
level and was not excused from the assessment pursuant to division 41298
(C)(1) or (3) of section 3301.0711 of the Revised Code, regardless 41299
of whether a waiver was granted for the student under division 41300
(~~P~~)(L)(3) of section 3314.08 of the Revised Code. The school shall 41301
report any such student's data verification code, as assigned 41302
pursuant to section 3301.0714 of the Revised Code, to the 41303
department of education. The department shall maintain a list of 41304
all data verification codes reported under this division and 41305
section 3313.6410 of the Revised Code and provide that list to 41306
each internet- or computer-based community school and to each 41307
school to which section 3313.6410 of the Revised Code applies. 41308

(B) No internet- or computer-based community school shall 41309
receive any state funds under this chapter for any enrolled 41310
student whose data verification code appears on the list 41311
maintained by the department under division (A) of this section. 41312

Notwithstanding any provision of the Revised Code to the 41313
contrary, the parent of any such student shall pay tuition to the 41314
internet- or computer-based community school in an amount equal to 41315
the state funds the school otherwise would receive for that 41316
student, as determined by the department. An internet- or 41317
computer-based community school may withdraw any student for whom 41318
the parent does not pay tuition as required by this division. 41319

Sec. 3315.06. As used in this section "expenses" includes the 41320
cost of meals served to educational service center governing board 41321
members, and members of the boards of ~~local~~ school districts 41322
within the territory of that have entered into an agreement under 41323
section 3313.843 or 3313.845 of the Revised Code to receive any 41324
services from the service center at meetings of the governing 41325
board and meetings authorized by this section, if a resolution to 41326
that effect has been adopted by a majority of the members of the 41327
governing board. 41328

The governing board of each service center may provide 41329
programs, examinations, school records, diplomas, and other 41330
necessary supplies and equipment for the use of the service center 41331
superintendent in furthering the instructional program of the 41332
service center. The governing board of each service center may pay 41333
the expenses of all educational meetings called by such governing 41334
board and may call and pay the expenses of conducting a meeting of 41335
the members of the boards of all ~~local~~ school districts ~~within the~~ 41336
~~territory of~~ that have entered into an agreement under section 41337
3313.843 or 3313.845 of the Revised Code to receive any services 41338
from the service center at least once each year for the purpose of 41339
discussing the matters relating to the schools, for which each 41340
member shall be paid from the general fund of the ~~local~~ school 41341
district, the same compensation as authorized by section 3313.12 41342
of the Revised Code. The governing board of each service center 41343
may allow the superintendent and assistant superintendent ~~of~~ 41344

~~schools~~ a sum to be determined by the board for traveling expenses 41345
and may employ stenographers and clerks for such superintendent. 41346

Sec. 3315.07. (A) The board of education of each ~~city and~~ 41347
~~exempted village~~ school district may provide an instructional 41348
program for the employees of the district. The board may provide 41349
the necessary bulletins and instructional material in connection 41350
with the program and pay the cost of meetings held for the purpose 41351
of carrying out the program. 41352

(B) The board of any district or educational service center 41353
may provide bulletins or other materials necessary for the 41354
effective administration of the schools of ~~such the~~ district or 41355
programs of the educational service center and may compile, make 41356
available, or publish any of the following materials not 41357
inconsistent with division (C) of this section: student handbooks, 41358
dress codes, curriculum guides, school policy bulletins, 41359
newsletters, board meeting summaries or minutes, financial 41360
reports, annual reports, and other reports concerning the 41361
operation of the schools of the district or programs of the 41362
service center. Such materials shall be published for the purpose 41363
of furthering public awareness of all aspects of the board's 41364
educational program and operation including: 41365

(1) Board policies and actions, procedures, administration 41366
and finance, and state and federal requirements; 41367

(2) The board's programs, activities, and plans; 41368

(3) Student achievements and information concerning 41369
employees; 41370

(4) Any other information the board considers helpful in 41371
keeping students, parents, employees, and residents aware of the 41372
operation of the school district. The board may assign to 41373
employees the duty of producing the information authorized by this 41374

division as a part or all of their jobs. 41375

(C)(1) Except as otherwise provided in division (C)(2) of 41376
this section, no board of education shall use public funds to 41377
support or oppose the passage of a school levy or bond issue or to 41378
compensate any school district employee for time spent on any 41379
activity intended to influence the outcome of a school levy or 41380
bond issue election. 41381

(2) A board of education may permit any of its employees to 41382
attend a public meeting during ~~his~~ the employee's regular working 41383
hours for the purpose of presenting information about school 41384
finances and activities and board actions, even if the purpose of 41385
the meeting is to discuss or debate the passage of a school levy 41386
or bond issue. 41387

(D) ~~Boards~~ The board of education of ~~local a school districts~~ 41388
~~and, subject to approval by the educational service center~~ 41389
~~governing board, boards of city and exempted village school~~ 41390
~~districts located in whole or in part in the territory of~~ district 41391
that has entered into an agreement under section 3313.843 or 41392
3313.845 of the Revised Code to receive any services from an 41393
educational service center may authorize ~~educational~~ the service 41394
center ~~governing boards~~ to purchase or to accept upon donation 41395
supplies and equipment for such school ~~districts~~ district and to 41396
pay the transportation, handling, and storage charges involved in 41397
securing such supplies and equipment. Upon such authorization, the 41398
governing board may make such purchases or accept such donations 41399
and pay from the service center fund the cost of such supplies and 41400
equipment and the transportation, handling, and storage charges 41401
involved. ~~Boards~~ The district board shall reimburse in full the 41402
service center governing board for all such expenditures on ~~their~~ 41403
its behalf. 41404

Sec. 3315.18. (A) The board of education of each city, 41405

exempted village, local, and joint vocational school district 41406
shall establish a capital and maintenance fund. Each board 41407
annually shall deposit into that fund an amount derived from 41408
revenues received by the district that would otherwise have been 41409
deposited in the general fund that is equal to three per cent of 41410
the ~~formula amount~~ opportunity grant for the preceding fiscal 41411
year, as ~~defined in~~ calculated under division (A)(1) of section 41412
~~3317.02~~ 3317.022 of the Revised Code, or another percentage if 41413
established by the auditor of state under division (B) of this 41414
section, ~~multiplied by the district's student population for the~~ 41415
~~preceding fiscal year~~, except that money received from a permanent 41416
improvement levy authorized by section 5705.21 of the Revised Code 41417
may replace general revenue moneys in meeting the requirements of 41418
this section. Money in the fund shall be used solely for 41419
acquisition, replacement, enhancement, maintenance, or repair of 41420
permanent improvements, as that term is defined in section 5705.01 41421
of the Revised Code. Any money in the fund that is not used in any 41422
fiscal year shall carry forward to the next fiscal year. 41423

(B) The state superintendent of public instruction and the 41424
auditor of state jointly shall adopt rules in accordance with 41425
Chapter 119. of the Revised Code defining what constitutes 41426
expenditures permitted by division (A) of this section. The 41427
auditor of state may designate a percentage, other than three per 41428
cent, of the ~~formula amount multiplied by the district's student~~ 41429
~~population~~ opportunity grant that must be deposited into the fund. 41430

(C) Within its capital and maintenance fund, a school 41431
district board of education may establish a separate account 41432
solely for the purpose of depositing funds transferred from the 41433
district's reserve balance account established under former 41434
division (H) of section 5705.29 of the Revised Code. After April 41435
10, 2001, a board may deposit all or part of the funds formerly 41436
included in such reserve balance account in the separate account 41437

established under this section. Funds deposited in this separate 41438
account and interest on such funds shall be utilized solely for 41439
the purpose of providing the district's portion of the basic 41440
project costs of any project undertaken in accordance with Chapter 41441
3318. of the Revised Code. 41442

(D)(1) Notwithstanding division (A) of this section, in any 41443
year a district is in fiscal emergency status as declared pursuant 41444
to section 3316.03 of the Revised Code, the district may deposit 41445
an amount less than required by division (A) of this section, or 41446
make no deposit, into the district capital and maintenance fund 41447
for that year. 41448

(2) Notwithstanding division (A) of this section, in any 41449
fiscal year that a school district is either in fiscal watch 41450
status, as declared pursuant to section 3316.03 of the Revised 41451
Code, or in fiscal caution status, as declared pursuant to section 41452
3316.031 of the Revised Code, the district may apply to the 41453
superintendent of public instruction for a waiver from the 41454
requirements of division (A) of this section, under which the 41455
district may be permitted to deposit an amount less than required 41456
by that division or permitted to make no deposit into the district 41457
capital and maintenance fund for that year. The superintendent may 41458
grant a waiver under division (D)(2) of this section if the 41459
district demonstrates to the satisfaction of the superintendent 41460
that compliance with division (A) of this section that year will 41461
create an undue financial hardship on the district. 41462

(3) Notwithstanding division (A) of this section, not more 41463
often than one fiscal year in every three consecutive fiscal 41464
years, any school district that does not satisfy the conditions 41465
for the exemption described in division (D)(1) of this section or 41466
the conditions to apply for the waiver described in division 41467
(D)(2) of this section may apply to the superintendent of public 41468
instruction for a waiver from the requirements of division (A) of 41469

this section, under which the district may be permitted to deposit 41470
an amount less than required by that division or permitted to make 41471
no deposit into the district capital and maintenance fund for that 41472
year. The superintendent may grant a waiver under division (D)(3) 41473
of this section if the district demonstrates to the satisfaction 41474
of the superintendent that compliance with division (A) of this 41475
section that year will necessitate the reduction or elimination of 41476
a program currently offered by the district that is critical to 41477
the academic success of students of the district and that no 41478
reasonable alternatives exist for spending reductions in other 41479
areas of operation within the district that negate the necessity 41480
of the reduction or elimination of that program. 41481

(E) Notwithstanding any provision to the contrary in Chapter 41482
4117. of the Revised Code, the requirements of this section 41483
prevail over any conflicting provisions of agreements between 41484
employee organizations and public employers entered into after 41485
November 21, 1997. 41486

(F) As used in this section, "student population" means the 41487
average, daily, full-time equivalent number of students in 41488
kindergarten through twelfth grade receiving any educational 41489
services from the school district during the first full school 41490
week in October, excluding students enrolled in adult education 41491
classes, but including all of the following: 41492

(1) Adjacent or other district students enrolled in the 41493
district under an open enrollment policy pursuant to section 41494
3313.98 of the Revised Code; 41495

(2) Students receiving services in the district pursuant to a 41496
compact, cooperative education agreement, or a contract, but who 41497
are entitled to attend school in another district pursuant to 41498
section 3313.64 or 3313.65 of the Revised Code; 41499

(3) Students for whom tuition is payable pursuant to sections 41500

3317.081 and 3323.141 of the Revised Code. 41501

The department of education shall determine a district's 41502
student population using data reported to it under section 3317.03 41503
of the Revised Code for the applicable fiscal year. 41504

Sec. 3315.33. There is hereby established a fund to be known 41505
as the Ohio scholarship fund for teacher trainees for the public 41506
purpose of relieving the existing teacher shortage in public 41507
schools, to be administered and expended as prescribed in sections 41508
3315.33 to 3315.35 of the Revised Code. Appropriations by the 41509
general assembly for the purpose of scholarships for teacher 41510
trainees shall be paid into this fund. 41511

Each scholarship for a teacher trainee shall have a maximum 41512
value of five hundred dollars annually and shall be awarded as 41513
follows: 41514

(A) The state board of education shall prescribe standards 41515
and requirements which shall be met by persons who are eligible 41516
for such scholarships. Scholarships shall be allocated among the 41517
counties of the state on an equitable basis by the state board of 41518
education, provided that not less than three such scholarships 41519
shall be available annually to residents of each county of the 41520
state. If, on the first day of September in each year, the state 41521
board of education finds that the number of eligible persons 41522
recommended from any county is less than the number of 41523
scholarships allocated to that county, it may reallocate the 41524
remaining scholarships among the counties in which the number of 41525
eligible persons exceeds the number of scholarships allocated. 41526
Such reallocation as may affect a county in one year shall not 41527
prejudice in any way the allocation to it in succeeding years. 41528

(B) In accordance with the requirements of sections 3315.33, 41529
3315.34, and 3315.35 of the Revised Code, the educational service 41530
center superintendent in each educational service center as 41531

committee chairperson shall appoint a committee consisting of one 41532
~~city or exempted village~~ high school principal, one elementary 41533
school principal, and one ~~city or exempted village~~ classroom 41534
teacher. This committee shall select and recommend, on the basis 41535
of merit, a number of high school graduates, not to exceed the 41536
number allocated to each county by the state board of education, 41537
who are interested in teaching and whose work and qualifications 41538
are such as to indicate that they possess the qualities which 41539
should be possessed by a successful teacher. Such persons shall 41540
not have previously been enrolled in any college of education or 41541
have majored in education in any college or university. Such other 41542
college training shall be considered in determining such person's 41543
qualifications to become a successful teacher. 41544

(C) The scholarship fund for teacher trainees shall be 41545
disbursed to scholarship holders upon their application as 41546
approved by the state board of education upon vouchers for that 41547
purpose. Such scholarships shall be paid in equal installments at 41548
the beginning of each quarter or semester while college is in 41549
session to each person who has been awarded such a scholarship 41550
when the following requirements are met: 41551

(1) Such person shall be a bona fide student in the college 41552
of education or department of teacher training in an Ohio 41553
institution of higher learning. 41554

(2) Such person shall pursue a course of study in elementary 41555
education in said college of education or department of teacher 41556
training approved by the state board of education. 41557

Sec. 3315.40. The board of education of a city, local, 41558
exempted village, or joint vocational school district or the 41559
governing board of any educational service center may establish an 41560
education foundation fund. Moneys in the fund shall consist of 41561
proceeds paid into the fund under division (B) of section 3313.36 41562

of the Revised Code. In addition, by resolution adopted by a 41563
majority of its members, a city, local, exempted village, or joint 41564
vocational board may annually direct the school district treasurer 41565
to pay into the education foundation fund an amount from the 41566
school district general fund not to exceed one-half of one per 41567
cent of the total appropriations of the school district as 41568
estimated by the board at the time the resolution is adopted or as 41569
set forth in the annual appropriation measure as most recently 41570
amended or supplemented; and any governing board, by resolution 41571
adopted by a majority of its members, may annually direct the 41572
service center treasurer to pay into the education foundation fund 41573
an amount not to exceed one-half of one per cent of the funds 41574
received by the governing board pursuant to an agreement entered 41575
into under section ~~3317.11~~ 3313.843 or 3313.845 of the Revised 41576
Code. 41577

Income from the investment of moneys in the fund shall be 41578
paid into the fund. A board, by resolution adopted by a majority 41579
of its members, may accept a trust created under section 3315.41 41580
of the Revised Code for the investment of money in the educational 41581
foundation fund and direct the school district or service center 41582
treasurer to pay to the trustee, the initial trust principal 41583
contemplated by the instrument creating the trust. A board that 41584
has accepted a trust created under section 3315.41 of the Revised 41585
Code may do any of the following by resolution adopted by a 41586
majority of its members: direct the school district or service 41587
center treasurer to pay additional amounts to the trust principal, 41588
amend the trust, revoke the trust, or provide for payment of 41589
compensation to the trustee. 41590

Moneys in the fund shall be expended only by resolution 41591
adopted by a majority of the members of the board for operating or 41592
capital costs of any existing or new and innovative program 41593
designed to enhance or promote education within the district or 41594

service center, such as scholarships for students or teachers. 41595

A board of education or governing board may appoint a 41596
committee of administrators to administer the education foundation 41597
fund and to make recommendations for the use of the fund. Members 41598
of the committee shall serve at the discretion of the appointing 41599
board. Members shall receive no compensation, but may be 41600
reimbursed for actual and necessary expenses incurred in the 41601
performance of their official duties. 41602

Sec. 3315.42. Sections 3315.40 and 3315.41 of the Revised 41603
Code do not apply to either of the following: 41604

(A) A school district that has received funds for a project 41605
under Chapter 3318. of the Revised Code, so long as the purchase 41606
price to be paid by the board for the state's interest in the 41607
project has not been paid; 41608

(B) A school district that has an outstanding loan under 41609
section 3313.483 ~~or sections 3317.62 to 3317.64~~ of the Revised 41610
Code. 41611

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 41612
133. or sections 3313.483 to ~~3313.4811~~ 3313.4810 of the Revised 41613
Code, and subject to the approval of the superintendent of public 41614
instruction, a school district that is in a state of fiscal watch 41615
declared under section 3316.03 of the Revised Code may restructure 41616
or refinance loans obtained or in the process of being obtained 41617
under section 3313.483 of the Revised Code if all of the following 41618
requirements are met: 41619

(1) The operating deficit certified for the school district 41620
for the current or preceding fiscal year under section 3313.483 of 41621
the Revised Code exceeds fifteen per cent of the district's 41622
general revenue fund for the fiscal year preceding the year for 41623
which the certification of the operating deficit is made. 41624

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, or 5748.09 of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. Such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under Chapter 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

Sec. 3316.06. (A) Within one hundred twenty days after the 41657
first meeting of a school district financial planning and 41658
supervision commission, the commission shall adopt a financial 41659
recovery plan regarding the school district for which the 41660
commission was created. During the formulation of the plan, the 41661
commission shall seek appropriate input from the school district 41662
board and from the community. This plan shall contain the 41663
following: 41664

(1) Actions to be taken to: 41665

(a) Eliminate all fiscal emergency conditions declared to 41666
exist pursuant to division (B) of section 3316.03 of the Revised 41667
Code; 41668

(b) Satisfy any judgments, past-due accounts payable, and all 41669
past-due and payable payroll and fringe benefits; 41670

(c) Eliminate the deficits in all deficit funds, except that 41671
any prior year deficits in the capital and maintenance fund 41672
established pursuant to section 3315.18 of the Revised Code shall 41673
be forgiven; 41674

(d) Restore to special funds any moneys from such funds that 41675
were used for purposes not within the purposes of such funds, or 41676
borrowed from such funds by the purchase of debt obligations of 41677
the school district with the moneys of such funds, or missing from 41678
the special funds and not accounted for, if any; 41679

(e) Balance the budget, avoid future deficits in any funds, 41680
and maintain on a current basis payments of payroll, fringe 41681
benefits, and all accounts; 41682

(f) Avoid any fiscal emergency condition in the future; 41683

(g) Restore the ability of the school district to market 41684
long-term general obligation bonds under provisions of law 41685
applicable to school districts generally. 41686

(2) The management structure that will enable the school 41687
district to take the actions enumerated in division (A)(1) of this 41688
section. The plan shall specify the level of fiscal and management 41689
control that the commission will exercise within the school 41690
district during the period of fiscal emergency, and shall 41691
enumerate respectively, the powers and duties of the commission 41692
and the powers and duties of the school board during that period. 41693
The commission may elect to assume any of the powers and duties of 41694
the school board it considers necessary, including all powers 41695
related to personnel, curriculum, and legal issues in order to 41696
successfully implement the actions described in division (A)(1) of 41697
this section. 41698

(3) The target dates for the commencement, progress upon, and 41699
completion of the actions enumerated in division (A)(1) of this 41700
section and a reasonable period of time expected to be required to 41701
implement the plan. The commission shall prepare a reasonable time 41702
schedule for progress toward and achievement of the requirements 41703
for the plan, and the plan shall be consistent with that time 41704
schedule. 41705

(4) The amount and purpose of any issue of debt obligations 41706
that will be issued, together with assurances that any such debt 41707
obligations that will be issued will not exceed debt limits 41708
supported by appropriate certifications by the fiscal officer of 41709
the school district and the county auditor. Debt obligations 41710
issued pursuant to section 133.301 of the Revised Code shall 41711
include assurances that such debt shall be in an amount not to 41712
exceed the amount certified under division (B) of such section. If 41713
the commission considers it necessary in order to maintain or 41714
improve educational opportunities of pupils in the school 41715
district, the plan may include a proposal to restructure or 41716
refinance outstanding debt obligations incurred by the board under 41717
section 3313.483 of the Revised Code contingent upon the approval, 41718

during the period of the fiscal emergency, by district voters of a 41719
tax levied under section 718.09, 718.10, 5705.194, 5705.21, 41720
5748.02, 5748.08, or 5748.09 of the Revised Code that is not a 41721
renewal or replacement levy, or a levy under section 5705.199 of 41722
the Revised Code, and that will provide new operating revenue. 41723
Notwithstanding any provision of Chapter 133. or sections 3313.483 41724
to ~~3313.4811~~ 3313.4810 of the Revised Code, following the required 41725
approval of the district voters and with the approval of the 41726
commission, the school district may issue securities to evidence 41727
the restructuring or refinancing. Those securities may extend the 41728
original period for repayment, not to exceed ten years, and may 41729
alter the frequency and amount of repayments, interest or other 41730
financing charges, and other terms of agreements under which the 41731
debt originally was contracted, at the discretion of the 41732
commission, provided that any loans received pursuant to section 41733
3313.483 of the Revised Code shall be paid from funds the district 41734
would otherwise receive under Chapter 3317. of the Revised Code, 41735
as required under division (E)(3) of section 3313.483 of the 41736
Revised Code. The securities issued for the purpose of 41737
restructuring or refinancing the debt shall be repaid in equal 41738
payments and at equal intervals over the term of the debt and are 41739
not eligible to be included in any subsequent proposal for the 41740
purpose of restructuring or refinancing debt under this section. 41741

(5) An evaluation of the feasibility of entering into shared 41742
services agreements with other political subdivisions for the 41743
joint exercise of any power, performance of any function, or 41744
rendering of any service, if so authorized by statute. 41745

(B) Any financial recovery plan may be amended subsequent to 41746
its adoption. Each financial recovery plan shall be updated 41747
annually. 41748

(C) Each school district financial planning and supervision 41749
commission shall submit the financial recovery plan it adopts or 41750

updates under this section to the state superintendent of public 41751
instruction for approval immediately following its adoption or 41752
updating. The state superintendent shall evaluate the plan and 41753
either approve or disapprove it within thirty calendar days from 41754
the date of its submission. If the plan is disapproved, the state 41755
superintendent shall recommend modifications that will render it 41756
acceptable. No financial planning and supervision commission shall 41757
implement a financial recovery plan that is adopted or updated on 41758
or after April 10, 2001, unless the state superintendent has 41759
approved it. 41760

Sec. 3317.01. As used in this section, "school district," 41761
unless otherwise specified, means any city, local, exempted 41762
village, joint vocational, or cooperative education school 41763
district and any educational service center. 41764

This chapter shall be administered by the state board of 41765
education. The superintendent of public instruction shall 41766
calculate the amounts payable to each school district and shall 41767
certify the amounts payable to each eligible district to the 41768
treasurer of the district as provided by this chapter. As soon as 41769
possible after such amounts are calculated, the superintendent 41770
shall certify to the treasurer of each school district the 41771
district's adjusted charge-off increase, as defined in section 41772
5705.211 of the Revised Code. Certification of moneys pursuant to 41773
this section shall include the amounts payable to each school 41774
building, at a frequency determined by the superintendent, for 41775
each subgroup of students, as defined in section 3317.40 of the 41776
Revised Code, receiving services, provided for by state funding, 41777
from the district or school. No moneys shall be distributed 41778
pursuant to this chapter without the approval of the controlling 41779
board. 41780

The state board of education shall, in accordance with 41781

appropriations made by the general assembly, meet the financial 41782
obligations of this chapter. 41783

Moneys distributed pursuant to this chapter shall be 41784
calculated and paid on a fiscal year basis, beginning with the 41785
first day of July and extending through the thirtieth day of June. 41786
The moneys appropriated for each fiscal year shall be distributed 41787
periodically to each school district unless otherwise provided 41788
for. The state board, in June of each year, shall submit to the 41789
controlling board the state board's year-end distributions 41790
pursuant to this chapter. 41791

Except as otherwise provided, payments under this chapter 41792
shall be made only to those school districts in which: 41793

(A) The school district, except for any educational service 41794
center and any joint vocational or cooperative education school 41795
district, levies for current operating expenses at least twenty 41796
mills. Levies for joint vocational or cooperative education school 41797
districts or county school financing districts, limited to or to 41798
the extent apportioned to current expenses, shall be included in 41799
this qualification requirement. School district income tax levies 41800
under Chapter 5748. of the Revised Code, limited to or to the 41801
extent apportioned to current operating expenses, shall be 41802
included in this qualification requirement to the extent 41803
determined by the tax commissioner under division (D) of section 41804
3317.021 of the Revised Code. 41805

(B) The school year next preceding the fiscal year for which 41806
such payments are authorized meets the requirement of section 41807
3313.48 ~~or 3313.481~~ of the Revised Code, with regard to the 41808
minimum number of ~~days or~~ hours school must be open for 41809
instruction with pupils in attendance, for individualized 41810
parent-teacher conference and reporting periods, and for 41811
professional meetings of teachers. ~~This requirement shall be~~ 41812
~~waived by the superintendent of public instruction if it had been~~ 41813

~~necessary for a school to be closed because of disease epidemic, 41814
hazardous weather conditions, law enforcement emergencies, 41815
inoperability of school buses or other equipment necessary to the 41816
school's operation, damage to a school building, or other 41817
temporary circumstances due to utility failure rendering the 41818
school building unfit for school use, provided that for those 41819
school districts operating pursuant to section 3313.48 of the 41820
Revised Code the number of days the school was actually open for 41821
instruction with pupils in attendance and for individualized 41822
parent teacher conference and reporting periods is not less than 41823
one hundred seventy five, or for those school districts operating 41824
on a trimester plan the number of days the school was actually 41825
open for instruction with pupils in attendance not less than 41826
seventy nine days in any trimester, for those school districts 41827
operating on a quarterly plan the number of days the school was 41828
actually open for instruction with pupils in attendance not less 41829
than fifty nine days in any quarter, or for those school districts 41830
operating on a pentamester plan the number of days the school was 41831
actually open for instruction with pupils in attendance not less 41832
than forty four days in any pentamester. 41833~~

A school district shall not be considered to have failed to 41834
comply with this division ~~or section 3313.481 of the Revised Code~~ 41835
because schools were open for instruction but either twelfth grade 41836
students were excused from attendance for up to the equivalent of 41837
three school days or only a portion of the kindergarten students 41838
were in attendance for up to the equivalent of three school days 41839
in order to allow for the gradual orientation to school of such 41840
students. 41841

~~The superintendent of public instruction shall waive the 41842
requirements of this section with reference to the minimum number 41843
of days or hours school must be in session with pupils in 41844
attendance for the school year succeeding the school year in which 41845~~

~~a board of education initiates a plan of operation pursuant to 41846
section 3313.481 of the Revised Code. The minimum requirements of 41847
this section shall again be applicable to such a district 41848
beginning with the school year commencing the second July 41849
succeeding the initiation of one such plan, and for each school 41850
year thereafter. 41851~~

~~A school district shall not be considered to have failed to 41852
comply with this division or section 3313.48 or 3313.481 of the 41853
Revised Code because schools were open for instruction but the 41854
length of the regularly scheduled school day, for any number of 41855
days during the school year, was reduced by not more than two 41856
hours due to hazardous weather conditions. 41857~~

A board of education or governing board of an educational 41858
service center which has not conformed with other law and the 41859
rules pursuant thereto, shall not participate in the distribution 41860
of funds authorized by this chapter, except for good and 41861
sufficient reason established to the satisfaction of the state 41862
board of education and the state controlling board. 41863

All funds allocated to school districts under this chapter, 41864
except those specifically allocated for other purposes, shall be 41865
used to pay current operating expenses only. 41866

Sec. 3317.013. ~~Except for a preschool child with a disability 41867
for whom a scholarship has been awarded under section 3310.41 of 41868
the Revised Code, this section does not apply to preschool 41869
children with disabilities. 41870~~

~~Analysis of special education cost data has resulted in a 41871
finding that the average special education additional cost per 41872
pupil, including the costs of related services, can be expressed 41873
as a multiple of the formula amount. The multiples amounts for the 41874
following categories of special education programs, as these 41875
programs are defined for purposes of Chapter 3323. of the Revised 41876~~

Code, and adjusted as provided in this section, are as follows: 41877

(A) ~~A multiple of 0.2906~~ An amount of \$1,902 for ~~students~~ 41878
each student whose primary or only identified disability is a 41879
speech and language disability, as this term is defined pursuant 41880
to Chapter 3323. of the Revised Code; 41881

(B) ~~A multiple of 0.7374~~ An amount of \$4,827 for ~~students~~ 41882
each student identified as specific learning disabled or 41883
developmentally disabled, as these terms are defined pursuant to 41884
Chapter 3323. of the Revised Code, ~~or identified~~ as having an 41885
other health impairment-minor, or identified as a preschool child 41886
who is developmentally delayed; 41887

(C) ~~A multiple of 1.7716~~ An amount of \$11,596 for ~~students~~ 41888
each student identified as hearing disabled or severe behavior 41889
disabled, as these terms are defined pursuant to Chapter 3323. of 41890
the Revised Code; 41891

(D) ~~A multiple of 2.3643~~ An amount of \$15,475 for ~~students~~ 41892
each student identified as vision impaired, as this term is 41893
defined pursuant to Chapter 3323. of the Revised Code, or as 41894
having an other health impairment-major; 41895

(E) ~~A multiple of 3.2022~~ An amount of \$20,959 for ~~students~~ 41896
each student identified as orthopedically disabled or as having 41897
multiple disabilities, as these terms are defined pursuant to 41898
Chapter 3323. of the Revised Code; 41899

(F) ~~A multiple of 4.7205~~ An amount of \$30,896 for ~~students~~ 41900
each student identified as autistic, having a traumatic brain 41901
~~injuries~~ injury, or as both visually and hearing impaired, as 41902
these terms are defined pursuant to Chapter 3323. of the Revised 41903
Code. 41904

~~In fiscal years 2008, 2009, 2010, 2011, 2012, and 2013, the~~ 41905
~~multiples specified in divisions (A) to (F) of this section shall~~ 41906
~~be adjusted by multiplying them by 0.90.~~ 41907

Sec. 3317.014. The career-technical education additional amount per pupil for each student enrolled in career-technical education programs approved by the department of education in accordance with rules adopted under section 3313.90 of the Revised Code shall be as follows:

(A) An amount of \$2,900 for each student enrolled in career-technical education workforce development programs in environmental and agricultural systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies;

(B) An amount of \$2,600 for each student enrolled in workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, and transportation systems;

(C) An amount of \$1,650 for students enrolled in workforce development career-based intervention programs;

(D) An amount of \$1,200 for students enrolled in workforce development programs in arts and communications, education and training, marketing, workforce development academics, and career development;

(E) An amount of \$900 for students enrolled in family and consumer science programs.

Sec. 3317.016. The amounts for limited English proficiency students shall be as follows:

(A) An amount of \$1,500 for each student who has been enrolled in schools in the United States for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments prescribed by section 3301.0710 of the Revised Code (reading or writing).

(B) An amount of \$1,125 for each student who has been enrolled in schools in the United States for more than 180 school days or was previously exempted from taking the spring administration of either of the state's English language arts assessments prescribed by section 3301.0710 of the Revised Code (reading or writing). 41938
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(C) An amount of \$750 for each student who does not qualify for inclusion under division (A) or (B) of this section and is in a trial-mainstream period, as defined by the department. 41944
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(D) An amount of \$375 for each student who does not qualify for inclusion under division (A), (B), or (C) of this section and for whom the main language spoken at home is not English, as defined by the department. 41947
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Sec. 3317.02. As used in this chapter: 41951

(A)(1) "Category one limited English proficient ADM" means the average daily membership of limited English proficient students described in division (A) of section 3317.016 of the Revised Code and reported under division (B)(16) or (D)(2)(h) of section 3317.03 of the Revised Code. 41952
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(2) "Category two limited English proficient ADM" means the average daily membership of limited English proficient students described in division (B) of section 3317.016 of the Revised Code and reported under division (B)(17) or (D)(2)(i) of section 3317.03 of the Revised Code. 41957
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(3) "Category three limited English proficient ADM" means the average daily membership of limited English proficient students described in division (C) of section 3317.016 of the Revised Code and reported under division (B)(18) or (D)(2)(j) of section 3317.03 of the Revised Code. 41962
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(4) "Category four limited English proficient ADM" means the 41967

average daily membership of limited English proficient students 41968
described in division (D) of section 3317.016 of the Revised Code 41969
and reported under division (B)(19) or (D)(2)(k) of section 41970
3317.03 of the Revised Code. 41971

(B)(1) "Category one special education ADM" means the average 41972
daily membership of children with disabilities receiving special 41973
education services for the disability specified in division (A) of 41974
section 3317.013 of the Revised Code and reported under division 41975
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 41976

(2) "Category two special education ADM" means the average 41977
daily membership of children with disabilities receiving special 41978
education services for those disabilities specified in division 41979
(B) of section 3317.013 of the Revised Code and reported under 41980
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 41981
Code. 41982

(3) "Category three special education ADM" means the average 41983
daily membership of students receiving special education services 41984
for those disabilities specified in division (C) of section 41985
3317.013 of the Revised Code, and reported under division (B)(7) 41986
or (D)(2)(d) of section 3317.03 of the Revised Code. 41987

(4) "Category four special education ADM" means the average 41988
daily membership of students receiving special education services 41989
for those disabilities specified in division (D) of section 41990
3317.013 of the Revised Code and reported under division (B)(8) or 41991
(D)(2)(e) of section 3317.03 of the Revised Code. 41992

(5) "Category five special education ADM" means the average 41993
daily membership of students receiving special education services 41994
for the disabilities specified in division (E) of section 3317.013 41995
of the Revised Code and reported under division (B)(9) or 41996
(D)(2)(f) of section 3317.03 of the Revised Code. 41997

(6) "Category six special education ADM" means the average 41998

daily membership of students receiving special education services 41999
for the disabilities specified in division (F) of section 3317.013 42000
of the Revised Code and reported under division (B)(10) or 42001
(D)(2)(g) of section 3317.03 of the Revised Code. 42002

(C) "County DD board" means a county board of developmental 42003
disabilities. 42004

(D) "Early childhood access count for a school district" 42005
means the quotient obtained by dividing that district's 42006
kindergarten count by the number of publicly funded preschool 42007
providers in the district or, if the number of providers in a 42008
district is equal to zero, the quotient obtained by dividing the 42009
kindergarten count for the county the district is principally 42010
located in by the number of publicly funded preschool providers in 42011
that county. 42012

(E) "Early childhood access index for a school district" 42013
means the quotient obtained by dividing the district's early 42014
childhood access count by the statewide early childhood access 42015
count. 42016

(F) "Economically disadvantaged index for a school district" 42017
means the quotient of that district's percentage of students in 42018
its total ADM who are identified as economically disadvantaged as 42019
defined by the department of education, divided by the statewide 42020
percentage of students identified as economically disadvantaged. 42021

(G)(1) "Formula ADM" means, for a city, local, or exempted 42022
village school district, the average daily membership described in 42023
division (A) of section 3317.03 of the Revised Code, as verified 42024
by the superintendent of public instruction and adjusted if so 42025
ordered under division (K) of that section, and as further 42026
adjusted by counting only twenty per cent of the number of joint 42027
vocational school district students counted under division (A)(3) 42028
of section 3317.03 of the Revised Code. 42029

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. 42030
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(H) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one, two, three, four, or five career technical education ADM in the same proportion the student is counted in formula ADM. 42035
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(I) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code. 42043
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(J) "Medically fragile child" means a child to whom all of the following apply: 42045
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(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition. 42047
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(2) The child requires the services of a registered nurse on a daily basis. 42050
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(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for individuals with intellectual disabilities. 42052
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(K)(1) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education and if either of the following apply: 42055
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(a) The child is identified as having a medical condition 42059

that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." 42060
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(b) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child. 42063
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(2) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules previously adopted by the state board of education but the child's condition does not meet either of the conditions specified in division (K)(1)(a) or (b) of this section. 42068
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(L) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten. 42074
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(M) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code. 42079
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(N) "Related services" includes: 42082

(1) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (B)(3) of this section, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department; 42083
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(2) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability; 42091
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(3) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services; 42094
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(4) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code; 42097
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(5) Any other related service needed by children with disabilities in accordance with their individualized education programs. 42099
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(O) "School district," unless otherwise specified, means city, local, and exempted village school districts. 42102
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(P) "State education aid" has the same meaning as in section 5751.20 of the Revised Code. 42104
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(O) "State share index" means the product of all of the following: 42106
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(1) A school district's valuation index; 42108

(2) The difference between the maximum and minimum of the valuation indexes for all school districts with a total ADM greater than zero divided by 0.9; 42109
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(3) 0.1. 42112

If a school district's state share index is less than 0.05, it shall be considered to be 0.05. If a school district's state share index is greater than 0.95, it shall be considered to be 0.95. 42113
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(R) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property. 42116
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(S) "Total ADM" means, for a city, local, or exempted village school district, the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section.

(T) "Total special education ADM" means the sum of categories one through six special education ADM.

(U) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(V) "Valuation index" means the quotient obtained by dividing the quotient of the statewide three-year average valuation for school districts with a total ADM greater than zero and the current year statewide total ADM by the quotient of a school district's three-year average valuation and its current year total ADM.

Sec. 3317.021. (A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to (7) of this section for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under this chapter.

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location.

(2) The taxable value of tangible personal property, 42150
including public utility personal property, subject to taxation by 42151
the district for the preceding tax year. 42152

(3)(a) The total property tax rate and total taxes charged 42153
and payable for the current expenses for the preceding tax year 42154
and the total property tax rate and the total taxes charged and 42155
payable to a joint vocational district for the preceding tax year 42156
that are limited to or to the extent apportioned to current 42157
expenses. 42158

(b) The portion of the amount of taxes charged and payable 42159
reported for each city, local, and exempted village school 42160
district under division (A)(3)(a) of this section attributable to 42161
a joint vocational school district. 42162

(4) The value of all real and public utility real property in 42163
the school district exempted from taxation minus both of the 42164
following: 42165

(a) The value of real and public utility real property in the 42166
district owned by the United States government and used 42167
exclusively for a public purpose; 42168

(b) The value of real and public utility real property in the 42169
district exempted from taxation under Chapter 725. or 1728. or 42170
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 42171
5709.73, or 5709.78 of the Revised Code. 42172

(5) The total federal adjusted gross income of the residents 42173
of the school district, based on tax returns filed by the 42174
residents of the district, for the most recent year for which this 42175
information is available. 42176

~~(6) The sum of the school district compensation value as 42177
indicated on the list of exempted property for the preceding tax 42178
year under section 5713.08 of the Revised Code as if such property 42179
had been assessed for taxation that year and the other 42180~~

~~compensation value for the school district, minus the amounts 42181
described in divisions (A)(6)(c) to (i) of this section. The 42182
portion of school district compensation value or other 42183
compensation value attributable to an incentive district exemption 42184
may be subtracted only once even if that incentive district 42185
satisfies more than one of the criteria in divisions (A)(6)(c) to 42186
(i) of this section. 42187~~

~~(a) "School district compensation value" means the aggregate 42188
value of real property in the school district exempted from 42189
taxation pursuant to an ordinance or resolution adopted under 42190
division (C) of section 5709.40, division (C) of section 5709.73, 42191
or division (B) of section 5709.78 of the Revised Code to the 42192
extent that the exempted value results in the charging of payments 42193
in lieu of taxes required to be paid to the school district under 42194
division (D)(1) or (2) of section 5709.40, division (D) of section 42195
5709.73, or division (C) of section 5709.78 of the Revised Code. 42196~~

~~(b) "Other compensation value" means the quotient that 42197
results from dividing (i) the dollar value of compensation 42198
received by the school district during the preceding tax year 42199
pursuant to division (B), (C), or (D) of section 5709.82 of the 42200
Revised Code and the amounts received pursuant to an agreement as 42201
specified in division (D)(2) of section 5709.40, division (D) of 42202
section 5709.73, or division (C) of section 5709.78 of the Revised 42203
Code to the extent those amounts were not previously reported or 42204
included in division (A)(6)(a) of this section, and so that any 42205
such amount is reported only once under division (A)(6)(b) of this 42206
section, in relation to exemptions from taxation granted pursuant 42207
to an ordinance or resolution adopted under division (C) of 42208
section 5709.40, division (C) of section 5709.73, or division (B) 42209
of section 5709.78 of the Revised Code, by (ii) the real property 42210
tax rate in effect for the preceding tax year for 42211
nonresidential/agricultural real property after making the 42212~~

~~reductions required by section 319.301 of the Revised Code.~~ 42213

~~(c) The portion of school district compensation value or 42214
other compensation value that was exempted from taxation pursuant 42215
to such an ordinance or resolution for the preceding tax year, if 42216
the ordinance or resolution is adopted prior to January 1, 2006, 42217
and the legislative authority or board of township trustees or 42218
county commissioners, prior to January 1, 2006, executes a 42219
contract or agreement with a developer, whether for profit or 42220
not for profit, with respect to the development of a project 42221
undertaken or to be undertaken and identified in the ordinance or 42222
resolution, and upon which parcels such project is being, or will 42223
be, undertaken;~~ 42224

~~(d) The portion of school district compensation value that 42225
was exempted from taxation for the preceding tax year and for 42226
which payments in lieu of taxes for the preceding tax year were 42227
provided to the school district under division (D)(1) of section 42228
5709.40 of the Revised Code.~~ 42229

~~(e) The portion of school district compensation value that 42230
was exempted from taxation for the preceding tax year pursuant to 42231
such an ordinance or resolution, if and to the extent that, on or 42232
before April 1, 2006, the fiscal officer of the municipal 42233
corporation that adopted the ordinance, or of the township or 42234
county that adopted the resolution, certifies and provides 42235
appropriate supporting documentation to the tax commissioner and 42236
the director of development that, based on hold harmless 42237
provisions in any agreement between the school district and the 42238
legislative authority of the municipal corporation, board of 42239
township trustees, or board of county commissioners that was 42240
entered into on or before June 1, 2005, the ability or obligation 42241
of the municipal corporation, township, or county to repay bonds, 42242
notes, or other financial obligations issued or entered into prior 42243
to January 1, 2006, will be impaired, including obligations to or 42244~~

~~of any other body corporate and politic with whom the legislative authority of the municipal corporation or board of township trustees or county commissioners has entered into an agreement pertaining to the use of service payments derived from the improvements exempted;~~

~~(f) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, in a municipal corporation with a population that exceeds one hundred thousand, as shown by the most recent federal decennial census, that includes a major employment center and that is adjacent to historically distressed neighborhoods, if the legislative authority of the municipal corporation that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval.~~

~~(g) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal decennial census;~~

~~(h) The portion of school district compensation value that~~

~~was exempted from taxation for the preceding tax year under such 42277
an ordinance or resolution, if, prior to January 1, 2006, the 42278
legislative authority of a municipal corporation, board of 42279
township trustees, or board of county commissioners has pledged 42280
service payments for a designated transportation capacity project 42281
approved by the transportation review advisory council under 42282
Chapter 5512. of the Revised Code; 42283~~

~~(i) The portion of school district compensation value that 42284
was exempted from taxation for the preceding tax year under such 42285
an ordinance or resolution if the legislative authority of a 42286
municipal corporation, board of township trustees, or board of 42287
county commissioners have, by January 1, 2006, pledged proceeds 42288
for designated transportation improvement projects that involve 42289
federal funds for which the proceeds are used to meet a local 42290
share match requirement for such funding. 42291~~

~~As used in division (A)(6) of this section, "project" has the 42292
same meaning as in section 5709.40 of the Revised Code. 42293~~

~~(7) The aggregate value of real property in the school 42294
district for which an exemption from taxation is granted by an 42295
ordinance or resolution adopted on or after January 1, 2006, under 42296
Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 42297
5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised 42298
Code, as indicated on the list of exempted property for the 42299
preceding tax year under section 5713.08 of the Revised Code and 42300
as if such property had been assessed for taxation that year, 42301
minus the product determined by multiplying (a) the aggregate 42302
value of the real property in the school district exempted from 42303
taxation for the preceding tax year under any of the chapters or 42304
sections specified in this division, by (b) a fraction, the 42305
numerator of which is the difference between (i) the amount of 42306
anticipated revenue such school district would have received for 42307
the preceding tax year if the real property exempted from taxation 42308~~

~~had not been exempted from taxation and (ii) the aggregate amount 42309
of payments in lieu of taxes on the exempt real property for the 42310
preceding tax year and other compensation received for the 42311
preceding tax year by the school district pursuant to any 42312
agreements entered into on or after January 1, 2006, under section 42313
5709.82 of the Revised Code between the school district and the 42314
legislative authority of a political subdivision that acted under 42315
the authority of a chapter or statute specified in this division, 42316
that were entered into in relation to such exemption, and the 42317
denominator of which is the amount of anticipated revenue such 42318
school district would have received in the preceding fiscal year 42319
if the real property exempted from taxation had not been exempted. 42320~~

(B) On or before the first day of May each year, the tax 42321
commissioner shall certify to the department of education and the 42322
office of budget and management the total taxable real property 42323
value of railroads and, separately, the total taxable tangible 42324
personal property value of all public utilities for the preceding 42325
tax year, by school district and by county of location. 42326

(C) If a public utility has properly and timely filed a 42327
petition for reassessment under section 5727.47 of the Revised 42328
Code with respect to an assessment issued under section 5727.23 of 42329
the Revised Code affecting taxable property apportioned by the tax 42330
commissioner to a school district, the taxable value of public 42331
utility tangible personal property included in the certification 42332
under divisions (A)(2) and (B) of this section for the school 42333
district shall include only the amount of taxable value on the 42334
basis of which the public utility paid tax for the preceding year 42335
as provided in division (B)(1) or (2) of section 5727.47 of the 42336
Revised Code. 42337

(D) If on the basis of the information certified under 42338
division (A) of this section, the department determines that any 42339
district fails in any year to meet the qualification requirement 42340

specified in division (A) of section 3317.01 of the Revised Code, 42341
the department shall immediately request the tax commissioner to 42342
determine the extent to which any school district income tax 42343
levied by the district under Chapter 5748. of the Revised Code 42344
shall be included in meeting that requirement. Within five days of 42345
receiving such a request from the department, the tax commissioner 42346
shall make the determination required by this division and report 42347
the quotient obtained under division (D)(3) of this section to the 42348
department and the office of budget and management. This quotient 42349
represents the number of mills that the department shall include 42350
in determining whether the district meets the qualification 42351
requirement of division (A) of section 3317.01 of the Revised 42352
Code. 42353

The tax commissioner shall make the determination required by 42354
this division as follows: 42355

(1) Multiply one mill times the total taxable value of the 42356
district as determined in divisions (A)(1) and (2) of this 42357
section; 42358

(2) Estimate the total amount of tax liability for the 42359
current tax year under taxes levied by Chapter 5748. of the 42360
Revised Code that are apportioned to current operating expenses of 42361
the district, excluding any income tax receipts allocated for the 42362
project cost, debt service, or maintenance set-aside associated 42363
with a state-assisted classroom facilities project as authorized 42364
by section 3318.052 of the Revised Code; 42365

(3) Divide the amount estimated under division (D)(2) of this 42366
section by the product obtained under division (D)(1) of this 42367
section. 42368

~~(E)(1) On or before June 1, 2006, and the first day of April 42369
of each year thereafter, the director of development shall report 42370
to the department of education, the tax commissioner, and the 42371~~

~~director of budget and management the total amounts of payments 42372
received by each city, local, exempted village, or joint 42373
vocational school district for the preceding tax year pursuant to 42374
division (D) of section 5709.40, division (D) of section 5709.73, 42375
division (C) of section 5709.78, or division (B)(1), (B)(2), (C), 42376
or (D) of section 5709.82 of the Revised Code in relation to 42377
exemptions from taxation granted pursuant to an ordinance adopted 42378
by the legislative authority of a municipal corporation under 42379
division (C) of section 5709.40 of the Revised Code, or a 42380
resolution adopted by a board of township trustees or board of 42381
county commissioners under division (C) of section 5709.73 or 42382
division (B) of section 5709.78 of the Revised Code, respectively. 42383
On or before April 1, 2006, and the first day of March of each 42384
year thereafter, the treasurer of each city, local, exempted 42385
village, or joint vocational school district that has entered into 42386
such an agreement shall report to the director of development the 42387
total amounts of such payments the district received for the 42388
preceding tax year as provided in this section. The state board of 42389
education, in accordance with sections 3319.31 and 3319.311 of the 42390
Revised Code, may suspend or revoke the license of a treasurer 42391
found to have willfully reported erroneous, inaccurate, or 42392
incomplete data under this division. 42393~~

~~(2) On or before April 1, 2007, and the first day of April of 42394
each year thereafter, the director of development shall report to 42395
the department of education, the tax commissioner, and the 42396
director of budget and management the total amounts of payments 42397
received by each city, local, exempted village, or joint 42398
vocational school district for the preceding tax year pursuant to 42399
divisions (B), (C), and (D) of section 5709.82 of the Revised Code 42400
in relation to exemptions from taxation granted pursuant to 42401
ordinances or resolutions adopted on or after January 1, 2006, 42402
under Chapter 725. or 1728., sections 3735.65 to 3735.70, or 42403
section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the 42404~~

~~Revised Code. On or before March 1, 2007, and the first day of 42405
March of each year thereafter, the treasurer of each city, local, 42406
exempted village, or joint vocational school district that has 42407
entered into such an agreement shall report to the director of 42408
development the total amounts of such payments the district 42409
received for the preceding tax year as provided by this section. 42410
The state board of education, in accordance with sections 3319.31 42411
and 3319.311 of the Revised Code, may suspend or revoke the 42412
license of a treasurer found to have willfully reported erroneous, 42413
inaccurate, or incomplete data under this division. 42414~~

Sec. 3317.022. (A) The department of education shall compute 42415
and distribute state core foundation funding to each eligible 42416
school district for the fiscal year, using the information 42417
obtained under section 3317.021 of the Revised Code in the 42418
calendar year in which the fiscal year begins, as prescribed in 42419
the following divisions: 42420

(1) An opportunity grant calculated under the following 42421
formula: 42422

{ \$250,000 - [the district's three-year average valuation / 42423
(total ADM + preschool scholarship ADM)] } X 0.02 X (formula ADM + 42424
preschool scholarship ADM). 42425

If the result of a calculation for a school district under 42426
division (A)(1) of this section is less than zero, the district's 42427
opportunity grant shall be zero. 42428

(2) Targeted assistance funds calculated under section 42429
3317.0217 of the Revised Code. 42430

(3) Additional state aid for special education and related 42431
services provided under Chapter 3323. of the Revised Code 42432
calculated as the sum of the following: 42433

(a) The district's category one special education ADM X the 42434

<u>amount specified in division (A) of section 3317.013 of the</u>	42435
<u>Revised Code X the district's state share index;</u>	42436
<u>(b) The district's category two special education ADM X the</u>	42437
<u>amount specified in division (B) of section 3317.013 of the</u>	42438
<u>Revised Code X the district's state share index;</u>	42439
<u>(c) The district's category three special education ADM X the</u>	42440
<u>amount specified in division (C) of section 3317.013 of the</u>	42441
<u>Revised Code X the district's state share index;</u>	42442
<u>(d) The district's category four special education ADM X the</u>	42443
<u>amount specified in division (D) of section 3317.013 of the</u>	42444
<u>Revised Code X the district's state share index;</u>	42445
<u>(e) The district's category five special education ADM X the</u>	42446
<u>amount specified in division (E) of section 3317.013 of the</u>	42447
<u>Revised Code X the district's state share index;</u>	42448
<u>(f) The district's category six special education ADM X the</u>	42449
<u>amount specified in division (F) of section 3317.013 of the</u>	42450
<u>Revised Code X the district's state share index.</u>	42451
<u>(4) Early childhood access funds for each district with an</u>	42452
<u>economically disadvantaged index greater than 1.0 and an early</u>	42453
<u>childhood access index greater than 0.50, calculated under the</u>	42454
<u>following formula:</u>	42455
<u>2 X the full-time equivalent number of kindergarten students</u>	42456
<u>as reported under section 3317.03 of the Revised Code X \$600 X the</u>	42457
<u>district's early childhood access index.</u>	42458
<u>(5) Economically disadvantaged funds calculated under the</u>	42459
<u>following formula:</u>	42460
<u>The number of students who are economically disadvantaged as</u>	42461
<u>reported under division (B)(22) of section 3317.03 of the Revised</u>	42462
<u>Code X \$500 X the district's economically disadvantaged index.</u>	42463
<u>(6) Limited English proficiency funds calculated as the sum</u>	42464

of the following: 42465

(a) The district's category one limited English proficiency 42466
ADM X the amount specified in division (A) of section 3317.016 of 42467
the Revised Code X the district's state share index; 42468

(b) The district's category two limited English proficiency 42469
ADM X the amount specified in division (B) of section 3317.016 of 42470
the Revised Code X the district's state share index; 42471

(c) The district's category three limited English proficiency 42472
ADM X the amount specified in division (C) of section 3317.016 of 42473
the Revised Code X the district's state share index; 42474

(d) The district's category four limited English proficiency 42475
ADM X the amount specified in division (D) of section 3317.016 of 42476
the Revised Code X the district's state share index. 42477

(7) Gifted funds calculated under the following formula: 42478

\$50 X the district's formula ADM. 42479

(B) In any fiscal year, a school district shall spend for 42480
purposes that the department designates as approved for special 42481
education and related services expenses at least the amount 42482
calculated as follows: 42483

((opportunity grant calculated under division (A)(1) 42484
of this section / the district's formula ADM) 42485
X the total special education ADM) + 42486
the amount paid to the district under division (A)(3) of this 42487
section 42488

The purposes approved by the department for special education 42489
expenses shall include, but shall not be limited to, 42490
identification of children with disabilities, compliance with 42491
state rules governing the education of children with disabilities 42492
and prescribing the continuum of program options for children with 42493
disabilities, provision of speech language pathology services, and 42494

the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population. 42495
42496
42497

The scholarships deducted from the school district's account under sections 3310.41 and 3310.55 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with this division. 42498
42499
42500
42501
42502

Sec. 3317.023. (A) The amounts required to be paid to a district under this chapter shall be adjusted by the amount of the computations made under divisions (B) to (K) of this section. 42503
42504
42505

As used in this section and in sections 3317.16 to 3317.162 of the Revised Code: 42506
42507

(1) "~~VEPD~~ CTPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of ~~vocational~~ career-technical education services to students within the district or group. 42508
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(2) "Lead district" means a school district, including a joint vocational school district, designated by the department as a ~~VEPD~~ CTPD, or designated to provide primary ~~vocational~~ career-technical education leadership within a ~~VEPD~~ CTPD composed of a group of districts. 42513
42514
42515
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(B) If a local ~~school district, or a~~ city, or exempted village school district to which a governing board of an educational service center provides services pursuant to an agreement entered into under section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under ~~section 3317.11 of the Revised Code~~ the agreement. 42518
42519
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42521
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(C)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.

(D) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under this chapter.

(E) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

(F)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such

payments under division (F)(1) of this section, add the amount of 42556
such payments. 42557

(G) If the district is required to pay an amount of funds to 42558
a cooperative education district pursuant to a provision described 42559
by division (B)(4) of section 3311.52 or division (B)(8) of 42560
section 3311.521 of the Revised Code, deduct such amounts as 42561
provided under that provision and credit those amounts to the 42562
cooperative education district for payment to the district under 42563
division (B)(1) of section 3317.19 of the Revised Code. 42564

(H)(1) If a district is educating a student entitled to 42565
attend school in another district pursuant to a shared education 42566
contract, compact, or cooperative education agreement other than 42567
an agreement entered into pursuant to section 3313.842 of the 42568
Revised Code, credit to that educating district on an FTE basis 42569
both of the following: 42570

(a) ~~An amount equal to the formula amount~~ The per-pupil 42571
amount of the opportunity grant calculated under division (A)(1) 42572
of section 3317.022 of the Revised Code for the school district in 42573
which the student is entitled to attend school. 42574

(b) ~~An~~ Any amount ~~equal to \$5,732 times the state share~~ 42575
~~percentage times any multiple~~ applicable to the student ~~for fiscal~~ 42576
~~year 2009~~ pursuant to section 3317.013 or 3317.014 of the Revised 42577
Code, ~~as those sections existed for that fiscal year.~~ 42578

(2) Deduct any amount credited pursuant to division (H)(1) of 42579
this section from amounts paid to the school district in which the 42580
student is entitled to attend school pursuant to section 3313.64 42581
or 3313.65 of the Revised Code. 42582

(3) If the district is required by a shared education 42583
contract, compact, or cooperative education agreement to make 42584
payments to an educational service center, deduct the amounts from 42585
payments to the district and add them to the amounts paid to the 42586

service center pursuant to section 3317.11 of the Revised Code. 42587

(I)(1) If a district, including a joint vocational school 42588
district, is a lead district of a ~~VEPD~~ CTPD, credit to that 42589
district the following amounts calculated for all the school 42590
districts within that VEPD: 42591

(a) In any fiscal year except fiscal year 2012 or 2013, the 42592
amount computed under division (D)(2) of section 3317.022 of the 42593
Revised Code; 42594

(b) In fiscal years 2012 and 2013, an amount equal to the 42595
following: 42596

state share percentage X .05 X \$5,732 X 42597

the sum of categories one 42598

and two vocational education ADM 42599

(2) Deduct from each appropriate district that is not a lead 42600
district, the amount attributable to that district that is 42601
credited to a lead district under division (I)(1) of this section. 42602

Division (I) of this section shall not apply after fiscal 42603
year 2013. 42604

(J) If the department pays a joint vocational school district 42605
under division ~~(G)(4)(C)(3)~~ of section 3317.16 of the Revised Code 42606
for excess costs of providing special education and related 42607
services to a student with a disability, as calculated under 42608
division ~~(G)(2)(C)(1)~~ of that section, the department shall deduct 42609
the amount of that payment from the city, local, or exempted 42610
village school district that is responsible as specified in that 42611
section for the excess costs. 42612

(K)(1) If the district reports an amount of excess cost for 42613
special education services for a child under division (C) of 42614
section 3323.14 of the Revised Code, the department shall pay that 42615
amount to the district. 42616

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

~~Sec. 3317.0212. The department of education shall make no payments under this section for fiscal year 2012 or 2013.~~

(A) As used in this section:

(1) "Assigned bus" means a school bus used to transport qualifying riders.

(2) "Nontraditional ridership" means the average number of qualifying riders who are enrolled in a community school established under Chapter 3314. of the Revised Code, in a STEM school established under Chapter 3326. of the Revised Code, or in a nonpublic school and are provided school bus service by a school district during the first full week of October.

(3) "Qualifying riders" means resident students enrolled in regular education in grades kindergarten to twelve who are provided school bus service by a school district and who live more than one mile from the school they attend, including students with dual enrollment in a joint vocational school district or a cooperative education school district, and students enrolled in a community school, STEM school, or nonpublic school.

(4) "Qualifying ridership" means the average number of qualifying riders who are provided school bus service by a school district during the first full week of October.

(5) "Rider density" means the number of qualifying riders per square mile of a school district.

(6) "School bus service" means a school district's transportation of qualifying riders in any of the following types of vehicles:

(a) School buses owned or leased by the district;	42647
(b) School buses operated by a private contractor hired by the district;	42648 42649
(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise.	42650 42651 42652
(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, nontraditional ridership, number of qualifying riders per assigned bus, and any other information requested by the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department.	42653 42654 42655 42656 42657 42658 42659
(C) The department shall calculate the statewide transportation cost per student as follows:	42660 42661
(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year.	42662 42663 42664 42665 42666
(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year.	42667 42668 42669 42670 42671 42672 42673
(D) The department shall calculate the statewide transportation cost per mile as follows:	42674 42675
(1) Determine each city, local, and exempted village school	42676

district's transportation cost per mile by dividing the district's 42677
total costs for school bus service in the previous fiscal year by 42678
its total number of miles driven for school bus service in the 42679
previous fiscal year. 42680

(2) After excluding districts that do not provide school bus 42681
service and the ten districts with the highest transportation 42682
costs per mile and the ten districts with the lowest 42683
transportation costs per mile, divide the aggregate cost for 42684
school bus service for the remaining districts in the previous 42685
fiscal year by the aggregate miles driven for school bus service 42686
in those districts in the previous fiscal year. 42687

(E) The department shall calculate each city, local, and 42688
exempted village school district's transportation base payment as 42689
follows: 42690

(1) Multiply the statewide transportation cost per student by 42691
the district's qualifying ridership for the current fiscal year. 42692

(2) Multiply the statewide transportation cost per mile by 42693
the district's total number of miles driven for school bus service 42694
in the current fiscal year. 42695

(3) Multiply the greater of the amounts calculated under 42696
divisions (E)(1) and (2) of this section by the greater of sixty 42697
per cent or the district's state share percentage index, as 42698
defined in section 3317.02 of the Revised Code. 42699

(F) The department shall calculate each city, local, and 42700
exempted village school district's nontraditional ridership 42701
adjustment according to the following formula: 42702

(nontraditional ridership for the current fiscal year / 42703
qualifying ridership for the current fiscal year) X 0.1 X 42704
transportation base payment 42705

(G) If a city, local, or exempted village school district 42706
offers school bus service to all resident students who are 42707

enrolled in regular education in district schools in grades nine 42708
to twelve and who live more than one mile from the school they 42709
attend, the department shall calculate the district's high school 42710
ridership adjustment according to the following formula: 42711

0.025 X transportation base payment 42712

(H) If a city, local, or exempted village school district 42713
offers school bus service to students enrolled in grades 42714
kindergarten to eight who live more than one mile, but two miles 42715
or less, from the school they attend, the department shall 42716
calculate an additional adjustment according to the following 42717
formula: 42718

0.025 X transportation base payment 42719

(I)(1) The department annually shall establish a target 42720
number of qualifying riders per assigned bus for each city, local, 42721
and exempted village school district. The department shall use the 42722
most recently available data in establishing the target number. 42723
The target number shall be based on the statewide median number of 42724
qualifying riders per assigned bus as adjusted to reflect the 42725
district's rider density in comparison to the rider density of all 42726
other districts. The department shall post on the department's web 42727
site each district's target number of qualifying riders per 42728
assigned bus and a description of how the target number was 42729
determined. 42730

(2) The department shall determine each school district's 42731
efficiency index by dividing the district's median number of 42732
qualifying riders per assigned bus by its target number of 42733
qualifying riders per assigned bus. 42734

(3) The department shall determine each city, local, and 42735
exempted village school district's efficiency adjustment as 42736
follows: 42737

(a) If the district's efficiency index is equal to or greater 42738

than 1.5, the efficiency adjustment shall be calculated according 42739
to the following formula: 42740

0.1 X transportation base payment 42741

(b) If the district's efficiency index is less than 1.5 but 42742
equal to or greater than 1.0, the efficiency adjustment shall be 42743
calculated according to the following formula: 42744

[(efficiency index - 1) / 5] X transportation base payment 42745

(c) If the district's efficiency index is less than 1.0, the 42746
efficiency adjustment shall be zero. 42747

(J) The department shall pay each city, local, and exempted 42748
village school district the lesser of the following: 42749

(1) The sum of the amounts calculated under divisions (E) to 42750
(H) and (I)(3) of this section; 42751

(2) The district's total costs for school bus service for the 42752
prior fiscal year. 42753

(K) In addition to funds paid under division (J) of this 42754
section, each city, local, and exempted village district shall 42755
receive in accordance with rules adopted by the state board of 42756
education a payment for students transported by means other than 42757
school bus service and whose transportation is not funded under 42758
division (C) of section 3317.024 of the Revised Code. The rules 42759
shall include provisions for school district reporting of such 42760
students. 42761

Sec. 3317.0213. (A) The department of education shall compute 42762
and pay to each school district in accordance with this section 42763
additional state aid for preschool special education children to 42764
each city, local, and exempted village school district and to each 42765
institution, as defined in section 3323.091 of the Revised Code. 42766
Funding shall be provided for children who are not enrolled in 42767
kindergarten and who are under age six on the thirtieth day of 42768

September of the academic year, or on the first day of August of 42769
the academic year if the school district in which the child is 42770
enrolled has adopted a resolution under division (A)(3) of section 42771
3321.01 of the Revised Code, but not less than age three on the 42772
first day of December of the academic year. 42773

The additional state aid shall be calculated under the 42774
following formula: 42775

(\$4,000 X the number of preschool special education children) 42776
+ the sum of the following: 42777

(1) The district's or institution's category one special 42778
education preschool students X the amount specified in division 42779
(A) of section 3317.013 of the Revised Code X the district's state 42780
share index X 0.50; 42781

(2) The district's or institution's category two special 42782
education preschool students X the amount specified in division 42783
(B) of section 3317.013 of the Revised Code X the district's state 42784
share index X 0.50; 42785

(3) The district's or institution's category three special 42786
education preschool students X the amount specified in division 42787
(C) of section 3317.013 of the Revised Code X the district's state 42788
share index X 0.50; 42789

(4) The district's or institution's category four special 42790
education preschool students X the amount specified in division 42791
(D) of section 3317.013 of the Revised Code X the district's state 42792
share index X 0.50; 42793

(5) The district's or institution's category five special 42794
education preschool students X the amount specified in division 42795
(E) of section 3317.013 of the Revised Code X the district's state 42796
share index X 0.50; 42797

(6) The district's or institution's category six special 42798

education preschool students X the amount specified in division 42799
(F) of section 3317.013 of the Revised Code X the district's state 42800
share index X 0.50. 42801

The special education disability categories for preschool 42802
children used in this section are the same categories prescribed 42803
in section 3317.013 of the Revised Code. 42804

As used in division (A) of this section, the state share 42805
index of a student enrolled in an institution is the state share 42806
index of the school district in which the student is entitled to 42807
attend school under section 3313.64 or 3313.65 of the Revised 42808
Code. 42809

(B) If an education service center or county DD board is 42810
providing services to preschool special education students under 42811
agreement with the city, local, or exempted village school 42812
district in which the students are entitled to attend school, that 42813
district may authorize the department to transfer funds computed 42814
under this section to the service center or county DD board 42815
providing those services. 42816

Sec. 3317.0214. (A) A city, local, exempted village, or joint 42817
vocational school district, community school established under 42818
Chapter 3314. of the Revised Code, or STEM school established 42819
under Chapter 3326. of the Revised Code may apply for funds from 42820
the special education exceptional cost fund if the district or 42821
school meets all of the following criteria: 42822

(1) The district or school did not carry forward more than 40 42823
per cent of the funds allocated under part B of the "Individuals 42824
with Disabilities Education Act," 20 U.S.C. 1400 et seq., as 42825
amended, and has not lapsed funds awarded under that act for the 42826
year in which reimbursement is being requested . 42827

(2) The district or school does not have an annual special 42828

education determination by the department of education of less 42829
than "needs assistance." 42830

(3) The district or school has complied with all systems of 42831
accountability and reporting required by the department, including 42832
accountability ratings, performance-based monitoring, compliance, 42833
fiscal requirements, and procedural safeguards processes. 42834

(B) For each district or school that requests reimbursement 42835
from the special education exceptional cost fund, the department 42836
shall compute and pay in accordance with this division additional 42837
state aid for students in categories two through six special 42838
education ADM. If a district's or school's costs for the fiscal 42839
year for a student in its categories two through six special 42840
education ADM exceed the threshold exceptional cost for serving 42841
the student, the district or school may submit to the 42842
superintendent of public instruction documentation, as prescribed 42843
by the superintendent, of all its costs for that student. 42844

Upon submission of documentation for a student of the type 42845
and in the manner prescribed, the department shall pay to a school 42846
district an amount equal to the sum of the following: 42847

(1) One-half of the district's costs for the student in 42848
excess of the threshold exceptional cost; 42849

(2) The product of one-half of the district's costs for the 42850
student in excess of the threshold exceptional cost multiplied by 42851
the district's state share index. 42852

(C) For purposes of division (B) of this section, the 42853
threshold exceptional cost for serving a student equals: 42854

(1) For a student in the school district's category two, 42855
three, four, or five special education ADM, \$27,375; 42856

(2) For a student in the district's category six special 42857
education ADM, \$32,850. 42858

Upon submission of documentation for a student of the type 42859
and in the manner prescribed, the department shall pay to a 42860
community school or STEM school an amount equal to the school's 42861
costs for the student in excess of the threshold exceptional cost. 42862

(D) A district or school shall report under division (B) of 42863
this section, and the department shall pay for, only the costs of 42864
educational expenses and the related services provided to the 42865
student in accordance with the student's individualized education 42866
program. Any legal fees, court costs, or other costs associated 42867
with any cause of action relating to the student shall not be 42868
included in the amount. 42869

Sec. 3317.0215. There is hereby created the special education 42870
exceptional cost fund in the state treasury. The department of 42871
education shall deposit into the fund fifteen per cent of all of 42872
the funds calculated under division (A)(3) of section 3317.022 of 42873
the Revised Code except for the following: 42874

(A) The funds transferred to community schools established 42875
under Chapter 3314. and STEM schools established under Chapter 42876
3326. of the Revised Code; 42877

(B) The funds transferred to the parents of special education 42878
students who are participating in the autism scholarship program 42879
established under section 3310.41 of the Revised Code; 42880

(C) The funds transferred to the parents of special education 42881
students who are participating in the Jon Peterson special needs 42882
scholarship program established under sections 3310.51 to 3310.64 42883
of the Revised Code. 42884

Sec. 3317.0217. Payment of the amount calculated for a school 42885
district under this section shall be made under division (A) of 42886
section 3317.022 of the Revised Code. 42887

The department of education shall annually compute targeted 42888

<u>assistance funds to school districts, as follows:</u>	42889
<u>(A) Calculate the local wealth per pupil of each school district, which equals the following sum:</u>	42890
<u>(1) One-half times the quotient of (a) the district's three-year average valuation divided by (b) its formula ADM; plus</u>	42891
<u>(2) One-half times the quotient of (a) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (b) its formula ADM.</u>	42892
<u>(B) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest local wealth per pupil.</u>	42893
<u>(C) Compute the statewide wealth per pupil, which equals the following sum:</u>	42894
<u>(1) One-half times the quotient of (a) the sum of the three-year average valuations for all school districts divided by (b) the sum of formula ADM counts for all schools districts; plus</u>	42895
<u>(2) One-half times the quotient of (a) the sum of the three-year average total federal adjusted gross incomes for all school districts divided by (b) the sum of formula ADM counts for all school districts.</u>	42896
<u>(D) Compute each district's wealth index by dividing the statewide wealth per pupil by the district's local wealth per pupil.</u>	42897
<u>(E) Compute the per pupil targeted assistance for each eligible school district in accordance with the following formula:</u>	42898
<u>(Threshold local wealth per pupil - the district's local wealth per pupil)</u>	42899
<u>X target millage X the district's wealth index</u>	42900
<u>Where:</u>	42901
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(1) An "eligible school district" means a school district with a local wealth per pupil less than that of the school district with the 490th lowest local wealth per pupil. 42919
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(2) "Threshold local wealth per pupil" means the local wealth per pupil of the school district with the 490th lowest local wealth per pupil. 42922
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(3) "Target millage," means 0.006, in fiscal year 2014, and 0.007, in fiscal year 2015. 42925
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If the result of the calculation for a school district under division (D) of this section is less than zero, the district's targeted assistance shall be zero. 42927
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(F) Calculate the aggregate amount to be paid as targeted assistance funds to each school district under division (A) of section 3317.022 of the Revised Code by multiplying the per pupil targeted assistance computed under division (E) of this section by the district's net formula ADM. 42930
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As used in this division, a district's "net formula ADM" means its formula ADM minus both the number of internet- and computer-based community school students reported under division (B)(3)(e) of section 3317.03 of the Revised Code and scholarship students reported under divisions (B)(3)(f) and (g) of that section. 42935
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Sec. 3317.03. (A) The superintendent of each city, local, and exempted village school district ~~and of each educational service center shall, for the schools under the superintendent's supervision,~~ certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the average daily membership of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend 42941
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school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the district's formula ADM. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in ~~the first paragraph of division (B)(A)(1) of section 3317.01~~ 3313.482 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.

The average daily membership during such week shall consist of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;

(e) Students receiving services in the district through a scholarship awarded under either section 3310.41 or sections

3310.51 to 3310.64 of the Revised Code. 42980

(2) On an FTE basis, the number of students entitled to 42981
attend school in the district pursuant to section 3313.64 or 42982
3313.65 of the Revised Code, but receiving educational services in 42983
grades kindergarten through twelve from one or more of the 42984
following entities: 42985

(a) A community school pursuant to Chapter 3314. of the 42986
Revised Code, including any participation in a college pursuant to 42987
Chapter 3365. of the Revised Code while enrolled in such community 42988
school; 42989

(b) An alternative school pursuant to sections 3313.974 to 42990
3313.979 of the Revised Code as described in division (I)(2)(a) or 42991
(b) of this section; 42992

(c) A college pursuant to Chapter 3365. of the Revised Code, 42993
except when the student is enrolled in the college while also 42994
enrolled in a community school pursuant to Chapter 3314. ~~or~~; a 42995
science, technology, engineering, and mathematics school 42996
established under Chapter 3326.; or a college-preparatory boarding 42997
school established under Chapter 3328. of the Revised Code; 42998

(d) An adjacent or other school district under an open 42999
enrollment policy adopted pursuant to section 3313.98 of the 43000
Revised Code; 43001

(e) An educational service center or cooperative education 43002
district; 43003

(f) Another school district under a cooperative education 43004
agreement, compact, or contract; 43005

(g) A chartered nonpublic school with a scholarship paid 43006
under section 3310.08 of the Revised Code, if the students 43007
qualified for the scholarship under section 3310.03 of the Revised 43008
Code; 43009

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school.

(3) The number of students enrolled in a joint vocational school district or under a ~~vocational~~ career-technical education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a ~~vocational~~ career-technical education compact;

(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county DD board, ~~minus the number of such children placed with a county DD board in fiscal year 1998.~~ If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(B) To enable the department of education to obtain the data

needed to complete the calculation of payments pursuant to this 43041
chapter, in addition to the average daily membership, each 43042
superintendent shall report separately the following student 43043
counts for the same week for which average daily membership is 43044
certified: 43045

(1) The total average daily membership in regular learning 43046
day classes included in the report under division (A)(1) or (2) of 43047
this section for each of the individual grades kindergarten 43048
through twelve in schools under the superintendent's supervision; 43049

(2) The number of all preschool children with disabilities 43050
enrolled as of the first day of December in classes in the 43051
district ~~that are~~ for whom the district is eligible for approval 43052
to receive funding under ~~division (B) of~~ section ~~3317.05~~ 3317.0213 43053
of the Revised Code and the number of those classes, which shall 43054
be reported not later than the fifteenth day of December, in 43055
accordance with ~~rules adopted under that~~ the disability categories 43056
prescribed in section 3317.013 of the Revised Code; 43057

(3) The number of children entitled to attend school in the 43058
district pursuant to section 3313.64 or 3313.65 of the Revised 43059
Code who are: 43060

(a) Participating in a pilot project scholarship program 43061
established under sections 3313.974 to 3313.979 of the Revised 43062
Code as described in division (I)(2)(a) or (b) of this section; 43063

(b) Enrolled in a college under Chapter 3365. of the Revised 43064
Code, except when the student is enrolled in the college while 43065
also enrolled in a community school pursuant to Chapter 3314. ~~or~~ 43066
a science, technology, engineering, and mathematics school 43067
established under Chapter 3326. of the Revised Code; or a 43068
college-preparatory boarding school established under Chapter 43069
3328. of the Revised Code; 43070

(c) Enrolled in an adjacent or other school district under 43071

section 3313.98 of the Revised Code;	43072
(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	43073 43074 43075 43076 43077 43078
(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	43079 43080 43081 43082
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code <u>and who qualified for the scholarship under section 3310.03 of the Revised Code</u> ;	43083 43084 43085 43086
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	43087 43088 43089
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	43090 43091 43092
(i) Participating in a program operated by a county DD board or a state institution;	43093 43094
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	43095 43096 43097 43098
(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code, <u>including any participation in a college pursuant to Chapter 3365. of the</u>	43099 43100 43101

<u>Revised Code.</u>	43102
(4) The number of pupils enrolled in joint vocational schools;	43103 43104
(5) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;	43105 43106 43107 43108 43109 43110 43111 43112
(6) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;	43113 43114 43115 43116 43117 43118 43119 43120
(7) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;	43121 43122 43123 43124 43125 43126 43127 43128
(8) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D) of section 3317.013 of the	43129 43130 43131 43132

Revised Code, including children attending a special education 43133
program operated by an alternative public provider or a registered 43134
private provider with a scholarship awarded under sections 3310.51 43135
to 3310.64 of the Revised Code; 43136

(9) The combined average daily membership of children with 43137
disabilities reported under division (A)(1) or (2) of this section 43138
receiving special education services for the category five 43139
disabilities described in division (E) of section 3317.013 of the 43140
Revised Code, including children attending a special education 43141
program operated by an alternative public provider or a registered 43142
private provider with a scholarship awarded under sections 3310.51 43143
to 3310.64 of the Revised Code; 43144

(10) The combined average daily membership of children with 43145
disabilities reported under division (A)(1) or (2) and under 43146
division (B)(3)(h) of this section receiving special education 43147
services for category six disabilities described in division (F) 43148
of section 3317.013 of the Revised Code, including children 43149
attending a special education program operated by an alternative 43150
public provider or a registered private provider with a 43151
scholarship awarded under either section 3310.41 or sections 43152
3310.51 to 3310.64 of the Revised Code; 43153

(11) The average daily membership of pupils reported under 43154
division (A)(1) or (2) of this section enrolled in category one 43155
~~vocational~~ career-technical education programs or classes, 43156
described in division (A) of section 3317.014 of the Revised Code, 43157
operated by the school district or by another district, ~~other than~~ 43158
including a joint vocational school district, or by an educational 43159
service center, excluding any student reported under division 43160
(B)(3)(e) of this section as enrolled in an internet- or 43161
computer-based community school, notwithstanding division ~~(C)~~(J) 43162
of section 3317.02 of the Revised Code and division (C)(3) of this 43163
section; 43164

(12) The average daily membership of pupils reported under 43165
division (A)(1) or (2) of this section enrolled in category two 43166
~~vocational~~ career-technical education programs or services, 43167
described in division (B) of section 3317.014 of the Revised Code, 43168
operated by the school district or another school district, ~~other~~ 43169
~~than~~ including a joint vocational school district, or by an 43170
educational service center, excluding any student reported under 43171
division (B)(3)(e) of this section as enrolled in an internet- or 43172
computer-based community school, notwithstanding division ~~(C)~~(J) 43173
of section 3317.02 of the Revised Code and division (C)(3) of this 43174
section; 43175

~~Beginning with fiscal year 2010, vocational education ADM 43176
shall not be used to calculate a district's funding but shall be 43177
reported under divisions (B)(11) and (12) of this section for 43178
statistical purposes. 43179~~

(13) The average daily membership of pupils reported under 43180
division (A)(1) or (2) of this section enrolled in category three 43181
career-technical education programs or services, described in 43182
division (C) of section 3317.014 of the Revised Code, operated by 43183
the school district or another school district, including a joint 43184
vocational school district, or by an educational service center, 43185
excluding any student reported under division (B)(3)(e) of this 43186
section as enrolled in an internet- or computer-based community 43187
school, notwithstanding division (C) of section 3317.02 of the 43188
Revised Code and division (C)(3) of this section; 43189

(14) The average daily membership of pupils reported under 43190
division (A)(1) or (2) of this section enrolled in category four 43191
career-technical education programs or services, described in 43192
division (D) of section 3317.014 of the Revised Code, operated by 43193
the school district or another school district, including a joint 43194
vocational school district, or by an educational service center, 43195
excluding any student reported under division (B)(3)(e) of this 43196

section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section; 43197
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(15) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category five career-technical education programs or services, described in division (E) of section 3317.014 of the Revised Code, operated by the school district or another school district, including a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section; 43200
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(16) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficiency students described in division (A) of section 3317.016 of the Revised Code; 43210
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(17) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficiency students described in division (B) of section 3317.016 of the Revised Code; 43214
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(18) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficiency students described in division (C) of section 3317.016 of the Revised Code; 43218
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(19) The average daily membership of pupils reported under division (A)(1) or (2) of this section who are limited English proficiency students described in division (D) of section 3317.016 of the Revised Code; 43222
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(20) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, 43226
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reported in accordance with rules adopted by the department of education; 43228
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~~(14)~~(21)(a) The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998; 43230
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(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division (A) of section 3317.013 of the Revised Code; 43233
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(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division (B) of section 3317.013 of the Revised Code; 43238
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(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division (C) of section 3317.013 of the Revised Code; 43243
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(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code; 43248
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(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code; 43253
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(g) The number of children with disabilities, other than 43258

preschool children with disabilities, placed with a county DD 43259
board in the current fiscal year to receive special education 43260
services for category six disabilities described in division (F) 43261
of section 3317.013 of the Revised Code. 43262

(22) The number of students who are economically 43263
disadvantaged, as defined by the department. 43264

(C)(1) The average daily membership in divisions (B)(1) to 43265
(12) of this section shall be based upon the number of full-time 43266
equivalent students. The state board of education shall adopt 43267
rules defining full-time equivalent students and for determining 43268
the average daily membership therefrom for the purposes of 43269
divisions (A), (B), and (D) of this section. ~~Each student enrolled 43270~~
~~in kindergarten shall be counted as one full-time equivalent 43271~~
~~student regardless of whether the student is enrolled in a 43272~~
~~part-day or all-day kindergarten class. 43273~~

(2) A student enrolled in a community school established 43274
under Chapter 3314., a science, technology, engineering, and 43275
mathematics school established under Chapter 3326., or a 43276
college-preparatory boarding school established under Chapter 43277
3328. of the Revised Code shall be counted in the formula ADM and, 43278
if applicable, the category one, two, three, four, five, or six 43279
special education ADM of the school district in which the student 43280
is entitled to attend school under section 3313.64 or 3313.65 of 43281
the Revised Code for the same proportion of the school year that 43282
the student is counted in the enrollment of the community school, 43283
the science, technology, engineering, and mathematics school, or 43284
the college-preparatory boarding school for purposes of section 43285
3314.08, 3326.33, or 3328.24 of the Revised Code. Notwithstanding 43286
the number of students reported pursuant to division (B)(3)(d), 43287
(e), (j), or (k) of this section, the department may adjust the 43288
formula ADM of a school district to account for students entitled 43289
to attend school in the district under section 3313.64 or 3313.65 43290

of the Revised Code who are enrolled in a community school, a science, technology, engineering, and mathematics school, or a college-preparatory boarding school for only a portion of the school year.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to ~~(12)~~(22), or division (D) of this section, except as follows:

(a) A child with a disability described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two ~~vocational~~ career-technical education ADM. As provided in division ~~(C)~~(J) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in ~~vocational~~ career-technical education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one ~~or~~, two ~~vocational, three, four, or five~~ career-technical education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one ~~or~~, two ~~vocational, three, four, or five~~ career-technical education ADM in the same proportion as the percentage of time that the child spends in the ~~vocational~~ career-technical education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school 43322
district shall certify to the superintendent of public instruction 43323
on or before the fifteenth day of October in each year for the 43324
first full school week in October the ~~formula ADM, for purposes of~~ 43325
~~section 3318.42 of the Revised Code and for any other purpose~~ 43326
~~prescribed by law for which "formula ADM" of the joint vocational~~ 43327
~~district is a factor~~ average daily membership. If a school 43328
operated by the joint vocational school district is closed for one 43329
or more days during that week due to hazardous weather conditions 43330
or other circumstances described in ~~the first paragraph of~~ 43331
division ~~(B)(A)(1)~~ of section ~~3317.01~~ 3313.482 of the Revised 43332
Code, the superintendent may apply to the superintendent of public 43333
instruction for a waiver, under which the superintendent of public 43334
instruction may exempt the district superintendent from certifying 43335
the ~~formula ADM~~ average daily membership for that school for that 43336
week and specify an alternate week for certifying the ~~formula ADM~~ 43337
average daily membership of that school. 43338

The ~~formula ADM~~ average daily membership, except as otherwise 43339
provided in this division, shall consist of the average daily 43340
membership during such week, on an FTE basis, of the number of 43341
students receiving any educational services from the district, 43342
including students enrolled in a community school established 43343
under Chapter 3314. or a science, technology, engineering, and 43344
mathematics school established under Chapter 3326. of the Revised 43345
Code who are attending the joint vocational district ~~under an~~ 43346
~~agreement between the district board of education and the~~ 43347
~~governing authority of the community school or the governing body~~ 43348
~~of the science, technology, engineering, and mathematics school~~ 43349
and are entitled to attend school in a city, local, or exempted 43350
village school district whose territory is part of the territory 43351
of the joint vocational district. 43352

The following categories of students shall not be included in 43353

the determination made under division (D)(1) of this section: 43354

(a) Students enrolled in adult education classes; 43355

(b) Adjacent or other district joint vocational students 43356
enrolled in the district under an open enrollment policy pursuant 43357
to section 3313.98 of the Revised Code; 43358

(c) Students receiving services in the district pursuant to a 43359
compact, cooperative education agreement, or a contract, but who 43360
are entitled to attend school in a city, local, or exempted 43361
village school district whose territory is not part of the 43362
territory of the joint vocational district; 43363

(d) Students for whom tuition is payable pursuant to sections 43364
3317.081 and 3323.141 of the Revised Code. 43365

(2) To enable the department of education to obtain the data 43366
needed to complete the calculation of payments pursuant to this 43367
chapter, in addition to the ~~formula~~ ADM, each superintendent shall 43368
report separately the average daily membership included in the 43369
report under division (D)(1) of this section for each of the 43370
following categories of students for the same week for which 43371
formula ADM is certified: 43372

(a) Students enrolled in each individual grade included in 43373
the joint vocational district schools; 43374

(b) Children with disabilities receiving special education 43375
services for the category one disability described in division (A) 43376
of section 3317.013 of the Revised Code; 43377

(c) Children with disabilities receiving special education 43378
services for the category two disabilities described in division 43379
(B) of section 3317.013 of the Revised Code; 43380

(d) Children with disabilities receiving special education 43381
services for category three disabilities described in division (C) 43382
of section 3317.013 of the Revised Code; 43383

(e) Children with disabilities receiving special education services for category four disabilities described in division (D) of section 3317.013 of the Revised Code;	43384 43385 43386
(f) Children with disabilities receiving special education services for the category five disabilities described in division (E) of section 3317.013 of the Revised Code;	43387 43388 43389
(g) Children with disabilities receiving special education services for category six disabilities described in division (F) of section 3317.013 of the Revised Code;	43390 43391 43392
(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;	43393 43394 43395
(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code <u>Limited English proficiency students described in division (A) of section 3317.016 of the Revised Code;</u>	43396 43397 43398 43399
<u>(i) Limited English proficiency students described in division (B) of section 3317.016 of the Revised Code;</u>	43400 43401
<u>(j) Limited English proficiency students described in division (C) of section 3317.016 of the Revised Code;</u>	43402 43403
<u>(k) Limited English proficiency students described in division (D) of section 3317.016 of the Revised Code;</u>	43404 43405
<u>(l) Students who are economically disadvantaged, as defined by the department.</u>	43406 43407
The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.	43408 43409 43410 43411 43412
(E) In each school of each city, local, exempted village,	43413

joint vocational, and cooperative education school district there 43414
shall be maintained a record of school membership, which record 43415
shall accurately show, for each day the school is in session, the 43416
actual membership enrolled in regular day classes. For the purpose 43417
of determining average daily membership, the membership figure of 43418
any school shall not include any pupils except those pupils 43419
described by division (A) of this section. The record of 43420
membership for each school shall be maintained in such manner that 43421
no pupil shall be counted as in membership prior to the actual 43422
date of entry in the school and also in such manner that where for 43423
any cause a pupil permanently withdraws from the school that pupil 43424
shall not be counted as in membership from and after the date of 43425
such withdrawal. There shall not be included in the membership of 43426
any school any of the following: 43427

(1) Any pupil who has graduated from the twelfth grade of a 43428
public or nonpublic high school; 43429

(2) Any pupil who is not a resident of the state; 43430

(3) Any pupil who was enrolled in the schools of the district 43431
during the previous school year when assessments were administered 43432
under section 3301.0711 of the Revised Code but did not take one 43433
or more of the assessments required by that section and was not 43434
excused pursuant to division (C)(1) or (3) of that section; 43435

(4) Any pupil who has attained the age of twenty-two years, 43436
except for veterans of the armed services whose attendance was 43437
interrupted before completing the recognized twelve-year course of 43438
the public schools by reason of induction or enlistment in the 43439
armed forces and who apply for reenrollment in the public school 43440
system of their residence not later than four years after 43441
termination of war or their honorable discharge. 43442

If, however, any veteran described by division (E)(4) of this 43443
section elects to enroll in special courses organized for veterans 43444

for whom tuition is paid under the provisions of federal laws, or 43445
otherwise, that veteran shall not be included in average daily 43446
membership. 43447

Notwithstanding division (E)(3) of this section, the 43448
membership of any school may include a pupil who did not take an 43449
assessment required by section 3301.0711 of the Revised Code if 43450
the superintendent of public instruction grants a waiver from the 43451
requirement to take the assessment to the specific pupil and a 43452
parent is not paying tuition for the pupil pursuant to section 43453
3313.6410 of the Revised Code. The superintendent may grant such a 43454
waiver only for good cause in accordance with rules adopted by the 43455
state board of education. 43456

Except as provided in divisions (B)(2) and (F) of this 43457
section, the average daily membership figure of any local, city, 43458
exempted village, or joint vocational school district shall be 43459
determined by dividing the figure representing the sum of the 43460
number of pupils enrolled during each day the school of attendance 43461
is actually open for instruction during the week for which the 43462
average daily membership is being certified by the total number of 43463
days the school was actually open for instruction during that 43464
week. For purposes of state funding, "enrolled" persons are only 43465
those pupils who are attending school, those who have attended 43466
school during the current school year and are absent for 43467
authorized reasons, and those children with disabilities currently 43468
receiving home instruction. 43469

The average daily membership figure of any cooperative 43470
education school district shall be determined in accordance with 43471
rules adopted by the state board of education. 43472

~~(F)(1) If the formula ADM for the first full school week in 43473
February is at least three per cent greater than that certified 43474
for the first full school week in the preceding October, the 43475
superintendent of schools of any city, exempted village, or joint 43476~~

~~vocational school district or educational service center shall 43477
certify such increase to the superintendent of public instruction. 43478
Such certification shall be submitted no later than the fifteenth 43479
day of February. For the balance of the fiscal year, beginning 43480
with the February payments, the superintendent of public 43481
instruction shall use the increased formula ADM in calculating or 43482
recalculating the amounts to be allocated in accordance with 43483
section 3317.022 or 3317.16 of the Revised Code. In no event shall 43484
the superintendent use an increased membership certified to the 43485
superintendent after the fifteenth day of February. Division 43486
(F)(1) of this section does not apply after fiscal year 2006. 43487~~

~~(2) If on the first school day of April the total number of 43488
classes or units for preschool children with disabilities that are 43489
eligible for approval under division (B) of section 3317.05 of the 43490
Revised Code exceeds the number of units that have been approved 43491
for the year under that division, the superintendent of schools of 43492
any city, exempted village, or cooperative education school 43493
district or educational service center shall make the 43494
certifications required by this section for that day. If the 43495
department determines additional units can be approved for the 43496
fiscal year within any limitations set forth in the acts 43497
appropriating moneys for the funding of such units, the department 43498
shall approve additional units for the fiscal year on the basis of 43499
such average daily membership. For each unit so approved, the 43500
department shall pay an amount computed in the manner prescribed 43501
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 43502
Code. 43503~~

~~(3) If a student attending a community school under Chapter 43504
3314., a science, technology, engineering, and mathematics school 43505
established under Chapter 3326., or a college-preparatory boarding 43506
school established under Chapter 3328. of the Revised Code is not 43507
included in the formula ADM certified for the school district in 43508~~

which the student is entitled to attend school under section 43509
3313.64 or 3313.65 of the Revised Code, the department of 43510
education shall adjust the formula ADM of that school district to 43511
include the student in accordance with division (C)(2) of this 43512
section, and shall recalculate the school district's payments 43513
under this chapter for the entire fiscal year on the basis of that 43514
adjusted formula ADM. This requirement applies regardless of 43515
whether the student was enrolled, as defined in division (E) of 43516
this section, in the community school, the science, technology, 43517
engineering, and mathematics school, or the college-preparatory 43518
boarding school during the week for which the formula ADM is being 43519
certified. 43520

~~(4)~~(2) If a student awarded an educational choice scholarship 43521
is not included in the formula ADM of the school district from 43522
which the department deducts funds for the scholarship under 43523
section 3310.08 of the Revised Code, the department shall adjust 43524
the formula ADM of that school district to include the student to 43525
the extent necessary to account for the deduction, and shall 43526
recalculate the school district's payments under this chapter for 43527
the entire fiscal year on the basis of that adjusted formula ADM. 43528
This requirement applies regardless of whether the student was 43529
enrolled, as defined in division (E) of this section, in the 43530
chartered nonpublic school, the school district, or a community 43531
school during the week for which the formula ADM is being 43532
certified. 43533

~~(5)~~(3) If a student awarded a scholarship under the Jon 43534
Peterson special needs scholarship program is not included in the 43535
formula ADM of the school district from which the department 43536
deducts funds for the scholarship under section 3310.55 of the 43537
Revised Code, the department shall adjust the formula ADM of that 43538
school district to include the student to the extent necessary to 43539
account for the deduction, and shall recalculate the school 43540

district's payments under this chapter for the entire fiscal year 43541
on the basis of that adjusted formula ADM. This requirement 43542
applies regardless of whether the student was enrolled, as defined 43543
in division (E) of this section, in an alternative public 43544
provider, a registered private provider, or the school district 43545
during the week for which the formula ADM is being certified. 43546

(G)(1)(a) The superintendent of an institution operating a 43547
special education program pursuant to section 3323.091 of the 43548
Revised Code shall, for the programs under such superintendent's 43549
supervision, certify to the state board of education, in the 43550
manner prescribed by the superintendent of public instruction, 43551
both of the following: 43552

(i) The average daily membership of all children with 43553
disabilities other than preschool children with disabilities 43554
receiving services at the institution for each category of 43555
disability described in divisions (A) to (F) of section 3317.013 43556
of the Revised Code; 43557

(ii) The average daily membership of all preschool children 43558
with disabilities in classes or programs ~~approved annually by the~~ 43559
~~department of education for unit~~ for whom the district is eligible 43560
to receive funding under section ~~3317.05~~ 3317.0213 of the Revised 43561
Code, reported according to the categories prescribed in section 43562
3317.013 of the Revised Code. 43563

(b) The superintendent of an institution with ~~vocational~~ 43564
career-technical education units approved under ~~division (A) of~~ 43565
section 3317.05 of the Revised Code shall, for the units under the 43566
superintendent's supervision, certify to the state board of 43567
education the average daily membership in those units, in the 43568
manner prescribed by the superintendent of public instruction. 43569

(2) The superintendent of each county DD board that maintains 43570
special education classes under section 3317.20 of the Revised 43571

~~Code or units approved provides services to preschool children~~ 43572
~~with disabilities pursuant to section 3317.05 of the Revised Code~~ 43573
~~an agreement between the DD board and the appropriate school~~ 43574
~~district shall do both of the following:~~ 43575

(a) Certify to the state board, in the manner prescribed by 43576
the board, the average daily membership in classes under section 43577
3317.20 of the Revised Code for each school district that has 43578
placed children in the classes; 43579

(b) Certify to the state board, in the manner prescribed by 43580
the board, the number of all preschool children with disabilities 43581
enrolled as of the first day of December in classes for which the 43582
DD board is eligible for approval to receive funding under 43583
division (B) of section 3317.05 3317.0213 of the Revised Code, 43584
reported according to the categories prescribed in section 43585
3317.013 of the Revised Code, and the number of those classes. 43586

~~(3)(a) If on the first school day of April the number of~~ 43587
~~classes or units maintained for preschool children with~~ 43588
~~disabilities by the county DD board that are eligible for approval~~ 43589
~~under division (B) of section 3317.05 of the Revised Code is~~ 43590
~~greater than the number of units approved for the year under that~~ 43591
~~division, the superintendent shall make the certification required~~ 43592
~~by this section for that day.~~ 43593

~~(b) If the department determines that additional classes or~~ 43594
~~units can be approved for the fiscal year within any limitations~~ 43595
~~set forth in the acts appropriating moneys for the funding of the~~ 43596
~~classes and units described in division (C)(3)(a) of this section,~~ 43597
~~the department shall approve and fund additional units for the~~ 43598
~~fiscal year on the basis of such average daily membership. For~~ 43599
~~each unit so approved, the department shall pay an amount computed~~ 43600
~~in the manner prescribed in sections 3317.052 and 3317.053 of the~~ 43601
~~Revised Code.~~ 43602

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any ~~unit funding~~ approved for the district under section ~~3317.05~~ 3317.0213 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend an alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXVIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.032. ~~(A)~~ Each city, local, exempted village, and cooperative education school district, each educational service center, each county DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of ~~both of the following:~~

~~(1) All preschool children with disabilities in units approved under division (B) of section 3317.05 of the Revised Code;~~

~~(2) All all preschool children with disabilities who are not in units approved under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.~~

~~(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify~~

~~to the state board of education, in accordance with procedures 43665
adopted by that board, membership figures of all preschool 43666
children with disabilities whose membership is maintained under 43667
division (A)(2) of this section. The figures certified under this 43668
division shall be used in the determination of the ADM used to 43669
compute funds for educational service center governing boards 43670
under section 3317.11 of the Revised Code. 43671~~

Sec. 3317.05. ~~(A) For the purpose of calculating payments 43672
under sections 3317.052 and 3317.053 of the Revised Code, the The 43673
department of education shall determine for each institution, by 43674
the last day of January of each year and based on information 43675
certified under section 3317.03 of the Revised Code, the number of 43676
~~vocational~~ career-technical education units or fractions of units 43677
approved by the department on the basis of standards and rules 43678
adopted by the state board of education. As used in this ~~division~~ 43679
section, "institution" means an institution operated by a 43680
department specified in section 3323.091 of the Revised Code and 43681
that provides ~~vocational~~ career-technical education programs under 43682
the supervision of the division of ~~vocational~~ career-technical 43683
education of the department that meet the standards and rules for 43684
these programs, including licensure of professional staff involved 43685
in the programs, as established by the state board. 43686~~

~~(B) For the purpose of calculating payments under sections 43687
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 43688
department shall determine, based on information certified under 43689
section 3317.03 of the Revised Code, the following by the last day 43690
of January of each year for each educational service center, for 43691
each school district, including each cooperative education school 43692
district, for each institution eligible for payment under section 43693
3323.091 of the Revised Code, and for each county DD board: the 43694
number of classes operated by the school district, service center, 43695
institution, or county DD board for preschool children with 43696~~

~~disabilities, or fraction thereof, including in the case of a 43697
district or service center that is a funding agent, classes taught 43698
by a licensed teacher employed by that district or service center 43699
under section 3313.841 of the Revised Code, approved annually by 43700
the department on the basis of standards and rules adopted by the 43701
state board. 43702~~

~~(C) For the purpose of calculating payments under sections 43703
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 43704
department shall determine, based on information certified under 43705
section 3317.03 of the Revised Code, the following by the last day 43706
of January of each year for each school district, including each 43707
cooperative education school district, for each institution 43708
eligible for payment under section 3323.091 of the Revised Code, 43709
and for each county DD board: the number of units for related 43710
services, as defined in section 3323.01 of the Revised Code, for 43711
preschool children with disabilities approved annually by the 43712
department on the basis of standards and rules adopted by the 43713
state board. 43714~~

~~(D) All of the arithmetical calculations made under this 43715
section shall be carried to the second decimal place. The total 43716
number of units for ~~school districts, service centers, and 43717~~
institutions approved annually under this section shall not exceed 43718
the number of units included in the estimate of cost for these 43719
units and appropriations made for them by the general assembly. 43720~~

~~In the case of units for preschool children with disabilities 43721
described in division (B) of this section, the department shall 43722
approve only preschool units for children who are under age six on 43723
the thirtieth day of September of the academic year, or on the 43724
first day of August of the academic year if the school district in 43725
which the child is enrolled has adopted a resolution under 43726
division (A)(3) of section 3321.01 of the Revised Code, but not 43727
less than age three on the first day of December of the academic 43728~~

~~year, except that such a unit may include one or more children who
are under age three or are age six or over on the applicable date,
as reported under division (B)(2) or (C)(2)(b) of section 3317.03
of the Revised Code, if such children have been admitted to the
unit pursuant to rules of the state board. The number of units for
county DD boards and institutions eligible for payment under
section 3323.091 of the Revised Code approved under this section
shall not exceed the number that can be funded with appropriations
made for such purposes by the general assembly.~~

~~No unit shall be approved under divisions (B) and (C) of this
section unless a plan has been submitted and approved under
Chapter 3323. of the Revised Code.~~

(C) The department shall pay each institution approved for
career-technical education units under division (A) of this
section an amount for the total of all the units approved under
that division. The amount for each unit shall be the sum of the
minimum salary for the teacher of the unit, calculated on the
basis of the teacher's training level and years of experience
pursuant to the salary schedule prescribed in the version of
section 3317.13 of the Revised Code in effect prior to July 1,
2001, plus fifteen per cent of that minimum salary amount, and
nine thousand five hundred ten dollars. Each institution that
receives unit funds under this division annually shall report to
the department on the delivery of services and the performance of
students and any other information required by the department to
evaluate the institution's career-technical education program.

(D) For each unit allocated to an institution pursuant to
division (A) of this section, the department, in addition to the
amount specified in division (B) of this section, shall pay a
supplemental unit allowance of \$7,227.

Sec. 3317.06. Moneys paid to school districts under division 43759

(E) of section 3317.024 of the Revised Code shall be used for the 43760
following independent and fully severable purposes: 43761

(A) To purchase such secular textbooks or electronic 43762
textbooks as have been approved by the superintendent of public 43763
instruction for use in public schools in the state and to loan 43764
such textbooks or electronic textbooks to pupils attending 43765
nonpublic schools within the district or to their parents and to 43766
hire clerical personnel to administer such lending program. Such 43767
loans shall be based upon individual requests submitted by such 43768
nonpublic school pupils or parents. Such requests shall be 43769
submitted to the school district in which the nonpublic school is 43770
located. Such individual requests for the loan of textbooks or 43771
electronic textbooks shall, for administrative convenience, be 43772
submitted by the nonpublic school pupil or the pupil's parent to 43773
the nonpublic school, which shall prepare and submit collective 43774
summaries of the individual requests to the school district. As 43775
used in this section: 43776

(1) "Textbook" means any book or book substitute that a pupil 43777
uses as a consumable or nonconsumable text, text substitute, or 43778
text supplement in a particular class or program in the school the 43779
pupil regularly attends. 43780

(2) "Electronic textbook" means any book or book substitute 43781
that a student accesses through the use of a computer or other 43782
electronic medium or that is available through an internet-based 43783
provider of course content, or any other material that contributes 43784
to the learning process through electronic means. 43785

(B) To provide speech and hearing diagnostic services to 43786
pupils attending nonpublic schools within the district. Such 43787
service shall be provided in the nonpublic school attended by the 43788
pupil receiving the service. 43789

(C) To provide physician, nursing, dental, and optometric 43790

services to pupils attending nonpublic schools within the 43791
district. Such services shall be provided in the school attended 43792
by the nonpublic school pupil receiving the service. 43793

(D) To provide diagnostic psychological services to pupils 43794
attending nonpublic schools within the district. Such services 43795
shall be provided in the school attended by the pupil receiving 43796
the service. 43797

(E) To provide therapeutic psychological and speech and 43798
hearing services to pupils attending nonpublic schools within the 43799
district. Such services shall be provided in the public school, in 43800
nonpublic schools, in public centers, or in mobile units located 43801
on or off of the nonpublic premises. If such services are provided 43802
in the public school or in public centers, transportation to and 43803
from such facilities shall be provided by the school district in 43804
which the nonpublic school is located. 43805

(F) To provide guidance, counseling, and social work services 43806
to pupils attending nonpublic schools within the district. Such 43807
services shall be provided in the public school, in nonpublic 43808
schools, in public centers, or in mobile units located on or off 43809
of the nonpublic premises. If such services are provided in the 43810
public school or in public centers, transportation to and from 43811
such facilities shall be provided by the school district in which 43812
the nonpublic school is located. 43813

(G) To provide remedial services to pupils attending 43814
nonpublic schools within the district. Such services shall be 43815
provided in the public school, in nonpublic schools, in public 43816
centers, or in mobile units located on or off of the nonpublic 43817
premises. If such services are provided in the public school or in 43818
public centers, transportation to and from such facilities shall 43819
be provided by the school district in which the nonpublic school 43820
is located. 43821

(H) To supply for use by pupils attending nonpublic schools 43822
within the district such standardized tests and scoring services 43823
as are in use in the public schools of the state; 43824

(I) To provide programs for children who attend nonpublic 43825
schools within the district and are children with disabilities as 43826
defined in section 3323.01 of the Revised Code or gifted children. 43827
Such programs shall be provided in the public school, in nonpublic 43828
schools, in public centers, or in mobile units located on or off 43829
of the nonpublic premises. If such programs are provided in the 43830
public school or in public centers, transportation to and from 43831
such facilities shall be provided by the school district in which 43832
the nonpublic school is located. 43833

(J) To hire clerical personnel to assist in the 43834
administration of programs pursuant to divisions (B), (C), (D), 43835
(E), (F), (G), and (I) of this section and to hire supervisory 43836
personnel to supervise the providing of services and textbooks 43837
pursuant to this section. 43838

(K) To purchase or lease any secular, neutral, and 43839
nonideological computer application software designed to assist 43840
students in performing a single task or multiple related tasks, 43841
device management software, learning management software, 43842
site-licensing, digital video on demand (DVD), wide area 43843
connectivity and related technology as it relates to internet 43844
access, mathematics or science equipment and materials, 43845
instructional materials, and school library materials that are in 43846
general use in the public schools of the state and loan such items 43847
to pupils attending nonpublic schools within the district or to 43848
their parents, and to hire clerical personnel to administer the 43849
lending program. Only such items that are incapable of diversion 43850
to religious use and that are susceptible of loan to individual 43851
pupils and are furnished for the use of individual pupils shall be 43852
purchased and loaned under this division. As used in this section, 43853

"instructional materials" means prepared learning materials that 43854
are secular, neutral, and nonideological in character and are of 43855
benefit to the instruction of school children, ~~and may include~~ 43856
~~educational resources and services developed by the eTech Ohio~~ 43857
~~commission.~~ 43858

(L) To purchase or lease instructional equipment, including 43859
computer hardware and related equipment in general use in the 43860
public schools of the state, for use by pupils attending nonpublic 43861
schools within the district and to loan such items to pupils 43862
attending nonpublic schools within the district or to their 43863
parents, and to hire clerical personnel to administer the lending 43864
program. "Computer hardware and related equipment" includes 43865
desktop computers and workstations; laptop computers, computer 43866
tablets, and other mobile handheld devices; and their operating 43867
systems and accessories. 43868

(M) To purchase mobile units to be used for the provision of 43869
services pursuant to divisions (E), (F), (G), and (I) of this 43870
section and to pay for necessary repairs and operating costs 43871
associated with these units. 43872

(N) To reimburse costs the district incurred to store the 43873
records of a chartered nonpublic school that closes. 43874
Reimbursements under this division shall be made one time only for 43875
each chartered nonpublic school that closes. 43876

(O) To purchase life-saving medical or other emergency 43877
equipment for placement in nonpublic schools within the district 43878
or to maintain such equipment. 43879

Clerical and supervisory personnel hired pursuant to division 43880
(J) of this section shall perform their services in the public 43881
schools, in nonpublic schools, public centers, or mobile units 43882
where the services are provided to the nonpublic school pupil, 43883
except that such personnel may accompany pupils to and from the 43884

service sites when necessary to ensure the safety of the children 43885
receiving the services. 43886

All services provided pursuant to this section may be 43887
provided under contract with educational service centers, the 43888
department of health, city or general health districts, or private 43889
agencies whose personnel are properly licensed by an appropriate 43890
state board or agency. 43891

Transportation of pupils provided pursuant to divisions (E), 43892
(F), (G), and (I) of this section shall be provided by the school 43893
district from its general funds and not from moneys paid to it 43894
under division (E) of section 3317.024 of the Revised Code unless 43895
a special transportation request is submitted by the parent of the 43896
child receiving service pursuant to such divisions. If such an 43897
application is presented to the school district, it may pay for 43898
the transportation from moneys paid to it under division (E) of 43899
section 3317.024 of the Revised Code. 43900

No school district shall provide health or remedial services 43901
to nonpublic school pupils as authorized by this section unless 43902
such services are available to pupils attending the public schools 43903
within the district. 43904

Materials, equipment, computer hardware or software, 43905
textbooks, electronic textbooks, and health and remedial services 43906
provided for the benefit of nonpublic school pupils pursuant to 43907
this section and the admission of pupils to such nonpublic schools 43908
shall be provided without distinction as to race, creed, color, or 43909
national origin of such pupils or of their teachers. 43910

No school district shall provide services, materials, or 43911
equipment that contain religious content for use in religious 43912
courses, devotional exercises, religious training, or any other 43913
religious activity. 43914

As used in this section, "parent" includes a person standing 43915

in loco parentis to a child. 43916

Notwithstanding section 3317.01 of the Revised Code, payments 43917
shall be made under this section to any city, local, or exempted 43918
village school district within which is located one or more 43919
nonpublic elementary or high schools and any payments made to 43920
school districts under division (E) of section 3317.024 of the 43921
Revised Code for purposes of this section may be disbursed without 43922
submission to and approval of the controlling board. 43923

The allocation of payments for materials, equipment, 43924
textbooks, electronic textbooks, health services, and remedial 43925
services to city, local, and exempted village school districts 43926
shall be on the basis of the state board of education's estimated 43927
annual average daily membership in nonpublic elementary and high 43928
schools located in the district. 43929

Payments made to city, local, and exempted village school 43930
districts under this section shall be equal to specific 43931
appropriations made for the purpose. All interest earned by a 43932
school district on such payments shall be used by the district for 43933
the same purposes and in the same manner as the payments may be 43934
used. 43935

The department of education shall adopt guidelines and 43936
procedures under which such programs and services shall be 43937
provided, under which districts shall be reimbursed for 43938
administrative costs incurred in providing such programs and 43939
services, and under which any unexpended balance of the amounts 43940
appropriated by the general assembly to implement this section may 43941
be transferred to the auxiliary services personnel unemployment 43942
compensation fund established pursuant to section 4141.47 of the 43943
Revised Code. The department shall also adopt guidelines and 43944
procedures limiting the purchase and loan of the items described 43945
in division (K) of this section to items that are in general use 43946
in the public schools of the state, that are incapable of 43947

diversion to religious use, and that are susceptible to individual 43948
use rather than classroom use. Within thirty days after the end of 43949
each biennium, each board of education shall remit to the 43950
department all moneys paid to it under division (E) of section 43951
3317.024 of the Revised Code and any interest earned on those 43952
moneys that are not required to pay expenses incurred under this 43953
section during the biennium for which the money was appropriated 43954
and during which the interest was earned. If a board of education 43955
subsequently determines that the remittal of moneys leaves the 43956
board with insufficient money to pay all valid expenses incurred 43957
under this section during the biennium for which the remitted 43958
money was appropriated, the board may apply to the department of 43959
education for a refund of money, not to exceed the amount of the 43960
insufficiency. If the department determines the expenses were 43961
lawfully incurred and would have been lawful expenditures of the 43962
refunded money, it shall certify its determination and the amount 43963
of the refund to be made to the director of job and family 43964
services who shall make a refund as provided in section 4141.47 of 43965
the Revised Code. 43966

Each school district shall label materials, equipment, 43967
computer hardware or software, textbooks, and electronic textbooks 43968
purchased or leased for loan to a nonpublic school under this 43969
section, acknowledging that they were purchased or leased with 43970
state funds under this section. However, a district need not label 43971
materials, equipment, computer hardware or software, textbooks, or 43972
electronic textbooks that the district determines are consumable 43973
in nature or have a value of less than two hundred dollars. 43974

Sec. 3317.08. A board of education may admit to its schools a 43975
child it is not required by section 3313.64 or 3313.65 of the 43976
Revised Code to admit, if tuition is paid for the child. 43977

Unless otherwise provided by law, tuition shall be computed 43978

in accordance with this section. A district's tuition charge for a 43979
school year shall be one of the following: 43980

(A) For any child, except a preschool child with a disability 43981
described in division (B) of this section, the quotient obtained 43982
by dividing the sum of the amounts described in divisions (A)(1) 43983
and (2) of this section by the district's formula ADM. 43984

(1) The district's total taxes charged and payable for 43985
current expenses for the tax year preceding the tax year in which 43986
the school year begins as certified under division (A)(3) of 43987
section 3317.021 of the Revised Code. 43988

(2) The district's total taxes collected for current expenses 43989
under a school district income tax adopted pursuant to section 43990
5748.03, 5748.08, or 5748.09 of the Revised Code that are 43991
disbursed to the district during the fiscal year, excluding any 43992
income tax receipts allocated for the project cost, debt service, 43993
or maintenance set-aside associated with a state-assisted 43994
classroom facilities project as authorized by section 3318.052 of 43995
the Revised Code. On or before the first day of June of each year, 43996
the tax commissioner shall certify the amount to be used in the 43997
calculation under this division for the next fiscal year to the 43998
department of education and the office of budget and management 43999
for each city, local, and exempted village school district that 44000
levies a school district income tax. 44001

(B) For any preschool child with a disability ~~not included in~~ 44002
~~a unit approved under division (B) of section 3317.05 of the~~ 44003
~~Revised Code~~, an amount computed for the school year as follows: 44004

(1) For each type of special education service provided to 44005
the child for whom tuition is being calculated, determine the 44006
amount of the district's operating expenses in providing that type 44007
of service to all preschool children with disabilities ~~not~~ 44008
~~included in units approved under division (B) of section 3317.05~~ 44009

~~of the Revised Code;~~ 44010

(2) For each type of special education service for which 44011
operating expenses are determined under division (B)(1) of this 44012
section, determine the amount of such operating expenses that was 44013
paid from any state funds received under this chapter; 44014

(3) For each type of special education service for which 44015
operating expenses are determined under division (B)(1) of this 44016
section, divide the difference between the amount determined under 44017
division (B)(1) of this section and the amount determined under 44018
division (B)(2) of this section by the total number of preschool 44019
children with disabilities ~~not included in units approved under~~ 44020
~~division (B) of section 3317.05 of the Revised Code~~ who received 44021
that type of service; 44022

(4) Determine the sum of the quotients obtained under 44023
division (B)(3) of this section for all types of special education 44024
services provided to the child for whom tuition is being 44025
calculated. 44026

The state board of education shall adopt rules defining the 44027
types of special education services and specifying the operating 44028
expenses to be used in the computation under this section. 44029

If any child for whom a tuition charge is computed under this 44030
section for any school year is enrolled in a district for only 44031
part of that school year, the amount of the district's tuition 44032
charge for the child for the school year shall be computed in 44033
proportion to the number of school days the child is enrolled in 44034
the district during the school year. 44035

Except as otherwise provided in division (J) of section 44036
3313.64 of the Revised Code, whenever a district admits a child to 44037
its schools for whom tuition computed in accordance with this 44038
section is an obligation of another school district, the amount of 44039
the tuition shall be certified by the treasurer of the board of 44040

education of the district of attendance, to the board of education 44041
of the district required to pay tuition for its approval and 44042
payment. If agreement as to the amount payable or the district 44043
required to pay the tuition cannot be reached, or the board of 44044
education of the district required to pay the tuition refuses to 44045
pay that amount, the board of education of the district of 44046
attendance shall notify the superintendent of public instruction. 44047
The superintendent shall determine the correct amount and the 44048
district required to pay the tuition and shall deduct that amount, 44049
if any, under division (D) of section 3317.023 of the Revised 44050
Code, from the district required to pay the tuition and add that 44051
amount to the amount allocated to the district attended under such 44052
division. The superintendent of public instruction shall send to 44053
the district required to pay the tuition an itemized statement 44054
showing such deductions at the time of such deduction. 44055

When a political subdivision owns and operates an airport, 44056
welfare, or correctional institution or other project or facility 44057
outside its corporate limits, the territory within which the 44058
facility is located is exempt from taxation by the school district 44059
within which such territory is located, and there are school age 44060
children residing within such territory, the political subdivision 44061
owning such tax exempt territory shall pay tuition to the district 44062
in which such children attend school. The tuition for these 44063
children shall be computed as provided for in this section. 44064

Sec. 3317.10. (A) On or before the first day of March of each 44065
year, the department of job and family services shall certify to 44066
the state board of education the unduplicated number of children 44067
ages five through seventeen residing in each school district and 44068
living in a family that, during the preceding October, 44069
participated in Ohio works first. 44070

The department of job and family services shall certify this 44071

information according to the school district of residence for each 44072
child. ~~Except as provided under division (B) of this section, the~~ 44073
~~number of children so certified in any year shall be used by the~~ 44074
~~department of education in calculating the distribution of moneys~~ 44075
~~for the ensuing fiscal year as provided in section 3317.029 of the~~ 44076
~~Revised Code.~~ 44077

(B) Upon the transfer of part of the territory of one school 44078
district to the territory of one or more other school districts, 44079
the department of education may adjust the number of children 44080
certified under division (A) of this section for any district 44081
gaining or losing territory in such a transfer in order to take 44082
into account the effect of the transfer on the number of such 44083
children who reside in the district. Within sixty days of receipt 44084
of a request for information from the department of education, the 44085
department of job and family services shall provide any 44086
information the department of education determines is necessary to 44087
make such adjustments. ~~The department of education may use the~~ 44088
~~adjusted number for any district for the applicable fiscal year,~~ 44089
~~in lieu of the number certified for the district for that fiscal~~ 44090
~~year under division (A) of this section, in the calculation of the~~ 44091
~~distribution of moneys provided in section 3317.029 of the Revised~~ 44092
~~Code.~~ 44093

Sec. 3317.12. Any board of education participating in funds 44094
distributed under Chapter 3317. of the Revised Code shall annually 44095
adopt a salary ~~schedule~~ schedules for teachers and nonteaching 44096
school employees ~~based upon training, experience, and~~ 44097
~~qualifications with initial salaries no less than the salaries in~~ 44098
~~effect on October 13, 1967. Each board of education shall prepare~~ 44099
~~and may amend from time to time, specifications descriptive of~~ 44100
~~duties, responsibilities, requirements, and desirable~~ 44101
~~qualifications of the classifications of employees required to~~ 44102
~~perform the duties specified in the salary schedule. All~~ 44103

~~nonteaching school employees are to be notified of the position 44104
classification to which they are assigned and the salary for the 44105
classification. The compensation of all employees working for a 44106
particular school board shall be uniform for like positions except 44107
as compensation would be affected by salary increments based upon 44108
length of service. 44109~~

~~On the fifteenth day of October each year the salary schedule 44110
and the list of job classifications and salaries in effect on that 44111
date shall be filed by each board of education with the 44112
superintendent of public instruction. If such salary schedule and 44113
classification plan is not filed the superintendent of public 44114
instruction shall order the board to file such schedules 44115
forthwith. If this condition is not corrected within ten days 44116
after receipt of the order from the superintendent of public 44117
instruction, no money shall be distributed to the district under 44118
Chapter 3317. of the Revised Code until the superintendent has 44119
satisfactory evidence of the board of education's full compliance 44120
with such order. 44121~~

Sec. 3317.14. Any school district board of education or 44122
educational service center governing board participating in funds 44123
distributed under Chapter 3317. of the Revised Code shall annually 44124
adopt a teachers' salary schedule with provision for increments 44125
based upon training and years of service. ~~Notwithstanding sections 44126
3317.13 and 3319.088 of the Revised Code, the The board may 44127
establish its own service requirements and may grant service 44128
credit for such activities as teaching in public or nonpublic 44129
schools in this state or in another state, for service as an 44130
educational assistant other than as a classroom aide employed in 44131
accordance with section 5107.541 of the Revised Code, and for 44132
service in the military or in an appropriate state or federal 44133
governmental agency, ~~provided no teacher receives less than the 44134
amount required to be paid pursuant to section 3317.13 of the 44135~~~~

~~Revised Code and provided full credit for a minimum of five years 44136
of actual teaching and military experience as defined in division 44137
(A) of section 3317.13 of the Revised Code is given to each 44138
teacher. 44139~~

~~On the fifteenth day of October of each year, a copy of the 44140
salary schedule in effect on that date shall be filed by the board 44141
of education of each local school district with the educational 44142
service center superintendent, who thereupon shall certify to the 44143
treasurer of such local district the correct salary to be paid to 44144
each teacher in accordance with the adopted schedule. 44145~~

~~Each teacher who has completed training which would qualify 44146
such teacher for a higher salary bracket pursuant to this section 44147
shall file by the fifteenth day of September with the treasurer of 44148
the board of education or educational service center satisfactory 44149
evidence of the completion of such additional training. The 44150
treasurer shall then immediately place the teacher, pursuant to 44151
this section and section 3317.13 of the Revised Code, in the 44152
proper salary bracket in accordance with training and years of 44153
service before certifying such salary, training, and years of 44154
service to the superintendent of public instruction. No teacher 44155
shall be paid less than the salary to which such teacher is 44156
entitled pursuant to section 3317.13 of the Revised Code. 44157~~

As used in this section: 44158

(A) "Years of service" includes the following: 44159

(1) All years of teaching service in the same school district 44160
or educational service center, regardless of training level, with 44161
each year consisting of at least one hundred twenty days under a 44162
teacher's contract; 44163

(2) All years of teaching service in a chartered, nonpublic 44164
school located in Ohio as a teacher licensed pursuant to section 44165
3319.22 of the Revised Code or in another public school, 44166

regardless of training level, with each year consisting of at 44167
least one hundred twenty days under a teacher's contract; 44168

(3) All years of teaching service in a chartered school or 44169
institution or a school or institution that subsequently became 44170
chartered or a chartered special education program or a special 44171
education program that subsequently became chartered operated by 44172
the state or by a subdivision or other local governmental unit of 44173
this state as a teacher licensed pursuant to section 3319.22 of 44174
the Revised Code, regardless of training level, with each year 44175
consisting of at least one hundred twenty days; 44176

(4) All years of active military service in the armed forces 44177
of the United States, as defined in section 3307.75 of the Revised 44178
Code, to a maximum of five years. For purposes of this 44179
calculation, a partial year of active military service of eight 44180
continuous months or more in the armed forces shall be counted as 44181
a full year. 44182

(B) "Teacher" means all teachers employed by the board of 44183
education of any school district, including any cooperative 44184
education or joint vocational school district and all teachers 44185
employed by any educational service center governing board. 44186

Sec. 3317.141. The board of education of any city, exempted 44187
village, local, or joint vocational school district that is the 44188
recipient of moneys from a grant awarded under the federal race to 44189
the top program, Division (A), Title XIV, Sections 14005 and 14006 44190
of the "American Recovery and Reinvestment Act of 2009," Pub. L. 44191
No. 111-5, 123 Stat. 115, shall comply with this section in 44192
accordance with the timeline contained in the board's scope of 44193
work, as approved by the superintendent of public instruction, and 44194
shall not be subject to ~~sections 3317.13 and~~ section 3317.14 of 44195
the Revised Code. The board of education of any other school 44196
district, and the governing board of each educational service 44197

center, shall comply with either this section or ~~sections 3317.13~~ 44198
~~and section~~ 3317.14 of the Revised Code. 44199

(A) The board annually shall adopt a salary schedule for 44200
teachers based upon performance as described in division (B) of 44201
this section. 44202

(B) For purposes of the schedule, a board shall measure a 44203
teacher's performance by considering all of the following: 44204

(1) The level of license issued under section 3319.22 of the 44205
Revised Code that the teacher holds; 44206

(2) Whether the teacher is a highly qualified teacher, as 44207
defined in section 3319.074 of the Revised Code; 44208

(3) Ratings received by the teacher on performance 44209
evaluations conducted under section 3319.111 of the Revised Code. 44210

(C) The schedule shall provide for annual adjustments based 44211
on performance on the evaluations conducted under section 3319.111 44212
of the Revised Code. The annual performance-based adjustment for a 44213
teacher rated as accomplished shall be greater than the annual 44214
performance-based adjustment for a teacher rated as proficient. 44215

(D) The salary schedule adopted under this section may 44216
provide for additional compensation for teachers who agree to 44217
perform duties, not contracted for under a supplemental contract, 44218
that the employing board determines warrant additional 44219
compensation. Those duties may include, but are not limited to, 44220
assignment to a school building eligible for funding under Title I 44221
of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 44222
6301 et seq.; assignment to a building in "school improvement" 44223
status under the "No Child Left Behind Act of 2001," as defined in 44224
section 3302.01 of the Revised Code; teaching in a grade level or 44225
subject area in which the board has determined there is a shortage 44226
within the district or service center; or assignment to a 44227

hard-to-staff school, as determined by the board. 44228

Sec. 3317.15. (A) As used in this section, "child with a 44229
disability" has the same meaning as in section 3323.01 of the 44230
Revised Code. 44231

(B) Each city, exempted village, local, and joint vocational 44232
school district shall continue to comply with all requirements of 44233
federal statutes and regulations, the Revised Code, and rules 44234
adopted by the state board of education governing education of 44235
children with disabilities, including, but not limited to, 44236
requirements that children with disabilities be served by 44237
appropriately licensed or certificated education personnel. 44238

(C) Each city, exempted village, local, and joint vocational 44239
school district shall consult with the educational service center 44240
serving the county in which the school district is located and, if 44241
it elects to participate pursuant to section 5126.04 of the 44242
Revised Code, the county DD board of that county, in providing 44243
services that serve the best interests of children with 44244
disabilities. 44245

(D) Each school district shall annually provide documentation 44246
to the department of education that it employs the appropriate 44247
number of licensed or certificated personnel to serve the 44248
district's students with disabilities. 44249

(E) The department annually shall audit a sample of school 44250
districts to ensure that children with disabilities are being 44251
appropriately reported. 44252

~~(F) Each school district shall provide speech language 44253
pathology services at a ratio of one speech language pathologist 44254
per two thousand students receiving any educational services from 44255
the district other than adult education. Each district shall 44256
provide school psychological services at a ratio of one school 44257~~

~~psychologist per two thousand five hundred students receiving any 44258
educational services from the district other than adult education. 44259
A district may obtain the services of speech language pathologists 44260
and school psychologists by any means permitted by law, including 44261
contracting with an educational service center. If, however, a 44262
district is unable to obtain the services of the required number 44263
of speech language pathologists or school psychologists, the 44264
district may request from the superintendent of public 44265
instruction, and the superintendent may grant, a waiver of this 44266
provision for a period of time established by the superintendent. 44267~~

Sec. 3317.16. (A) The department of education shall compute 44268
and distribute state core foundation funding to each joint 44269
vocational school district for the fiscal year as prescribed in 44270
the following divisions: 44271

(1) An opportunity grant calculated according to the 44272
following formula: 44273

[\$10,000,000 - (the district's three-year average valuation / 44274
the district's formula ADM)] X 0.0005 X the district's formula 44275
ADM. 44276

If the result of the calculation for a joint vocational 44277
school district under division (A)(1) of this section is less than 44278
zero, the joint vocational school district's opportunity grant 44279
shall be zero. 44280

(2) Targeted assistance funds calculated under section 44281
3317.161 of the Revised Code. 44282

(3) Additional state aid for special education and related 44283
services provided under Chapter 3323. of the Revised Code 44284
calculated as the sum of the following: 44285

(a) The district's category one special education ADM X the 44286
amount specified in division (A) of section 3317.013 of the 44287

<u>Revised Code X the district's state share index;</u>	44288
<u>(b) The district's category two special education ADM X the amount specified in division (B) of section 3317.013 of the Revised Code X the district's state share index;</u>	44289 44290 44291
<u>(c) The district's category three special education ADM X the amount specified in division (C) of section 3317.013 of the Revised Code X the district's state share index;</u>	44292 44293 44294
<u>(d) The district's category four special education ADM X the amount specified in division (D) of section 3317.013 of the Revised Code X the district's state share index;</u>	44295 44296 44297
<u>(e) The district's category five special education ADM X the amount specified in division (E) of section 3317.013 of the Revised Code X the district's state share index;</u>	44298 44299 44300
<u>(f) The district's category six special education ADM X the amount specified in division (F) of section 3317.013 of the Revised Code X the district's state share index.</u>	44301 44302 44303
<u>(4) Economically disadvantaged funds calculated under the following formula:</u>	44304 44305
<u>The number of students who are economically disadvantaged as reported under division (D)(2)(1) of section 3317.03 of the Revised Code X \$500 X the district's economically disadvantaged index.</u>	44306 44307 44308 44309
<u>(5) Limited English proficiency funds calculated as the sum of the following:</u>	44310 44311
<u>(a) The district's category one limited English proficiency ADM X the amount specified in division (A) of section 3317.016 of the Revised Code X the district's state share index;</u>	44312 44313 44314
<u>(b) The district's category two limited English proficiency ADM X the amount specified in division (B) of section 3317.016 of the Revised Code X the district's state share index;</u>	44315 44316 44317

(c) The district's category three limited English proficiency ADM X the amount specified in division (C) of section 3317.016 of the Revised Code X the district's state share index; 44318
44319
44320

(d) The district's category four limited English proficiency ADM X the amount specified in division (D) of section 3317.016 of the Revised Code X the district's state share index. 44321
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(6) Gifted funds calculated under the following formula: 44324

\$50 X the district's formula ADM. 44325

(B) The department shall deduct from the aggregate amount computed under division (A) of this section fifteen per cent of the sum of the amounts computed under division (A)(3) of this section and transfer that sum to the special education exceptional cost fund created in section 3317.0215 of the Revised Code. A joint vocational school district may apply for funds from the special education exceptional cost fund if it satisfies the criteria in section 3317.0214 of the Revised Code. 44326
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(C)(1) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under division (A) of this section. 44334
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Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student: 44343
44344
44345

(a) The per pupil amount of the opportunity grant calculated under division (A)(1) of this section; 44346
44347

<u>(b) Any funds received for the student under division (A)(3)</u>	44348
<u>of this section;</u>	44349
<u>(c) Any funds paid under section 3317.0214 for the student.</u>	44350
<u>(2) The board of education of the joint vocational school</u>	44351
<u>district may report the excess costs calculated under division</u>	44352
<u>(C)(1) of this section to the department of education.</u>	44353
<u>(3) If the board of education of the joint vocational school</u>	44354
<u>district reports excess costs under division (C)(2) of this</u>	44355
<u>section, the department shall pay the amount of excess cost</u>	44356
<u>calculated under division (C)(2) of this section to the joint</u>	44357
<u>vocational school district and shall deduct that amount as</u>	44358
<u>provided in division (C)(3)(a) or (b) of this section, as</u>	44359
<u>applicable:</u>	44360
<u>(a) If the student is not enrolled in a community school, the</u>	44361
<u>department shall deduct the amount from the account of the</u>	44362
<u>student's resident district pursuant to division (J) of section</u>	44363
<u>3317.023 of the Revised Code.</u>	44364
<u>(b) If the student is enrolled in a community school, the</u>	44365
<u>department shall deduct the amount from the account of the</u>	44366
<u>community school pursuant to section 3314.083 of the Revised Code.</u>	44367
<u>(D) As used in this section:</u>	44368
<u>(1) "Community school" means a community school established</u>	44369
<u>under Chapter 3314. of the Revised Code.</u>	44370
<u>(2) "Resident district" means the city, local, or exempted</u>	44371
<u>village school district in which a student is entitled to attend</u>	44372
<u>school under section 3313.64 or 3313.65 of the Revised Code.</u>	44373
<u>(3) "State share index" means the product of all of the</u>	44374
<u>following:</u>	44375
<u>(a) A joint vocational school district's valuation index;</u>	44376
<u>(b) The difference between the maximum and minimum of the</u>	44377

valuation indexes for all joint vocational school districts with a 44378
total ADM greater than zero divided by 0.9; 44379

(c) 0.1. 44380

If a joint vocational school district's state share index is less 44381
than 0.05, it shall be considered to be 0.05. If a joint 44382
vocational school district's state share index is greater than 44383
0.95, it shall be considered to be 0.95. 44384

(4) "Valuation index" means the quotient obtained by dividing 44385
the quotient of the statewide three-year average valuation for 44386
joint vocational school districts with a total ADM greater than 44387
zero and the current year statewide total ADM for joint vocational 44388
school districts by the quotient of a joint vocational school 44389
district's three-year average valuation and its current year total 44390
ADM. 44391

Sec. 3317.161. Payment of the amount calculated for a joint 44392
vocational school district under this section shall be made under 44393
division (A) of section 3317.16 of the Revised Code. 44394

The department of education shall annually compute targeted 44395
assistance funds to joint vocational school districts, as follows: 44396

(A) Calculate the local wealth per pupil of each joint 44397
vocational school district, which equals the following sum: 44398

(1) One-half times the quotient of (a) the district's 44399
three-year average valuation divided by (b) its formula ADM; plus 44400

(2) One-half times the quotient of (a) the average of the 44401
total federal adjusted gross income of the school district's 44402
residents for the three years most recently reported under section 44403
3317.021 of the Revised Code divided by (b) its formula ADM. 44404

(B) Rank all joint vocational school districts in order of 44405
local wealth per pupil, from the district with the lowest local 44406
wealth per pupil to the district with the highest local wealth per 44407

pupil. 44408

(C) Compute the statewide wealth per pupil, which equals the following sum: 44409
44410

(1) One-half times the quotient of (a) the sum of the three-year average valuations for all joint vocational school districts divided by (b) the sum of formula ADM counts for all joint vocational school districts; plus 44411
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44414

(2) One-half times the quotient of (a) the sum of the three-year average total federal adjusted gross incomes for all joint vocational school districts divided by (b) the sum of formula ADM counts for all joint vocational school districts. 44415
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(D) Compute each joint vocational district's wealth index by dividing the statewide wealth per pupil by the district's local wealth per pupil. 44419
44420
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(E) Compute the per pupil targeted assistance for each eligible joint vocational school district in accordance with the following formula: 44422
44423
44424

(Threshold local wealth per pupil - the district's local wealth per pupil) X .00025 X the district's wealth index 44425
44426

Where: 44427

(1) An "eligible joint vocational school district" means a school district with a local wealth per pupil less than that of the school district with the 39th lowest local wealth per pupil. 44428
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(2) "Threshold local wealth per pupil" means the local wealth per pupil of the joint vocational school district with the 39th lowest local wealth per pupil. 44431
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If the result of the calculation for a school district under division (E) of this section is less than zero, the district's targeted assistance shall be zero. 44434
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(F) Calculate the aggregate amount to be paid as targeted 44437

assistance funds to each joint vocational school district under 44438
division (A) of section 3317.16 of the Revised Code by multiplying 44439
the per pupil targeted assistance computed under division (E) of 44440
this section by the district's formula ADM. 44441

Sec. 3317.162. (A) As used in this section: 44442

(1) "Category one career-technical education ADM" means the 44443
average daily membership of students receiving career-technical 44444
education services described in division (A) of section 3317.014 44445
of the Revised Code on a full-time equivalency basis that are 44446
reported by each city, local, exempted village, and joint 44447
vocational school district, community school, and STEM school that 44448
is assigned to the career-technical planning district. 44449

(2) "Category two career-technical education ADM" means the 44450
average daily membership of students receiving career-technical 44451
education services described in division (B) of section 3317.014 44452
of the Revised Code on a full-time equivalency basis that are 44453
reported by each city, local, exempted village, and joint 44454
vocational school district, community school, and STEM school that 44455
is assigned to the career-technical planning district. 44456

(3) "Category three career-technical education ADM" means the 44457
average daily membership of students receiving career-technical 44458
education services described in division (C) of section 3317.014 44459
of the Revised Code on a full-time equivalency basis that are 44460
reported by each city, local, exempted village, and joint 44461
vocational school district, community school, and STEM school that 44462
is assigned to the career-technical planning district. 44463

(4) "Category four career-technical education ADM" means the 44464
average daily membership of students receiving career-technical 44465
education services described in division (D) of section 3317.014 44466
of the Revised Code on a full-time equivalency basis that are 44467
reported by each city, local, exempted village, and joint 44468

vocational school district, community school, and STEM school that 44469
is assigned to the career-technical planning district. 44470

(5) "Category five career-technical education ADM" means the 44471
average daily membership of students receiving career-technical 44472
education services described in division (E) of section 3317.014 44473
of the Revised Code on a full-time equivalency basis that are 44474
reported by each city, local, exempted village, and joint 44475
vocational school district, community school, and STEM school that 44476
is assigned to the career-technical planning district. 44477

(B) The department of education shall compute for each 44478
career-technical planning district state career-technical 44479
education funds calculated as the sum of the following: 44480

(1) The district's category one career-technical education 44481
ADM X the amount specified in division (A) of section 3317.014 of 44482
the Revised Code; 44483

(2) The district's category two career-technical education 44484
ADM X the amount specified in division (B) of section 3317.014 of 44485
the Revised Code; 44486

(3) The district's category three career-technical education 44487
ADM X the amount specified in division (C) of section 3317.014 of 44488
the Revised Code; 44489

(4) The district's category four career-technical education 44490
ADM X the amount specified in division (D) of section 3317.014 of 44491
the Revised Code; 44492

(5) The district's category five career-technical education 44493
ADM X the amount specified in division (E) of section 3317.014 of 44494
the Revised Code. 44495

(C)(1) The lead district of a career-technical planning 44496
district shall review the career-technical education program of 44497
each city, local, and exempted village school district, each 44498

community school, and each STEM school that is assigned to the 44499
career-technical planning district and determine whether to 44500
approve or disapprove the program. The lead district shall notify 44501
the department of its determination. 44502

(2) Upon receiving notification of a lead district's 44503
approval, the department shall transfer to the member city, local, 44504
or exempted village school district, community school, or STEM 44505
school the funds attributed to the career-technical students 44506
enrolled in the district or school, according to a payment 44507
schedule prescribed by the department. 44508

(3) Upon receiving notification from a lead district of 44509
disapproval of a city, local, or exempted village school 44510
district's, a community school's, or STEM school's 44511
career-technical education program, the department shall 44512
automatically review the lead district's decision. If, as a result 44513
of the review, the department decides to approve the city, local, 44514
or exempted village school district's, the community school's, or 44515
the STEM school's career-technical education program, the 44516
department shall transfer the funds in the manner described in 44517
division (C)(2) of this section. The department's decision shall 44518
be final. 44519

(D) The department shall compute and distribute for each lead 44520
district of a career-technical planning district, including a 44521
joint vocational school district, state funds for career-technical 44522
education associated services calculated under the following 44523
formula: 44524

An associated services cost of \$150 X the sum of categories 44525
one through five career-technical education ADM for the 44526
career-technical planning district. 44527

As used in this division, a career-technical planning 44528
district's "category one through five career-technical education 44529

ADM" means the sum of the category one through five career-technical education ADM counts, or a full-time equivalency basis, for all of the city, exempted village, and local school districts assigned to the district, including those students entitled to attend school in the city, exempted village, and local school districts who are enrolled in community schools and STEM schools. 44530
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In any fiscal year, a lead district of a career-technical planning district that receives funds under this division shall spend those funds only for purposes that the department designates as approved for career-technical education and for associated services expenses. Associated services may include such purposes as apprenticeship coordinators, coordinators for other career-technical education services, career-technical evaluation, and other purposes designated by the department. The department may deny payment under this division to any lead district of a career-technical planning district that the department determines is not operating those services or is using funds paid under this division for other purposes. 44537
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Sec. 3317.163. In any fiscal year, a school district, community school, or STEM school receiving funds under division (C) of section 3317.162 of the Revised Code shall spend those funds only for the purposes that the department of education designates as approved for career-technical education expenses. Career-technical education expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require each school district, community school, and STEM school to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (C) of section 3317.162 of the Revised Code may be spent. 44549
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Sec. 3317.18. (A) As used in this section, the terms "Chapter 44562
133. securities," "credit enhancement facilities," "debt charges," 44563
"general obligation," "legislation," "public obligations," and 44564
"securities" have the same meanings as in section 133.01 of the 44565
Revised Code. 44566

(B) The board of education of any school district authorizing 44567
the issuance of securities under section 133.10, ~~133.301~~, or 44568
3313.372 of the Revised Code or general obligation Chapter 133. 44569
securities may adopt legislation requesting the state department 44570
of education to approve, and enter into an agreement with the 44571
school district and the primary paying agent or fiscal agent for 44572
such securities providing for, the withholding and deposit of 44573
funds, otherwise due the district under Chapter 3317. of the 44574
Revised Code, for the payment of debt service charges on such 44575
securities. 44576

The board of education shall deliver to the state department 44577
a copy of such resolution and any additional pertinent information 44578
the state department may require. 44579

The department of education and the office of budget and 44580
management shall evaluate each request received from a school 44581
district under this section and the department, with the advice 44582
and consent of the director of budget and management, shall 44583
approve or deny each request based on all of the following: 44584

(1) Whether approval of the request will enhance the 44585
marketability of the securities for which the request is made; 44586

(2) Any other pertinent factors or limitations established in 44587
rules made under division (I) of this section, including: 44588

(a) Current and projected obligations of funds due to the 44589
requesting school district under Chapter 3317. of the Revised Code 44590
including obligations of those funds to public obligations or 44591

relevant credit enhancement facilities under this section, Chapter 44592
133. and section 3313.483 of the Revised Code, and under any other 44593
similar provisions of law; 44594

(b) Whether the department of education or the office of 44595
budget and management has any reason to believe the requesting 44596
school district will be unable to pay when due the debt charges on 44597
the securities for which the request is made. 44598

The department may require a school district to establish 44599
schedules for the payment of all debt charges that take into 44600
account the amount and timing of anticipated distributions of 44601
funds to the district under Chapter 3317. of the Revised Code. 44602

(C) If the department approves the request of a school 44603
district to withhold and deposit funds pursuant to this section, 44604
the department shall enter into a written agreement with the 44605
district and the primary paying agent or fiscal agent for the 44606
securities which shall provide for the withholding of funds 44607
pursuant to this section for the payment of debt charges on those 44608
securities, and may include both of the following: 44609

(1) Provisions for certification by the district to the 44610
department, at a time prior to any date for the payment of 44611
applicable debt charges, whether the district is able to pay those 44612
debt charges when due; 44613

(2) Requirements that the district deposit amounts for the 44614
payment of debt charges on the securities with the primary paying 44615
agent or fiscal agent for the securities prior to the date on 44616
which those debt charge payments are due to the owners or holders 44617
of the securities. 44618

(D) Whenever a district notifies the department of education 44619
that it will be unable to pay debt charges when they are due, 44620
subject to the withholding provisions of this section, or whenever 44621
the applicable paying agent or fiscal agent notifies the 44622

department that it has not timely received from a school district 44623
the full amount needed for the payment when due of those debt 44624
charges to the holders or owners of such securities, the 44625
department shall immediately contact the school district and the 44626
paying agent or fiscal agent to confirm or determine whether the 44627
district is unable to make the required payment by the date on 44628
which it is due. 44629

Upon demand of the treasurer of state while holding a school 44630
district obligation purchased under division (G)(1) of section 44631
135.143 of the Revised Code, the state department of education, 44632
without a request of the school district, shall withhold and 44633
deposit funds pursuant to this section for payment of debt service 44634
charges on that obligation. 44635

If the department confirms or determines that the district 44636
will be unable to make such payment and payment will not be made 44637
pursuant to a credit enhancement facility, the department shall 44638
promptly pay to the applicable primary paying agent or fiscal 44639
agent the lesser of the amount due for debt charges or the amount 44640
due the district for the remainder of the fiscal year under 44641
Chapter 3317. of the Revised Code. If this amount is insufficient 44642
to pay the total amount then due the agent for the payment of debt 44643
charges, the department shall pay to the agent each fiscal year 44644
thereafter, and until the full amount due the agent for unpaid 44645
debt charges is paid in full, the lesser of the remaining amount 44646
due the agent for debt charges or the amount due the district for 44647
the fiscal year under Chapter 3317. of the Revised Code. 44648

(E) The state department may make any payments under this 44649
division by direct deposit of funds by electronic transfer. 44650

Any amount received by a paying agent or fiscal agent under 44651
this section shall be applied only to the payment of debt charges 44652
on the securities of the school district subject to this section 44653
or to the reimbursement to the provider of a credit enhancement 44654

facility that has paid such debt charges. 44655

(F) To the extent a school district whose securities are 44656
subject to this section is unable to pay applicable debt charges 44657
because of the failure to collect property taxes levied for the 44658
payment of those debt charges, the district may transfer to or 44659
deposit into any fund that would have received payments under 44660
Chapter 3317. of the Revised Code that were withheld under this 44661
section any such delinquent property taxes when later collected, 44662
provided that transfer or deposit shall be limited to the amounts 44663
withheld from that fund under this section. 44664

(G) The department may make payments under this section to 44665
paying agents or fiscal agents only from and to the extent that 44666
money is appropriated by the general assembly for Chapter 3317. of 44667
the Revised Code or for the purposes of this section. No 44668
securities of a school district to which this section is made 44669
applicable constitute an obligation or a debt or a pledge of the 44670
faith, credit, or taxing power of the state, and the holders or 44671
owners of such securities have no right to have taxes levied or 44672
appropriations made by the general assembly for the payment of 44673
debt charges on those securities, and those securities, if the 44674
department requires, shall contain a statement to that effect. The 44675
agreement for or the actual withholding and payment of moneys 44676
under this section does not constitute the assumption by the state 44677
of any debt of a school district. 44678

(H) In the case of securities subject to the withholding 44679
provisions of this section, the issuing board of education shall 44680
appoint a paying agent or fiscal agent who is not an officer or 44681
employee of the school district. 44682

(I) The department of education, with the advice of the 44683
office of budget and management, may adopt reasonable rules not 44684
inconsistent with this section for the implementation of this 44685
section and division (B) of section 133.25 of the Revised Code as 44686

it relates to the withholding and depositing of payments under 44687
Chapter 3317. of the Revised Code to secure payment of debt 44688
charges on school district securities. Those rules shall include 44689
criteria for the evaluation and approval or denial of school 44690
district requests for withholding under this section and limits on 44691
the obligation for the purpose of paying debt charges or 44692
reimbursing credit enhancement facilities of funds otherwise to be 44693
paid to school districts under Chapter 3317. of the Revised Code. 44694

(J) The authority granted by this section is in addition to 44695
and not a limitation on any other authorizations granted by or 44696
pursuant to law for the same or similar purposes. 44697

Sec. 3317.19. ~~(A) As used in this section, "total unit 44698
allowance" means an amount equal to the sum of the following:~~ 44699

~~(1) The total of the salary allowances for the teachers 44700
employed in the cooperative education school district for all 44701
units approved under division (B) or (C) of section 3317.05 of the 44702
Revised Code. The salary allowance for each unit shall equal the 44703
minimum salary for the teacher of the unit calculated on the basis 44704
of the teacher's training level and years of experience pursuant 44705
to the salary schedule prescribed in the version of section 44706
3317.13 of the Revised Code in effect prior to July 1, 2001. 44707~~

~~(2) Fifteen per cent of the total computed under division 44708
(A)(1) of this section;~~ 44709

~~(3) The total of the unit operating allowances for all 44710
approved units. The amount of each allowance shall equal one of 44711
the following:~~ 44712

~~(a) Eight thousand twenty three dollars times the number of 44713
units for preschool children with disabilities or fraction thereof 44714
approved for the year under division (B) of section 3317.05 of the 44715
Revised Code;~~ 44716

~~(b) Two thousand one hundred thirty two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.~~

~~(B)~~ The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:

~~(1)(A)~~ An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division (H) of section 3317.023 of the Revised Code;

~~(2) The total unit allowance;~~

~~(3)(B)~~ An amount for assisting in providing free lunches to needy children pursuant to division (D) of section 3317.024 of the Revised Code.

~~(C) If a cooperative education school district has had additional special education units approved for the year under division (F)(2) of section 3317.03 of the Revised Code, the district shall receive an additional amount during the last half of the fiscal year. For each unit, the additional amount shall equal fifty per cent of the amount computed under division (A) of this section for a unit approved under division (B) of section 3317.05 of the Revised Code.~~

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable ~~weight~~ special education amount" means the ~~multiple amount~~ specified in section 3317.013 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share ~~percentage~~ index" means the state share 44747
percentage index of the child's school district. 44748

(4) "Opportunity per pupil amount" means the per pupil amount 44749
of the opportunity grant calculated under division (A)(1) of 44750
section 3317.022 of the Revised Code for a child's school 44751
district, as determined by the department of education. 44752

(5) "Targeted assistance per pupil amount" means the per 44753
pupil amount calculated under section 3317.0217 of the Revised 44754
Code for the child's school district. 44755

(B) ~~Except as provided in division (C) of this section, the 44756~~
The department shall annually pay each county DD board for each 44757
child with a disability, other than a preschool child with a 44758
disability, for whom the county DD board provides special 44759
education and related services an amount equal to the ~~formula 44760~~
~~amount + (state share percentage X formula amount X the applicable 44761~~
~~weight).~~ 44762

~~(C) If any school district places with a county DD board more 44763~~
~~children with disabilities than it had placed with a county DD 44764~~
~~board in fiscal year 1998, the department shall not make a payment 44765~~
~~under division (B) of this section for the number of children 44766~~
~~exceeding the number placed in fiscal year 1998. The department 44767~~
~~instead shall deduct from the district's payments under this 44768~~
~~chapter, and pay to the county DD board, an amount calculated in 44769~~
~~accordance with the formula prescribed in division (B) of this 44770~~
~~section for each child over the number of children placed in 44771~~
~~fiscal year 1998. 44772~~

~~(D) The department shall calculate for each county DD board 44773~~
~~receiving payments under divisions (B) and (C) of this section the 44774~~
~~following amounts:~~ 44775

~~(1) The amount received by the county DD board for approved 44776~~
~~special education and related services units, other than units for 44777~~

~~preschool children with disabilities, in fiscal year 1998, divided 44778
by the total number of children served in the units that year; 44779~~

~~(2) The product of the quotient calculated under division 44780
(D)(1) of this section times the number of children for whom 44781
payments are made under divisions (B) and (C) of this section. 44782~~

~~If the amount calculated under division (D)(2) of this 44783
section is greater than the total amount calculated under 44784
divisions (B) and (C) of this section, the department shall pay 44785
the county DD board one hundred per cent of the difference in 44786
addition to the payments under divisions (B) and (C) of this 44787
section sum of the following: 44788~~

~~(1) (Opportunity per pupil amount + the applicable special 44789
education amount) X the state share index of the child's school 44790
district; 44791~~

~~(2) Targeted assistance per pupil amount. 44792~~

~~(E)(C) Each county DD board shall report to the department, 44793
in the manner specified by the department, the name of each child 44794
for whom the county DD board provides special education and 44795
related services and the child's school district. 44796~~

~~(F)(D)(1) For the purpose of verifying the accuracy of the 44797
payments under this section, the department may request from 44798
either of the following entities the data verification code 44799
assigned under division (D)(2) of section 3301.0714 of the Revised 44800
Code to any child who is placed with a county DD board: 44801~~

~~(a) The child's school district; 44802~~

~~(b) The independent contractor engaged to create and maintain 44803
data verification codes. 44804~~

~~(2) Upon a request by the department under division (F)(D)(1) 44805
of this section for the data verification code of a child, the 44806
child's school district shall submit that code to the department 44807~~

in the manner specified by the department. If the child has not 44808
been assigned a code, the district shall assign a code to that 44809
child and submit the code to the department by a date specified by 44810
the department. If the district does not assign a code to the 44811
child by the specified date, the department shall assign a code to 44812
the child. 44813

The department annually shall submit to each school district 44814
the name and data verification code of each child residing in the 44815
district for whom the department has assigned a code under this 44816
division. 44817

(3) The department shall not release any data verification 44818
code that it receives under division ~~(F)~~(D) of this section to any 44819
person except as provided by law. 44820

~~(G)~~(E) Any document relative to special education and related 44821
services provided by a county DD board that the department holds 44822
in its files that contains both a student's name or other 44823
personally identifiable information and the student's data 44824
verification code shall not be a public record under section 44825
149.43 of the Revised Code. 44826

Sec. 3317.201. This section does not apply to preschool 44827
children with disabilities. 44828

(A) As used in this section, ~~the "total:~~ 44829

(1) "Total special education ~~weight~~ amount" for an 44830
institution means the sum of the following amounts: 44831

~~(1)~~(a) The number of children reported by the institution 44832
under division (G)(1)(a)(i) of section 3317.03 of the Revised Code 44833
as receiving services for a disability described in division (A) 44834
of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ 44835
amount specified in that division; 44836

~~(2)~~(b) The number of children reported by the institution 44837

under division (G)(1)(a)(i) of section 3317.03 of the Revised Code 44838
as receiving services for a disability described in division (B) 44839
of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ 44840
amount specified in that division; 44841

~~(3)~~(c) The number of children reported by the institution 44842
under division (G)(1)(a)(i) of section 3317.03 of the Revised Code 44843
as receiving services for a disability described in division (C) 44844
of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ 44845
amount specified in that division; 44846

~~(4)~~(d) The number of children reported by the institution 44847
under division (G)(1)(a)(i) of section 3317.03 of the Revised Code 44848
as receiving services for a disability described in division (D) 44849
of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ 44850
amount specified in that division; 44851

~~(5)~~(e) The number of children reported by the institution 44852
under division (G)(1)(a)(i) of section 3317.03 of the Revised Code 44853
as receiving services for a disability described in division (E) 44854
of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ 44855
amount specified in that division; 44856

~~(6)~~(f) The number of children reported by the institution 44857
under division (G)(1)(a)(i) of section 3317.03 of the Revised Code 44858
as receiving services for a disability described in division (F) 44859
of section 3317.013 of the Revised Code multiplied by the ~~multiple~~ 44860
amount specified in that division. 44861

(2) "Total targeted assistance funds" for an institution 44862
means the sum of all of the per pupil amounts of targeted 44863
assistance funds, computed under section 3317.0217 of the Revised 44864
Code, for all of the school districts in which the institution's 44865
special education students are entitled to attend school under 44866
section 3313.64 or 3313.65 of the Revised Code times the total 44867
number of the districts' students enrolled at the institution. 44868

(B) For each fiscal year, the department of education shall 44869
pay each state institution required to provide special education 44870
services under division (A) of section 3323.091 of the Revised 44871
Code an amount equal to the ~~greater~~ sum of: 44872

(1) The ~~formula amount times the~~ institution's total special 44873
education ~~weight~~ amount; 44874

(2) The ~~aggregate amount of special education and related~~ 44875
~~services unit funding the institution received for all children~~ 44876
~~with disabilities other than preschool children with disabilities~~ 44877
~~in fiscal year 2005 under sections 3317.052 and 3317.053 of the~~ 44878
~~Revised Code, as those sections existed prior to June 30, 2005~~ 44879
institution's total targeted assistance funds. 44880

Sec. ~~3313.847~~ 3317.30. (A) In the case of a child placed in 44881
the custody of a juvenile facility established under section 44882
2151.65 or a detention facility established under section 2152.41 44883
of the Revised Code, if payment for the child's education services 44884
shall be administered by one of the following methods: 44885

(1) If the facility educates the child, the facility, or the 44886
chartered nonpublic school it operates, may submit its request for 44887
payment directly to the school district that is to bear the cost 44888
of educating the child, as determined under section 2151.362 of 44889
the Revised Code. That district shall pay the facility or the 44890
chartered nonpublic school directly for those services. 44891

(2) If the facility contracts directly with a school district 44892
in which the facility is located for services for that child, the 44893
school district may submit its request for payment directly to the 44894
school district that is to bear the cost of educating the child, 44895
as determined under section 2151.362 of the Revised Code. That 44896
district shall pay the school district where the facility is 44897
located directly for those services. 44898

(3) If that facility contracts directly with an educational service center for services for that child, the service center may submit its request for payment for services for the child directly to the school district that is responsible to bear the cost of educating the child, as determined under section 2151.362 of the Revised Code. That district shall pay the service center directly for those services. ~~Notwithstanding~~ 44899
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(B) Notwithstanding anything to the contrary in section 3317.03 of the Revised Code, the district that pays a service center, facility or chartered nonpublic school the facility operates, or other school district for services for a particular child under this section shall include that child in the district's average daily membership as reported under division (A) of section 3317.03 of the Revised Code. No other district shall include the child in its average daily membership. 44906
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Payments made for a child under this section shall be determined in accordance with division (C)(4) of section 3313.64 of the Revised Code. 44914
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Sec. 3317.40. (A) As used in this section, "subgroup" means one of the following subsets of the entire student population of a school district or a school building: 44917
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(1) Students with disabilities; 44920

(2) Economically disadvantaged students; 44921

(3) Limited English proficient students; 44922

(4) Students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code. 44923
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(B) It is the intent of the general assembly that funds provided under this chapter shall be used for the provision of a system of common schools and the advancement of the knowledge of 44926
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all students. As such, school districts and schools shall be held 44929
accountable for those funds to ensure that all students are 44930
provided an opportunity to master a common knowledge base in order 44931
to graduate from high school prepared for a career or for 44932
post-secondary education. 44933

(C) When funds are provided under this chapter specifically 44934
for services for a subgroup of students, the general assembly has 44935
determined that these students experience unique challenges 44936
requiring additional resources and intends that the funds so 44937
provided be used for services that will allow students in those 44938
subgroups to master the knowledge base required for high school 44939
graduation. 44940

(D) If a district or school fails to show consistent progress 44941
for any subgroup of students based on performance measures 44942
reported or graded under section 3302.03 of the Revised Code, as 44943
determined by the department of education, the district or school 44944
shall partner with, and pay the funds provided for that subgroup 44945
as calculated by the department, to another organization that has 44946
demonstrated the ability to improve the educational outcome for 44947
that subgroup of students to provide services to those students. 44948
The partner organization may be another school, district, or other 44949
education provider. 44950

The department shall publish a list of schools, school 44951
districts, and other educational providers that have demonstrated 44952
an ability to serve each subgroup of students. 44953

Sec. 3317.50. ~~The eTech-Ohio~~ telecommunity education fund is 44954
hereby created in the state treasury. The fund shall consist of 44955
certain excess local exchange telephone company contributions 44956
transferred from the reserve fund of the Ohio telecommunications 44957
advisory board pursuant to an agreement between the public 44958
utilities commission of Ohio and the Ohio department of education. 44959

The fund shall be used by the chancellor of the Ohio board of regents, in the amounts appropriated, to finance technology grants to state-chartered elementary and secondary schools. Investment earnings of the fund shall be credited to the fund.

Sec. 3317.51. (A) The distance learning fund is hereby created in the state treasury. The fund shall consist of moneys paid ~~to the eTech Ohio commission~~ by any telephone company as a part of a settlement agreement between such company and the public utilities commission in fiscal year 1995 in part to establish distance learning throughout the state. The ~~commission~~ chancellor of the Ohio board of regents shall administer the fund and expend moneys from it to finance technology grants to eligible schools chartered by the state board of education to establish distance learning in those schools. Chartered schools are eligible for funds if they are within the service area of the telephone company. Investment earnings of the fund shall be credited to the fund.

(B) For purposes of this section, "distance learning" means the creation of a learning environment involving a school setting and at least one other location outside of the school which allows for information available at one site to be accessed at the other through the use of such educational applications as one-way or two-way transmission of data, voice, and video, singularly or in appropriate combinations.

Sec. 3317.52. (A) The straight A program is hereby created to provide grants to city, local, exempted village, and joint vocational school districts, educational service centers, community schools established under Chapter 3314., STEM schools established under Chapter 3326. of the Revised Code, individual school buildings, education consortia (which may represent a partnership with other school districts), institutions of higher

education, and private entities for projects that aim to achieve 44991
significant advancement in one or more of the following goals: 44992

(1) Student achievement; 44993

(2) Spending reduction in the five-year fiscal forecast 44994
required under section 5705.391 of the Revised Code; 44995

(3) Utilization of a greater share of resources in the 44996
classroom. 44997

(B)(1) Grants shall be awarded by a governing board 44998
consisting of seven members appointed by the governor, one member 44999
appointed by the speaker of the house of representatives, and one 45000
member appointed by the president of the senate. The department of 45001
education, under the direction of the director of the governor's 45002
office of 21st century education, shall provide administrative 45003
support to the board. 45004

(2) The board shall select grant advisors with fiscal 45005
expertise and education expertise. These advisors shall evaluate 45006
proposals from grant applicants and advise the staff administering 45007
the program. 45008

(3) The board shall issue an annual report to the governor, 45009
the speaker of the house of representatives, the president of the 45010
senate, and the chairpersons of the house and senate committees 45011
that primarily deal with education regarding the types of grants 45012
awarded, the grant recipients, and the effectiveness of the grant 45013
program. 45014

(C) Each grant applicant shall submit a proposal that 45015
includes all of the following: 45016

(1) A description of the project for which the applicant is 45017
seeking a grant, including a description of how the project will 45018
have substantial value and lasting impact; 45019

(2) An explanation of how the project will be 45020

self-sustaining. If the project will result in increased ongoing 45021
spending, the applicant shall show how the spending will be offset 45022
by verifiable, credible, permanent spending reductions. 45023

(3) A description of quantifiable results of the project that 45024
can be benchmarked. 45025

(D)(1) Within seventy-five days after receiving a grant 45026
application, the board shall issue a decision on the application 45027
of "yes," "no," "hold," or "edit." In making its decision, the 45028
board shall consider whether the project has the capability of 45029
being replicated in other school districts and schools or creates 45030
something that can be used in other districts and schools. 45031

(2) If the board issues a "hold" or "edit" decision for an 45032
application, it shall, upon returning the application to the 45033
applicant, specify the process for reconsideration of the 45034
application. An applicant may work with the grant advisors and 45035
staff to modify or improve a grant application. 45036

(E) Upon deciding to award a grant to an applicant, the board 45037
shall enter into a grant agreement with the applicant that 45038
includes all of the following: 45039

(1) The content of the applicant's proposal as outlined under 45040
division (C) of this section; 45041

(2) The project's deliverables and a timetable for their 45042
completion; 45043

(3) Conditions for receiving grant funding; 45044

(4) Conditions for receiving funding in future years if the 45045
contract is a multi-year contract; 45046

(5) A provision specifying that funding will be returned to 45047
the board if the applicant fails to implement the agreement, as 45048
determined by the auditor of state. 45049

(6) A provision specifying that the agreement may be amended 45050

by mutual agreement between the board and the applicant. 45051

(F) An advisory committee for the straight A program is 45052
hereby established. The committee shall consist of the following: 45053

(1) Not more than seventeen members appointed by the governor 45054
that represent all areas of the state and different interests; 45055

(2) Two members of the senate, one from each political party, 45056
appointed by the president of the senate; 45057

(3) Two members of the house of representatives, one from 45058
each political party, appointed by the speaker of the house of 45059
representatives. 45060

The committee shall annually review the straight A program 45061
and provide strategic advice to the governing board and the 45062
director of the governor's office of 21st century education. 45063

Sec. 3318.011. For purposes of providing assistance under 45064
sections 3318.01 to 3318.20 of the Revised Code, the department of 45065
education shall annually do all of the following: 45066

(A) Calculate the adjusted valuation per pupil of each city, 45067
local, and exempted village school district according to the 45068
following formula: 45069

The district's valuation per pupil - 45070
[\$30,000 X (1 - the district's income factor)]. 45071

For purposes of this calculation: 45072

(1) Except for a district with an open enrollment net gain 45073
that is ten per cent or more of its formula ADM, "valuation per 45074
pupil" for a district means its average taxable value, divided by 45075
its formula ADM for the previous fiscal year. "Valuation per 45076
pupil," for a district with an open enrollment net gain that is 45077
ten per cent or more of its formula ADM, means its average taxable 45078
value, divided by the sum of its formula ADM for the previous 45079
fiscal year plus its open enrollment net gain for the previous 45080

fiscal year. 45081

(2) "Average taxable value" means the average of the sum of 45082
the amounts certified for a district under divisions (A)(1) and 45083
(2) of section 3317.021 of the Revised Code in the second, third, 45084
and fourth preceding fiscal years. 45085

(3) "Entitled to attend school" means entitled to attend 45086
school in a city, local, or exempted village school district under 45087
section 3313.64 or 3313.65 of the Revised Code. 45088

(4) "Formula ADM" ~~and "income factor"~~ has the same 45089
~~meanings~~ meaning as in section 3317.02 of the Revised Code. 45090

(5) "Native student" has the same meaning as in section 45091
3313.98 of the Revised Code. 45092

(6) "Open enrollment net gain" for a district means (a) the 45093
number of the students entitled to attend school in another 45094
district but who are enrolled in the schools of the district under 45095
its open enrollment policy minus (b) the number of the district's 45096
native students who are enrolled in the schools of another 45097
district under the other district's open enrollment policy, both 45098
numbers as certified to the department under section 3313.981 of 45099
the Revised Code. If the difference is a negative number, the 45100
district's "open enrollment net gain" is zero. 45101

(7) "Open enrollment policy" means an interdistrict open 45102
enrollment policy adopted under section 3313.98 of the Revised 45103
Code. 45104

(8) "District median income" means the median Ohio adjusted 45105
gross income certified for a school district. On or before the 45106
first day of July of each year, the tax commissioner shall certify 45107
to the department of education and the office of budget and 45108
management for each city, exempted village, and local school 45109
district the median Ohio adjusted gross income of the residents of 45110
the school district determined on the basis of tax returns filed 45111

for the second preceding tax year by the residents of the 45112
district. 45113

(9) "Statewide median income" means the median district 45114
median income of all city, exempted village, and local school 45115
districts in the state. 45116

(10) "Income factor" for a city, exempted village, or local 45117
school district means the quotient obtained by dividing that 45118
district's median income by the statewide median income. 45119

(B) Calculate for each district the three-year average of the 45120
adjusted valuations per pupil calculated for the district for the 45121
current and two preceding fiscal years; 45122

(C) Rank all such districts in order of adjusted valuation 45123
per pupil from the district with the lowest three-year average 45124
adjusted valuation per pupil to the district with the highest 45125
three-year average adjusted valuation per pupil; 45126

(D) Divide such ranking into percentiles with the first 45127
percentile containing the one per cent of school districts having 45128
the lowest three-year average adjusted valuations per pupil and 45129
the one-hundredth percentile containing the one per cent of school 45130
districts having the highest three-year average adjusted 45131
valuations per pupil; 45132

(E) Determine the school districts that have three-year 45133
average adjusted valuations per pupil that are greater than the 45134
median three-year average adjusted valuation per pupil for all 45135
school districts in the state; 45136

(F) On or before the first day of September, certify the 45137
information described in divisions (A) to (E) of this section to 45138
the Ohio school facilities commission. 45139

Sec. 3318.031. (A) The Ohio school facilities commission 45140
shall consider student and staff safety and health when reviewing 45141

design plans for classroom facility construction projects proposed 45142
under this chapter. After consulting with appropriate education, 45143
health, and law enforcement personnel, the commission may require 45144
as a condition of project approval under either section 3318.03 or 45145
division (B)(1) of section 3318.41 of the Revised Code such 45146
changes in the design plans as the commission believes will 45147
advance or improve student and staff safety and health in the 45148
proposed classroom facility. 45149

To carry out its duties under this division, the commission 45150
shall review and, if necessary, amend any construction and design 45151
standards used in its project approval process, including 45152
standards for location and number of exits, standards for lead 45153
safety in classroom facilities constructed before 1978 in which 45154
services are provided to children under six years of age, and 45155
location of restrooms, with a focus on advancing student and staff 45156
safety and health. 45157

(B) When reviewing design standards for classroom facility 45158
construction projects proposed under this chapter, the commission 45159
shall also consider the extent to which the design standards 45160
support the following: 45161

(1) ~~Support and facilitation of smaller classes and the trend~~ 45162
~~toward smaller schools~~ Trends in educational delivery methods, 45163
including digital access and blended learning; 45164

(2) Provision of sufficient space for training new teachers 45165
and promotion of collaboration among teaching candidates, 45166
experienced teachers, and teacher educators; 45167

(3) Provision of adequate space for teacher planning and 45168
collaboration; 45169

(4) Provision of adequate space for parent involvement 45170
activities; 45171

(5) Provision of sufficient space for innovative partnerships 45172

between schools and health and social service agencies. 45173

Sec. 3318.08. Except in the case of a joint vocational school 45174
district that receives assistance under sections 3318.40 to 45175
3318.45 of the Revised Code, if the requisite favorable vote on 45176
the election is obtained, or if the school district board has 45177
resolved to apply the proceeds of a property tax levy or the 45178
proceeds of an income tax, or a combination of proceeds from such 45179
taxes, as authorized in section 3318.052 of the Revised Code, the 45180
Ohio school facilities commission, upon certification to it of 45181
either the results of the election or the resolution under section 45182
3318.052 of the Revised Code, shall enter into a written agreement 45183
with the school district board for the construction and sale of 45184
the project. In the case of a joint vocational school district 45185
that receives assistance under sections 3318.40 to 3318.45 of the 45186
Revised Code, if the school district board of education and the 45187
school district electors have satisfied the conditions prescribed 45188
in division (D)(1) of section 3318.41 of the Revised Code, the 45189
commission shall enter into an agreement with the school district 45190
board for the construction and sale of the project. In either 45191
case, the agreement shall include, but need not be limited to, the 45192
following provisions: 45193

(A) The sale and issuance of bonds or notes in anticipation 45194
thereof, as soon as practicable after the execution of the 45195
agreement, in an amount equal to the school district's portion of 45196
the basic project cost, including any securities authorized under 45197
division (J) of section 133.06 of the Revised Code and dedicated 45198
by the school district board to payment of the district's portion 45199
of the basic project cost of the project; provided, that if at 45200
that time the county treasurer of each county in which the school 45201
district is located has not commenced the collection of taxes on 45202
the general duplicate of real and public utility property for the 45203
year in which the controlling board approved the project, the 45204

school district board shall authorize the issuance of a first 45205
installment of bond anticipation notes in an amount specified by 45206
the agreement, which amount shall not exceed an amount necessary 45207
to raise the net bonded indebtedness of the school district as of 45208
the date of the controlling board's approval to within five 45209
thousand dollars of the required level of indebtedness for the 45210
preceding year. In the event that a first installment of bond 45211
anticipation notes is issued, the school district board shall, as 45212
soon as practicable after the county treasurer of each county in 45213
which the school district is located has commenced the collection 45214
of taxes on the general duplicate of real and public utility 45215
property for the year in which the controlling board approved the 45216
project, authorize the issuance of a second and final installment 45217
of bond anticipation notes or a first and final issue of bonds. 45218

The combined value of the first and second installment of 45219
bond anticipation notes or the value of the first and final issue 45220
of bonds shall be equal to the school district's portion of the 45221
basic project cost. The proceeds of any such bonds shall be used 45222
first to retire any bond anticipation notes. Otherwise, the 45223
proceeds of such bonds and of any bond anticipation notes, except 45224
the premium and accrued interest thereon, shall be deposited in 45225
the school district's project construction fund. In determining 45226
the amount of net bonded indebtedness for the purpose of fixing 45227
the amount of an issue of either bonds or bond anticipation notes, 45228
gross indebtedness shall be reduced by moneys in the bond 45229
retirement fund only to the extent of the moneys therein on the 45230
first day of the year preceding the year in which the controlling 45231
board approved the project. Should there be a decrease in the tax 45232
valuation of the school district so that the amount of 45233
indebtedness that can be incurred on the tax duplicates for the 45234
year in which the controlling board approved the project is less 45235
than the amount of the first installment of bond anticipation 45236
notes, there shall be paid from the school district's project 45237

construction fund to the school district's bond retirement fund to 45238
be applied against such notes an amount sufficient to cause the 45239
net bonded indebtedness of the school district, as of the first 45240
day of the year following the year in which the controlling board 45241
approved the project, to be within five thousand dollars of the 45242
required level of indebtedness for the year in which the 45243
controlling board approved the project. The maximum amount of 45244
indebtedness to be incurred by any school district board as its 45245
share of the cost of the project is either an amount that will 45246
cause its net bonded indebtedness, as of the first day of the year 45247
following the year in which the controlling board approved the 45248
project, to be within five thousand dollars of the required level 45249
of indebtedness, or an amount equal to the required percentage of 45250
the basic project costs, whichever is greater. All bonds and bond 45251
anticipation notes shall be issued in accordance with Chapter 133. 45252
of the Revised Code, and notes may be renewed as provided in 45253
section 133.22 of the Revised Code. 45254

(B) The transfer of such funds of the school district board 45255
available for the project, together with the proceeds of the sale 45256
of the bonds or notes, except premium, accrued interest, and 45257
interest included in the amount of the issue, to the school 45258
district's project construction fund; 45259

(C) For all school districts except joint vocational school 45260
districts that receive assistance under sections 3318.40 to 45261
3318.45 of the Revised Code, the following provisions as 45262
applicable: 45263

(1) If section 3318.052 of the Revised Code applies, the 45264
earmarking of the proceeds of a tax levied under section 5705.21 45265
of the Revised Code for general permanent improvements or under 45266
section 5705.218 of the Revised Code for the purpose of permanent 45267
improvements, or the proceeds of a school district income tax 45268
levied under Chapter 5748. of the Revised Code, or the proceeds 45269

from a combination of those two taxes, in an amount to pay all or 45270
part of the service charges on bonds issued to pay the school 45271
district portion of the project and an amount equivalent to all or 45272
part of the tax required under division (B) of section 3318.05 of 45273
the Revised Code; 45274

(2) If section 3318.052 of the Revised Code does not apply, 45275
one of the following: 45276

(a) The levy of the tax authorized at the election for the 45277
payment of maintenance costs, as specified in division (B) of 45278
section 3318.05 of the Revised Code; 45279

(b) If the school district electors have approved a 45280
continuing tax for general permanent improvements under section 45281
5705.21 of the Revised Code and that tax can be used for 45282
maintenance, the earmarking of an amount of the proceeds from such 45283
tax for maintenance of classroom facilities as specified in 45284
division (B) of section 3318.05 of the Revised Code; 45285

(c) If, in lieu of the tax otherwise required under division 45286
(B) of section 3318.05 of the Revised Code, the commission has 45287
approved the transfer of money to the maintenance fund in 45288
accordance with section 3318.051 of the Revised Code, a 45289
requirement that the district board comply with the provisions of 45290
that section. The district board may rescind the provision 45291
prescribed under division (C)(2)(c) of this section only so long 45292
as the electors of the district have approved, in accordance with 45293
section 3318.063 of the Revised Code, the levy of a tax for the 45294
maintenance of the classroom facilities acquired under the 45295
district's project and that levy continues to be collected as 45296
approved by the electors. 45297

(D) For joint vocational school districts that receive 45298
assistance under sections 3318.40 to 3318.45 of the Revised Code, 45299
provision for deposit of school district moneys dedicated to 45300

maintenance of the classroom facilities acquired under those 45301
sections as prescribed in section 3318.43 of the Revised Code; 45302

(E) Dedication of any local donated contribution as provided 45303
for under section 3318.084 of the Revised Code, including a 45304
schedule for depositing such moneys applied as an offset of the 45305
district's obligation to levy the tax described in division (B) of 45306
section 3318.05 of the Revised Code as required under division 45307
(D)(2) of section 3318.084 of the Revised Code; 45308

(F) Ownership of or interest in the project during the period 45309
of construction, which shall be divided between the commission and 45310
the school district board in proportion to their respective 45311
contributions to the school district's project construction fund; 45312

(G) Maintenance of the state's interest in the project until 45313
any obligations issued for the project under section 3318.26 of 45314
the Revised Code are no longer outstanding; 45315

(H) The insurance of the project by the school district from 45316
the time there is an insurable interest therein and so long as the 45317
state retains any ownership or interest in the project pursuant to 45318
division (F) of this section, in such amounts and against such 45319
risks as the commission shall require; provided, that the cost of 45320
any required insurance until the project is completed shall be a 45321
part of the basic project cost; 45322

(I) The certification by the director of budget and 45323
management that funds are available and have been set aside to 45324
meet the state's share of the basic project cost as approved by 45325
the controlling board pursuant to either section 3318.04 or 45326
division (B)(1) of section 3318.41 of the Revised Code; 45327

(J) Authorization of the school district board to advertise 45328
for and receive construction bids for the project, for and on 45329
behalf of the commission, and to award contracts in the name of 45330
the state subject to approval by the commission; 45331

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R) Provision that all state funds reserved and encumbered to pay the state share of the cost of the project and the funds provided by the school district to pay for its share of the project cost, including the respective shares of the cost of a segment if the project is divided into segments, be spent on the construction and acquisition of the project or segment

simultaneously in proportion to the state's and the school 45363
district's respective shares of that basic project cost as 45364
determined under section 3318.032 of the Revised Code or, if the 45365
district is a joint vocational school district, under section 45366
3318.42 of the Revised Code. However, if the school district 45367
certifies to the commission that expenditure by the school 45368
district is necessary to maintain the federal tax status or 45369
tax-exempt status of notes or bonds issued by the school district 45370
to pay for its share of the project cost or to comply with 45371
applicable temporary investment periods or spending exceptions to 45372
rebate as provided for under federal law in regard to those notes 45373
or bonds, the school district may commit to spend, or spend, a 45374
greater portion of the funds it provides during any specific 45375
period than would otherwise be required under this division. 45376

(S) A provision stipulating that the commission may prohibit 45377
the district from proceeding with any project if the commission 45378
determines that the site is not suitable for construction 45379
purposes. The commission may perform soil tests in its 45380
determination of whether a site is appropriate for construction 45381
purposes. 45382

(T) A provision stipulating that, unless otherwise authorized 45383
by the commission, any contingency reserve portion of the 45384
construction budget prescribed by the commission shall be used 45385
only to pay costs resulting from unforeseen job conditions, to 45386
comply with rulings regarding building and other codes, to pay 45387
costs related to design clarifications or corrections to contract 45388
documents, and to pay the costs of settlements or judgments 45389
related to the project as provided under section 3318.086 of the 45390
Revised Code; 45391

(U) ~~Provision~~ A provision stipulating that for continued 45392
release of project funds the school district board shall comply 45393
with ~~section~~ sections 3313.41 and 3313.411 of the Revised Code 45394

throughout the project and shall notify the department of 45395
education and the Ohio community school association when the board 45396
plans to dispose of facilities by sale under that section; 45397

(V) ~~Provision A~~ provision stipulating that the commission 45398
shall not approve a contract for demolition of a facility until 45399
the school district board has complied with ~~section~~ sections 45400
3313.41 and 3313.411 of the Revised Code relative to that 45401
facility, unless demolition of that facility is to clear a site 45402
for construction of a replacement facility included in the 45403
district's project; 45404

(W) A requirement for the school district to adhere to a 45405
facilities maintenance plan approved by the commission. 45406

Sec. 3318.31. (A) The Ohio school facilities commission may 45407
perform any act and ensure the performance of any function 45408
necessary or appropriate to carry out the purposes of, and 45409
exercise the powers granted under, Chapter 3318. of the Revised 45410
Code, including any of the following: 45411

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 45412
the Revised Code, rules for the administration of programs 45413
authorized under Chapter 3318. of the Revised Code. 45414

(2) Contract with, retain the services of, or designate, and 45415
fix the compensation of, such agents, accountants, consultants, 45416
advisers, and other independent contractors as may be necessary or 45417
desirable to carry out the programs authorized under Chapter 3318. 45418
of the Revised Code, or authorize the executive director to 45419
perform such powers and duties. 45420

(3) Receive and accept any gifts, grants, donations, and 45421
pledges, and receipts therefrom, to be used for the programs 45422
authorized under Chapter 3318. of the Revised Code. 45423

(4) Make and enter into all contracts, commitments, and 45424

agreements, and execute all instruments, necessary or incidental 45425
to the performance of its duties and the execution of its rights 45426
and powers under Chapter 3318. of the Revised Code, or authorize 45427
the executive director or the Ohio facilities construction 45428
commission to perform such powers and duties. 45429

(5) Request the Ohio facilities construction commission to 45430
debar a contractor as provided in section 153.02 of the Revised 45431
Code. 45432

(B) ~~The Ohio school facilities commission shall appoint and~~ 45433
~~fix the compensation of an~~ executive director who of the Ohio 45434
facilities construction commission, as appointed under division 45435
(B) of section 123.21 of the Revised Code, shall also serve at the 45436
~~pleasure of~~ as the executive director for the Ohio school 45437
facilities commission. The executive director shall exercise all 45438
powers that the Ohio school facilities commission possesses, 45439
supervise the operations of the Ohio school facilities commission 45440
and perform such other duties as delegated by the Ohio school 45441
facilities commission. The executive director also shall employ 45442
and fix the compensation of such employees as will facilitate the 45443
activities and purposes of the Ohio school facilities commission, 45444
who shall serve at the pleasure of the executive director. The 45445
employees of the Ohio school facilities commission shall be exempt 45446
from Chapter 4117. of the Revised Code and shall not be public 45447
employees as defined in section 4117.01 of the Revised Code. Any 45448
agreement entered into prior to July 1, 2012, between the office 45449
of collective bargaining and the exclusive representative for 45450
employees of the commission is binding and shall continue to have 45451
effect. 45452

(C) The attorney general shall serve as the legal 45453
representative for the Ohio school facilities commission and may 45454
appoint other counsel as necessary for that purpose in accordance 45455
with section 109.07 of the Revised Code. 45456

Sec. 3318.363. (A) This section applies beginning in fiscal 45457
year 2003 and only to a school district participating in the 45458
school building assistance expedited local partnership program 45459
under section 3318.36 of the Revised Code. 45460

(B) If there is a decrease in the tax valuation of a school 45461
district to which this section applies by ten per cent or greater 45462
from one tax year to the next due to a decrease in the assessment 45463
rate of the taxable property of an electric company that owns 45464
property in the district, as provided for in section 5727.111 of 45465
the Revised Code as amended by Am. Sub. S.B. 3 of the 123rd 45466
General Assembly, the Ohio school facilities commission shall 45467
calculate or recalculate the state and school district portions of 45468
the basic project cost of the school district's project by 45469
determining the percentile rank in which the district would be 45470
located if such ranking were made using the adjusted valuation per 45471
pupil calculated under division (C) of this section rather than 45472
the three-year average adjusted valuation per pupil, calculated 45473
under division (B) of section 3318.011 of the Revised Code. For 45474
such district, the required percentage of the basic project cost 45475
used to determine the state and school district shares of that 45476
cost under division (C) of section 3318.36 of the Revised Code 45477
shall be based on the percentile rank as calculated under this 45478
section rather than as otherwise provided in division (C)(1) of 45479
section 3318.36 of the Revised Code. If the commission has 45480
determined the state and school district portion of the basic 45481
project cost of such a district's project under section 3318.36 of 45482
the Revised Code prior to that decrease in tax valuation, the 45483
commission shall adjust the state and school district shares of 45484
the basic project cost of such project in accordance with this 45485
section. 45486

(C)(1) As used in divisions (C) and (D) of this section, 45487
"total taxable value₇" and "formula ADM₇" ~~and "income factor"~~ have 45488

the same meanings as in section 3317.02 of the Revised Code, and 45489
"income factor" has the same meaning as in section 3318.011 of the 45490
Revised Code. 45491

(2) The adjusted valuation per pupil for a school district to 45492
which this section applies shall be calculated using the following 45493
formula: 45494

(The district's total taxable value for the tax year 45495
preceding the calendar year in which the current fiscal year 45496
begins / the district's formula ADM for the previous fiscal year) 45497
- [\$30,000 x (1 - the district's income factor)]. 45498

(D) At the request of the Ohio school facilities commission, 45499
the department of education shall report a district's total 45500
taxable value for the tax year preceding the calendar year in 45501
which the current fiscal year begins for any district to which 45502
this section applies as that information has been certified to the 45503
department by the tax commissioner pursuant to section 3317.021 of 45504
the Revised Code. 45505

Sec. 3319.031. Notwithstanding any provision of the Revised 45506
Code to the contrary, if the board of education of a city, local, 45507
or exempted village school district does not appoint a business 45508
manager under section 3319.03 of the Revised Code, the board may 45509
assign powers and duties specified in section 3319.04 of the 45510
Revised Code to one or more employees or officers of the board, 45511
including the treasurer, and may give the employees or officers 45512
any title recognizing the assignment of the powers and duties. The 45513
prohibition, in section 3319.04 of the Revised Code, against a 45514
business manager having possession of moneys does not prevent a 45515
board from assigning powers and duties specified in that section 45516
to the treasurer and does not prevent a treasurer who is assigned 45517
those powers and duties from exercising the powers and duties of 45518
treasurer. If the board assigns the duties of a business manager 45519

under section 3319.04 of the Revised Code to the treasurer, the 45520
treasurer shall not have the authority to make recommendations to 45521
appoint or discharge noneducational employees, except as provided 45522
under section 3313.31 of the Revised Code. Instead, the district 45523
superintendent shall be responsible for making recommendations, 45524
subject to confirmation by the board, for the appointment or 45525
discharge of noneducational employees. 45526

Sec. 3319.073. (A) The board of education of each city and 45527
exempted village school district and the governing board of each 45528
educational service center shall adopt or adapt the curriculum 45529
developed by the department of education for, or shall develop in 45530
consultation with public or private agencies or persons involved 45531
in child abuse prevention or intervention programs, a program of 45532
in-service training in the prevention of child abuse, violence, 45533
and substance abuse and the promotion of positive youth 45534
development. Each person employed by any school district or 45535
service center to work in a school as a nurse, teacher, counselor, 45536
school psychologist, or administrator shall complete at least four 45537
hours of the in-service training within two years of commencing 45538
employment with the district or center, and every five years 45539
thereafter. A person who is employed by any school district or 45540
service center to work in an elementary school as a nurse, 45541
teacher, counselor, school psychologist, or administrator on March 45542
30, 2007, shall complete at least four hours of the in-service 45543
training not later than March 30, 2009, and every five years 45544
thereafter. A person who is employed by any school district or 45545
service center to work in a middle or high school as a nurse, 45546
teacher, counselor, school psychologist, or administrator on 45547
October 16, 2009, shall complete at least four hours of the 45548
in-service training not later than October 16, 2011, and every 45549
five years thereafter. 45550

(B) Each board shall incorporate training in school safety and violence prevention, including human trafficking content, into the in-service training required by division (A) of this section. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in school safety and violence prevention programs.

(C) Each board shall incorporate training on the board's harassment, intimidation, or bullying policy adopted under section 3313.666 of the Revised Code into the in-service training required by division (A) of this section. Each board also shall incorporate training in the prevention of dating violence into the in-service training required by that division for middle and high school employees. The board shall develop its own curricula for these purposes.

(D) Each board shall incorporate training in youth suicide awareness and prevention into the in-service training required by division (A) of this section for each person employed by a school district or service center to work in a school as a nurse, teacher, counselor, school psychologist, or administrator, and any other personnel that the board determines appropriate. For this purpose, the board shall adopt or adapt the curriculum developed by the department or shall develop its own curriculum in consultation with public or private agencies or persons involved in youth suicide awareness and prevention programs.

The training completed under this division shall count toward the satisfaction of requirements for professional development required by the school district or service center board, and the training may be accomplished through self-review of suitable suicide prevention materials approved by the board.

Sec. 3319.17. (A) As used in this section, "interdistrict

contract" means any contract or agreement entered into by an 45582
educational service center governing board and another board or 45583
other public entity pursuant to section 3313.17, 3313.841, 45584
3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the 45585
Revised Code, including any such contract or agreement for the 45586
provision of services funded under division (E) of section 45587
3317.024 of the Revised Code ~~or provided in any unit approved~~ 45588
~~under section 3317.05 of the Revised Code.~~ 45589

(B) When, for any of the following reasons that apply to any 45590
city, exempted village, local, or joint vocational school district 45591
or any educational service center, the board decides that it will 45592
be necessary to reduce the number of teachers it employs, it may 45593
make a reasonable reduction: 45594

(1) In the case of any district or service center, return to 45595
duty of regular teachers after leaves of absence including 45596
suspension of schools, territorial changes affecting the district 45597
or center, or financial reasons; 45598

(2) In the case of any city, exempted village, local, or 45599
joint vocational school district, decreased enrollment of pupils 45600
in the district; 45601

(3) In the case of any governing board of a service center 45602
providing any particular service directly to pupils pursuant to 45603
one or more interdistrict contracts requiring such service, 45604
reduction in the total number of pupils the governing board is 45605
required to provide with the service under all interdistrict 45606
contracts as a result of the termination or nonrenewal of one or 45607
more of these interdistrict contracts; 45608

(4) In the case of any governing board providing any 45609
particular service that it does not provide directly to pupils 45610
pursuant to one or more interdistrict contracts requiring such 45611
service, reduction in the total level of the service the governing 45612

board is required to provide under all interdistrict contracts as 45613
a result of the termination or nonrenewal of one or more of these 45614
interdistrict contracts. 45615

(C) In making any such reduction, any city, exempted village, 45616
local, or joint vocational school board shall proceed to suspend 45617
contracts in accordance with the recommendation of the 45618
superintendent of schools who shall, within each teaching field 45619
affected, give preference to teachers on continuing contracts. The 45620
board shall not give preference to any teacher based on seniority, 45621
except when making a decision between teachers who have comparable 45622
evaluations. 45623

On a case-by-case basis, in lieu of suspending a contract in 45624
whole, a board may suspend a contract in part, so that an 45625
individual is required to work a percentage of the time the 45626
employee otherwise is required to work under the contract and 45627
receives a commensurate percentage of the full compensation the 45628
employee otherwise would receive under the contract. 45629

The teachers whose continuing contracts are suspended by any 45630
board pursuant to this section shall have the right of restoration 45631
to continuing service status by that board if and when teaching 45632
positions become vacant or are created for which any of such 45633
teachers are or become qualified. No teacher whose continuing 45634
contract has been suspended pursuant to this section shall lose 45635
that right of restoration to continuing service status by reason 45636
of having declined recall to a position that is less than 45637
full-time or, if the teacher was not employed full-time just prior 45638
to suspension of the teacher's continuing contract, to a position 45639
requiring a lesser percentage of full-time employment than the 45640
position the teacher last held while employed in the district or 45641
service center. Seniority shall not be the basis for rehiring a 45642
teacher, except when making a decision between teachers who have 45643
comparable evaluations. 45644

(D) Notwithstanding any provision to the contrary in Chapter 45645
4117. of the Revised Code: 45646

(1) The requirements of this section, as it existed prior to 45647
~~the effective date of this amendment~~ September 29, 2011, prevail 45648
over any conflicting provisions of agreements between employee 45649
organizations and public employers entered into between September 45650
29, 2005, and ~~that effective date~~ September 29, 2011; 45651

(2) The requirements of this section, as it exists on and 45652
after ~~the effective date of this amendment~~ September 29, 2011, 45653
prevail over any conflicting provisions of agreements between 45654
employee organizations and public employers entered into on or 45655
after ~~that effective date~~ September 29, 2011. 45656

Sec. 3319.22. (A)(1) The state board of education shall issue 45657
the following educator licenses: 45658

(a) A resident educator license, which shall be valid for 45659
four years, except that the state board, on a case-by-case basis, 45660
may extend the license's duration as necessary to enable the 45661
license holder to complete the Ohio teacher residency program 45662
established under section 3319.223 of the Revised Code; 45663

(b) A professional educator license, which shall be valid for 45664
five years and shall be renewable; 45665

(c) A senior professional educator license, which shall be 45666
valid for five years and shall be renewable; 45667

(d) A lead professional educator license, which shall be 45668
valid for five years and shall be renewable. 45669

(2) The state board may issue any additional educator 45670
licenses of categories, types, and levels the board elects to 45671
provide. 45672

(3) The state board shall adopt rules establishing the 45673
standards and requirements for obtaining each educator license 45674

issued under this section. 45675

(B) The rules adopted under this section shall require at 45676
least the following standards and qualifications for the educator 45677
licenses described in division (A)(1) of this section: 45678

(1) An applicant for a resident educator license shall hold 45679
at least a bachelor's degree from an accredited teacher 45680
preparation program or be a participant in the teach for America 45681
program and meet the qualifications required under section 45682
3319.227 of the Revised Code. 45683

(2) An applicant for a professional educator license shall: 45684

(a) Hold at least a bachelor's degree from an institution of 45685
higher education accredited by a regional accrediting 45686
organization; 45687

(b) Have successfully completed the Ohio teacher residency 45688
program established under section 3319.223 of the Revised Code, if 45689
the applicant's current or most recently issued license is a 45690
resident educator license issued under this section or an 45691
alternative resident educator license issued under section 3319.26 45692
of the Revised Code. 45693

(3) An applicant for a senior professional educator license 45694
shall: 45695

(a) Hold at least a master's degree from an institution of 45696
higher education accredited by a regional accrediting 45697
organization; 45698

(b) Have previously held a professional educator license 45699
issued under this section or section 3319.222 or under former 45700
section 3319.22 of the Revised Code; 45701

(c) Meet the criteria for the accomplished or distinguished 45702
level of performance, as described in the standards for teachers 45703
adopted by the state board under section 3319.61 of the Revised 45704

Code. 45705

(4) An applicant for a lead professional educator license 45706
shall: 45707

(a) Hold at least a master's degree from an institution of 45708
higher education accredited by a regional accrediting 45709
organization; 45710

(b) Have previously held a professional educator license or a 45711
senior professional educator license issued under this section or 45712
a professional educator license issued under section 3319.222 or 45713
former section 3319.22 of the Revised Code; 45714

(c) Meet the criteria for the distinguished level of 45715
performance, as described in the standards for teachers adopted by 45716
the state board under section 3319.61 of the Revised Code; 45717

(d) Either hold a valid certificate issued by the national 45718
board for professional teaching standards or meet the criteria for 45719
a master teacher or other criteria for a lead teacher adopted by 45720
the educator standards board under division (F)(4) or (5) of 45721
section 3319.61 of the Revised Code. 45722

(C) The state board shall align the standards and 45723
qualifications for obtaining a principal license with the 45724
standards for principals adopted by the state board under section 45725
3319.61 of the Revised Code. 45726

(D) If the state board requires any examinations for educator 45727
licensure, the department of education shall provide the results 45728
of such examinations received by the department to the chancellor 45729
of the Ohio board of regents, in the manner and to the extent 45730
permitted by state and federal law. 45731

(E) Any rules the state board of education adopts, amends, or 45732
rescinds for educator licenses under this section, division (D) of 45733
section 3301.07 of the Revised Code, or any other law shall be 45734

adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, in the case of the adoption of any rule or the amendment or rescission of any rule that necessitates institutions' offering preparation programs for educators and other school personnel that are approved by the chancellor of the Ohio board of regents under section 3333.048 of the Revised Code to revise the curriculum of those programs, the effective date shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date of such rules, or the amendment or rescission of such rules, shall be the date prescribed by section 3333.048 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(F)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The department of education shall provide technical assistance and support to committees as the committees incorporate the professional development standards adopted by the state board of education pursuant to section 3319.61 of the Revised Code into their review of coursework that

is appropriate for license renewal. The rules shall establish a 45767
procedure by which a teacher may appeal the decision of a local 45768
professional development committee. 45769

(2) In any school district in which there is no exclusive 45770
representative established under Chapter 4117. of the Revised 45771
Code, the professional development committees shall be established 45772
as described in division (F)(2) of this section. 45773

Not later than the effective date of the rules adopted under 45774
this section, the board of education of each school district shall 45775
establish the structure for one or more local professional 45776
development committees to be operated by such school district. The 45777
committee structure so established by a district board shall 45778
remain in effect unless within thirty days prior to an anniversary 45779
of the date upon which the current committee structure was 45780
established, the board provides notice to all affected district 45781
employees that the committee structure is to be modified. 45782
Professional development committees may have a district-level or 45783
building-level scope of operations, and may be established with 45784
regard to particular grade or age levels for which an educator 45785
license is designated. 45786

Each professional development committee shall consist of at 45787
least three classroom teachers employed by the district, one 45788
principal employed by the district, and one other employee of the 45789
district appointed by the district superintendent. For committees 45790
with a building-level scope, the teacher and principal members 45791
shall be assigned to that building, and the teacher members shall 45792
be elected by majority vote of the classroom teachers assigned to 45793
that building. For committees with a district-level scope, the 45794
teacher members shall be elected by majority vote of the classroom 45795
teachers of the district, and the principal member shall be 45796
elected by a majority vote of the principals of the district, 45797
unless there are two or fewer principals employed by the district, 45798

in which case the one or two principals employed shall serve on 45799
the committee. If a committee has a particular grade or age level 45800
scope, the teacher members shall be licensed to teach such grade 45801
or age levels, and shall be elected by majority vote of the 45802
classroom teachers holding such a license and the principal shall 45803
be elected by all principals serving in buildings where any such 45804
teachers serve. The district superintendent shall appoint a 45805
replacement to fill any vacancy that occurs on a professional 45806
development committee, except in the case of vacancies among the 45807
elected classroom teacher members, which shall be filled by vote 45808
of the remaining members of the committee so selected. 45809

Terms of office on professional development committees shall 45810
be prescribed by the district board establishing the committees. 45811
The conduct of elections for members of professional development 45812
committees shall be prescribed by the district board establishing 45813
the committees. A professional development committee may include 45814
additional members, except that the majority of members on each 45815
such committee shall be classroom teachers employed by the 45816
district. Any member appointed to fill a vacancy occurring prior 45817
to the expiration date of the term for which a predecessor was 45818
appointed shall hold office as a member for the remainder of that 45819
term. 45820

The initial meeting of any professional development 45821
committee, upon election and appointment of all committee members, 45822
shall be called by a member designated by the district 45823
superintendent. At this initial meeting, the committee shall 45824
select a chairperson and such other officers the committee deems 45825
necessary, and shall adopt rules for the conduct of its meetings. 45826
Thereafter, the committee shall meet at the call of the 45827
chairperson or upon the filing of a petition with the district 45828
superintendent signed by a majority of the committee members 45829
calling for the committee to meet. 45830

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division (F)(4) of this section, there shall be a majority of teacher members of any professional development committee, there shall be at least five total members of any professional development committee, and the exclusive representative shall designate replacement members in the case of vacancies among teacher members, unless the collective bargaining agreement specifies a different method of selecting such replacements.

(4) Whenever an administrator's coursework plan is being discussed or voted upon, the local professional development committee shall, at the request of one of its administrative members, cause a majority of the committee to consist of

administrative members by reducing the number of teacher members 45863
voting on the plan. 45864

(G)(1) The department of education, educational service 45865
centers, county boards of developmental disabilities, regional 45866
professional development centers, special education regional 45867
resource centers, college and university departments of education, 45868
head start programs, ~~the eTech Ohio commission~~, and the Ohio 45869
education computer network may establish local professional 45870
development committees to determine whether the coursework 45871
proposed by their employees who are licensed or certificated under 45872
this section or section 3319.222 of the Revised Code, or under the 45873
former version of either section as it existed prior to October 45874
16, 2009, meet the requirements of the rules adopted under this 45875
section. They may establish local professional development 45876
committees on their own or in collaboration with a school district 45877
or other agency having authority to establish them. 45878

Local professional development committees established by 45879
county boards of developmental disabilities shall be structured in 45880
a manner comparable to the structures prescribed for school 45881
districts in divisions (F)(2) and (3) of this section, as shall 45882
the committees established by any other entity specified in 45883
division (G)(1) of this section that provides educational services 45884
by employing or contracting for services of classroom teachers 45885
licensed or certificated under this section or section 3319.222 of 45886
the Revised Code, or under the former version of either section as 45887
it existed prior to October 16, 2009. All other entities specified 45888
in division (G)(1) of this section shall structure their 45889
committees in accordance with guidelines which shall be issued by 45890
the state board. 45891

(2) Any public agency that is not specified in division 45892
(G)(1) of this section but provides educational services and 45893
employs or contracts for services of classroom teachers licensed 45894

or certificated under this section or section 3319.222 of the Revised Code, or under the former version of either section as it existed prior to October 16, 2009, may establish a local professional development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.235. (A) The standards for the preparation of teachers adopted under section 3333.048 of the Revised Code shall require any institution that provides a course of study for the training of teachers to ensure that graduates of such course of study are skilled at integrating educational technology in the instruction of children, as evidenced by the graduate having either demonstrated proficiency in such skills in a manner prescribed by the department of education or completed a course that includes training in such skills.

(B) The eTech Ohio commission chancellor of the Ohio board of regents, in consultation with the department of education, shall establish model professional development programs to assist teachers who completed their teacher preparation prior to the effective date of division (A) of this section to become skilled at integrating educational technology in the instruction of children. The commission chancellor shall provide technical assistance to school districts wishing to establish such programs.

Sec. 3319.57. (A) A grant program is hereby established under which the department of education shall award grants to assist certain schools in a city, exempted village, local, or joint vocational school district in implementing one of the following innovations:

(1) The use of instructional specialists to mentor and support classroom teachers;

- (2) The use of building managers to supervise the administrative functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team; 45925
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- (3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions; 45930
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- (4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day; 45934
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- (5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching; 45937
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- (6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming principals; 45941
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- (7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size; 45946
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- (8) The provision of incentives to attract qualified mathematics, science, or special education teachers; 45948
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- (9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas; 45950
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- (10) The implementation of a program to increase the cultural competency of both new and veteran teachers; 45953
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(11) The implementation of a program to increase the subject matter competency of veteran teachers. 45955
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(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria: 45957
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(1) Be hard to staff, as defined by the department. 45960

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share ~~percentage~~ index for the fiscal year in which the grant is awarded). 45961
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For purposes of division (B)(2) of this section, "state share ~~percentage~~ index" has the same meaning as in section 3317.02 of the Revised Code. 45965
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(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section. 45968
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(D) The state board of education shall adopt rules for the administration of this grant program. 45972
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Sec. 3321.01. (A)(1) As used in this chapter, "parent," "guardian," or "other person having charge or care of a child" means either parent unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. If the child is in the legal or permanent custody of a person or government agency, "parent" means that person or government agency. When a child is a resident of a home, as defined in section 3313.64 of the Revised Code, and the child's parent is not a resident of this state, "parent," "guardian," or "other person having charge or care of a child" means the head of 45974
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the home. 45985

A child between six and eighteen years of age is "of 45986
compulsory school age" for the purpose of sections 3321.01 to 45987
3321.13 of the Revised Code. A child under six years of age who 45988
has been enrolled in kindergarten also shall be considered "of 45989
compulsory school age" for the purpose of sections 3321.01 to 45990
3321.13 of the Revised Code unless at any time the child's parent 45991
or guardian, at the parent's or guardian's discretion and in 45992
consultation with the child's teacher and principal, formally 45993
withdraws the child from kindergarten. The compulsory school age 45994
of a child shall not commence until the beginning of the term of 45995
such schools, or other time in the school year fixed by the rules 45996
of the board of the district in which the child resides. 45997

(2) No child shall be admitted to a kindergarten or a first 45998
grade of a public school in a district in which all children are 45999
admitted to kindergarten and the first grade in August or 46000
September unless the child is five or six years of age, 46001
respectively, by the thirtieth day of September of the year of 46002
admittance, or by the first day of a term or semester other than 46003
one beginning in August or September in school districts granting 46004
admittance at the beginning of such term or semester, unless the 46005
child has been recommended for early admittance in accordance with 46006
the district's acceleration policy adopted under section 3324.10 46007
of the Revised Code. A child who does not meet the age requirement 46008
for admittance to kindergarten or first grade shall be evaluated 46009
for early admittance upon referral by the child's parent or 46010
guardian, an educator employed by the district, a preschool 46011
educator who knows the child, or a pediatrician or psychologist 46012
who knows the child. 46013

(3) Notwithstanding division (A)(2) of this section, 46014
beginning with the school year that starts in 2001 and continuing 46015
thereafter the board of education of any district may adopt a 46016

resolution establishing the first day of August in lieu of the 46017
thirtieth day of September as the required date by which students 46018
must have attained the age specified in that division. 46019

(4) After a student has been admitted to kindergarten in a 46020
school district or chartered nonpublic school, no board of 46021
education of a school district to which the student transfers 46022
shall deny that student admission based on the student's age. 46023

(B) As used in division (C) of this section, "successfully 46024
completed kindergarten" means that the child has completed the 46025
kindergarten requirements at one of the following: 46026

(1) A public or chartered nonpublic school; 46027

(2) A kindergarten class that is both of the following: 46028

(a) Offered by a day-care provider licensed under Chapter 46029
5104. of the Revised Code; 46030

(b) If offered after July 1, 1991, is directly taught by a 46031
teacher who holds one of the following: 46032

(i) A valid educator license issued under section 3319.22 of 46033
the Revised Code; 46034

(ii) A Montessori preprimary credential or age-appropriate 46035
diploma granted by the American Montessori society or the 46036
association Montessori internationale; 46037

(iii) Certification determined under division (F) of this 46038
section to be equivalent to that described in division 46039
(B)(2)(b)(ii) of this section; 46040

(iv) Certification for teachers in nontax-supported schools 46041
pursuant to section 3301.071 of the Revised Code. 46042

(C) Except as provided in division (A)(2) of this section, no 46043
school district shall admit to the first grade any child who has 46044
not successfully completed kindergarten. 46045

(D) The scheduling of times for kindergarten classes and 46046
length of the school day for kindergarten shall be determined by 46047
the board of education of a city, exempted village, or local 46048
school district. 46049

(E) Any kindergarten class offered by a day-care provider or 46050
school described by division (B)(1) or (B)(2)(a) of this section 46051
shall be developmentally appropriate. 46052

(F) Upon written request of a day-care provider described by 46053
division (B)(2)(a) of this section, the department of education 46054
shall determine whether certification held by a teacher employed 46055
by the provider meets the requirement of division (B)(2)(b)(iii) 46056
of this section and, if so, shall furnish the provider a statement 46057
to that effect. 46058

(G) As used in this division, "all-day kindergarten" has the 46059
same meaning as in section 3321.05 of the Revised Code. 46060

(1) Any school district that did not receive for fiscal year 46061
2009 poverty-based assistance for all-day kindergarten under 46062
division (D) of former section 3317.029 of the Revised Code may 46063
charge fees or tuition for students enrolled in all-day 46064
kindergarten. If a district charges fees or tuition for all-day 46065
kindergarten under this division, the district shall develop a 46066
sliding fee scale based on family incomes. 46067

(2) The department of education shall conduct an annual 46068
survey of each school district described in division (G)(1) of 46069
this section to determine the following: 46070

(a) Whether the district charges fees or tuition for students 46071
enrolled in all-day kindergarten; 46072

(b) The amount of the fees or tuition charged; 46073

(c) How many of the students for whom tuition is charged are 46074
eligible for free lunches under the "National School Lunch Act," 46075

60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, and how many of the students for whom tuition is charged are eligible for reduced price lunches under those acts;

(d) How many students are enrolled in traditional half-day kindergarten rather than all-day kindergarten.

Each district shall report to the department, in the manner prescribed by the department, the information described in divisions (G)(2)(a) to (d) of this section.

The department shall issue an annual report on the results of the survey and shall post the report on its web site. The department shall issue the first report not later than April 30, 2008, and shall issue a report not later than the thirtieth day of April each year thereafter.

Sec. 3321.04. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to any joint vocational or cooperative education school district or its superintendent.

Every parent of any child of compulsory school age who is not employed under an age and schooling certificate must send such child to a school or a special education program that conforms to the minimum standards prescribed by the state board of education, for the full time the school or program attended is in session, which shall not be for less than thirty-two weeks per school year. Such attendance must begin within the first week of the school term or program or within one week of the date on which the child begins to reside in the district or within one week after ~~his~~ the child's withdrawal from employment.

For the purpose of operating a school or program on a trimester plan, "full time the school attended is in session," as

used in this section means the two trimesters to which the child is assigned by the board of education. For the purpose of operating a school or program on a quarterly plan, "full time the school attended is in session," as used in this section, means the three quarters to which the child is assigned by the board of education. For the purpose of operating a school or program on a pentamester plan, "full time the school is in session," as used in this section, means the four pentamesters to which the child is assigned by the board of education.

Excuses from future attendance at or past absence from school or a special education program may be granted for the causes, by the authorities, and under the following conditions:

(A) The superintendent of the ~~city or exempted village~~ school district ~~or the educational service center~~ in which the child resides may excuse the child from attendance for any part of the remainder of the current school year upon satisfactory showing of either of the following facts:

(1) That the child's bodily or mental condition does not permit attendance at school or a special education program during such period; this fact is certified in writing by a licensed physician or, in the case of a mental condition, by a licensed physician, a licensed psychologist, licensed school psychologist or a certificated school psychologist; and provision is made for appropriate instruction of the child, in accordance with Chapter 3323. of the Revised Code;

(2) That the child is being instructed at home by a person qualified to teach the branches in which instruction is required, and such additional branches, as the advancement and needs of the child may, in the opinion of such superintendent, require. In each such case the issuing superintendent shall file in ~~his~~ the superintendent's office, with a copy of the excuse, papers showing how the inability of the child to attend school or a special

education program or the qualifications of the person instructing 46138
the child at home were determined. All such excuses shall become 46139
void and subject to recall upon the removal of the disability of 46140
the child or the cessation of proper home instruction; and 46141
thereupon the child or the child's parents may be proceeded 46142
against after due notice whether such excuse be recalled or not. 46143

(B) The state board of education may adopt rules authorizing 46144
the superintendent of schools of the district in which the child 46145
resides to excuse a child over fourteen years of age from 46146
attendance for a future limited period for the purpose of 46147
performing necessary work directly and exclusively for the child's 46148
parents or legal guardians. 46149

All excuses provided for in divisions (A) and (B) of this 46150
section shall be in writing and shall show the reason for excusing 46151
the child. A copy thereof shall be sent to the person in charge of 46152
the child. 46153

(C) The board of education of the ~~city or exempted village~~ 46154
~~school district or the governing board of the educational service~~ 46155
~~center in which a public school is located~~ or the governing 46156
authorities of a private or parochial school may in the rules 46157
governing the discipline in such schools, prescribe the authority 46158
by which and the manner in which any child may be excused for 46159
absence from such school for good and sufficient reasons. 46160

The state board of education may by rule prescribe conditions 46161
governing the issuance of excuses, which shall be binding upon the 46162
authorities empowered to issue them. 46163

Sec. 3321.05. (A) As used in this section, "all-day 46164
kindergarten" means a kindergarten class that is in session ~~five~~ 46165
~~days per week~~ for not less than the same number of clock hours 46166
each ~~day~~ week as for students in grades one through six. 46167

(B) Any school district may operate all-day kindergarten or extended kindergarten, but no district shall require any student to attend kindergarten for more than the number of clock hours required each day for traditional kindergarten by the minimum standards adopted under division (D) of section 3301.07 of the Revised Code. Each school district that operates all-day or extended kindergarten shall accommodate kindergarten students whose parents or guardians elect to enroll them for the minimum number of hours.

(C) A school district may use space in child day-care centers licensed under Chapter 5104. of the Revised Code to provide all-day kindergarten under this section.

Sec. 3321.13. (A) Whenever any child of compulsory school age withdraws from school the teacher of that child shall ascertain the reason for withdrawal. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent ~~of schools~~ of the city, local, or exempted village school district ~~or the educational service center as the case may be~~. If the child who has withdrawn from school has done so because of change of residence, the next residence shall be ascertained and shall be included in the notice thus transmitted. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of the child's new residence to the superintendent of schools of the district to which the child has moved.

The superintendent of public instruction may prescribe the forms to be used in the operation of this division.

(B)(1) Upon receipt of information that a child of compulsory school age has withdrawn from school for a reason other than because of change of residence and is not enrolled in and attending in accordance with school policy an approved program to

obtain a diploma or its equivalent, the superintendent shall 46199
notify the registrar of motor vehicles and the juvenile judge of 46200
the county in which the district is located of the withdrawal and 46201
failure to enroll in and attend an approved program to obtain a 46202
diploma or its equivalent. A notification to the registrar 46203
required by this division shall be given in the manner the 46204
registrar by rule requires and a notification to the juvenile 46205
judge required by this division shall be given in writing. Each 46206
notification shall be given within two weeks after the withdrawal 46207
and failure to enroll in and attend an approved program or its 46208
equivalent. 46209

(2) The board of education of a school district may adopt a 46210
resolution providing that the provisions of division (B)(2) of 46211
this section apply within the district. The provisions of division 46212
(B)(2) of this section do not apply within any school district, 46213
and no superintendent of a school district shall send a 46214
notification of the type described in division (B)(2) of this 46215
section to the registrar of motor vehicles or the juvenile judge 46216
of the county in which the district is located, unless the board 46217
of education of the district has adopted such a resolution. If the 46218
board of education of a school district adopts a resolution 46219
providing that the provisions of division (B)(2) of this section 46220
apply within the district, and if the superintendent of schools of 46221
that district receives information that, during any semester or 46222
term, a child of compulsory school age has been absent without 46223
legitimate excuse from the school the child is supposed to attend 46224
for more than ten consecutive school days or for at least fifteen 46225
total school days, the superintendent shall notify the child and 46226
the child's parent, guardian, or custodian, in writing, that the 46227
information has been provided to the superintendent, that as a 46228
result of that information the child's temporary instruction 46229
permit or driver's license will be suspended or the opportunity to 46230
obtain such a permit or license will be denied, and that the child 46231

and the child's parent, guardian, or custodian may appear in 46232
person at a scheduled date, time, and place before the 46233
superintendent or a designee to challenge the information provided 46234
to the superintendent. 46235

The notification to the child and the child's parent, 46236
guardian, or custodian required by division (B)(2) of this section 46237
shall set forth the information received by the superintendent and 46238
shall inform the child and the child's parent, guardian, or 46239
custodian of the scheduled date, time, and place of the appearance 46240
that they may have before the superintendent or a designee. The 46241
date scheduled for the appearance shall be no earlier than three 46242
and no later than five days after the notification is given, 46243
provided that an extension may be granted upon request of the 46244
child or the child's parent, guardian, or custodian. If an 46245
extension is granted, the superintendent shall schedule a new 46246
date, time, and place for the appearance and shall inform the 46247
child and the child's parent, guardian, or custodian of the new 46248
date, time, and place. 46249

If the child and the child's parent, guardian, or custodian 46250
do not appear before the superintendent or a designee on the 46251
scheduled date and at the scheduled time and place, or if the 46252
child and the child's parent, guardian, or custodian appear before 46253
the superintendent or a designee on the scheduled date and at the 46254
scheduled time and place but the superintendent or a designee 46255
determines that the information the superintendent received 46256
indicating that, during the semester or term, the child had been 46257
absent without legitimate excuse from the school the child was 46258
supposed to attend for more than ten consecutive school days or 46259
for at least fifteen total school days, the superintendent shall 46260
notify the registrar of motor vehicles and the juvenile judge of 46261
the county in which the district is located that the child has 46262
been absent for that period of time and that the child does not 46263

have any legitimate excuse for the habitual absence. A 46264
notification to the registrar required by this division shall be 46265
given in the manner the registrar by rule requires and a 46266
notification to the juvenile judge required by this division shall 46267
be given in writing. Each notification shall be given within two 46268
weeks after the receipt of the information of the habitual absence 46269
from school without legitimate excuse, or, if the child and the 46270
child's parent, guardian, or custodian appear before the 46271
superintendent or a designee to challenge the information, within 46272
two weeks after the appearance. 46273

For purposes of division (B)(2) of this section, a legitimate 46274
excuse for absence from school includes, but is not limited to, 46275
the fact that the child in question has enrolled in another school 46276
or school district in this or another state, the fact that the 46277
child in question was excused from attendance for any of the 46278
reasons specified in section 3321.04 of the Revised Code, or the 46279
fact that the child in question has received an age and schooling 46280
certificate in accordance with section 3331.01 of the Revised 46281
Code. 46282

(3) Whenever a pupil is suspended or expelled from school 46283
pursuant to section 3313.66 of the Revised Code and the reason for 46284
the suspension or expulsion is the use or possession of alcohol, a 46285
drug of abuse, or alcohol and a drug of abuse, the superintendent 46286
of schools of that district may notify the registrar and the 46287
juvenile judge of the county in which the district is located of 46288
such suspension or expulsion. Any such notification of suspension 46289
or expulsion shall be given to the registrar, in the manner the 46290
registrar by rule requires and shall be given to the juvenile 46291
judge in writing. The notifications shall be given within two 46292
weeks after the suspension or expulsion. 46293

(4) Whenever a pupil is suspended, expelled, removed, or 46294
permanently excluded from a school for misconduct included in a 46295

policy that the board of education of a city, exempted village, or 46296
local school district has adopted under division (A) of section 46297
3313.661 of the Revised Code, and the misconduct involves a 46298
firearm or a knife or other weapon as defined in that policy, the 46299
superintendent of schools of that district shall notify the 46300
registrar and the juvenile judge of the county in which the 46301
district is located of the suspension, expulsion, removal, or 46302
permanent exclusion. The notification shall be given to the 46303
registrar in the manner the registrar, by rule, requires and shall 46304
be given to the juvenile judge in writing. The notifications shall 46305
be given within two weeks after the suspension, expulsion, 46306
removal, or permanent exclusion. 46307

(C) A notification of withdrawal, habitual absence without 46308
legitimate excuse, suspension, or expulsion given to the registrar 46309
or a juvenile judge under division (B)(1), (2), (3), or (4) of 46310
this section shall contain the name, address, date of birth, 46311
school, and school district of the child. If the superintendent 46312
finds, after giving a notification of withdrawal, habitual absence 46313
without legitimate excuse, suspension, or expulsion to the 46314
registrar and the juvenile judge under division (B)(1), (2), (3), 46315
or (4) of this section, that the notification was given in error, 46316
the superintendent immediately shall notify the registrar and the 46317
juvenile judge of that fact. 46318

Sec. 3321.14. Notwithstanding division (D) of section 3311.19 46319
and division (D) of section 3311.52 of the Revised Code, the 46320
provisions of this section and sections 3321.15 to 3321.21 of the 46321
Revised Code that apply to a city school district or its 46322
superintendent do not apply to any joint vocational or cooperative 46323
education school district or its superintendent unless otherwise 46324
specified. 46325

The board of education of every city ~~school district and of~~ 46326

every, exempted village, or local school district shall either 46327
employ an attendance officer, and may employ or appoint any 46328
assistants that the board deems advisable, or shall obtain such 46329
services from the educational service center with which the 46330
district has entered into an agreement under section 3313.843 or 46331
3313.845 of the Revised Code, in accordance with the terms 46332
prescribed in that agreement. ~~In~~ 46333

In cities of one hundred thousand population or over, the 46334
board may appoint, subject to the nomination of the district 46335
superintendent ~~of schools~~, one or more pupil-personnel workers and 46336
make provision for the traveling expenses within the school 46337
district of those employees. 46338

Sec. 3321.15. Every governing board of an educational service 46339
center ~~shall~~ may employ an educational service center attendance 46340
officer, and may employ or appoint such assistants as the board 46341
deems advisable. The decision to employ an attendance officer 46342
shall be based on consultation with the districts that have 46343
entered into agreements with the educational service center under 46344
section 3313.843 or 3313.845 of the Revised Code and the services 46345
outlined in the agreements. The compensation and necessary 46346
traveling expenses of such attendance officer and assistants shall 46347
be paid out of the educational service center governing board 46348
fund. With the consent and approval of the judge of the juvenile 46349
court, a probation officer of the court may be designated as the 46350
service center attendance officer or as an assistant. The 46351
compensation of the probation officers of the juvenile court so 46352
designated shall be fixed and paid in the same manner as salaries 46353
of other probation officers of the juvenile court; their traveling 46354
expenses as attendance officers which would not be incurred as 46355
probation officers shall be paid out of the educational service 46356
center governing board fund. In addition to the compensation 46357
provided in this section the board may pay such additional 46358

compensation as it deems advisable, to any probation officer 46359
designated as attendance officer and such additional amount shall 46360
be paid from the educational service center governing board fund. 46361
The attendance officer and assistants shall work under the 46362
direction of the educational service center superintendent. The 46363
authority of such attendance officer and assistants ~~shall~~ may 46364
extend to all the ~~local~~ school districts served by the service 46365
center pursuant to any agreements entered into under section 46366
3313.843 or 3313.845 of the Revised Code. This section does not 46367
confine their authority to investigate ~~employment~~ attendance to 46368
that within the territory of the service center. 46369

Sec. 3323.021. As used in this section, "participating county 46370
DD board" means a county board of developmental disabilities 46371
electing to participate in the provision of or contracting for 46372
educational services for children under division (D) of section 46373
5126.05 of the Revised Code. 46374

(A) When a school district, educational service center, or 46375
participating county DD board enters into an agreement or contract 46376
with another school district, educational service center, or 46377
participating county DD board to provide educational services to a 46378
disabled child during a school year, both of the following shall 46379
apply: 46380

(1) Beginning with fiscal year 1999, if the provider of the 46381
services intends to increase the amount it charges for some or all 46382
of those services during the next school year or if the provider 46383
intends to cease offering all or part of those services during the 46384
next school year, the provider shall notify the entity for which 46385
the services are provided of these intended changes no later than 46386
the first day of March of the current fiscal year. 46387

(2) Beginning with fiscal year 1999, if the entity for which 46388
services are provided intends to cease obtaining those services 46389

from the provider for the next school year or intends to change 46390
the type or amount of services it obtains from the provider for 46391
the next school year, the entity shall notify the service provider 46392
of these intended changes no later than the first day of March of 46393
the current fiscal year. 46394

(B) School districts, educational service centers, 46395
participating county DD boards, and other applicable governmental 46396
entities shall collaborate where possible to maximize federal 46397
sources of revenue to provide additional funds for special 46398
education related services for disabled children. Annually, each 46399
school district shall report to the department of education any 46400
amounts of ~~money~~ such federal revenue the district received 46401
~~through such medical assistance program.~~ 46402

(C) The state board of education, the department of 46403
developmental disabilities, and the department of ~~job and family~~ 46404
~~services~~ medicaid shall develop working agreements for pursuing 46405
additional funds for services for disabled children. 46406

Sec. 3323.03. The state board of education shall, in 46407
consultation with the department of health, the department of 46408
~~mental health~~ mental health and addiction services, and the 46409
department of developmental disabilities, establish standards and 46410
procedures for the identification, location, and evaluation of all 46411
children with disabilities residing in the state, including 46412
children with disabilities who are homeless children or are wards 46413
of the state and children with disabilities attending nonpublic 46414
schools, regardless of the severity of their disabilities, and who 46415
are in need of special education and related services. The state 46416
board shall develop and implement a practical method to determine 46417
which children with disabilities are currently receiving needed 46418
special education and related services. 46419

In conducting the evaluation, the board of education of each 46420

school district shall use a variety of assessment tools and 46421
strategies to gather relevant functional, developmental, and 46422
academic information about the child, including information 46423
provided by the child's parent. The board of education of each 46424
school district, in consultation with the county DD board, the 46425
county family and children first council, and the board of 46426
alcohol, drug addiction, and mental health services of each county 46427
in which the school district has territory, shall identify, 46428
locate, and evaluate all children with disabilities residing 46429
within the district to determine which children with disabilities 46430
are not receiving appropriate special education and related 46431
services. In addition, the board of education of each school 46432
district, in consultation with such county boards or council, 46433
shall identify, locate, and evaluate all children with 46434
disabilities who are enrolled by their parents in nonpublic 46435
elementary and secondary schools located within the public school 46436
district, without regard to where those children reside in 46437
accordance with rules of the state board of education or 46438
guidelines of the superintendent of public instruction. 46439

Each county DD board, county family and children first 46440
council, and board of alcohol, drug addiction, and mental health 46441
services and the board's or council's contract agencies may 46442
transmit to boards of education the names and addresses of 46443
children with disabilities who are not receiving appropriate 46444
special education and related services. 46445

Sec. 3323.04. The state board of education, in consultation 46446
with the department of ~~mental health~~ mental health and addiction 46447
services and the department of developmental disabilities, shall 46448
establish procedures and standards for the development of 46449
individualized education programs for children with disabilities. 46450

The state board shall require the board of education of each 46451

school district to develop an individualized education program for 46452
each child with a disability who is at least three years of age 46453
and less than twenty-two years of age residing in the district in 46454
a manner that is in accordance with rules of the state board. 46455

Prior to the placement of a child with a disability in a 46456
program operated under section 3323.09 of the Revised Code, the 46457
district board of education shall consult the county DD board of 46458
the county in which the child resides regarding the proposed 46459
placement. 46460

A child with a disability enrolled in a nonpublic school or 46461
facility shall be provided special education and related services, 46462
in accordance with an individualized education program, at no cost 46463
for those services, if the child is placed in, or referred to, 46464
that nonpublic school or facility by the department of education 46465
or a school district. 46466

The IEP team shall review the individualized education 46467
program of each child with a disability periodically, but at least 46468
annually, to determine whether the annual goals for the child are 46469
being achieved, and shall revise the individualized education 46470
program as appropriate. 46471

The state board shall establish procedures and standards to 46472
assure that to the maximum extent appropriate, children with 46473
disabilities, including children in public or private institutions 46474
or other care facilities, shall be educated with children who are 46475
not disabled. Special classes, separate schools, or other removal 46476
of children with disabilities from the regular educational 46477
environment shall be used only when the nature or severity of a 46478
child's disability is such that education in regular classes with 46479
supplementary aids and services cannot be achieved satisfactorily. 46480

If an agency directly affected by a placement decision 46481
objects to such decision, an impartial hearing officer, appointed 46482

by the department of education from a list prepared by the 46483
department, shall conduct a hearing to review the placement 46484
decision. The agencies that are parties to a hearing shall divide 46485
the costs of such hearing equally. The decision of the hearing 46486
officer shall be final, except that any party to the hearing who 46487
is aggrieved by the findings or the decision of the hearing 46488
officer may appeal the findings or decision in accordance with 46489
division (H) of section 3323.05 of the Revised Code or the parent 46490
of any child affected by such decision may present a complaint in 46491
accordance with that section. 46492

Sec. 3323.07. The state board of education shall authorize 46493
the establishment and maintenance of special education and related 46494
services for all children with disabilities who are at least three 46495
years of age and less than twenty-two years of age, including 46496
children with disabilities who have been suspended or expelled 46497
from school, and may authorize special education and related 46498
services for children with disabilities who are less than three 46499
years of age in accordance with rules adopted by the state board. 46500
The state board shall require the boards of education of school 46501
districts, shall authorize the department of ~~mental health~~ mental 46502
health and addiction services and the department of developmental 46503
disabilities, and may authorize any other educational agency, to 46504
establish and maintain such special education and related services 46505
in accordance with standards adopted by the state board. 46506

Sec. 3323.08. (A) Each school district shall submit a plan to 46507
the superintendent of public instruction that provides assurances 46508
that the school district will provide for the education of 46509
children with disabilities within its jurisdiction and has in 46510
effect policies, procedures, and programs that are consistent with 46511
the policies and procedures adopted by the state board of 46512
education in accordance with section 612 of the "Individuals with 46513

Disabilities Education Improvement Act of 2004," 20 U.S.C. 1412, 46514
and that meet the conditions applicable to school districts under 46515
section 613 of that act, 20 U.S.C. 1413. 46516

Each district's plan shall do all of the following: 46517

(1) Provide, as specified in section 3323.11 of the Revised 46518
Code and in accordance with standards established by the state 46519
board, for an organizational structure and necessary and qualified 46520
staffing and supervision for the identification of and provision 46521
of special education and related services for children with 46522
disabilities; 46523

(2) Provide, as specified by section 3323.03 of the Revised 46524
Code and in accordance with standards established by the state 46525
board, for the identification, location, and evaluation of all 46526
children with disabilities residing in the district, including 46527
children with disabilities who are homeless children or are wards 46528
of the state and children with disabilities attending private 46529
schools and who are in need of special education and related 46530
services. A practical method shall be developed and implemented to 46531
determine which children with disabilities are currently receiving 46532
needed special education and related services. 46533

(3) Provide, as specified by section 3323.07 of the Revised 46534
Code and standards established by the state board, for the 46535
establishment and maintenance of special education and related 46536
services for children with disabilities who are at least three 46537
years of age and less than twenty-two years of age, including 46538
children with disabilities who have been suspended or expelled 46539
from school. 46540

(4) Provide, as specified by section 3323.04 of the Revised 46541
Code and in accordance with standards adopted by the state board, 46542
for an individualized education program for each child with a 46543
disability who is at least three years of age and less than 46544

twenty-two years of age residing within the district; 46545

(5) Provide, as specified by section 3323.02 of the Revised 46546
Code and in accordance with standards established by the state 46547
board, for special education and related services and a free 46548
appropriate public education for every child with a disability who 46549
is at least three years of age and less than twenty-two years of 46550
age, including children with disabilities who have been suspended 46551
or expelled from school; 46552

(6) Provide procedural safeguards and prior written notice as 46553
required under section 3323.05 of the Revised Code and the 46554
standards established by the state board; 46555

(7) Outline the steps that have been or are being taken to 46556
comply with standards established by the state board. 46557

(B)(1) A school district may arrange, by a cooperative 46558
agreement or contract with one or more school districts or with a 46559
cooperative education or joint vocational school district or an 46560
educational service center, to provide for the identification, 46561
location, and evaluation of children with disabilities, and to 46562
provide special education and related services for such children 46563
that meet the standards established by the state board. A school 46564
district may arrange, by a cooperative agreement or contract, for 46565
the provision of related services for children with disabilities 46566
that meet the standards established by the state board. 46567

(2) A school district shall arrange by interagency agreement 46568
with one or more school districts or with a cooperative education 46569
or joint vocational school district or an educational service 46570
center or other providers of early learning services to provide 46571
for the identification, location, evaluation of children with 46572
disabilities of ages birth through five years of age and for the 46573
transition of children with disabilities at age three in 46574
accordance with the standards established by the state board. A 46575

school district may arrange by interagency agreement with 46576
providers of early learning services to provide special education 46577
and related services for such children that meet the standards 46578
established by the state board. 46579

(3) If at the time an individualized education program is 46580
developed for a child a school district is not providing special 46581
education and related services required by that individualized 46582
education program, the school district may arrange by contract 46583
with a nonpublic entity for the provision of the special education 46584
and related services, provided the special education and related 46585
services meet the standards for special education and related 46586
services established by the state board and is provided within the 46587
state. 46588

(4) Any cooperative agreement or contract under division 46589
(B)(1) or (2) of this section involving a local school district 46590
shall be approved by the governing board of the educational 46591
service center which serves that district. 46592

(C) No plan of a local school district shall be submitted to 46593
the superintendent of public instruction until it has been 46594
approved by the superintendent of the educational service center 46595
which serves that district. 46596

(D) Upon approval of a school district's plan by the 46597
superintendent of public instruction, the district shall 46598
immediately certify students for state funds under section 3317.03 46599
of the Revised Code to implement and maintain such plan. ~~The~~ 46600
~~district also shall request approval of classroom units under~~ 46601
~~division (B) of section 3317.05 of the Revised Code for which the~~ 46602
~~district has adequately identified preschool children with~~ 46603
~~disabilities and shall, in accordance with procedures adopted by~~ 46604
~~the state board, request approval of units under division (C) of~~ 46605
~~section 3317.05 of the Revised Code.~~ The district shall, in 46606
accordance with guidelines adopted by the state board, identify 46607

problems relating to the provision of qualified personnel and 46608
adequate facilities, and indicate the extent to which the cost of 46609
programs required under the plan will exceed anticipated state 46610
reimbursement. Each school district shall immediately implement 46611
the identification, location, and evaluation of children with 46612
disabilities in accordance with this chapter, and shall implement 46613
those parts of the plan involving placement and provision of 46614
special education and related services. 46615

Sec. 3323.09. (A) As used in this section: 46616

(1) "Home" has the meaning given in section 3313.64 of the 46617
Revised Code. 46618

(2) "Preschool child" means a child who is at least age three 46619
but under age six on the thirtieth day of September of an academic 46620
year. 46621

(B) Each county DD board shall establish special education 46622
programs for all children with disabilities who in accordance with 46623
section 3323.04 of the Revised Code have been placed in special 46624
education programs operated by the county board and for preschool 46625
children who are developmentally delayed or at risk of being 46626
developmentally delayed. The board annually shall submit to the 46627
department of education a plan for the provision of these programs 46628
~~and, if applicable, a request for approval of units under section~~ 46629
~~3317.05 of the Revised Code.~~ The superintendent of public 46630
instruction shall review the plan and approve or modify it in 46631
accordance with rules adopted by the state board of education 46632
under section 3301.07 of the Revised Code. The superintendent of 46633
public instruction shall compile the plans submitted by county 46634
boards and shall submit a comprehensive plan to the state board. 46635

A county DD board may combine transportation for children 46636
enrolled in classes funded under ~~section~~ sections 3317.0213 or 46637
3317.20 ~~or units approved under section 3317.05~~ with 46638

transportation for children and adults enrolled in programs and 46639
services offered by the board under Chapter 5126. of the Revised 46640
Code. 46641

(C) A county DD board that during the school year provided 46642
special education pursuant to this section for any child with 46643
mental disabilities under twenty-two years of age shall prepare 46644
and submit the following reports and statements: 46645

(1) The board shall prepare a statement for each child who at 46646
the time of receiving such special education was a resident of a 46647
home and was not in the legal or permanent custody of an Ohio 46648
resident or a government agency in this state, and whose natural 46649
or adoptive parents are not known to have been residents of this 46650
state subsequent to the child's birth. The statement shall contain 46651
the child's name, the name of the child's school district of 46652
residence, the name of the county board providing the special 46653
education, and the number of months, including any fraction of a 46654
month, it was provided. Not later than the thirtieth day of June, 46655
the board shall forward a certified copy of such statement to both 46656
the director of developmental disabilities and to the home. 46657

Within thirty days after its receipt of a statement, the home 46658
shall pay tuition to the county board computed in the manner 46659
prescribed by section 3323.141 of the Revised Code. 46660

(2) The board shall prepare a report for each school district 46661
that is the school district of residence of one or more of such 46662
children for whom statements are not required by division (C)(1) 46663
of this section. The report shall contain the name of the county 46664
board providing special education, the name of each child 46665
receiving special education, the number of months, including 46666
fractions of a month, that the child received it, and the name of 46667
the child's school district of residence. Not later than the 46668
thirtieth day of June, the board shall forward certified copies of 46669
each report to the school district named in the report, the 46670

superintendent of public instruction, and the director of 46671
developmental disabilities. 46672

Sec. 3323.091. (A) The department of ~~mental health~~ mental 46673
health and addiction services, the department of developmental 46674
disabilities, the department of youth services, and the department 46675
of rehabilitation and correction shall establish and maintain 46676
special education programs for children with disabilities in 46677
institutions under their jurisdiction according to standards 46678
adopted by the state board of education. 46679

(B) ~~The superintendent of each state institution required to~~ 46680
~~provide services under division (A) of this section, and each~~ 46681
~~county DD board, providing special education for preschool~~ 46682
~~children with disabilities under this chapter may apply to the~~ 46683
~~state department of education for unit funding, which shall be~~ 46684
~~paid in accordance with sections 3317.052 and 3317.053 of the~~ 46685
~~Revised Code.~~ 46686

The superintendent of each state institution required to 46687
provide services under division (A) of this section may apply to 46688
the department of education for special education and related 46689
services ~~weighted~~ funding for children with disabilities other 46690
than preschool children with disabilities, calculated in 46691
accordance with section 3317.201 of the Revised Code. 46692

Each county DD board providing special education for children 46693
with disabilities other than preschool children with disabilities 46694
may apply to the department of education for ~~base cost and~~ 46695
opportunity funds, special education and related services ~~weighted~~ 46696
funding, and targeted assistance funds calculated in accordance 46697
with section 3317.20 of the Revised Code. 46698

(C) In addition to the authorization to apply for state 46699
funding described in division (B) of this section, each state 46700
institution required to provide services under division (A) of 46701

this section is entitled to tuition payments calculated in the 46702
manner described in division (C) of this section. 46703

On or before the thirtieth day of June of each year, the 46704
superintendent of each institution that during the school year 46705
provided special education pursuant to this section shall prepare 46706
a statement for each child with a disability under twenty-two 46707
years of age who has received special education. The statement 46708
shall contain the child's data verification code assigned pursuant 46709
to division (D)(2) of section 3301.0714 of the Revised Code and 46710
the name of the child's school district of residence. Within sixty 46711
days after receipt of such statement, the department of education 46712
shall perform one of the following: 46713

(1) For any child except a preschool child with a disability 46714
described in division (C)(2) of this section, pay to the 46715
institution submitting the statement an amount equal to the 46716
tuition calculated under division (A) of section 3317.08 of the 46717
Revised Code for the period covered by the statement, and deduct 46718
the same from the amount of state funds, if any, payable under 46719
Chapter 3317. of the Revised Code, to the child's school district 46720
of residence or, if the amount of such state funds is 46721
insufficient, require the child's school district of residence to 46722
pay the institution submitting the statement an amount equal to 46723
the amount determined under this division. 46724

(2) For any preschool child with a disability ~~not included in~~ 46725
~~a unit approved under division (B) of section 3317.05 of the~~ 46726
~~Revised Code~~, perform the following: 46727

(a) Pay to the institution submitting the statement an amount 46728
equal to the tuition calculated under division (B) of section 46729
3317.08 of the Revised Code for the period covered by the 46730
statement, except that in calculating the tuition under that 46731
section the operating expenses of the institution submitting the 46732
statement under this section shall be used instead of the 46733

operating expenses of the school district of residence; 46734

(b) Deduct from the amount of state funds, if any, payable 46735
under Chapter 3317. of the Revised Code to the child's school 46736
district of residence an amount equal to the amount paid under 46737
division (C)(2)(a) of this section. 46738

Sec. 3323.13. (A) If a child who is a school resident of one 46739
school district receives special education from another district, 46740
the board of education of the district providing the education, 46741
subject to division (C) of this section, may require the payment 46742
by the board of education of the district of residence of a sum 46743
not to exceed one of the following, as applicable: 46744

(1) For any child except a preschool child with a disability 46745
described in division (A)(2) of this section, the tuition of the 46746
district providing the education for a child of normal needs of 46747
the same school grade. The determination of the amount of such 46748
tuition shall be in the manner provided for by division (A) of 46749
section 3317.08 of the Revised Code. 46750

(2) For any preschool child with a disability ~~not included in~~ 46751
~~a unit approved under division (B) of section 3317.05 of the~~ 46752
~~Revised Code,~~ the tuition of the district providing the education 46753
for the child as calculated under division (B) of section 3317.08 46754
of the Revised Code, multiplied by 0.50. 46755

(B) The board of the district of residence may contract with 46756
the board of another district for the transportation of such child 46757
into any school in such other district, on terms agreed upon by 46758
such boards. Upon direction of the state board of education, the 46759
board of the district of residence shall pay for the child's 46760
transportation and the tuition. 46761

(C) The board of education of a district providing the 46762
education for a child shall be entitled to require payment from 46763

the district of residence under this section or section 3323.14 of 46764
the Revised Code only if the district providing the education has 46765
done at least one of the following: 46766

(1) Invited the district of residence to send representatives 46767
to attend the meetings of the team developing the child's 46768
individualized education program; 46769

(2) Received from the district of residence a copy of the 46770
individualized education program or a multifactored evaluation 46771
developed for the child by the district of residence; 46772

(3) Informed the district of residence in writing that the 46773
district is providing the education for the child. 46774

As used in division (C)(2) of this section, "multifactored 46775
evaluation" means an evaluation, conducted by a multidisciplinary 46776
team, of more than one area of the child's functioning so that no 46777
single procedure shall be the sole criterion for determining an 46778
appropriate educational program placement for the child. 46779

~~Sec. 3323.14. This section does not apply to any preschool 46780
child with a disability except if included in a unit approved 46781
under division (B) of section 3317.05 of the Revised Code. 46782~~

(A) Where a child who is a school resident of one school 46783
district receives special education from another district and the 46784
per capita cost to the educating district for that child exceeds 46785
the sum of the amount received by the educating district for that 46786
child under division (A) of section 3317.08 of the Revised Code 46787
and the amount received by the district from the state board of 46788
education for that child, then the board of education of the 46789
district of residence shall pay to the board of the school 46790
district that is providing the special education such excess cost 46791
as is determined by using a formula approved by the department of 46792
education and agreed upon in contracts entered into by the boards 46793

of the districts concerned at the time the district providing such 46794
special education accepts the child for enrollment. The department 46795
shall certify the amount of the payments under Chapter 3317. of 46796
the Revised Code for such pupils with disabilities for each school 46797
year ending on the thirtieth day of July. 46798

(B) In the case of a child described in division (A) of this 46799
section who has been placed in a home, as defined in section 46800
3313.64 of the Revised Code, pursuant to the order of a court and 46801
who is not subject to section 3323.141 of the Revised Code, the 46802
district providing the child with special education and related 46803
services may charge to the child's district of residence the 46804
excess cost determined by formula approved by the department, 46805
regardless of whether the district of residence has entered into a 46806
contract with the district providing the services. If the district 46807
providing the services chooses to charge excess costs, the 46808
district may report the amount calculated under this division to 46809
the department. 46810

(C) If a district providing special education for a child 46811
reports an amount for the excess cost of those services, as 46812
authorized and calculated under division (A) or (B) of this 46813
section, the department shall pay that amount of excess cost to 46814
the district providing the services and shall deduct that amount 46815
from the child's district of residence in accordance with division 46816
(K) of section 3317.023 of the Revised Code. 46817

Sec. 3323.141. (A) When a child who is not in the legal or 46818
permanent custody of an Ohio resident or a government agency in 46819
this state and whose natural or adoptive parents are not known to 46820
have been residents of this state subsequent to the child's birth 46821
is a resident of a home as defined in section 3313.64 of the 46822
Revised Code and receives special education and related services 46823
from a school district or county ~~MR/DD~~ DD board, the home shall 46824

pay tuition to the board providing the special education. 46825

(B) In the case of a child described in division (A) of this 46826
section who receives special education and related services from a 46827
school district, tuition shall be the amount determined under 46828
division (B)(1) or (2) of this section. 46829

(1) For a child other than a child described in division 46830
(B)(2) of this section the tuition shall be an amount equal to the 46831
sum of the following: 46832

(a) Tuition as determined in the manner provided for by 46833
division (B) of section 3317.081 of the Revised Code for the 46834
district that provides the special education; 46835

(b) Such excess cost as is determined by using a formula 46836
established by rule of the department of education. The excess 46837
cost computed in this section shall not be used as excess cost 46838
computed under section 3323.14 of the Revised Code. 46839

(2) For a child who is a preschool child with a disability 46840
~~not included in a unit approved under division (B) of section~~ 46841
~~3317.05 of the Revised Code,~~ the tuition shall be computed as 46842
follows: 46843

(a) Determine the amount of the tuition of the district 46844
providing the education for the child as calculated under division 46845
(B) of section 3317.08 of the Revised Code; 46846

(b) For each type of special education service included in 46847
the computation of the amount of tuition under division (B)(2)(a) 46848
of this section, divide the amount determined for that computation 46849
under division (B)(2) of section 3317.08 of the Revised Code by 46850
the total number of preschool children with disabilities used for 46851
that computation under division (B)(3) of section 3317.08 of the 46852
Revised Code; 46853

(c) Determine the sum of the quotients obtained under 46854

division (B)(2)(b) of this section; 46855

(d) Determine the sum of the amounts determined under 46856
divisions (B)(2)(a) and (c) of this section. 46857

(C) In the case of a child described in division (A) of this 46858
section who receives special education and related services from a 46859
county ~~MR/DD~~ DD board, tuition shall be the amount determined 46860
under division (C)(1) or (2) of this section. 46861

(1) For a child other than a child described in division 46862
(C)(2) of this section, the tuition shall be an amount equal to 46863
such board's per capita cost of providing special education and 46864
related services for children at least three but less than 46865
twenty-two years of age as determined by using a formula 46866
established by rule of the department of developmental 46867
disabilities. 46868

(2) For a child who is a preschool child with a disability 46869
~~not included in a unit approved under division (B) of section~~ 46870
~~3317.05 of the Revised Code~~, the tuition shall equal the sum of 46871
the amounts of each such board's per capita cost of providing each 46872
of the special education or related service that the child 46873
receives. The calculation of tuition shall be made by using a 46874
formula established by rule of the department of developmental 46875
disabilities. The formula for the calculation of per capita costs 46876
under division (C)(2) of this section shall be based only on each 46877
such ~~MR/DD~~ DD board's cost of providing each type of special 46878
education or related service to preschool children with 46879
disabilities ~~not included in a unit approved under division (B) of~~ 46880
~~section 3317.05 of the Revised Code.~~ 46881

(D) If a home fails to pay the tuition required under this 46882
section, the board of education or county ~~MR/DD~~ DD board providing 46883
the education may recover in a civil action the tuition and the 46884
expenses incurred in prosecuting the action, including court costs 46885

and reasonable attorney's fees. If the prosecuting attorney or 46886
city director of law represents the board in such action, costs 46887
and reasonable attorney's fees awarded by the court, based upon 46888
the time spent preparing and presenting the case by the 46889
prosecuting attorney, director, or a designee of either, shall be 46890
deposited in the county or city general fund. 46891

~~Sec. 3323.142. This section does not apply to any preschool 46892
child with a disability except if included in a unit approved 46893
under division (B) of section 3317.05 of the Revised Code. 46894~~

As used in this section, "per pupil amount" for a preschool 46895
child with a disability included in such an approved unit means 46896
the amount determined by dividing the amount received for the 46897
classroom unit in which the child has been placed by the number of 46898
children in the unit. For any other child, "per pupil amount" 46899
means the amount paid for the child under section 3317.20 of the 46900
Revised Code. 46901

When a school district places or has placed a child with a 46902
county DD board for special education, but another district is 46903
responsible for tuition under section 3313.64 or 3313.65 of the 46904
Revised Code and the child is not a resident of the territory 46905
served by the county DD board, the board may charge the district 46906
responsible for tuition with the educational costs in excess of 46907
the per pupil amount received by the board under Chapter 3317. of 46908
the Revised Code. The amount of the excess cost shall be 46909
determined by the formula established by rule of the department of 46910
education under section 3323.14 of the Revised Code, and the 46911
payment for such excess cost shall be made by the school district 46912
directly to the county DD board. 46913

A school district board of education and the county DD board 46914
that serves the school district may negotiate and contract, at or 46915
after the time of placement, for payments by the board of 46916

education to the county DD board for additional services provided 46917
to a child placed with the county DD board and whose 46918
individualized education program established pursuant to section 46919
3323.08 of the Revised Code requires additional services that are 46920
not routinely provided children in the county DD board's program 46921
but are necessary to maintain the child's enrollment and 46922
participation in the program. Additional services may include, but 46923
are not limited to, specialized supplies and equipment for the 46924
benefit of the child and instruction, training, or assistance 46925
provided by staff members other than staff members for which 46926
funding is received under Chapter 3317. of the Revised Code. 46927

Sec. 3324.07. (A) The board of education of each school 46928
district shall develop a plan for the service of gifted students 46929
enrolled in the district that are identified under section 3324.03 46930
of the Revised Code. Services specified in the plan developed by 46931
each board may include such options as the following: 46932

- (1) A differentiated curriculum; 46933
- (2) Cluster grouping; 46934
- (3) Mentorships; 46935
- (4) Accelerated course work; 46936
- (5) The ~~post secondary enrollment option~~ college credit plus 46937
program under Chapter 3365. of the Revised Code; 46938
- (6) Advanced placement; 46939
- (7) Honors classes; 46940
- (8) Magnet schools; 46941
- (9) Self-contained classrooms; 46942
- (10) Independent study; 46943
- (11) Other options identified in rules adopted by the 46944
department of education. 46945

(B) Each board shall file the plan developed under division 46946
(A) of this section with the department of education by December 46947
15, 2000. The department shall review and analyze each plan to 46948
determine if it is adequate and to make funding estimates. 46949

(C) Unless otherwise required by law, rule, or as a condition 46950
for receipt of funds, school boards may implement the plans 46951
developed under division (A) of this section, but shall not be 46952
required to do so until further action by the general assembly or 46953
the state superintendent of public instruction. 46954

Sec. 3326.11. Each science, technology, engineering, and 46955
mathematics school established under this chapter and its 46956
governing body shall comply with sections 9.90, 9.91, 109.65, 46957
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 46958
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 46959
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 46960
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 46961
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 46962
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 46963
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 46964
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 46965
3313.816, 3313.817, 3313.86, ~~3313.88~~, 3313.96, 3319.073, 3319.21, 46966
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 46967
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 46968
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 46969
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 46970
4123., 4141., and 4167. of the Revised Code as if it were a school 46971
district. 46972

Sec. 3326.112. The governing body of each STEM school shall 46973
comply with the standards for financial reporting adopted under 46974
division (B)(2) of section 3301.07 of the Revised Code. 46975

Sec. 3326.31. As used in sections 3326.31 to 3326.50 of the Revised Code: 46976
46977

~~(A) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.~~ 46978
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~~(B) "Applicable vocational education weight" means the multiple specified in section 3317.014 of the Revised Code for vocational education programs or classes described in that section.~~ 46981
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~~(C) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code (1) "Category one limited English proficient student" means a limited English proficient student described in division (A) of section 3317.016 of the Revised Code.~~ 46985
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(2) "Category two limited English proficient student" means a limited English proficient student described in division (B) of section 3317.016 of the Revised Code. 46989
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(3) "Category three limited English proficient student" means a limited English proficient student described in division (C) of section 3317.016 of the Revised Code. 46992
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(4) "Category four limited English proficient student" means a limited English proficient student described in division (D) of section 3317.016 of the Revised Code. 46995
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(B)(1) "Category one special education student" means a student who is receiving special education services for a disability specified in division (A) of section 3317.013 of the Revised Code. 46998
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(2) "Category two special education student" means a student who is receiving special education services for a disability specified in division (B) of section 3317.013 of the Revised Code. 47002
47003
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(3) "Category three special education student" means a 47005

student who is receiving special education services for a 47006
disability specified in division (C) of section 3317.013 of the 47007
Revised Code. 47008

(4) "Category four special education student" means a student 47009
who is receiving special education services for a disability 47010
specified in division (D) of section 3317.013 of the Revised Code. 47011

(5) "Category five special education student" means a student 47012
who is receiving special education services for a disability 47013
specified in division (E) of section 3317.013 of the Revised Code. 47014

(6) "Category six special education student" means a student 47015
who is receiving special education services for a disability 47016
specified in division (F) of section 3317.013 of the Revised Code. 47017

~~(D)~~(C) "IEP" means an individualized education program as 47018
defined in section 3323.01 of the Revised Code. 47019

~~(E)~~ A student is "included in the poverty student count of 47020
the student's resident district" if the student's family receives 47021
assistance under the Ohio works first program. 47022

~~(F)~~(D) "Resident district" means the school district in which 47023
a student is entitled to attend school under section 3313.64 or 47024
3313.65 of the Revised Code. 47025

~~(G)~~(E) "State education aid" has the same meaning as in 47026
section 5751.20 of the Revised Code. 47027

Sec. 3326.32. Each science, technology, engineering, and 47028
mathematics school shall report to the department of education, in 47029
the form and manner required by the department, all of the 47030
following information: 47031

(A) The total number of students enrolled in the school; 47032

(B) The number of students who are receiving special 47033
education and related services pursuant to an IEP; 47034

(C) For each student reported under division (B) of this section, which category specified in divisions (A) to (F) of section 3317.013 of the Revised Code applies to the student;

(D) The full-time equivalent number of students who are enrolled in ~~vocational~~ career-technical education programs or classes described in each of divisions (A) ~~and~~, (B), (C), (D), and (E) of section 3317.014 of the Revised Code that are provided by the STEM school;

(E) The number of students who are limited English proficiency students and which category specified in divisions (A) to (D) of section 3317.016 of the Revised Code applies to each student;

(F) The number of students reported under division (A) of this section who are economically disadvantaged, as defined by the department.

(G) The resident district of each student;

~~(F)~~(H) Any additional information the department determines necessary to make payments under this chapter.

~~Sec. 3326.33. Payments and deductions under this section for fiscal years 2012 and 2013 shall be made in accordance with section 3326.39 of the Revised Code.~~

For each student enrolled in a science, technology, engineering, and mathematics school established under this chapter, on a full-time equivalency basis, the department of education annually shall deduct from the state education aid of a student's resident school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the school the sum of the following:

~~(A) The sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to~~

~~(4) of section 3317.012 of the Revised Code. 47065~~

~~(B) If the student is receiving special education and related 47066
services pursuant to an IEP, the product of the applicable special 47067
education weight times the formula amount; 47068~~

~~(C) If the student is enrolled in vocational education 47069
programs or classes that are described in section 3317.014 of the 47070
Revised Code, are provided by the school, and are comparable as 47071
determined by the superintendent of public instruction to school 47072
district vocational education programs and classes eligible for 47073
state weighted funding under section 3317.014 of the Revised Code, 47074
the product of the applicable vocational education weight times 47075
the formula amount times the percentage of time the student spends 47076
in the vocational education programs or classes; 47077~~

~~(D) If the student is included in the poverty student count 47078
of the student's resident district, the per pupil amount of the 47079
district's payment under division (C) of section 3317.029 of the 47080
Revised Code; 47081~~

~~(E) If the student is identified as limited English 47082
proficient and the student's resident district receives a payment 47083
for services to limited English proficient students under division 47084
(F) of section 3317.029 of the Revised Code, the per pupil amount 47085
of the district's payment under that division, calculated in the 47086
same manner as per pupil payments are calculated under division 47087
(C)(6) of section 3314.08 of the Revised Code; 47088~~

~~(F) If the student's resident district receives a payment 47089
under division (G), (H), or (I) of section 3317.029 of the Revised 47090
Code, the per pupil amount of the district's payments under each 47091
division, calculated in the same manner as per pupil payments are 47092
calculated under divisions (C)(7) and (8) of section 3314.08 of 47093
the Revised Code; 47094~~

~~(G) If the student's resident district receives a parity aid 47095~~

~~payment under section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section~~ An opportunity grant of (\$250,000 - the school's valuation per pupil) X 0.02.

Each STEM school's valuation per pupil shall be zero.

(B) The per pupil amount of targeted assistance funds calculated under section 3317.0217 of the Revised Code for the student's resident district, as determined by the department;

(C) Additional state aid for special education and related services provided under Chapter 3323. of the Revised Code as follows:

(1) If the student is a category one special education student, the amount specified in division (A) of section 3317.013 of the Revised Code;

(2) If the student is a category two special education student, the amount specified in division (B) of section 3317.013 of the Revised Code;

(3) If the student is a category three special education student, the amount specified in division (C) of section 3317.013 of the Revised Code;

(4) If the student is a category four special education student, the amount specified in division (D) of section 3317.013 of the Revised Code;

(5) If the student is a category five special education student, the amount specified in division (E) of section 3317.013 of the Revised Code;

(6) If the student is a category six special education student, the amount specified in division (F) of section 3317.013 of the Revised Code.

(D) If the student is economically disadvantaged, \$500 X the

<u>resident district's economically disadvantaged index.</u>	47126
<u>(E) Limited English proficiency funds, as follows:</u>	47127
<u>(1) If the student is a category one limited English proficiency student, the amount specified in division (A) of section 3317.016 of the Revised Code;</u>	47128 47129 47130
<u>(2) If the student is a category two limited English proficiency student, the amount specified in division (B) of section 3317.016 of the Revised Code;</u>	47131 47132 47133
<u>(3) If the student is a category three limited English proficiency student, the amount specified in division (C) of section 3317.016 of the Revised Code;</u>	47134 47135 47136
<u>(4) If the student is a category four limited English proficiency student, the amount specified in division (D) of section 3317.016 of the Revised Code.</u>	47137 47138 47139
<u>(F) Gifted funds in an amount of \$50 for each enrolled student.</u>	47140 47141
<u>Sec. 3326.34. The department shall deduct from the aggregate amount paid under section 3326.33 of the Revised Code fifteen per cent of the sum of the amount paid under division (C) of that section and transfer that amount to the special education exceptional cost fund created in section 3317.0215 of the Revised Code. A STEM school may apply for funds from the special education exceptional cost fund if it satisfies the criteria in section 3317.0214 of the Revised Code.</u>	47142 47143 47144 47145 47146 47147 47148 47149
<u>Sec. 3326.36. The department of education shall reduce the amounts paid to a science, technology, engineering, and mathematics school under section 3326.33 of the Revised Code to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code or through alternative funding</u>	47150 47151 47152 47153 47154

~~agreements entered into under rules adopted under section 3365.12~~ 47155
~~of the Revised Code. A student shall be considered enrolled in the~~ 47156
~~school for any portion of the school year the student is attending~~ 47157
~~a college under Chapter 3365. of the Revised Code.~~ 47158

Sec. 3326.38. A science, technology, engineering, and 47159
mathematics school may do ~~all~~ both of the following: 47160

~~(A) Apply to the department of education for gifted unit~~ 47161
~~funding;~~ 47162

~~(B)~~ Apply to any state or federal agency for grants that a 47163
school district or public school may receive under federal or 47164
state law or any appropriations act of the general assembly; 47165

~~(C)~~(B) Apply to any private entity or foundation for 47166
additional funds. 47167

Sec. 3326.39. The department of education shall pay to each 47168
STEM school the amount approved for that school under section 47169
3317.162 of the Revised Code by the lead district of the 47170
career-technical planning district to which the school has been 47171
assigned. 47172

Sec. 3326.45. (A) The governing body of a science, 47173
technology, engineering, and mathematics school may contract with 47174
the governing board of an educational service center or the board 47175
of education of a joint vocational school district for the 47176
provision of services to the STEM school or to any student 47177
enrolled in the school. Services provided under the contract and 47178
the amount to be paid for those services shall be mutually agreed 47179
to by the parties to the contract, and shall be specified in the 47180
contract. 47181

(B) A contract entered into under this section may require an 47182
educational service center to provide any one or a combination of 47183

the following services to a STEM school:	47184
(1) Supervisory teachers;	47185
(2) In-service and continuing education programs for personnel of the STEM school;	47186 47187
(3) Curriculum services as provided to the client school districts of the service center;	47188 47189
(4) Research and development programs;	47190
(5) Academic instruction for which the service center governing board employs teachers;	47191 47192
(6) Assistance in the provision of special accommodations and classes for students with disabilities.	47193 47194
Services described in division (B) of this section shall be provided to the STEM school in the same manner they are provided to client school districts of the service center, unless otherwise specified in the contract. The contract shall specify whether the service center will receive a per-pupil payment from the department of education for the provision of these services and, if so, the amount of the per-pupil payment, which shall not exceed the per pupil amount paid to the service center under division (F) of section 3317.11 of the Revised Code for each student in the service center ADM.	47195 47196 47197 47198 47199 47200 47201 47202 47203 47204
(C) For each contract entered into under this section, the department shall deduct the amount owed by the STEM school from the state funds due to the STEM school under this chapter and shall pay that amount to the educational service center or joint vocational school district that is party to the contract. In the ease of a contract with an educational service center that specifies per pupil payments for the provision of services described in division (B) of this section, the department also shall pay the service center the amount calculated under division	47205 47206 47207 47208 47209 47210 47211 47212 47213

~~(H) of section 3317.11 of the Revised Code.~~ 47214

(D) No contract entered into under this section shall be 47215
valid unless a copy is filed with the department by the first day 47216
of the school year for which the contract is in effect. 47217

(E) As used in this section, "client school district" ~~has the~~ 47218
~~same meaning as in section 3317.11 of the Revised Code~~ means a 47219
city, exempted village, or local school district that has entered 47220
into an agreement under section 3313.843 or 3313.845 of the 47221
Revised Code to receive any services from an educational service 47222
center. 47223

Sec. 3327.02. (A) After considering each of the following 47224
factors, the board of education of a city, exempted village, or 47225
local school district may determine that it is impractical to 47226
transport a pupil who is eligible for transportation to and from a 47227
school under section 3327.01 of the Revised Code: 47228

(1) The time and distance required to provide the 47229
transportation; 47230

(2) The number of pupils to be transported; 47231

(3) The cost of providing transportation in terms of 47232
equipment, maintenance, personnel, and administration; 47233

(4) Whether similar or equivalent service is provided to 47234
other pupils eligible for transportation; 47235

(5) Whether and to what extent the additional service 47236
unavoidably disrupts current transportation schedules; 47237

(6) Whether other reimbursable types of transportation are 47238
available. 47239

(B)(1) Based on its consideration of the factors established 47240
in division (A) of this section, the board may pass a resolution 47241
declaring the impracticality of transportation. The resolution 47242

shall include each pupil's name and the reason for impracticality. 47243

(2) The board shall report its determination to the state 47244
board of education in a manner determined by the state board. 47245

~~(3) The board of education of a local school district 47246
additionally shall submit the resolution for concurrence to the 47247
educational service center that contains the local district's 47248
territory. If the educational service center governing board 47249
considers transportation by school conveyance practicable, it 47250
shall so inform the local board and transportation shall be 47251
provided by such local board. If the educational service center 47252
board agrees with the view of the local board, the local board may 47253
offer payment in lieu of transportation as provided in this 47254
section. 47255~~

(C) After passing the resolution declaring the impracticality 47256
of transportation, the district board shall offer to provide 47257
payment in lieu of transportation by doing the following: 47258

(1) In accordance with guidelines established by the 47259
department of education, informing the pupil's parent, guardian, 47260
or other person in charge of the pupil of both of the following: 47261

(a) The board's resolution; 47262

(b) The right of the pupil's parent, guardian, or other 47263
person in charge of the pupil to accept the offer of payment in 47264
lieu of transportation or to reject the offer and instead request 47265
the department to initiate mediation procedures. 47266

(2) Issuing the pupil's parent, guardian, or other person in 47267
charge of the pupil a contract or other form on which the parent, 47268
guardian, or other person in charge of the pupil is given the 47269
option to accept or reject the board's offer of payment in lieu of 47270
transportation. 47271

(D) If the parent, guardian, or other person in charge of the 47272

pupil accepts the offer of payment in lieu of providing 47273
transportation, the board shall pay the parent, guardian, or other 47274
person in charge of the pupil an amount that shall be not less 47275
than the amount determined by the department of education as the 47276
minimum for payment in lieu of transportation, and not more than 47277
the amount determined by the department as the average cost of 47278
pupil transportation for the previous school year. Payment may be 47279
prorated if the time period involved is only a part of the school 47280
year. 47281

(E)(1)(a) Upon the request of a parent, guardian, or other 47282
person in charge of the pupil who rejected the payment in lieu of 47283
transportation, the department shall conduct mediation procedures. 47284

(b) If the mediation does not resolve the dispute, the state 47285
board of education shall conduct a hearing in accordance with 47286
Chapter 119. of the Revised Code. The state board may approve the 47287
payment in lieu of transportation or may order the board of 47288
education to provide transportation. The decision of the state 47289
board is binding in subsequent years and on future parties in 47290
interest provided the facts of the determination remain 47291
comparable. 47292

(2) The school district shall provide transportation for the 47293
pupil from the time the parent, guardian, or other person in 47294
charge of the pupil requests mediation until the matter is 47295
resolved under division (E)(1)(a) or (b) of this section. 47296

(F)(1) If the department determines that a school district 47297
board has failed or is failing to provide transportation as 47298
required by division (E)(2) of this section or as ordered by the 47299
state board under division (E)(1)(b) of this section, the 47300
department shall order the school district board to pay to the 47301
pupil's parent, guardian, or other person in charge of the pupil, 47302
an amount equal to the state average daily cost of transportation 47303
as determined by the state board of education for the previous 47304

year. The school district board shall make payments on a schedule 47305
ordered by the department. 47306

(2) If the department subsequently finds that a school 47307
district board is not in compliance with an order issued under 47308
division (F)(1) of this section and the affected pupils are 47309
enrolled in a nonpublic or community school, the department shall 47310
deduct the amount that the board is required to pay under that 47311
order from any pupil transportation payments the department makes 47312
to the school district board under section 3317.0212 of the 47313
Revised Code or other provisions of law. The department shall use 47314
the moneys so deducted to make payments to the nonpublic or 47315
community school attended by the pupil. The department shall 47316
continue to make the deductions and payments required under this 47317
division until the school district board either complies with the 47318
department's order issued under division (F)(1) of this section or 47319
begins providing transportation. 47320

(G) A nonpublic or community school that receives payments 47321
from the department under division (F)(2) of this section shall do 47322
either of the following: 47323

(1) Disburse the entire amount of the payments to the parent, 47324
guardian, or other person in charge of the pupil affected by the 47325
failure of the school district of residence to provide 47326
transportation; 47327

(2) Use the entire amount of the payments to provide 47328
acceptable transportation for the affected pupil. 47329

Sec. 3327.10. (A) No person shall be employed as driver of a 47330
school bus or motor van, owned and operated by any school district 47331
or educational service center or privately owned and operated 47332
under contract with any school district or service center in this 47333
state, who has not received a certificate from either the 47334
educational service center governing board ~~in case such person is~~ 47335

~~employed by a service center or by a local school district under~~ 47336
~~the supervision of the service center governing board, that has~~ 47337
~~entered into an agreement with the school district under section~~ 47338
~~3313.843 or 3313.845 of the Revised Code or by the superintendent~~ 47339
~~of schools, in case such person is employed by the board of a city~~ 47340
~~or exempted village~~ the school district, certifying that such 47341
person is at least eighteen years of age and is of good moral 47342
character and is qualified physically and otherwise for such 47343
position. The service center governing board or the 47344
superintendent, as the case may be, shall provide for an annual 47345
physical examination that conforms with rules adopted by the state 47346
board of education of each driver to ascertain the driver's 47347
physical fitness for such employment. Any certificate may be 47348
revoked by the authority granting the same on proof that the 47349
holder has been guilty of failing to comply with division (D)(1) 47350
of this section, or upon a conviction or a guilty plea for a 47351
violation, or any other action, that results in a loss or 47352
suspension of driving rights. Failure to comply with such division 47353
may be cause for disciplinary action or termination of employment 47354
under division (C) of section 3319.081, or section 124.34 of the 47355
Revised Code. 47356

(B) No person shall be employed as driver of a school bus or 47357
motor van not subject to the rules of the department of education 47358
pursuant to division (A) of this section who has not received a 47359
certificate from the school administrator or contractor certifying 47360
that such person is at least eighteen years of age, is of good 47361
moral character, and is qualified physically and otherwise for 47362
such position. Each driver shall have an annual physical 47363
examination which conforms to the state highway patrol rules, 47364
ascertaining the driver's physical fitness for such employment. 47365
The examination shall be performed by one of the following: 47366

(1) A person licensed under Chapter 4731. of the Revised Code 47367

or by another state to practice medicine and surgery or 47368
osteopathic medicine and surgery; 47369

(2) A physician assistant; 47370

(3) A certified nurse practitioner; 47371

(4) A clinical nurse specialist; 47372

(5) A certified nurse-midwife. 47373

Any written documentation of the physical examination shall 47374
be completed by the individual who performed the examination. 47375

Any certificate may be revoked by the authority granting the 47376
same on proof that the holder has been guilty of failing to comply 47377
with division (D)(2) of this section. 47378

(C) Any person who drives a school bus or motor van must give 47379
satisfactory and sufficient bond except a driver who is an 47380
employee of a school district and who drives a bus or motor van 47381
owned by the school district. 47382

(D) No person employed as driver of a school bus or motor van 47383
under this section who is convicted of a traffic violation or who 47384
has had the person's commercial driver's license suspended shall 47385
drive a school bus or motor van until the person has filed a 47386
written notice of the conviction or suspension, as follows: 47387

(1) If the person is employed under division (A) of this 47388
section, the person shall file the notice with the superintendent, 47389
or a person designated by the superintendent, of the school 47390
district for which the person drives a school bus or motor van as 47391
an employee or drives a privately owned and operated school bus or 47392
motor van under contract. 47393

(2) If employed under division (B) of this section, the 47394
person shall file the notice with the employing school 47395
administrator or contractor, or a person designated by the 47396
administrator or contractor. 47397

(E) In addition to resulting in possible revocation of a certificate as authorized by divisions (A) and (B) of this section, violation of division (D) of this section is a minor misdemeanor.

(F)(1) Not later than thirty days after June 30, 2007, each owner of a school bus or motor van shall obtain the complete driving record for each person who is currently employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for the first time before the owner has obtained the person's complete driving record. Thereafter, the owner of a school bus or motor van shall obtain the person's driving record not less frequently than semiannually if the person remains employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to resume operating a school bus or motor van, after an interruption of one year or longer, before the owner has obtained the person's complete driving record.

(2) The owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for six years after the date on which the person pleads guilty to or is convicted of a violation of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance.

(3) An owner of a school bus or motor van shall not permit any person to operate such a vehicle unless the person meets all other requirements contained in rules adopted by the state board of education prescribing qualifications of drivers of school buses and other student transportation.

(G) No superintendent of a school district, educational service center, community school, or public or private employer shall permit the operation of a vehicle used for pupil transportation within this state by an individual unless both of

the following apply: 47430

(1) Information pertaining to that driver has been submitted 47431
to the department of education, pursuant to procedures adopted by 47432
that department. Information to be reported shall include the name 47433
of the employer or school district, name of the driver, driver 47434
license number, date of birth, date of hire, status of physical 47435
evaluation, and status of training. 47436

(2) The most recent criminal records check required by 47437
division (J) of this section has been completed and received by 47438
the superintendent or public or private employer. 47439

(H) A person, school district, educational service center, 47440
community school, nonpublic school, or other public or nonpublic 47441
entity that owns a school bus or motor van, or that contracts with 47442
another entity to operate a school bus or motor van, may impose 47443
more stringent restrictions on drivers than those prescribed in 47444
this section, in any other section of the Revised Code, and in 47445
rules adopted by the state board. 47446

(I) For qualified drivers who, on July 1, 2007, are employed 47447
by the owner of a school bus or motor van to drive the school bus 47448
or motor van, any instance in which the driver was convicted of or 47449
pleaded guilty to a violation of section 4511.19 of the Revised 47450
Code or a substantially equivalent municipal ordinance prior to 47451
two years prior to July 1, 2007, shall not be considered a 47452
disqualifying event with respect to division (F) of this section. 47453

(J)(1) This division applies to persons hired by a school 47454
district, educational service center, community school, chartered 47455
nonpublic school, or science, technology, engineering, and 47456
mathematics school established under Chapter 3326. of the Revised 47457
Code to operate a vehicle used for pupil transportation. 47458

For each person to whom this division applies who is hired on 47459
or after November 14, 2007, the employer shall request a criminal 47460

records check in accordance with section 3319.39 of the Revised Code and every six years thereafter. For each person to whom this division applies who is hired prior to that date, the employer shall request a criminal records check by a date prescribed by the department of education and every six years thereafter.

(2) This division applies to persons hired by a public or private employer not described in division (J)(1) of this section to operate a vehicle used for pupil transportation.

For each person to whom this division applies who is hired on or after November 14, 2007, the employer shall request a criminal records check prior to the person's hiring and every six years thereafter. For each person to whom this division applies who is hired prior to that date, the employer shall request a criminal records check by a date prescribed by the department and every six years thereafter.

(3) Each request for a criminal records check under division (J) of this section shall be made to the superintendent of the bureau of criminal identification and investigation in the manner prescribed in section 3319.39 of the Revised Code, except that if both of the following conditions apply to the person subject to the records check, the employer shall request the superintendent only to obtain any criminal records that the federal bureau of investigation has on the person:

(a) The employer previously requested the superintendent to determine whether the bureau of criminal identification and investigation has any information, gathered pursuant to division (A) of section 109.57 of the Revised Code, on the person in conjunction with a criminal records check requested under section 3319.39 of the Revised Code or under division (J) of this section.

(b) The person presents proof that the person has been a resident of this state for the five-year period immediately prior

to the date upon which the person becomes subject to a criminal 47492
records check under this section. 47493

Upon receipt of a request, the superintendent shall conduct 47494
the criminal records check in accordance with section 109.572 of 47495
the Revised Code as if the request had been made under section 47496
3319.39 of the Revised Code. However, as specified in division 47497
(B)(2) of section 109.572 of the Revised Code, if the employer 47498
requests the superintendent only to obtain any criminal records 47499
that the federal bureau of investigation has on the person for 47500
whom the request is made, the superintendent shall not conduct the 47501
review prescribed by division (B)(1) of that section. 47502

(K)(1) Until the effective date of the amendments to rule 47503
3301-83-23 of the Ohio Administrative Code required by the second 47504
paragraph of division (E) of section 3319.39 of the Revised Code, 47505
any person who is the subject of a criminal records check under 47506
division (J) of this section and has been convicted of or pleaded 47507
guilty to any offense described in division (B)(1) of section 47508
3319.39 of the Revised Code shall not be hired or shall be 47509
released from employment, as applicable, unless the person meets 47510
the rehabilitation standards prescribed for nonlicensed school 47511
personnel by rule 3301-20-03 of the Ohio Administrative Code. 47512

(2) Beginning on the effective date of the amendments to rule 47513
3301-83-23 of the Ohio Administrative Code required by the second 47514
paragraph of division (E) of section 3319.39 of the Revised Code, 47515
any person who is the subject of a criminal records check under 47516
division (J) of this section and has been convicted of or pleaded 47517
guilty to any offense that, under the rule, disqualifies a person 47518
for employment to operate a vehicle used for pupil transportation 47519
shall not be hired or shall be released from employment, as 47520
applicable, unless the person meets the rehabilitation standards 47521
prescribed by the rule. 47522

Sec. 3328.24. A college-preparatory boarding school 47523
established under this chapter and its board of trustees shall 47524
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 47525
3301.0714, 3313.6013, 3313.6411, 3319.39, and 3319.391 and Chapter 47526
3365 of the Revised Code as if the school were a school district 47527
and the school's board of trustees were a district board of 47528
education. 47529

Sec. 3328.27. The board of trustees of each 47530
college-preparatory boarding school shall comply with the 47531
standards for financial reporting adopted under division (B)(2) of 47532
section 3301.07 of the Revised Code. 47533

Sec. 3328.34. (A) For each child enrolled in a 47534
college-preparatory boarding school, as reported under section 47535
3328.31 of the Revised Code, the department of education shall pay 47536
to the school the sum of the amount deducted from a participating 47537
school district's account for that child under section 3328.33 of 47538
the Revised Code plus the per-pupil boarding amount specified in 47539
division (B) of this section. 47540

(B) For the first fiscal year in which a college-preparatory 47541
boarding school may be established under this chapter, the 47542
"per-pupil boarding amount" is twenty-five thousand dollars. For 47543
each fiscal year thereafter, that amount shall be adjusted by the 47544
rate of inflation, as measured by the consumer price index (all 47545
urban consumers, all items) prepared by the bureau of labor 47546
statistics of the United States department of labor, for the 47547
previous twelve-month period. 47548

(C) The state board of education may accept funds from 47549
federal and state noneducation support services programs for the 47550
purpose of funding the per pupil boarding amount prescribed in 47551
division (B) of this section. Notwithstanding any other provision 47552

of the Revised Code, the state board shall coordinate and 47553
streamline any noneducation program requirements in order to 47554
eliminate redundant or conflicting requirements, licensing 47555
provisions, and oversight by government programs or agencies. The 47556
applicable regulatory entities shall, to the maximum extent 47557
possible, use reports and financial audits provided by the auditor 47558
of state and coordinated by the department of education to 47559
eliminate or reduce contract and administrative reviews. 47560
Regulatory entities other than the state board may suggest 47561
reasonable additional items to be included in such reports and 47562
financial audits to meet any requirements of federal law. 47563
Reporting paperwork prepared for the state board shall be shared 47564
with and accepted by other state and local entities to the maximum 47565
extent feasible. 47566

(D)(1) Notwithstanding division (A) of this section, if, in 47567
any fiscal year, a college-preparatory boarding school receives 47568
federal funds for the purpose of supporting the school's 47569
operations, the amount of those federal funds shall be deducted 47570
from the total per-pupil boarding amount for all enrolled students 47571
paid by the department to the school for that fiscal year, unless 47572
the school's board of trustees and the department determine 47573
otherwise in a written agreement. Any portion of the total 47574
per-pupil boarding amount for all enrolled students remaining 47575
after the deduction of the federal funds shall be paid by the 47576
department to the school from state funds appropriated to the 47577
department. 47578

(2) Notwithstanding division (A) of this section, if, in any 47579
fiscal year, the department receives federal funds for the purpose 47580
of supporting the operations of a college-preparatory boarding 47581
school, the department shall use those federal funds, not 47582
including any portion of those funds designated for 47583
administration, to pay the school the total per-pupil boarding 47584

amount for all enrolled students for that fiscal year. Any portion 47585
of the total per-pupil boarding amount for all enrolled students 47586
remaining after the use of the federal funds shall be paid by the 47587
department to the school from state funds appropriated to the 47588
department. 47589

(3) If any federal funds are used for the purpose prescribed 47590
in division (D)(1) or (2) of this section, the department shall 47591
comply with all requirements upon which the acceptance of the 47592
federal funds is conditioned, including any requirements set forth 47593
in the funding application submitted by the school or the 47594
department and, to the extent sufficient funds are appropriated by 47595
the general assembly, any requirements regarding maintenance of 47596
effort in expenditures. 47597

(E) The department shall reduce the amount paid under 47598
division (A) of this section, that is not included in the per 47599
pupil boarding amount, to reflect payments made to colleges under 47600
section 3365.07 of the Revised Code. 47601

Sec. 3333.041. (A) On or before the last day of December of 47602
each year, the chancellor of the Ohio board of regents shall 47603
submit to the governor and, in accordance with section 101.68 of 47604
the Revised Code, the general assembly a report or reports 47605
concerning all of the following: 47606

(1) The status of graduates of Ohio school districts at state 47607
institutions of higher education during the twelve-month period 47608
ending on the thirtieth day of September of the current calendar 47609
year. The report shall list, by school district, the number of 47610
graduates of each school district who attended a state institution 47611
of higher education and the percentage of each district's 47612
graduates enrolled in a state institution of higher education 47613
during the reporting period who were required during such period 47614
by the college or university, as a prerequisite to enrolling in 47615

those courses generally required for first-year students, to 47616
enroll in a remedial course in English, including composition or 47617
reading, mathematics, and any other area designated by the 47618
chancellor. The chancellor also shall make the information 47619
described in division (A)(1) of this section available to the 47620
board of education of each city, exempted village, and local 47621
school district. 47622

Each state institution of higher education shall, by the 47623
first day of November of each year, submit to the chancellor in 47624
the form specified by the chancellor the information the 47625
chancellor requires to compile the report. 47626

(2) Aggregate academic growth data for students assigned to 47627
graduates of teacher preparation programs approved under section 47628
3333.048 of the Revised Code who teach English language arts or 47629
mathematics in any of grades four to eight in a public school in 47630
Ohio. For this purpose, the chancellor shall use the value-added 47631
progress dimension prescribed by section 3302.021 of the Revised 47632
Code. The chancellor shall aggregate the data by graduating class 47633
for each approved teacher preparation program, except that if a 47634
particular class has ten or fewer graduates to which this section 47635
applies, the chancellor shall report the data for a group of 47636
classes over a three-year period. In no case shall the report 47637
identify any individual graduate. The department of education 47638
shall share any data necessary for the report with the chancellor. 47639

(3) The following information with respect to the Ohio 47640
tuition trust authority: 47641

(a) The name of each investment manager that is a minority 47642
business enterprise or a women's business enterprise with which 47643
the chancellor contracts; 47644

(b) The amount of assets managed by investment managers that 47645
are minority business enterprises or women's business enterprises, 47646

expressed as a percentage of assets managed by investment managers 47647
with which the chancellor has contracted; 47648

(c) Efforts by the chancellor to increase utilization of 47649
investment managers that are minority business enterprises or 47650
women's business enterprises. 47651

~~(4) The status of implementation of faculty improvement 47652
programs under section 3345.28 of the Revised Code. The report 47653
shall include, but need not be limited to, the following: the 47654
number of professional leave grants made by each institution; the 47655
purpose of each professional leave; and a statement of the cost to 47656
the institution of each professional leave, to the extent that the 47657
cost exceeds the salary of the faculty member on professional 47658
leave. 47659~~

~~(5) The number and types of biobased products purchased under 47660
section 125.092 of the Revised Code and the amount of money spent 47661
by state institutions of higher education for those biobased 47662
products as that information is provided to the chancellor under 47663
division (A) of section 3345.692 of the Revised Code. 47664~~

~~(6) A description of dual enrollment advanced standing 47665
programs, as defined in section 3313.6013 of the Revised Code, 47666
that are offered by school districts, community schools 47667
established under Chapter 3314. of the Revised Code, STEM schools 47668
established under Chapter 3326. of the Revised Code, 47669
college-preparatory boarding schools established under Chapter 47670
3328. of the Revised Code, and chartered nonpublic high schools. 47671
The chancellor also shall post the information on the chancellor's 47672
web site. 47673~~

~~(7) The academic and economic impact of the Ohio innovation 47674
partnership established under section 3333.61 of the Revised Code. 47675
At a minimum, the report shall include the following: 47676~~

~~(a) Progress and performance metrics for each initiative that 47677~~

~~received an award in the previous fiscal year;~~ 47678

~~(b) Economic indicators of the impact of each initiative, and~~ 47679
~~all initiatives as a whole, on the regional economies and the~~ 47680
~~statewide economy;~~ 47681

~~(e)~~(5) The chancellor's strategy in assigning choose Ohio 47682
first scholarships, as established under section 3333.61 of the 47683
Revised Code, among state universities and colleges and how the 47684
actual awards fit that strategy. 47685

~~(8)~~(6) The academic and economic impact of the Ohio 47686
co-op/internship program established under section 3333.72 of the 47687
Revised Code. At a minimum, the report shall include the 47688
following: 47689

(a) Progress and performance metrics for each initiative that 47690
received an award in the previous fiscal year; 47691

(b) Economic indicators of the impact of each initiative, and 47692
all initiatives as a whole, on the regional economies and the 47693
statewide economy; 47694

(c) The chancellor's strategy in allocating awards among 47695
state institutions of higher education and how the actual awards 47696
fit that strategy. 47697

(B) As used in this section: 47698

(1) "Minority business enterprise" has the same meaning as in 47699
section 122.71 of the Revised Code. 47700

(2) "State institution of higher education" and "state 47701
university" have the same meanings as in section 3345.011 of the 47702
Revised Code. 47703

(3) "State university or college" has the same meaning as in 47704
section 3345.12 of the Revised Code. 47705

(4) "Women's business enterprise" means a business, or a 47706
partnership, corporation, limited liability company, or joint 47707

venture of any kind, that is owned and controlled by women who are 47708
United States citizens and residents of this state. 47709

Sec. 3333.124. There is hereby created in the state treasury 47710
the Ohio college opportunity grant program reserve fund. Not later 47711
than the first day of July of each fiscal year, the chancellor of 47712
the Ohio board of regents shall certify to the director of budget 47713
and management the unencumbered balance of the general revenue 47714
fund appropriations made in the immediately preceding fiscal year 47715
for purposes of the Ohio college opportunity grant program created 47716
in section 3333.122 of the Revised Code. Upon receipt of the 47717
certification, the director may transfer an amount not exceeding 47718
the certified amount from the general revenue fund to the Ohio 47719
college opportunity grant program reserve fund. Moneys in the Ohio 47720
college opportunity grant program reserve fund shall be used to 47721
pay grant obligations in excess of the general revenue fund 47722
appropriations made for that purpose. 47723

The director may transfer any unencumbered balance from the 47724
Ohio college opportunity grant program reserve fund to the general 47725
revenue fund. 47726

Sec. 3333.342. (A) The chancellor of the Ohio board of 47727
regents may designate a "certificate of value" for a certificate 47728
program at any adult career-technical education institution or 47729
state institution of higher education, as defined under section 47730
3345.011 of the Revised Code, based on the standards adopted under 47731
division (B) of this section. 47732

(B) The chancellor shall develop standards for designation of 47733
the certificates of value for certificate programs at adult 47734
career-technical education institutions and state institutions of 47735
higher education. The standards shall include at least the 47736
following considerations: 47737

<u>(1) The quality of the certificate program;</u>	47738
<u>(2) The ability to transfer agreed-upon technical courses completed through an adult career-technical education institution to a state institution of higher education without unnecessary duplication or institutional barriers;</u>	47739 47740 47741 47742
<u>(3) The extent to which the certificate program encourages a student to obtain an associate's or bachelor's degree;</u>	47743 47744
<u>(4) The extent to which the certificate program increases a student's likelihood to complete other certificate programs or an associate's or bachelor's degree;</u>	47745 47746 47747
<u>(5) The ability of the certificate program to meet the expectations of the workplace and higher education;</u>	47748 47749
<u>(6) The extent to which the certificate program is aligned with the strengths of the regional economy;</u>	47750 47751
<u>(7) The extent to which the certificate program increases the amount of individuals who remain in or enter the state's workforce;</u>	47752 47753 47754
<u>(8) The extent of a certificate program's relationship with private companies in the state to fill potential job growth.</u>	47755 47756
<u>(C) The designation of a certificate of value under this section shall expire six years after its designation date.</u>	47757 47758
<u>(D) The chancellor may revoke a designation prior to its expiration date if the chancellor determines that the program no longer complies with the standards developed under division (B) of this section.</u>	47759 47760 47761 47762
<u>(E) Any revocation of a certificate of value under this section shall become effective one hundred eighty days after the date the revocation was declared by the chancellor.</u>	47763 47764 47765
<u>(F) Any adult career-technical education institution or state institution of higher education that desires to be eligible to</u>	47766 47767

receive a designation of certificate of value for one or more of 47768
its certificate programs shall comply with all records and data 47769
requests required by the chancellor. 47770

Sec. 3333.35. The state board of education and the chancellor 47771
of the Ohio board of regents shall strive to reduce unnecessary 47772
student remediation costs incurred by colleges and universities in 47773
this state, increase overall access for students to higher 47774
education, enhance the ~~post secondary enrollment options~~ college 47775
credit plus program in accordance with Chapter 3365. of the 47776
Revised Code, and enhance the alternative resident educator 47777
licensure program in accordance with section 3319.26 of the 47778
Revised Code. 47779

Sec. 3333.43. This section does not apply to any 47780
baccalaureate degree program that is a cooperative education 47781
program, as defined in section 3333.71 of the Revised Code. 47782

(A) The chancellor of the Ohio board of regents shall require 47783
all state institutions of higher education that offer 47784
baccalaureate degrees, as a condition of reauthorization for 47785
certification of each baccalaureate program offered by the 47786
institution, to submit a statement describing how each major for 47787
which the school offers a baccalaureate degree may be completed 47788
within three academic years. The chronology of the statement shall 47789
begin with the fall semester of a student's first year of the 47790
baccalaureate program. 47791

(B) The statement required under this section may include, 47792
but not be limited to, any of the following methods to contribute 47793
to earning a baccalaureate degree in three years: 47794

- (1) Advanced placement credit; 47795
- (2) International baccalaureate program credit; 47796
- (3) A waiver of degree and credit-hour requirements by 47797

completion of courses that are widely available at community 47798
colleges in the state or through online programs offered by state 47799
institutions of higher education or private nonprofit institutions 47800
of higher education holding certificates of authorization under 47801
Chapter 1713. of the Revised Code, and through courses taken by 47802
the student through the ~~post-secondary enrollment options~~ college
credit plus program under Chapter 3365. of the Revised Code; 47803
47804

(4) Completion of coursework during summer sessions; 47805

(5) A waiver of foreign-language degree requirements based on 47806
a proficiency examination specified by the institution. 47807

(C)(1) Not later than October 15, 2012, each state 47808
institution of higher education shall provide statements required 47809
under this section for ten per cent of all baccalaureate degree 47810
programs offered by the institution. 47811

(2) Not later than June 30, 2014, each state institution of 47812
higher education shall provide statements required under this 47813
section for sixty per cent of all baccalaureate degree programs 47814
offered by the institution. 47815

(D) Each state institution of higher education required to 47816
submit statements under this section shall post its three-year 47817
option on its web site and also provide that information to the 47818
department of education. The department shall distribute that 47819
information to the superintendent, high school principal, and 47820
guidance counselor, or equivalents, of each school district, 47821
community school established under Chapter 3314. of the Revised 47822
Code, and STEM school established under Chapter 3326. of the 47823
Revised Code. 47824

(E) Nothing in this section requires an institution to take 47825
any action that would violate the requirements of any independent 47826
association accrediting baccalaureate degree programs. 47827

Sec. 3333.90 <u>3333.59</u>. (A) As used in this section:	47828
(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.	47829 47830 47831 47832 47833
(2) "Issuing authority" has the same meaning as in section 154.01 of the Revised Code.	47834 47835
(3) "Bond service charges" has the same meaning as in section 154.01 of the Revised Code.	47836 47837
(4) "Chancellor" means the chancellor of the Ohio board of regents.	47838 47839
(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:	47840 47841 47842
(a) A community college as defined in section 3354.01 of the Revised Code;	47843 47844
(b) A technical college as defined in section 3357.01 of the Revised Code;	47845 47846
(c) A state community college as defined in section 3358.01 of the Revised Code.	47847 47848
(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:	47849 47850 47851
(a) A community college district as defined in section 3354.01 of the Revised Code;	47852 47853
(b) A technical college district as defined in section 3357.01 of the Revised Code;	47854 47855
(c) A state community college district as defined in section	47856

3358.01 of the Revised Code. 47857

(7) "Credit enhancement facilities" has the same meaning as 47858
in section 133.01 of the Revised Code. 47859

(8) "Obligations" has the meaning as in section 154.01 or 47860
3345.12 of the Revised Code, as the context requires. 47861

(B) The board of trustees of any community or technical 47862
college district authorizing the issuance of obligations under 47863
section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the 47864
Revised Code, or for whose benefit and on whose behalf the issuing 47865
authority proposes to issue obligations under section 154.25 of 47866
the Revised Code, may adopt a resolution requesting the chancellor 47867
to enter into an agreement with the community or technical college 47868
district and the primary paying agent or fiscal agent for such 47869
obligations, providing for the withholding and deposit of funds 47870
otherwise due the district or the community or technical college 47871
it operates in respect of its allocated state share of 47872
instruction, for the payment of bond service charges on such 47873
obligations. 47874

The board of trustees shall deliver to the chancellor a copy 47875
of the resolution and any additional pertinent information the 47876
chancellor may require. 47877

The chancellor and the office of budget and management, and 47878
the issuing authority in the case of obligations to be issued by 47879
the issuing authority, shall evaluate each request received from a 47880
community or technical college district under this section. The 47881
chancellor, with the advice and consent of the director of budget 47882
and management and the issuing authority in the case of 47883
obligations to be issued by the issuing authority, shall approve 47884
each request if all of the following conditions are met: 47885

(1) Approval of the request will enhance the marketability of 47886
the obligations for which the request is made; 47887

(2) The chancellor and the office of budget and management, 47888
and the issuing authority in the case of obligations to be issued 47889
by the issuing authority, have no reason to believe the requesting 47890
community or technical college district or the community or 47891
technical college it operates will be unable to pay when due the 47892
bond service charges on the obligations for which the request is 47893
made, and bond service charges on those obligations are therefore 47894
not anticipated to be paid pursuant to this section from the 47895
allocated state share of instruction for purposes of Section 17 of 47896
Article VIII, Ohio Constitution. 47897

(3) Any other pertinent conditions established in rules 47898
adopted under division (H) of this section. 47899

(C) If the chancellor approves the request of a community or 47900
technical college district to withhold and deposit funds pursuant 47901
to this section, the chancellor shall enter into a written 47902
agreement with the district and the primary paying agent or fiscal 47903
agent for the obligations, which agreement shall provide for the 47904
withholding of funds pursuant to this section for the payment of 47905
bond service charges on those obligations. The agreement may also 47906
include both of the following: 47907

(1) Provisions for certification by the district to the 47908
chancellor, prior to the deadline for payment of the applicable 47909
bond service charges, whether the district and the community or 47910
technical college it operates are able to pay those bond service 47911
charges when due; 47912

(2) Requirements that the district or the community or 47913
technical college it operates deposits amounts for the payment of 47914
those bond service charges with the primary paying agent or fiscal 47915
agent for the obligations prior to the date on which the bond 47916
service charges are due to the owners or holders of the 47917
obligations. 47918

(D) Whenever a district or the community or technical college
it operates notifies the chancellor that it will not be able to
pay the bond service charges when they are due, subject to the
withholding provisions of this section, or whenever the applicable
paying agent or fiscal agent notifies the chancellor that it has
not timely received from a district or from the college it
operates the full amount needed for payment of the bond service
charges when due to the holders or owners of such obligations, the
chancellor shall immediately contact the district or college and
the paying agent or fiscal agent to confirm that the district and
the college are not able to make the required payment by the date
on which it is due.

If the chancellor confirms that the district and the college
are not able to make the payment and the payment will not be made
pursuant to a credit enhancement facility, the chancellor shall
promptly pay to the applicable primary paying agent or fiscal
agent the lesser of the amount due for bond service charges or the
amount of the next periodic distribution scheduled to be made to
the district or to the college in respect of its allocated state
share of instruction. If this amount is insufficient to pay the
total amount then due the agent for the payment of bond service
charges, the chancellor shall continue to pay to the agent from
each periodic distribution thereafter, and until the full amount
due the agent for unpaid bond service charges is paid in full, the
lesser of the remaining amount due the agent for bond service
charges or the amount of the next periodic distribution scheduled
to be made to the district or college in respect of its allocated
state share of instruction.

(E) The chancellor may make any payments under this section
by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under
this section shall be applied only to the payment of bond service

charges on the obligations of the community or technical college 47951
district or community or technical college subject to this section 47952
or to the reimbursement of the provider of a credit enhancement 47953
facility that has paid the bond service charges. 47954

(F) The chancellor may make payments under this section to 47955
paying agents or fiscal agents during any fiscal biennium of the 47956
state only from and to the extent that money is appropriated to 47957
the board of regents by the general assembly for distribution 47958
during such biennium for the state share of instruction and only 47959
to the extent that a portion of the state share of instruction has 47960
been allocated to the community or technical college district or 47961
community or technical college. Obligations of the issuing 47962
authority or of a community or technical college district to which 47963
this section is made applicable do not constitute an obligation or 47964
a debt or a pledge of the faith, credit, or taxing power of the 47965
state, and the holders or owners of those obligations have no 47966
right to have excises or taxes levied or appropriations made by 47967
the general assembly for the payment of bond service charges on 47968
the obligations, and the obligations shall contain a statement to 47969
that effect. The agreement for or the actual withholding and 47970
payment of money under this section does not constitute the 47971
assumption by the state of any debt of a community or technical 47972
college district or a community or technical college, and bond 47973
service charges on the related obligations are not anticipated to 47974
be paid from the state general revenue fund for purposes of 47975
Section 17 of Article VIII, Ohio Constitution. 47976

(G) In the case of obligations subject to the withholding 47977
provisions of this section, the issuing community or technical 47978
college district, or the issuing authority in the case of 47979
obligations issued by the issuing authority, shall appoint a 47980
paying agent or fiscal agent who is not an officer or employee of 47981
the district or college. 47982

(H) The chancellor, with the advice and consent of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the issuing authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3333.613. There is hereby created in the state treasury the choose Ohio first scholarship reserve fund. Not later than the first day of July of each fiscal year, the chancellor of the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding fiscal year for purposes of the choose Ohio first scholarship program created in section 3333.61 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the choose Ohio first scholarship reserve fund. Moneys in the choose Ohio first scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose.

The director may transfer any unencumbered balance from the choose Ohio first scholarship reserve fund to the general revenue fund.

Sec. 3333.82. (A) The chancellor of the Ohio board of regents 48013
shall establish a clearinghouse of interactive distance learning 48014
courses and other distance learning courses delivered via a 48015
computer-based method offered by school districts, community 48016
schools, STEM schools, state institutions of higher education, 48017
private colleges and universities, and other nonprofit and 48018
for-profit course providers for sharing with other school 48019
districts, community schools, STEM schools, state institutions of 48020
higher education, private colleges and universities, and 48021
individuals for the fee set pursuant to section 3333.84 of the 48022
Revised Code. The chancellor shall not be responsible for the 48023
content of courses offered through the clearinghouse; however, all 48024
such courses shall be delivered only in accordance with technical 48025
specifications approved by the chancellor and on a common 48026
statewide platform administered by the chancellor. 48027

The clearinghouse's distance learning program for students in 48028
grades kindergarten to twelve shall be based on the following 48029
principles: 48030

(1) All Ohio students shall have access to high quality 48031
distance learning courses at any point in their educational 48032
careers. 48033

(2) All students shall be able to customize their education 48034
using distance learning courses offered through the clearinghouse 48035
and no student shall be denied access to any course in the 48036
clearinghouse in which the student is eligible to enroll. 48037

(3) Students may take distance learning courses for all or 48038
any portion of their curriculum requirements and may utilize a 48039
combination of distance learning courses and courses taught in a 48040
traditional classroom setting. 48041

(4) Students may earn an unlimited number of academic credits 48042
through distance learning courses. 48043

(5) Students may take distance learning courses at any time 48044
of the calendar year. 48045

(6) Student advancement to higher coursework shall be based 48046
on a demonstration of subject area competency instead of 48047
completion of any particular number of hours of instruction. 48048

(B) To offer a course through the clearinghouse, a course 48049
provider shall apply to the chancellor in a form and manner 48050
prescribed by the chancellor. The application for each course 48051
shall describe the course of study in as much detail as required 48052
by the chancellor, whether an instructor is provided, the 48053
qualification and credentials of the instructor, the number of 48054
hours of instruction, and any other information required by the 48055
chancellor. The chancellor may require course providers to include 48056
in their applications information recommended by the state board 48057
of education under former section 3353.30 of the Revised Code. 48058

(C) The chancellor shall review the technical specifications 48059
of each application submitted under division (B) of this section. 48060
In reviewing applications, the chancellor may consult with the 48061
department of education; however, the responsibility to either 48062
approve or not approve a course for the clearinghouse belongs to 48063
the chancellor. The chancellor may request additional information 48064
from a course provider that submits an application under division 48065
(B) of this section, if the chancellor determines that such 48066
information is necessary. The chancellor may negotiate changes in 48067
the proposal to offer a course, if the chancellor determines that 48068
changes are necessary in order to approve the course. 48069

(D) The chancellor shall catalog each course approved for the 48070
clearinghouse, through a print or electronic medium, displaying 48071
the following: 48072

(1) Information necessary for a student and the student's 48073
parent, guardian, or custodian and the student's school district, 48074

community school, STEM school, college, or university to decide 48075
whether to enroll in or subscribe to the course; 48076

(2) Instructions for enrolling in that course, including 48077
deadlines for enrollment. 48078

(E) Any expenses related to the installation of a course into 48079
the common statewide platform shall be borne by the course 48080
provider. 48081

(F) ~~The eTech Ohio commission, in consultation with the 48082
chancellor and the state board, shall distribute information to 48083
students and parents describing the clearinghouse. The information 48084
shall be provided in an easily understandable format The 48085
chancellor may contract with an entity to perform any or all of 48086
the chancellor's duties under sections 3333.81 to 3333.88 of the 48087
Revised Code. 48088~~

Sec. 3333.86. The chancellor of the Ohio board of regents may 48089
determine the manner in which a course included in the 48090
clearinghouse may be offered as ~~a dual enrollment~~ an advanced 48091
standing program as defined in section 3313.6013 of the Revised 48092
Code, may be offered to students who are enrolled in nonpublic 48093
schools or are instructed at home pursuant to section 3321.04 of 48094
the Revised Code, or may be offered at times outside the normal 48095
school day or school week, including any necessary additional fees 48096
and methods of payment for a course so offered. 48097

Sec. ~~3353.01~~ 3333.89. As used in ~~this chapter~~ sections 48098
3333.90 to 3333.92 of the Revised Code: 48099

(A) "Educational television or radio" means television or 48100
radio programs which serve the educational needs of the community 48101
and which meet the requirements of the federal communications 48102
commission for noncommercial educational television or radio. 48103

(B) "Educational telecommunications network" means a system 48104

of connected educational television, radio, or radio reading 48105
service facilities and coordinated programs established and 48106
operated or controlled by the eTech Ohio commission, pursuant to 48107
this chapter. 48108

(C) "Transmission" means the sending out of television, 48109
radio, or radio reading service programs, either directly to the 48110
public, or to broadcasting stations or services for simultaneous 48111
broadcast or rebroadcast. 48112

(D) "Transmission facilities" means structures, equipment, 48113
material, and services used in the transmission of educational 48114
television, radio, or radio reading service programs. 48115

(E) "Interconnection facilities" means the equipment, 48116
material, and services used to link one location to another 48117
location or to several locations by means of telephone line, 48118
coaxial cable, microwave relays, or other available technologies. 48119

(F) "Broadcasting station" means a properly licensed 48120
noncommercial educational television or radio station, 48121
appropriately staffed and equipped to produce programs or lessons 48122
and to broadcast programs. 48123

(G) "Radio reading service" means a nonprofit organization 48124
that disseminates news and other information to blind and 48125
physically handicapped persons. 48126

(H) "Affiliate" means an educational telecommunication 48127
entity, including a television or radio broadcasting station or 48128
radio reading service. 48129

Sec. 3333.90. (A) The chancellor of the Ohio board of regents 48130
shall do all of the following regarding the management and 48131
oversight of the state's educational telecommunications 48132
activities: 48133

(1) Own or operate transmission facilities and 48134

<u>interconnection facilities, or contract for transmission</u>	48135
<u>facilities and interconnection facilities, for an educational</u>	48136
<u>television, radio, or radio reading service network;</u>	48137
<u>(2) Establish standards for interconnection facilities used</u>	48138
<u>by the chancellor in the transmission of educational television,</u>	48139
<u>radio, or radio reading service programming;</u>	48140
<u>(3) Enter into agreements with noncommercial educational</u>	48141
<u>television or radio broadcasting stations or radio reading</u>	48142
<u>services for the operation of the interconnection;</u>	48143
<u>(4) Enter into agreements with noncommercial educational</u>	48144
<u>television or radio broadcasting stations or radio reading</u>	48145
<u>services for the production and use of educational television,</u>	48146
<u>radio, or radio reading service programs to be transmitted by the</u>	48147
<u>educational telecommunications network;</u>	48148
<u>(5) Act as consultant with educational television and</u>	48149
<u>educational radio stations and radio reading services toward</u>	48150
<u>coordination within the state of the distribution of federal funds</u>	48151
<u>that may become available for equipment for educational</u>	48152
<u>broadcasting or radio reading services;</u>	48153
<u>(6) Make payments to noncommercial Ohio educational</u>	48154
<u>television or radio broadcasting stations or radio reading</u>	48155
<u>services to sustain the operation of such stations or services;</u>	48156
<u>(7) Execute contracts and other agreements necessary and</u>	48157
<u>desirable to carry out the purposes of this section.</u>	48158
<u>(B) Sections 9.331 to 9.335 and Chapters 123., 124., 125.,</u>	48159
<u>and 153. of the Revised Code do not apply to contracts, programs,</u>	48160
<u>projects, or activities of the chancellor carried out under this</u>	48161
<u>section.</u>	48162
<u>(C) All employees of the former eTech Ohio commission who</u>	48163
<u>transferred to the office of the chancellor, as a result of the</u>	48164

transfer to the chancellor of the state's educational 48165
telecommunications activities, and who when employed by that 48166
commission or a predecessor agency were included in a bargaining 48167
unit established under Chapter 4117. of the Revised Code, shall 48168
continue to be included in that bargaining unit, are public 48169
employees as defined in section 4117.01 of the Revised Code, and 48170
may collectively bargain with the chancellor in accordance with 48171
that chapter. Otherwise, any employee hired by the chancellor 48172
after the abolishment of the commission, either to fill vacancies 48173
or to fill new positions related to the chancellor's duties under 48174
this section, shall be exempt from Chapter 4117. of the Revised 48175
Code and shall not be public employees as defined in section 48176
4117.01 of the Revised Code. 48177

Sec. ~~3353.05~~ 3333.91. Any taxing authority as defined in 48178
section 5705.01 of the Revised Code located in a county may pay to 48179
any noncommercial educational television or radio broadcasting 48180
station or radio reading service located in the county or serving 48181
any part of the county an amount not to exceed five cents annually 48182
on each one thousand dollars of the total value of all property 48183
within the county as listed and assessed for taxation at the close 48184
of the fiscal year immediately preceding the year in which the 48185
payment is made. 48186

Sec. ~~3353.06~~ 3333.92. (A) The affiliates services fund is 48187
hereby created in the state treasury. The ~~eTech-Ohio-commission~~ 48188
chancellor of the Ohio board of regents shall deposit any money it 48189
receives for services provided to affiliates to the credit of the 48190
fund, including: 48191

(1) Reimbursements for services provided to stations; 48192

(2) Charges levied for maintenance of telecommunications, 48193
broadcasting, or transmission equipment; 48194

(3) Contract or grant payments from affiliates.	48195
(B) The commission <u>chancellor</u> shall use money credited to the affiliates services fund for any commission operating purposes, including:	48196 48197 48198
(1) The purchase, repair, or maintenance of telecommunications, broadcasting, or transmission equipment;	48199 48200
(2) The purchase or lease of educational programming;	48201
(3) The purchase of tape and maintenance of a media library;	48202
(4) Professional development programs and services;	48203
(5) Administrative expenses.	48204
Sec. 3353.07 <u>3333.93</u>. (A) There is hereby created the Ohio government telecommunications service. The Ohio government telecommunications service shall provide the state government and affiliated organizations with multimedia support including audio, visual, and internet services, multimedia streaming, and hosting multimedia programs.	48205 48206 48207 48208 48209 48210
Services relating to the official activities of the general assembly and the executive offices provided by the Ohio government telecommunications service shall be funded through grants to a public television broadcasting station that will manage the staff and provide the services of the Ohio government telecommunications service. The Ohio educational television stations shall select a member station to manage the Ohio government telecommunications service. The Ohio government telecommunications service shall receive grants from, or contract with, any of the three branches of Ohio government, and their affiliates, to provide additional services. Services provided by the Ohio government telecommunications service shall not be used for political purposes included in campaign materials, or otherwise used to influence an election, legislation, issue, judicial decision, or	48211 48212 48213 48214 48215 48216 48217 48218 48219 48220 48221 48222 48223 48224

other policy of state government. 48225

(B)(1) There is hereby created the legislative programming 48226
committee of the Ohio government telecommunications service that 48227
shall consist of the president of the senate, speaker of the house 48228
of representatives, minority leader of the senate, and minority 48229
leader of the house of representatives, or their designees, and 48230
the clerks of the senate and house of representatives as 48231
nonvoting, ex officio members. By a vote of a majority of its 48232
members, the program committee may add additional members to the 48233
committee. 48234

(2) The legislative programming committee shall adopt rules 48235
that govern the operation of the Ohio government 48236
telecommunications service relating to the general assembly and 48237
any affiliated organizations. 48238

Sec. ~~3353.11~~ 3333.94. There is hereby created in the state 48239
treasury the governmental telecommunications operating fund. The 48240
fund shall consist of money received from contract services of the 48241
Ohio government telecommunications service and shall be used for 48242
operations or equipment breakdowns related to the service. Only 48243
the Ohio government telecommunications service may authorize the 48244
spending of money in the fund. All investment earnings of the fund 48245
shall be credited to the fund. Once the fund has a balance of 48246
zero, the fund shall cease to exist. 48247

Sec. 3345.06. (A) Subject to divisions (B) and (C) of this 48248
section, a graduate of the twelfth grade shall be entitled to 48249
admission without examination to any college or university which 48250
is supported wholly or in part by the state, but for unconditional 48251
admission may be required to complete such units not included in 48252
the graduate's high school course as may be prescribed, not less 48253
than two years prior to the graduate's entrance, by the faculty of 48254

the institution. 48255

(B) Beginning with the 2014-2015 academic year, each state 48256
university listed in section 3345.011 of the Revised Code, except 48257
for Central state university, Shawnee state university, and 48258
Youngstown state university, shall permit a resident of this state 48259
who entered ninth grade for the first time on or after July 1, 48260
2010, to begin undergraduate coursework at the university only if 48261
the person has successfully completed the Ohio core curriculum for 48262
high school graduation prescribed in division (C) of section 48263
3313.603 of the Revised Code, unless one of the following applies: 48264

(1) The person has earned at least ten semester hours, or the 48265
equivalent, at a community college, state community college, 48266
university branch, technical college, or another post-secondary 48267
institution except a state university to which division (B) of 48268
this section applies, in courses that are college-credit-bearing 48269
and may be applied toward the requirements for a degree. The 48270
university shall grant credit for successful completion of those 48271
courses pursuant to any applicable articulation and transfer 48272
policy of the Ohio board of regents or any agreements the 48273
university has entered into in accordance with policies and 48274
procedures adopted under section 3333.16, 3313.161, or 3333.162 of 48275
the Revised Code. The university may count college credit that the 48276
student earned while in high school through the ~~post-secondary~~ 48277
~~enrollment options~~ college credit plus program under Chapter 3365. 48278
of the Revised Code, or through other ~~dual-enrollment~~ advanced 48279
standing programs, toward the requirements of division (B)(1) of 48280
this section if the credit may be applied toward a degree. 48281

(2) The person met the high school graduation requirements by 48282
successfully completing the person's individualized education 48283
program developed under section 3323.08 of the Revised Code. 48284

(3) The person is receiving or has completed the final year 48285
of instruction at home as authorized under section 3321.04 of the 48286

Revised Code, or has graduated from a nonchartered, nonpublic 48287
school in Ohio, and demonstrates mastery of the academic content 48288
and skills in reading, writing, and mathematics needed to 48289
successfully complete introductory level coursework at an 48290
institution of higher education and to avoid remedial coursework. 48291

(4) The person is a high school student participating in the 48292
~~post-secondary enrollment options~~ college credit plus program 48293
under Chapter 3365. of the Revised Code or another ~~dual enrollment~~ 48294
advanced standing program. 48295

(C) A state university subject to division (B) of this 48296
section may delay admission for or admit conditionally an 48297
undergraduate student who has successfully completed the Ohio core 48298
curriculum if the university determines the student requires 48299
academic remedial or developmental coursework. The university may 48300
delay admission pending, or make admission conditional upon, the 48301
student's successful completion of the academic remedial or 48302
developmental coursework at a university branch, community 48303
college, state community college, or technical college. 48304

(D) This section does not deny the right of a college of law, 48305
medicine, or other specialized education to require college 48306
training for admission, or the right of a department of music or 48307
other art to require particular preliminary training or talent. 48308

Sec. 3345.12. (A) As used in this section and sections 48309
3345.07 and 3345.11 of the Revised Code, in other sections of the 48310
Revised Code that make reference to this section unless the 48311
context does not permit, and in related bond proceedings unless 48312
otherwise expressly provided: 48313

(1) "State university or college" means each of the state 48314
universities identified in section 3345.011 of the Revised Code 48315
and the northeast Ohio medical university, and includes its board 48316
of trustees. 48317

(2) "Institution of higher education" or "institution" means 48318
a state university or college, or a community college district, 48319
technical college district, university branch district, or state 48320
community college, and includes the applicable board of trustees 48321
or, in the case of a university branch district, any other 48322
managing authority. 48323

(3) "Housing and dining facilities" means buildings, 48324
structures, and other improvements, and equipment, real estate, 48325
and interests in real estate therefor, to be used for or in 48326
connection with dormitories or other living quarters and 48327
accommodations, or related dining halls or other food service and 48328
preparation facilities, for students, members of the faculty, 48329
officers, or employees of the institution of higher education, and 48330
their spouses and families. 48331

(4) "Auxiliary facilities" means buildings, structures, and 48332
other improvements, and equipment, real estate, and interests in 48333
real estate therefor, to be used for or in connection with student 48334
activity or student service facilities, housing and dining 48335
facilities, dining halls, and other food service and preparation 48336
facilities, vehicular parking facilities, bookstores, athletic and 48337
recreational facilities, faculty centers, auditoriums, assembly 48338
and exhibition halls, hospitals, infirmaries and other medical and 48339
health facilities, research, and continuing education facilities. 48340

(5) "Education facilities" means buildings, structures, and 48341
other improvements, and equipment, real estate, and interests in 48342
real estate therefor, to be used for or in connection with, 48343
classrooms or other instructional facilities, libraries, 48344
administrative and office facilities, and other facilities, other 48345
than auxiliary facilities, to be used directly or indirectly for 48346
or in connection with the conduct of the institution of higher 48347
education. 48348

(6) "Facilities" means housing and dining facilities, 48349

auxiliary facilities, or education facilities, and includes any 48350
one, part of, or any combination of such facilities, and further 48351
includes site improvements, utilities, machinery, furnishings, and 48352
any separate or connected buildings, structures, improvements, 48353
sites, open space and green space areas, utilities or equipment to 48354
be used in, or in connection with the operation or maintenance of, 48355
or supplementing or otherwise related to the services or 48356
facilities to be provided by, such facilities. 48357

(7) "Obligations" means bonds or notes or other evidences of 48358
obligation, including interest coupons pertaining thereto, 48359
authorized to be issued under this section or section 3345.07, 48360
3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised 48361
Code. 48362

(8) "Bond service charges" means principal, including any 48363
mandatory sinking fund or redemption requirements for the 48364
retirement of obligations or assurances, interest, or interest 48365
equivalent and other accreted amounts, and any call premium 48366
required to be paid on obligations or assurances. 48367

(9) "Bond proceedings" means the resolutions, trust 48368
agreement, indenture, and other agreements and credit enhancement 48369
facilities, and amendments and supplements to the foregoing, or 48370
any one or more or combination thereof, authorizing, awarding, or 48371
providing for the terms and conditions applicable to, or providing 48372
for the security or liquidity of, obligations or assurances, and 48373
the provisions contained in those obligations or assurances. 48374

(10) "Costs of facilities" means the costs of acquiring, 48375
constructing, reconstructing, rehabilitating, remodeling, 48376
renovating, enlarging, improving, equipping, or furnishing 48377
facilities, and the financing thereof, including the cost of 48378
clearance and preparation of the site and of any land to be used 48379
in connection with facilities, the cost of any indemnity and 48380
surety bonds and premiums on insurance, all related direct 48381

administrative expenses and allocable portions of direct costs of 48382
the institution of higher education or state agency, cost of 48383
engineering, architectural services, design, plans, specifications 48384
and surveys, estimates of cost, legal fees, fees and expenses of 48385
trustees, depositories, bond registrars, and paying agents for the 48386
obligations, cost of issuance of the obligations and financing 48387
costs and fees and expenses of financial advisers and consultants 48388
in connection therewith, interest on the obligations from the date 48389
thereof to the time when interest is to be covered by available 48390
receipts or other sources other than proceeds of the obligations, 48391
amounts necessary to establish reserves as required by the bond 48392
proceedings, costs of audits, the reimbursements of all moneys 48393
advanced or applied by or borrowed from the institution or others, 48394
from whatever source provided, including any temporary advances 48395
from state appropriations, for the payment of any item or items of 48396
cost of facilities, and all other expenses necessary or incident 48397
to planning or determining feasibility or practicability with 48398
respect to facilities, and such other expenses as may be necessary 48399
or incident to the acquisition, construction, reconstruction, 48400
rehabilitation, remodeling, renovation, enlargement, improvement, 48401
equipment, and furnishing of facilities, the financing thereof and 48402
the placing of them in use and operation, including any one, part 48403
of, or combination of such classes of costs and expenses. 48404

(11) "Available receipts" means all moneys received by the 48405
institution of higher education, including income, revenues, and 48406
receipts from the operation, ownership, or control of facilities 48407
or entrepreneurial projects, grants, gifts, donations, and pledges 48408
and receipts therefrom, receipts from fees and charges, and the 48409
proceeds of the sale of obligations or assurances, including 48410
proceeds of obligations or assurances issued to refund obligations 48411
or assurances previously issued, but excluding any special fee, 48412
and receipts therefrom, charged pursuant to division (D) of 48413
section 154.21 of the Revised Code. 48414

(12) "Credit enhancement facilities" has the meaning given in 48415
division (H) of section 133.01 of the Revised Code. 48416

(13) "Financing costs" has the meaning given in division (K) 48417
of section 133.01 of the Revised Code. 48418

(14) "Interest" or "interest equivalent" has the meaning 48419
given in division (R) of section 133.01 of the Revised Code. 48420

(15) "Assurances" means bonds, notes, or other evidence of 48421
indebtedness, including interest coupons pertaining thereto, 48422
authorized to be issued under section 3345.36 of the Revised Code. 48423

(16) "Entrepreneurial project" has the same meaning as in 48424
section 3345.36 of the Revised Code. 48425

(17) "Costs of entrepreneurial projects" means any costs 48426
related to the establishment or development of entrepreneurial 48427
projects pursuant to a resolution adopted under section 3345.36 of 48428
the Revised Code. 48429

(B) Obligations issued under section 3345.07 or 3345.11 of 48430
the Revised Code by a state university or college shall be 48431
authorized by resolution of its board of trustees. Obligations 48432
issued by any other institution of higher education shall be 48433
authorized by resolution of its board of trustees, or managing 48434
directors in the case of certain university branch districts, as 48435
applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code 48436
apply to obligations and assurances. Obligations and assurances 48437
may be issued to pay costs of facilities or entrepreneurial 48438
projects even if the institution anticipates the possibility of a 48439
future state appropriation to pay all or a portion of such costs. 48440

(C) Obligations and assurances shall be secured by a pledge 48441
of and lien on all or such part of the available receipts of the 48442
institution of higher education as it provides for in the bond 48443
proceedings, excluding moneys raised by taxation and state 48444
appropriations except as permitted by section ~~3333.90~~ 3333.59 of 48445

the Revised Code. Such pledge and lien may be made prior to all 48446
other expenses, claims, or payments, excepting any pledge of such 48447
available receipts previously made to the contrary and except as 48448
provided by any existing restrictions on the use thereof, or such 48449
pledge and lien may be made subordinate to such other expenses, 48450
claims, or payments, as provided in the bond proceedings. 48451
Obligations or assurances may be additionally secured by covenants 48452
of the institution to make, fix, adjust, collect, and apply such 48453
charges, rates, fees, rentals, and other items of available 48454
receipts as will produce pledged available receipts sufficient to 48455
meet bond service charges, reserve, and other requirements 48456
provided for in the bond proceedings. Notwithstanding this and any 48457
other sections of the Revised Code, the holders or owners of the 48458
obligations or assurances shall not be given the right and shall 48459
have no right to have excises or taxes levied by the general 48460
assembly for the payment of bond service charges thereon, and each 48461
such obligation or assurance shall bear on its face a statement to 48462
that effect and to the effect that the right to such payment is 48463
limited to the available receipts and special funds pledged to 48464
such purpose under the bond proceedings. 48465

All pledged available receipts and funds and the proceeds of 48466
obligations or assurances are trust funds and, subject to the 48467
provisions of this section and the applicable bond proceedings, 48468
shall be held, deposited, invested, reinvested, disbursed, 48469
applied, and used to such extent, in such manner, at such times, 48470
and for such purposes, as are provided in the bond proceedings. 48471

(D) The bond proceedings for obligations or assurances shall 48472
provide for the purpose thereof and the principal amount or 48473
maximum principal amount, and provide for or authorize the manner 48474
of determining the principal maturity or maturities, the sale 48475
price including any permitted discount, the interest rate or 48476
rates, which may be a variable rate or rates, or the maximum 48477

interest rate, the date of the obligations or assurances and the 48478
date or dates of payment of interest thereon, their denominations, 48479
the manner of sale thereof, and the establishment within or 48480
without the state of a place or places of payment of bond service 48481
charges. The bond proceedings also shall provide for a pledge of 48482
and lien on available receipts of the institution of higher 48483
education as provided in division (C) of this section, and a 48484
pledge of and lien on such fund or funds provided in the bond 48485
proceedings arising from available receipts, which pledges and 48486
liens may provide for parity with obligations or assurances 48487
theretofore or thereafter issued by the institution. The available 48488
receipts so pledged and thereafter received by the institution and 48489
the funds so pledged are immediately subject to the lien of such 48490
pledge without any physical delivery thereof or further act, and 48491
the lien of any such pledge is valid and binding against all 48492
parties having claims of any kind against the institution, 48493
irrespective of whether such parties have notice thereof, and 48494
shall create a perfected security interest for all purposes of 48495
Chapter 1309. of the Revised Code, without the necessity for 48496
separation or delivery of funds or for the filing or recording of 48497
the bond proceedings by which such pledge is created or any 48498
certificate, statement, or other document with respect thereto; 48499
and the pledge of such available receipts and funds shall be 48500
effective and the money therefrom and thereof may be applied to 48501
the purposes for which pledged without necessity for any act of 48502
appropriation. 48503

(E) The bond proceedings may contain additional provisions 48504
customary or appropriate to the financing or to the obligations or 48505
assurances or to particular obligations and assurances, including: 48506

(1) The acquisition, construction, reconstruction, equipment, 48507
furnishing, improvement, operation, alteration, enlargement, 48508
maintenance, insurance, and repair of facilities or 48509

entrepreneurial projects, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations or assurances, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(3) Limitations on the purposes to which the proceeds of the obligations or assurances may be applied;

(4) The rates or rentals or other charges for the use of or right to use the facilities or entrepreneurial projects financed by the obligations or assurances, or other properties the revenues or receipts from which are pledged to the obligations or assurances, and rules for assuring any applicable use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;

(5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities or entrepreneurial projects so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;

(6) Limitations on the issuance of additional obligations or assurances;

(7) The terms of any trust agreement or indenture securing the obligations or assurances or under which the same may be issued;

(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to

Chapter 131. or 135. of the Revised Code, and any bank or trust 48541
company or other financial institution that acts as depository of 48542
any moneys under the bond proceedings shall furnish such 48543
indemnifying bonds or pledge such securities as required by the 48544
bond proceedings or otherwise by the institution of higher 48545
education; 48546

(9) The binding effect of any or every provision of the bond 48547
proceedings upon such officer, board, commission, authority, 48548
agency, department, or other person or body as may from time to 48549
time have the authority under law to take such actions as may be 48550
necessary to perform all or any part of the duty required by such 48551
provision; 48552

(10) Any provision that may be made in a trust agreement or 48553
indenture; 48554

(11) Any other or additional agreements with respect to the 48555
facilities of the institution of higher education or its 48556
entrepreneurial projects, their operation, the available receipts 48557
and funds pledged, and insurance of facilities or entrepreneurial 48558
projects and of the institution, its officers and employees. 48559

(F) Such obligations or assurances may have the seal of the 48560
institution of higher education or a facsimile thereof affixed 48561
thereto or printed thereon and shall be executed by such officers 48562
as are designated in the bond proceedings, which execution may be 48563
by facsimile signatures. Any obligations or assurances may be 48564
executed by an officer who, on the date of execution, is the 48565
proper officer although on the date of such obligations or 48566
assurances such person was not the proper officer. In case any 48567
officer whose signature or a facsimile of whose signature appears 48568
on any such obligation or assurance ceases to be such officer 48569
before delivery thereof, such signature or facsimile is 48570
nevertheless valid and sufficient for all purposes as if the 48571
person had remained such officer until such delivery; and in case 48572

the seal of the institution has been changed after a facsimile of 48573
the seal has been imprinted on such obligations or assurances, 48574
such facsimile seal continues to be sufficient as to such 48575
obligations or assurances and obligations or assurances issued in 48576
substitution or exchange therefor. 48577

(G) All such obligations or assurances are negotiable 48578
instruments and securities under Chapter 1308. of the Revised 48579
Code, subject to the provisions of the bond proceedings as to 48580
registration. The obligations or assurances may be issued in 48581
coupon or in registered form, or both. Provision may be made for 48582
the registration of any obligations or assurances with coupons 48583
attached thereto as to principal alone or as to both principal and 48584
interest, their exchange for obligations or assurances so 48585
registered, and for the conversion or reconversion into 48586
obligations or assurances with coupons attached thereto of any 48587
obligations or assurances registered as to both principal and 48588
interest, and for reasonable charges for such registration, 48589
exchange, conversion, and reconversion. 48590

(H) Pending preparation of definitive obligations or 48591
assurances, the institution of higher education may issue interim 48592
receipts or certificates which shall be exchanged for such 48593
definitive obligations or assurances. 48594

(I) Such obligations or assurances may be secured 48595
additionally by a trust agreement or indenture between the 48596
institution of higher education and a corporate trustee, which may 48597
be any trust company or bank having the powers of a trust company 48598
within or without this state but authorized to exercise trust 48599
powers within this state. Any such agreement or indenture may 48600
contain the resolution authorizing the issuance of the obligations 48601
or assurances, any provisions that may be contained in the bond 48602
proceedings as authorized by this section, and other provisions 48603
which are customary or appropriate in an agreement or indenture of 48604

such type, including: 48605

(1) Maintenance of each pledge, trust agreement, and 48606
indenture, or other instrument comprising part of the bond 48607
proceedings until the institution of higher education has fully 48608
paid the bond service charges on the obligations or assurances 48609
secured thereby, or provision therefor has been made; 48610

(2) In the event of default in any payments required to be 48611
made by the bond proceedings, or any other agreement of the 48612
institution of higher education made as a part of the contract 48613
under which the obligations or assurances were issued, enforcement 48614
of such payments or agreement by mandamus, the appointment of a 48615
receiver, suit in equity, action at law, or any combination of the 48616
foregoing; 48617

(3) The rights and remedies of the holders of obligations or 48618
assurances and of the trustee, and provisions for protecting and 48619
enforcing them, including limitations on rights of individual 48620
holders of obligations or assurances; 48621

(4) The replacement of any obligations or assurances that 48622
become mutilated or are destroyed, lost, or stolen; 48623

(5) Such other provisions as the trustee and the institution 48624
of higher education agree upon, including limitations, conditions, 48625
or qualifications relating to any of the foregoing. 48626

(J) Each duty of the institution of higher education and its 48627
officers or employees, undertaken pursuant to the bond proceedings 48628
or any related agreement or lease made under authority of law, is 48629
hereby established as a duty of such institution, and of each such 48630
officer or employee having authority to perform such duty, 48631
specially enjoined by law resulting from an office, trust, or 48632
station within the meaning of section 2731.01 of the Revised Code. 48633
The persons who are at the time the members of the board of 48634
trustees or the managing directors of the institution or its 48635

officers or employees are not liable in their personal capacities 48636
on such obligations or assurances, or lease, or other agreement of 48637
the institution. 48638

(K) The authority to issue obligations or assurances includes 48639
authority to: 48640

(1) Issue obligations or assurances in the form of bond 48641
anticipation notes and to renew them from time to time by the 48642
issuance of new notes. Such notes are payable solely from the 48643
available receipts and funds that may be pledged to the payment of 48644
such bonds, or from the proceeds of such bonds or renewal notes, 48645
or both, as the institution of higher education provides in its 48646
resolution authorizing such notes. Such notes may be additionally 48647
secured by covenants of the institution to the effect that it will 48648
do such or all things necessary for the issuance of such bonds or 48649
renewal notes in appropriate amount, and either exchange such 48650
bonds or renewal notes therefor or apply the proceeds thereof to 48651
the extent necessary, to make full payment of the bond service 48652
charges on such notes at the time or times contemplated, as 48653
provided in such resolution. Subject to the provisions of this 48654
division, all references to obligations or assurances in this 48655
section apply to such anticipation notes. 48656

(2) Issue obligations or assurances to refund, including 48657
funding and retirement of, obligations or assurances previously 48658
issued to pay costs of facilities or entrepreneurial projects. 48659
Such obligations or assurances may be issued in amounts sufficient 48660
for payment of the principal amount of the obligations or 48661
assurances to be so refunded, any redemption premiums thereon, 48662
principal maturities of any obligations or assurances maturing 48663
prior to the redemption of any other obligations or assurances on 48664
a parity therewith to be so refunded, interest accrued or to 48665
accrue to the maturity date or dates of redemption of such 48666
obligations or assurances, and any expenses incurred or to be 48667

incurred in connection with such refunding or the issuance of the 48668
obligations or assurances. 48669

(L) Obligations and assurances are lawful investments for 48670
banks, societies for savings, savings and loan associations, 48671
deposit guarantee associations, trust companies, trustees, 48672
fiduciaries, insurance companies, including domestic for life and 48673
domestic not for life, trustees or other officers having charge of 48674
sinking and bond retirement or other special funds of political 48675
subdivisions and taxing districts of this state, the commissioners 48676
of the sinking fund, the administrator of workers' compensation in 48677
accordance with the investment policy approved by the bureau of 48678
workers' compensation board of directors pursuant to section 48679
4121.12 of the Revised Code, the state teachers retirement system, 48680
the public employees retirement system, the school employees 48681
retirement system, and the Ohio police and fire pension fund, 48682
notwithstanding any other provisions of the Revised Code or rules 48683
adopted pursuant thereto by any state agency with respect to 48684
investments by them, and are also acceptable as security for the 48685
deposit of public moneys. 48686

(M) All facilities or entrepreneurial projects purchased, 48687
acquired, constructed, or owned by an institution of higher 48688
education, or financed in whole or in part by obligations or 48689
assurances issued by an institution, and used for the purposes of 48690
the institution or other publicly owned and controlled college or 48691
university, is public property used exclusively for a public 48692
purpose, and such property and the income therefrom is exempt from 48693
all taxation and assessment within this state, including ad 48694
valorem and excise taxes. The obligations or assurances, the 48695
transfer thereof, and the income therefrom, including any profit 48696
made on the sale thereof, are at all times free from taxation 48697
within the state. The transfer of tangible personal property by 48698
lease under authority of this section or section 3345.07, 3345.11, 48699

3345.36, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities or entrepreneurial projects are to be paid in whole or in part from funds appropriated by the general assembly, section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities or entrepreneurial projects.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the Revised Code, to permit the purchasers or lessees thereof to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities authorized in section 3345.07 or 3345.11 of the Revised Code or entrepreneurial projects authorized under section 3345.36 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments

relating to such sales or leases shall be executed by such officer 48732
of the state university or college as the board of trustees 48733
designates. The state university or college shall hold, invest, or 48734
use the proceeds of such sales or leases for the same purposes for 48735
which proceeds of borrowings may be used under sections 3345.07 48736
and 3345.11 of the Revised Code or, if the proceeds relate to the 48737
sale or lease of entrepreneurial projects, for purposes of section 48738
3345.36 of the Revised Code. 48739

(R) An institution of higher education may pledge available 48740
receipts, to the extent permitted by division (C) of this section 48741
with respect to obligations, to secure the payments to be made by 48742
it under any lease, lease with option to purchase, or 48743
lease-purchase agreement authorized under this section or section 48744
3345.07, 3345.11, 3345.36, 3354.121, 3355.091, 3357.112, or 48745
3358.10 of the Revised Code. 48746

Sec. 3345.42. Except for the northeastern Ohio universities 48747
medical college, each state institution of higher education shall 48748
participate in the college credit plus program under Chapter 3365. 48749
of the Revised Code to provide high school students in this state 48750
with the opportunity to concurrently earn credit toward high 48751
school graduation and an associate or bachelor's degree. 48752

Sec. 3345.45. ~~On or before January 1, 1994,~~ (A) The 48753
chancellor of the Ohio board of regents jointly with all state 48754
universities, as defined in section 3345.011 of the Revised Code, 48755
shall develop standards for instructional workloads for full-time 48756
and part-time faculty in keeping with the universities' missions 48757
and with special emphasis on the undergraduate learning 48758
experience. The standards shall contain clear guidelines for 48759
institutions to determine a range of acceptable undergraduate 48760
teaching by faculty. 48761

(B) On or before June 30, 1994, the board of trustees of each 48762
state university shall take formal action to adopt a faculty 48763
workload policy consistent with the standards developed under 48764
division (A) of this section. ~~Notwithstanding~~ 48765

(C)(1) The board of trustees or managing authority of each 48766
state institution of higher education, as defined in section 48767
3345.011 of the Revised Code, may choose to modify its faculty 48768
workload policy adopted under division (B) of this section, or to 48769
adopt a faculty workload policy if it does not have one, to 48770
increase the instructional workload of each full-time research and 48771
instructional faculty member. The faculty workload policy, if 48772
adopted, shall require each faculty member, who was a full-time 48773
research or instructional faculty member during the 2012-2013 48774
academic year, to teach at least one additional course during the 48775
2013-2014 or 2014-2015 academic year from the number of courses 48776
that faculty member taught during the 2012-2013 academic year. 48777
Each academic year thereafter, each such faculty member shall 48778
maintain, at a minimum, the same instructional workload as during 48779
either the 2013-2014 or 2014-2015 academic year, whichever is 48780
greater. 48781

(2) The faculty workload policy, if adopted, shall require 48782
each faculty member who was a full-time research or instructional 48783
faculty member during the 2012-2013 academic year but was on paid 48784
sabbatical leave provided for in the faculty member's contract to 48785
teach at least one additional course during the 2013-2014 or 48786
2014-2015 academic year from the number of courses that faculty 48787
member taught the last academic year during which the member was 48788
not on paid sabbatical leave. During each academic year 48789
thereafter, the faculty member shall maintain, at a minimum, the 48790
same instructional workload as during either the 2013-2014 or 48791
2014-2015 academic year, whichever is greater. If the faculty 48792
member is on paid sabbatical leave during the 2013-2014 or 48793

2014-2015 academic year, the requirements of this division shall 48794
take effect, if the faculty workload policy is adopted, the next 48795
academic year during which that faculty member is not on paid 48796
sabbatical leave. 48797

(3) The faculty workload policy, if adopted, shall require 48798
faculty members hired for the first time by an institution of 48799
higher education during the 2013-2014 academic year, or hired for 48800
the first time in any academic year thereafter, to maintain a 48801
comparable instructional workload to that of other faculty members 48802
at the same institution whose workloads have increased as a result 48803
of this section. 48804

(D) Notwithstanding section 4117.08 of the Revised Code, the 48805
policies adopted under this section are not appropriate subjects 48806
for collective bargaining. Notwithstanding division (A) of section 48807
4117.10 of the Revised Code, any policy adopted under this section 48808
by a board of trustees or managing authority prevails over any 48809
conflicting provisions of any collective bargaining agreement 48810
between an employees organization and that board of trustees or 48811
managing authority. 48812

Sec. 3345.81. Not later than May 1, 2014, and biennially 48813
thereafter, each institution of higher education, as defined by 48814
section 3345.12 of the Revised Code, shall submit to the 48815
chancellor of the Ohio board of regents, for each campus under the 48816
authority of that institution, a campus-specific completion plan 48817
designed to increase college completion rates. The chancellor 48818
shall prescribe a format for all plans required under this 48819
section, which may include specific strategies, targets, and 48820
metrics that promote student access, retention, progression, and 48821
completion of each student's chosen program of study. Institutions 48822
shall submit each campus plan in accordance with this format and 48823
shall include all required content, as prescribed by the 48824

chancellor. Each plan shall be consistent with the mission and 48825
strategic priorities of the campus and shall examine and, as 48826
appropriate, include all of the following: 48827

(A) Increased alignment of the institution's programs with 48828
programs of other educational institutions from preschool through 48829
higher education; 48830

(B) A communications strategy; 48831

(C) A guidance plan to provide current and potential students 48832
with broadened awareness of dual enrollment programs, as defined 48833
by section 3313.6013 of the Revised Code, and the connections 48834
between college completion and career opportunities. The guidance 48835
plan also shall also include financial literacy and planning for 48836
students and their families. 48837

(D) Increased support to ensure success for first-year 48838
students, such as increased access to career counseling and 48839
mentoring, improvements to remediation course design and subject 48840
matter, and other support programs; 48841

(E) The development of institutional systems to streamline 48842
and accelerate a student's progress toward completion, such as a 48843
coordinated system for the transfer of academic credit or a system 48844
that awards academic credit for alternative study, work, or 48845
military experience; 48846

(F) Incentives and rewards for successful student progression 48847
within, and completion of, each student's chosen program. 48848

Sec. 3350.15. The northeast Ohio medical university may enter 48849
into a partnership with Cleveland state university to establish 48850
the northeast Ohio medical university academic campus at Cleveland 48851
state university, to enable fifty per cent or more of the medical 48852
curriculum taught to students enrolled under this partnership to 48853
be based in Cleveland at Cleveland state university, local 48854

hospitals, and community- and neighborhood-based primary care 48855
clinics. Cleveland state university shall not receive state 48856
capital appropriations to pay for facilities for the academic 48857
campus. 48858

Sec. 3365.01. As used in this section: 48859

(A) "College" means any state university as defined under 48860
section 3345.011 of the Revised Code, any community college, any 48861
state community college, any university branch established under 48862
Chapter 3355. of the Revised Code or other regional campus 48863
established by a state university, or any technical college, any 48864
nonprofit institution holding a certificate of authorization 48865
pursuant to Chapter 1713. of the Revised Code, any institution 48866
holding a certificate of registration from the state board of 48867
career colleges and schools and program authorization for an 48868
associate or bachelor's degree program issued under section 48869
3332.05 of the Revised Code, and any private institution exempt 48870
from regulation under Chapter 3332. of the Revised Code as 48871
prescribed in section 3333.046 of the Revised Code. 48872

(B) "Nonpublic school" means a chartered or nonchartered 48873
school for which minimum standards are prescribed by the state 48874
board of education pursuant to division (D) of section 3301.07 of 48875
the Revised Code. 48876

(C) "Parent" has the same meaning as in section 3313.64 of 48877
the Revised Code. 48878

(D) "Participant" means a student enrolled in a college under 48879
the college credit plus program established by this chapter. 48880

(E) "Public school" includes a school district, a community 48881
school established under Chapter 3314., a STEM school established 48882
under Chapter 3326., and a college-preparatory boarding school 48883
established under Chapter 3328. of the Revised Code. 48884

(F) "School district" means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and includes a joint vocational school district. 48885
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(G) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code. 48889
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(H) "School year" has the same meaning as in section 3313.62 of the Revised Code. 48892
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(I) "Secondary grade" means any of grades nine through twelve. 48894
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Sec. 3365.02. There is hereby established the ~~post-secondary enrollment options~~ college credit plus program under which a secondary grade student who is a resident of this state may enroll at a college, on a full- or part-time basis, and complete nonsectarian courses for high school and college credit. 48896
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~~Secondary grade students in a nonpublic school may participate in the post-secondary enrollment options program if the chief administrator of such school notifies the department of education by the first day of April prior to the school year in which the school's students will participate.~~ 48901
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The state board of education, after consulting with the chancellor of the Ohio board of regents, shall adopt rules or policies governing the program. ~~The rules that~~ shall include: 48906
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(A) Requirements for ~~school districts, community public~~ schools, ~~or participating~~ nonpublic schools to provide information about the program prior to the first day of March of each year to all students enrolled in grades eight through eleven; 48909
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(B) A requirement that a ~~student or the student's parent~~ inform the district board of education, the governing authority of 48913
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~~a community school, the STEM school chief administrative officer,~~ 48915
~~or the nonpublic school administrator by the thirtieth day of~~ 48916
~~March of the student's intent to participate in the program during~~ 48917
~~the following school year. The rule shall provide that any student~~ 48918
~~who fails to provide the notification by the required date may not~~ 48919
~~participate in the program during the following school year~~ 48920
~~without the written consent of the district superintendent, the~~ 48921
~~governing authority of a community school, the STEM school chief~~ 48922
~~administrative officer, or the nonpublic school administrator~~ 48923
participating college notify the student and the student's parent 48924
of the student's admission into the academic program provided by 48925
the college under this chapter. A participating college shall 48926
provide this notification not later than fourteen calendar days 48927
prior to the first day the student is required by the college to 48928
begin attending class. Not later than twenty-one calendar days 48929
after the date the student is required to begin attending class, 48930
the college shall submit a roster of student names and course 48931
assignments to the public school or nonpublic school in which the 48932
student is enrolled. 48933

(C) Requirements that ~~school districts, community schools,~~ 48934
~~and STEM~~ public and nonpublic schools provide counseling services 48935
to students in grades eight through eleven and to their parents 48936
before the students participate in the program under this chapter 48937
to ensure that students and parents are fully aware of the 48938
possible risks and consequences of participation. Counseling 48939
information shall include without limitation: 48940

(1) Program eligibility; 48941

(2) The process for granting academic credits; 48942

(3) ~~Financial~~ Any necessary financial arrangements for 48943
tuition, books, materials, and fees, if not provided by the public 48944
or nonpublic school or the college; 48945

(4) Criteria for any transportation aid;	48946
(5) Available support services;	48947
(6) Scheduling;	48948
(7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;	48949 48950 48951 48952
(8) The effect of program participation on the student's ability to complete the district's or school's graduation requirements;	48953 48954 48955
(9) The academic and social responsibilities of students and parents under the program;	48956 48957
(10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.	48958 48959 48960
(D)(1) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program; <u>chancellor, in consultation with the superintendent of public instruction, create a standard packet of information on the college credit plus program. The chancellor shall make this information available to each student participating in the program, or the student's parent.</u>	48961 48962 48963 48964 48965 48966 48967 48968 48969 48970
<u>(2) A requirement that all public and nonpublic schools provide each student participating in the program with the packet developed under division (D)(1) of this section. The school shall record each date packets are sent out to a participating student's home.</u>	48971 48972 48973 48974 48975

(E) The options required by section 3365.04 of the Revised Code; 48976
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(F) ~~A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses~~ A requirement that student participation in the program be based solely on a participating college's established admission standards. 48978
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Sec. 3365.03. (A) Notwithstanding any other provision of law, a student enrolled in a ~~school district, a community school, a STEM school,~~ public or a ~~participating~~ nonpublic school may apply to a college to enroll in it during the student's ninth, tenth, eleventh, or twelfth grade school year under this chapter. For purposes of this division, during the period of an expulsion imposed under division (B) of section 3313.66 of the Revised Code or extended under division (F) of that section, a student is ineligible to apply to enroll in a college under this section, unless the student is admitted to another ~~school district or community school,~~ public or a ~~participating~~ nonpublic school. If a student is enrolled in a college under this section at the time the student is expelled under division (B) of section 3313.66 of the Revised Code, the student's status for the remainder of the college term in which the expulsion is imposed shall be determined under section 3365.041 of the Revised Code. 48986
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(B) If a college accepts a student who applies under this section, ~~it~~ that college shall send written notice to the student, the student's school district, community school, STEM school, college-preparatory boarding school, or nonpublic school, and the superintendent of public instruction within ten days after 49002
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acceptance. Within ten days after ~~each~~ enrollment for a each term, 49007
the college shall also send the student, the student's school 49008
district, community school, STEM school, college-preparatory 49009
boarding school, or nonpublic school, and the superintendent of 49010
public instruction a written notice indicating the courses and 49011
hours of enrollment of the student and the option elected by the 49012
student under division (A) or (B) of section 3365.04 of the 49013
Revised Code for each course. 49014

Sec. 3365.04. The rules adopted under section 3365.02 of the 49015
Revised Code shall provide for students to enroll in courses under 49016
either of the following options: 49017

(A) The student may elect at the time of enrollment to be 49018
responsible for payment of all tuition and the cost of all 49019
textbooks, materials, and fees associated with the course. The 49020
college shall notify the student about payment of tuition and fees 49021
in the customary manner followed by the college. A student 49022
electing this option also shall elect, at the time of enrollment, 49023
whether to receive only college credit or high school credit and 49024
college credit for the course. 49025

(1) The student may elect to receive only college credit for 49026
the course. Except as provided in section 3365.041 of the Revised 49027
Code, if the student successfully completes the course, the 49028
college shall award the student full credit for the course, but 49029
the board of education, community school governing authority, STEM 49030
school, college-preparatory boarding school board of trustees, or 49031
nonpublic ~~participating~~ school shall not award the high school 49032
credit. 49033

(2) The student may elect to receive both high school credit 49034
and college credit for the course. Except as provided in section 49035
3365.041 of the Revised Code, if the student successfully 49036
completes the course, the college shall award the student full 49037

credit for the course and the board of education, community school 49038
governing authority, STEM school, college-preparatory boarding 49039
school board of trustees, or nonpublic school shall award the 49040
student high school credit. 49041

(B) The student may elect at the time of enrollment for each 49042
course to have the college reimbursed under section 3365.07 of the 49043
Revised Code ~~or as provided in alternative funding agreements~~ 49044
~~entered into under rules adopted under section 3365.12 of the~~ 49045
~~Revised Code~~. Except as provided in section 3365.041 of the 49046
Revised Code, if the student successfully completes the course, 49047
the college shall award the student full credit for the course, 49048
the board of education, community school governing authority, STEM 49049
school, college-preparatory boarding school board of trustees, or 49050
nonpublic school shall award the student high school credit, and 49051
the college shall be reimbursed in accordance with section 3365.07 49052
of the Revised Code ~~or alternative funding agreements entered into~~ 49053
~~under rules adopted under section 3365.12 of the Revised Code~~. 49054

When determining a school district's formula ADM under 49055
section ~~3317.03~~ 3317.02 of the Revised Code, the time a 49056
participant is attending courses under division (A) of this 49057
section shall be considered as time the participant is not 49058
attending or enrolled in school anywhere, and the time a 49059
participant is attending courses under division (B) of this 49060
section shall be considered as time the participant is attending 49061
or enrolled in the district's schools. 49062

Sec. 3365.041. (A) When a public school district 49063
~~superintendent, the governing authority of a community school, or~~ 49064
~~the chief administrative officer of a STEM school~~ expels a student 49065
~~under division (B) of section 3313.66 of the Revised Code, the~~ 49066
~~district superintendent, governing authority, or chief~~ 49067
~~administrative officer~~ or equivalent, of a public school shall 49068

send a written notice of the expulsion to any college in which the 49069
expelled student is enrolled under section 3365.03 of the Revised 49070
Code at the time the expulsion is imposed. The notice shall 49071
indicate the date the expulsion is scheduled to expire. The notice 49072
also shall indicate whether the ~~district board of education,~~ 49073
~~community school governing authority, or the STEM~~ school has 49074
adopted a policy ~~under section 3313.613 of the Revised Code~~ to 49075
deny high school credit for post-secondary courses taken during an 49076
expulsion. If the expulsion is extended ~~under division (F) of~~ 49077
~~section 3313.66 of the Revised Code~~, the ~~district~~ superintendent, 49078
~~community school governing authority, or STEM school chief~~ 49079
~~administrative officer~~ or equivalent, shall notify the college of 49080
the extension. 49081

(B) A college may withdraw its acceptance under section 49082
3365.03 of the Revised Code of a student who is expelled from 49083
school ~~under division (B) of section 3313.66 of the Revised Code~~. 49084
As provided in section 3365.03 of the Revised Code, regardless of 49085
whether the college withdraws its acceptance of the student for 49086
the college term in which the student is expelled, the student is 49087
ineligible to enroll in a college under that section for 49088
subsequent college terms during the period of the expulsion, 49089
unless the student enrolls in another public school ~~district or~~ 49090
~~community school~~, or a ~~participating~~ nonpublic school during that 49091
period. 49092

If a college withdraws its acceptance of an expelled student 49093
who elected either option of division (A)(1) or (2) of section 49094
3365.04 of the Revised Code, the college shall refund tuition and 49095
fees paid by the student in the same proportion that it refunds 49096
tuition and fees to students who voluntarily withdraw from the 49097
college at the same time in the term. 49098

If a college withdraws its acceptance of an expelled student 49099
who elected the option of division (B) of section 3365.04 of the 49100

Revised Code, the public school ~~district, community school, or~~ 49101
~~STEM school~~ shall not award high school credit for the college 49102
courses in which the student was enrolled at the time the college 49103
withdrew its acceptance, and any reimbursement under section 49104
3365.07 of the Revised Code ~~or through alternative funding~~ 49105
~~agreements entered into under rules adopted under section 3365.12~~ 49106
~~of the Revised Code~~ for the student's attendance prior to the 49107
withdrawal shall be the same as would be paid for a student who 49108
voluntarily withdrew from the college at the same time in the 49109
term. If the withdrawal results in the college's receiving no 49110
reimbursement, the college or public or nonpublic school that 49111
chooses to provide textbooks and materials under section 3365.08 49112
of the Revised Code may, at its discretion, require the student to 49113
return or pay for the textbooks and materials it provided the 49114
student ~~free of charge under section 3365.08 of the Revised Code.~~ 49115

(C) When a student who elected the option of division (B) of 49116
section 3365.04 of the Revised Code is expelled ~~under division (B)~~ 49117
~~of section 3313.66 of the Revised Code~~ from a public school 49118
~~district, community school, or STEM school~~ that has adopted a 49119
policy ~~under section 3313.613 of the Revised Code~~ to deny high 49120
school credit for post-secondary courses taken during an 49121
expulsion, that election is automatically revoked for all college 49122
courses in which the student is enrolled during the college term 49123
in which the expulsion is imposed. Any reimbursement under section 49124
3365.07 of the Revised Code ~~or through alternative funding~~ 49125
~~agreements entered into under rules adopted under section 3365.12~~ 49126
~~of the Revised Code~~ for the student's attendance prior to the 49127
expulsion shall be the same as would be paid for a student who 49128
voluntarily withdrew from the college at the same time in the 49129
term. If the revocation results in the college's receiving no 49130
reimbursement, the college or public or nonpublic school that 49131
chooses to provide textbooks and materials under section 3365.08 49132
of the Revised Code may, at its discretion, require the student to 49133

return or pay for the textbooks and materials it provided the 49134
student ~~free of charge under section 3365.08 of the Revised Code.~~ 49135

~~No~~ Not later than five days after receiving an expulsion 49136
notice from the superintendent ~~of a district, the governing~~ 49137
~~authority of a community school, or the chief administrative~~ 49138
~~officer of a STEM, or equivalent, of a public school that has~~ 49139
~~adopted a policy under section 3313.613 of the Revised Code,~~ the 49140
college shall send a written notice to the expelled student that 49141
the student's election of division (B) of section 3365.04 of the 49142
Revised Code is revoked. If the college elects not to withdraw its 49143
acceptance of the student, the student shall pay all applicable 49144
tuition and fees for the college courses and shall pay for the 49145
textbooks and materials that the college or public or private 49146
school provided under section 3365.08 of the Revised Code. 49147

Sec. 3365.05. High school credit awarded for courses 49148
successfully completed under this chapter shall count toward the 49149
graduation requirements and subject area requirements of the 49150
~~school district, community school, STEM school,~~ public or 49151
nonpublic school. If a course comparable to one a student 49152
completed at a college is offered by the district or school, the 49153
board or school shall award comparable credit for the course 49154
completed at the college. If no comparable course is offered by 49155
the district or school, the board or school shall grant an 49156
appropriate number of credits in a similar subject area to the 49157
student. 49158

If there is a dispute between a school district board, a 49159
community school governing authority, ~~or~~ a STEM school governing 49160
body, or a college-preparatory boarding school board of trustees 49161
and a student regarding high school credits granted for a course, 49162
the student may appeal the decision to the state board of 49163
education. The state board's decision regarding any high school 49164

credits granted under this section is final. 49165

Evidence of successful completion of each course and the high 49166
school credits awarded by the district or school shall be included 49167
in the student's record. The record shall indicate that the 49168
credits were earned as a participant under this chapter and shall 49169
include the name of the college at which the credits were earned. 49170
The district or school shall determine whether and the manner in 49171
which the grade achieved in a course completed at a college under 49172
division (A)(2) or (B) of section 3365.04 of the Revised Code will 49173
be counted in any cumulative grade point average maintained for 49174
the student. 49175

Sec. 3365.06. (A) A student in grade nine may not enroll in 49176
courses under this chapter for which the student elects under 49177
division (B) of section 3365.04 of the Revised Code to receive 49178
credit toward high school graduation for more than the equivalent 49179
of four academic school years. A student enrolling in courses 49180
under this chapter may not enroll in courses in which the student 49181
elects to receive credit toward high school graduation for more 49182
than the equivalent of: 49183

(1) Three academic school years, if the student so enrolls 49184
for the first time in grade ten; 49185

(2) Two academic school years, if the student so enrolls for 49186
the first time in grade eleven; 49187

(3) One academic school year, if the student so enrolls for 49188
the first time in grade twelve. 49189

These restrictions shall be reduced proportionately for any 49190
such student who enrolls in the program during the course of a 49191
school year in accordance with rules adopted under section 3365.02 49192
of the Revised Code. 49193

(B) In considering the admission of any secondary student, a 49194

college shall develop and apply its own student admission 49195
standards for enrollment in courses and shall give priority to its 49196
other current students regarding enrollment in courses. However, 49197
once a student has been accepted in a course as a participant, the 49198
institution shall not displace the participant for another 49199
student. 49200

Sec. 3365.07. (A)(1) Not later than October 31, 2013, and by 49201
each thirty-first day of October thereafter, the chancellor of the 49202
Ohio board of regents shall publish and provide to the department 49203
of education a calculation of the statewide average in-state 49204
tuition rate per credit hour for each of the following institution 49205
categories: 49206

(a) State universities, as defined under section 3345.011 of 49207
the Revised Code; 49208

(b) Community colleges established under Chapter 3354. of the 49209
Revised Code, state community colleges established under Chapter 49210
3358. of the Revised Code, and technical colleges established 49211
under Chapter 3357. of the Revised Code; 49212

(c) State university branches established under Chapter 3355. 49213
of the Revised Code and other regional campuses of state 49214
universities. 49215

The department shall use the chancellor's published tuition 49216
rates to reimburse state institutions of higher education for 49217
students participating in courses under this chapter. 49218

(2) In the case of a private institution of higher education, 49219
the chancellor shall determine which of the statewide average 49220
in-state tuition rates per credit hour determined under divisions 49221
(A)(1)(a) to (c) of this section is most similar to that type of 49222
private institution. The department shall use the rates determined 49223
by the chancellor under division (A)(2) of this section to 49224

reimburse private institutions for students participating in 49225
courses under this chapter. 49226

As used in this section, "private institutions of higher 49227
education" include nonprofit institutions holding a certificate of 49228
authorization pursuant to Chapter 1713. of the Revised Code; 49229
career colleges in this state that hold a certificate of 49230
registration from the state board of career colleges and schools 49231
under Chapter 3332. of the Revised Code; and private institutions 49232
exempt from regulation under Chapter 3332. of the Revised Code as 49233
prescribed in section 3333.046 of the Revised Code, if the program 49234
has a certificate of authorization pursuant to Chapter 1713. of 49235
the Revised Code. 49236

(B)(1) Payments made to colleges for participants under 49237
division (B) of section 3365.04 of the Revised Code who enroll in 49238
a public college as described in division (A)(1) of this section 49239
shall be calculated as follows: 49240

(a) For a participant enrolled in a college course delivered 49241
on the college campus, at another location operated by the 49242
college, or online and taught by college faculty or teachers 49243
accredited and employed by the college, the department shall pay 49244
the college fifty per cent of the statewide average in-state 49245
tuition per credit hour as determined for that type of college 49246
under division (A)(1) of this section. 49247

(b) For a participant enrolled in a college course delivered 49248
on the college campus, at another location operated by the 49249
college, or online and taught by teachers employed by a secondary 49250
school, the department shall pay twenty-five per cent of the 49251
statewide average in-state tuition per credit hour as determined 49252
for that type of college under division (A)(1) of this section. 49253

(c) For a participant enrolled in a college course delivered 49254
at a secondary school and taught by college faculty or teachers 49255

accredited and employed by the college, the department shall pay 49256
twenty-five per cent of the statewide average in-state tuition per 49257
credit hour as determined for that type of college under division 49258
(A)(1) of this section. 49259

(d) For a participant enrolled in a college course delivered 49260
at a secondary school and taught by high school teachers 49261
accredited by the college and employed by the secondary school, 49262
the department shall pay nothing to the college. 49263

(2)(a) Payments made by the department under division (B)(1) 49264
of this section shall be made for participants enrolled in public 49265
secondary schools by subtracting from the school foundation 49266
payments made to the participant's school district or, if the 49267
participant is enrolled in a community school, a STEM school, or a 49268
college-preparatory boarding school, from the payments made to 49269
that school under section 3314.08, 3326.33, or 3328.34 of the 49270
Revised Code. If the participant is enrolled in a joint vocational 49271
school district, a portion of the amount shall be subtracted from 49272
the payments to the joint vocational school district and a portion 49273
shall be subtracted from the payments to the participant's city, 49274
local, or exempted village school district in accordance with the 49275
full-time equivalency of the student's enrollment in each 49276
district. The state board of education shall adopt a method to 49277
calculate the amounts subtracted from the joint vocational school 49278
district and from the participant's city, local, or exempted 49279
village school district. 49280

(b) Payments made by the department under division (B)(1) of 49281
this section shall be made for participants enrolled in nonpublic 49282
schools by subtracting from moneys appropriated by the general 49283
assembly for such purpose. The state board of education shall 49284
adopt rules to create a method to allocate and distribute payments 49285
made under division (B)(2)(b) of this section. 49286

(C)(1) Payments made to colleges for participants under 49287

division (B) of section 3365.04 of the Revised Code who enroll in 49288
a private institution of higher education as described in division 49289
(A)(2) of this section shall be calculated as follows: 49290

(a) For a participant enrolled in a college course delivered 49291
on the college campus, at another location operated by the 49292
college, or online and taught by college faculty or teachers 49293
accredited and employed by the college, the department shall pay 49294
seventy-five per cent of the statewide average in-state tuition 49295
per credit hour as determined by the chancellor. 49296

(b) For a participant enrolled in a college course delivered 49297
on the college campus, at another location operated by the 49298
college, or online and taught by teachers employed by a secondary 49299
school, the department shall pay fifty per cent of the statewide 49300
average in-state tuition per credit hour as determined by the 49301
chancellor. 49302

(c) For a participant enrolled in a college course delivered 49303
at a secondary school and taught by college faculty or teachers 49304
accredited and employed by the college, the department shall pay 49305
fifty per cent of the statewide average in-state tuition per 49306
credit hour as determined by the chancellor. 49307

(d) For a participant enrolled in a college course delivered 49308
at a secondary school and taught by high school teachers 49309
accredited by the college and employed by the secondary school, 49310
the department shall pay twenty-five per cent of the statewide 49311
average in-state tuition per credit hour as determined by the 49312
chancellor. 49313

(2)(a) Payments made by the department under division (C)(1) 49314
of this section shall be made for participants enrolled in public 49315
schools by subtracting from the school foundation payments made to 49316
the participant's school district or, if the participant is 49317
enrolled in a community school, a STEM school, or a 49318

college-preparatory boarding school, from the payments made to 49319
that school under section 3314.08, 3326.33, or 3328.34 of the 49320
Revised Code. If the participant is enrolled in a joint vocational 49321
school district, a portion of the amount shall be subtracted from 49322
the payments to the joint vocational school district and a portion 49323
shall be subtracted from the payments to the participant's city, 49324
local, or exempted village school district in accordance with the 49325
full-time equivalency of the student's enrollment in each 49326
district. The state board of education shall adopt a method to 49327
calculate the amounts subtracted from the joint vocational school 49328
district and from the participant's city, local, or exempted 49329
village school district. 49330

(b) Payments made by the department under division (C)(1) of 49331
this section shall be made for participants enrolled in nonpublic 49332
schools by subtracting from moneys appropriated by the general 49333
assembly for such purpose. The state board of education shall 49334
adopt rules to create a method to allocate and distribute payments 49335
made under division (C)(2)(b) of this section. 49336

(D) Each January and July, or as soon as possible thereafter, 49337
the department shall pay the amount under division (B) or (C) of 49338
this section, as applicable, to each college for any participant 49339
enrolled in the college in the prior semester under division (B) 49340
of section 3365.04 of the Revised Code. 49341

(E) The department shall not reimburse or pay tuition to any 49342
college for any course not taken by a participant under division 49343
(B) of section 3365.04 of the Revised Code. 49344

(F) Colleges may charge fees to participants under division 49345
(B) of section 3365.04 of the Revised Code only in accordance with 49346
section 3365.08 of the Revised Code. 49347

(G) Any state institution of higher education that enrolls a 49348
student under division (B) of section 3365.04 of the Revised Code 49349

may include that student in the count of students used to 49350
determine its state share of instruction appropriated to the Ohio 49351
board of regents by the general assembly, if the student completes 49352
that course. 49353

Sec. 3365.08. (A) A college that expects to receive or 49354
receives reimbursement under section 3365.07 of the Revised Code 49355
~~or through alternative funding agreements entered into under rules~~ 49356
~~adopted under section 3365.12 of the Revised Code shall~~ may 49357
furnish to a ~~participant~~ participating student all ~~or a portion of~~ 49358
textbooks and materials directly related to a course taken by the 49359
participant under division (B) of section 3365.04 of the Revised 49360
Code. ~~No college shall~~ or may charge such ~~participant a~~ 49361
participating student for ~~tuition,~~ textbooks, materials, or other 49362
fees directly related to any such course. A college may enter into 49363
an agreement with a participant's public or nonpublic school to 49364
pay any amount of such charges or to outline any other terms for 49365
the student's use of textbooks or materials. 49366

(B) No student enrolled under this chapter in a course for 49367
which credit toward high school graduation is awarded shall 49368
receive direct financial aid through any state or federal program. 49369

(C) If a school district provides transportation for resident 49370
school students in grades ~~eleven and~~ nine through twelve under 49371
section 3327.01 of the Revised Code, a parent of a ~~pupil~~ student 49372
enrolled in a course under division (A)(2) or (B) of section 49373
3365.04 of the Revised Code may apply to the district board of 49374
education for full or partial reimbursement for the necessary 49375
costs of transporting the student between the secondary school the 49376
student attends and the college in which the student is enrolled. 49377
Reimbursement may be paid solely from funds received by the 49378
district for pupil transportation under section 3317.0212 of the 49379
Revised Code or other provisions of law. The state board of 49380

education shall establish guidelines, based on financial need, 49381
under which a district may provide such reimbursement. 49382

(D) If a community school provides or arranges transportation 49383
for its pupils in grades nine through twelve under section 49384
3314.091 of the Revised Code, a parent of a pupil of the community 49385
school who is enrolled in a course under division (A)(2) or (B) of 49386
section 3365.04 of the Revised Code may apply to the governing 49387
authority of the community school for full or partial 49388
reimbursement of the necessary costs of transporting the student 49389
between the community school and the college. The governing 49390
authority may pay the reimbursement in accordance with the state 49391
board's ~~rules~~ guidelines adopted under division (C) of this 49392
section solely from funds paid to it under section 3314.091 of the 49393
Revised Code. 49394

Sec. 3501.01. As used in the sections of the Revised Code 49395
relating to elections and political communications: 49396

(A) "General election" means the election held on the first 49397
Tuesday after the first Monday in each November. 49398

(B) "Regular municipal election" means the election held on 49399
the first Tuesday after the first Monday in November in each 49400
odd-numbered year. 49401

(C) "Regular state election" means the election held on the 49402
first Tuesday after the first Monday in November in each 49403
even-numbered year. 49404

(D) "Special election" means any election other than those 49405
elections defined in other divisions of this section. A special 49406
election may be held only on the first Tuesday after the first 49407
Monday in February, May, August, or November, or on the day 49408
authorized by a particular municipal or county charter for the 49409
holding of a primary election, except that in any year in which a 49410

presidential primary election is held, no special election shall 49411
be held in February or May, except as authorized by a municipal or 49412
county charter, but may be held on the first Tuesday after the 49413
first Monday in March. 49414

(E)(1) "Primary" or "primary election" means an election held 49415
for the purpose of nominating persons as candidates of political 49416
parties for election to offices, and for the purpose of electing 49417
persons as members of the controlling committees of political 49418
parties and as delegates and alternates to the conventions of 49419
political parties. Primary elections shall be held on the first 49420
Tuesday after the first Monday in May of each year except in years 49421
in which a presidential primary election is held. 49422

(2) "Presidential primary election" means a primary election 49423
as defined by division (E)(1) of this section at which an election 49424
is held for the purpose of choosing delegates and alternates to 49425
the national conventions of the major political parties pursuant 49426
to section 3513.12 of the Revised Code. Unless otherwise 49427
specified, presidential primary elections are included in 49428
references to primary elections. In years in which a presidential 49429
primary election is held, all primary elections shall be held on 49430
the first Tuesday after the first Monday in March except as 49431
otherwise authorized by a municipal or county charter. 49432

(F) "Political party" means any group of voters meeting the 49433
requirements set forth in section 3517.01 of the Revised Code for 49434
the formation and existence of a political party. 49435

(1) "Major political party" means any political party 49436
organized under the laws of this state whose candidate for 49437
governor or nominees for presidential electors received no less 49438
than twenty per cent of the total vote cast for such office at the 49439
most recent regular state election. 49440

(2) "Intermediate political party" means any political party 49441

organized under the laws of this state whose candidate for 49442
governor or nominees for presidential electors received less than 49443
twenty per cent but not less than ten per cent of the total vote 49444
cast for such office at the most recent regular state election. 49445

(3) "Minor political party" means any political party 49446
organized under the laws of this state whose candidate for 49447
governor or nominees for presidential electors received less than 49448
ten per cent but not less than five per cent of the total vote 49449
cast for such office at the most recent regular state election or 49450
which has filed with the secretary of state, subsequent to any 49451
election in which it received less than five per cent of such 49452
vote, a petition signed by qualified electors equal in number to 49453
at least one per cent of the total vote cast for such office in 49454
the last preceding regular state election, except that a newly 49455
formed political party shall be known as a minor political party 49456
until the time of the first election for governor or president 49457
which occurs not less than twelve months subsequent to the 49458
formation of such party, after which election the status of such 49459
party shall be determined by the vote for the office of governor 49460
or president. 49461

(G) "Dominant party in a precinct" or "dominant political 49462
party in a precinct" means that political party whose candidate 49463
for election to the office of governor at the most recent regular 49464
state election at which a governor was elected received more votes 49465
than any other person received for election to that office in such 49466
precinct at such election. 49467

(H) "Candidate" means any qualified person certified in 49468
accordance with the provisions of the Revised Code for placement 49469
on the official ballot of a primary, general, or special election 49470
to be held in this state, or any qualified person who claims to be 49471
a write-in candidate, or who knowingly assents to being 49472
represented as a write-in candidate by another at either a 49473

primary, general, or special election to be held in this state. 49474

(I) "Independent candidate" means any candidate who claims 49475
not to be affiliated with a political party, and whose name has 49476
been certified on the office-type ballot at a general or special 49477
election through the filing of a statement of candidacy and 49478
nominating petition, as prescribed in section 3513.257 of the 49479
Revised Code. 49480

(J) "Nonpartisan candidate" means any candidate whose name is 49481
required, pursuant to section 3505.04 of the Revised Code, to be 49482
listed on the nonpartisan ballot, including all candidates for 49483
judicial office, for member of any board of education, for 49484
municipal or township offices in which primary elections are not 49485
held for nominating candidates by political parties, and for 49486
offices of municipal corporations having charters that provide for 49487
separate ballots for elections for these offices. 49488

(K) "Party candidate" means any candidate who claims to be a 49489
member of a political party, whose name has been certified on the 49490
office-type ballot at a general or special election through the 49491
filing of a declaration of candidacy and petition of candidate, 49492
and who has won the primary election of the candidate's party for 49493
the public office the candidate seeks or is selected by party 49494
committee in accordance with section 3513.31 of the Revised Code. 49495

(L) "Officer of a political party" includes, but is not 49496
limited to, any member, elected or appointed, of a controlling 49497
committee, whether representing the territory of the state, a 49498
district therein, a county, township, a city, a ward, a precinct, 49499
or other territory, of a major, intermediate, or minor political 49500
party. 49501

(M) "Question or issue" means any question or issue certified 49502
in accordance with the Revised Code for placement on an official 49503
ballot at a general or special election to be held in this state. 49504

(N) "Elector" or "qualified elector" means a person having the qualifications provided by law to be entitled to vote.	49505 49506
(O) "Voter" means an elector who votes at an election.	49507
(P) "Voting residence" means that place of residence of an elector which shall determine the precinct in which the elector may vote.	49508 49509 49510
(Q) "Precinct" means a district within a county established by the board of elections of such county within which all qualified electors having a voting residence therein may vote at the same polling place.	49511 49512 49513 49514
(R) "Polling place" means that place provided for each precinct at which the electors having a voting residence in such precinct may vote.	49515 49516 49517
(S) "Board" or "board of elections" means the board of elections appointed in a county pursuant to section 3501.06 of the Revised Code.	49518 49519 49520
(T) "Political subdivision" means a county, township, city, village, or school district.	49521 49522
(U) "Election officer" or "election official" means any of the following:	49523 49524
(1) Secretary of state;	49525
(2) Employees of the secretary of state serving the division of elections in the capacity of attorney, administrative officer, administrative assistant, elections administrator, office manager, or clerical supervisor;	49526 49527 49528 49529
(3) Director of a board of elections;	49530
(4) Deputy director of a board of elections;	49531
(5) Member of a board of elections;	49532
(6) Employees of a board of elections;	49533

(7) Precinct polling place judges; 49534

(8) Employees appointed by the boards of elections on a 49535
temporary or part-time basis. 49536

(V) "Acknowledgment notice" means a notice sent by a board of 49537
elections, on a form prescribed by the secretary of state, 49538
informing a voter registration applicant or an applicant who 49539
wishes to change the applicant's residence or name of the status 49540
of the application; the information necessary to complete or 49541
update the application, if any; and if the application is 49542
complete, the precinct in which the applicant is to vote. 49543

(W) "Confirmation notice" means a notice sent by a board of 49544
elections, on a form prescribed by the secretary of state, to a 49545
registered elector to confirm the registered elector's current 49546
address. 49547

(X) "Designated agency" means an office or agency in the 49548
state that provides public assistance or that provides 49549
state-funded programs primarily engaged in providing services to 49550
persons with disabilities and that is required by the National 49551
Voter Registration Act of 1993 to implement a program designed and 49552
administered by the secretary of state for registering voters, or 49553
any other public or government office or agency that implements a 49554
program designed and administered by the secretary of state for 49555
registering voters, including the department of job and family 49556
services, the program administered under section 3701.132 of the 49557
Revised Code by the department of health, the department of ~~mental~~ 49558
~~health~~ mental health and addiction services, the department of 49559
developmental disabilities, the ~~rehabilitation services commission~~ 49560
opportunities for Ohioans with disabilities agency, and any other 49561
agency the secretary of state designates. "Designated agency" does 49562
not include public high schools and vocational schools, public 49563
libraries, or the office of a county treasurer. 49564

(Y) "National Voter Registration Act of 1993" means the 49565
"National Voter Registration Act of 1993," 107 Stat. 77, 42 49566
U.S.C.A. 1973gg. 49567

(Z) "Voting Rights Act of 1965" means the "Voting Rights Act 49568
of 1965," 79 Stat. 437, 42 U.S.C.A. 1973, as amended. 49569

(AA) "Photo identification" means a document that meets each 49570
of the following requirements: 49571

(1) It shows the name of the individual to whom it was 49572
issued, which shall conform to the name in the poll list or 49573
signature pollbook. 49574

(2) It shows the current address of the individual to whom it 49575
was issued, which shall conform to the address in the poll list or 49576
signature pollbook, except for a driver's license or a state 49577
identification card issued under section 4507.50 of the Revised 49578
Code, which may show either the current or former address of the 49579
individual to whom it was issued, regardless of whether that 49580
address conforms to the address in the poll list or signature 49581
pollbook. 49582

(3) It shows a photograph of the individual to whom it was 49583
issued. 49584

(4) It includes an expiration date that has not passed. 49585

(5) It was issued by the government of the United States or 49586
this state. 49587

Sec. 3513.04. Candidates for party nominations to state, 49588
district, county, and municipal offices or positions, for which 49589
party nominations are provided by law, and for election as members 49590
of party controlling committees shall have their names printed on 49591
the official primary ballot by filing a declaration of candidacy 49592
and paying the fees specified for the office under divisions (A) 49593
and (B) of section 3513.10 of the Revised Code, except that the 49594

joint candidates for party nomination to the offices of governor 49595
and lieutenant governor shall, for the two of them, file one 49596
declaration of candidacy. The joint candidates also shall pay the 49597
fees specified for the joint candidates under divisions (A) and 49598
(B) of section 3513.10 of the Revised Code. 49599

The secretary of state shall not accept for filing the 49600
declaration of candidacy of a candidate for party nomination to 49601
the office of governor unless the declaration of candidacy also 49602
shows a joint candidate for the same party's nomination to the 49603
office of lieutenant governor, shall not accept for filing the 49604
declaration of candidacy of a candidate for party nomination to 49605
the office of lieutenant governor unless the declaration of 49606
candidacy also shows a joint candidate for the same party's 49607
nomination to the office of governor, and shall not accept for 49608
filing a declaration of candidacy that shows a candidate for party 49609
nomination to the office of governor or lieutenant governor who, 49610
for the same election, has already filed a declaration of 49611
candidacy or a declaration of intent to be a write-in candidate, 49612
or has become a candidate by the filling of a vacancy under 49613
section 3513.30 of the Revised Code for any other state office or 49614
any federal or county office. 49615

No person who seeks party nomination for an office or 49616
position at a primary election by declaration of candidacy or by 49617
declaration of intent to be a write-in candidate and no person who 49618
is a first choice for president of candidates seeking election as 49619
delegates and alternates to the national conventions of the 49620
different major political parties who are chosen by direct vote of 49621
the electors as provided in this chapter shall be permitted to 49622
become a candidate by nominating petition or by declaration of 49623
intent to be a write-in candidate at the following general 49624
election for any office other than the office of member of the 49625
state board of education, office of member of a city, local, or 49626

exempted village board of education, ~~office of member of a~~ 49627
~~governing board of an educational service center,~~ or office of 49628
township trustee. 49629

Sec. 3513.041. A write-in space shall be provided on the 49630
ballot for every office, except in an election for which the board 49631
of elections has received no valid declarations of intent to be a 49632
write-in candidate under this section. Write-in votes shall not be 49633
counted for any candidate who has not filed a declaration of 49634
intent to be a write-in candidate pursuant to this section. A 49635
qualified person who has filed a declaration of intent may receive 49636
write-in votes at either a primary or general election. Any 49637
candidate shall file a declaration of intent to be a write-in 49638
candidate before four p.m. of the seventy-second day preceding the 49639
election at which such candidacy is to be considered. If the 49640
election is to be determined by electors of a county or a district 49641
or subdivision within the county, such declaration shall be filed 49642
with the board of elections of that county. If the election is to 49643
be determined by electors of a subdivision located in more than 49644
one county, such declaration shall be filed with the board of 49645
elections of the county in which the major portion of the 49646
population of such subdivision is located. If the election is to 49647
be determined by electors of a district comprised of more than one 49648
county but less than all of the counties of the state, such 49649
declaration shall be filed with the board of elections of the most 49650
populous county in such district. Any candidate for an office to 49651
be voted upon by electors throughout the entire state shall file a 49652
declaration of intent to be a write-in candidate with the 49653
secretary of state before four p.m. of the seventy-second day 49654
preceding the election at which such candidacy is to be 49655
considered. In addition, candidates for president and 49656
vice-president of the United States shall also file with the 49657
secretary of state by that seventy-second day a slate of 49658

presidential electors sufficient in number to satisfy the 49659
requirements of the United States constitution. 49660

A board of elections shall not accept for filing the 49661
declaration of intent to be a write-in candidate of a person 49662
seeking to become a candidate if that person, for the same 49663
election, has already filed a declaration of candidacy, a 49664
declaration of intent to be a write-in candidate, or a nominating 49665
petition, or has become a candidate through party nomination at a 49666
primary election or by the filling of a vacancy under section 49667
3513.30 or 3513.31 of the Revised Code, for any federal, state, or 49668
county office, if the declaration of intent to be a write-in 49669
candidate is for a state or county office, or for any municipal or 49670
township office, or for member of a city, local, or exempted 49671
village board of education, ~~or for member of a governing board of~~ 49672
~~an educational service center,~~ if the declaration of intent to be 49673
a write-in candidate is for a municipal or township office, ~~or for~~ 49674
~~member of a city, local, or exempted village board of education,~~ 49675
~~or for member of a governing board of an educational service~~ 49676
~~center.~~ 49677

No person shall file a declaration of intent to be a write-in 49678
candidate for the office of governor unless the declaration also 49679
shows the intent of another person to be a write-in candidate for 49680
the office of lieutenant governor. No person shall file a 49681
declaration of intent to be a write-in candidate for the office of 49682
lieutenant governor unless the declaration also shows the intent 49683
of another person to be a write-in candidate for the office of 49684
governor. No person shall file a declaration of intent to be a 49685
write-in candidate for the office of governor or lieutenant 49686
governor if the person has previously filed a declaration of 49687
intent to be a write-in candidate to the office of governor or 49688
lieutenant governor at the same primary or general election. A 49689
write-in vote for the two candidates who file such a declaration 49690

shall be counted as a vote for them as joint candidates for the 49691
offices of governor and lieutenant governor. 49692

The secretary of state shall not accept for filing the 49693
declaration of intent to be a write-in candidate of a person for 49694
the office of governor unless the declaration also shows the 49695
intent of another person to be a write-in candidate for the office 49696
of lieutenant governor, shall not accept for filing the 49697
declaration of intent to be a write-in candidate of a person for 49698
the office of lieutenant governor unless the declaration also 49699
shows the intent of another person to be a write-in candidate for 49700
the office of governor, and shall not accept for filing the 49701
declaration of intent to be a write-in candidate of a person to 49702
the office of governor or lieutenant governor if that person, for 49703
the same election, has already filed a declaration of candidacy, a 49704
declaration of intent to be a write-in candidate, or a nominating 49705
petition, or has become a candidate through party nomination at a 49706
primary election or by the filling of a vacancy under section 49707
3513.30 or 3513.31 of the Revised Code, for any other state office 49708
or any federal or county office. 49709

Protests against the candidacy of any person filing a 49710
declaration of intent to be a write-in candidate may be filed by 49711
any qualified elector who is eligible to vote in the election at 49712
which the candidacy is to be considered. The protest shall be in 49713
writing and shall be filed not later than four p.m. of the 49714
sixty-seventh day before the day of the election. The protest 49715
shall be filed with the board of elections with which the 49716
declaration of intent to be a write-in candidate was filed. Upon 49717
the filing of the protest, the board with which it is filed shall 49718
promptly fix the time for hearing it and shall proceed in regard 49719
to the hearing in the same manner as for hearings set for protests 49720
filed under section 3513.05 of the Revised Code. At the time 49721
fixed, the board shall hear the protest and determine the validity 49722

or invalidity of the declaration of intent to be a write-in candidate. If the board finds that the candidate is not an elector of the state, district, county, or political subdivision in which the candidate seeks election to office or has not fully complied with the requirements of Title XXXV of the Revised Code in regard to the candidate's candidacy, the candidate's declaration of intent to be a write-in candidate shall be determined to be invalid and shall be rejected; otherwise, it shall be determined to be valid. The determination of the board is final.

The secretary of state shall prescribe the form of the declaration of intent to be a write-in candidate.

Sec. 3513.052. (A) No person shall seek nomination or election to any of the following offices or positions at the same election by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, or by becoming a candidate through party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code:

(1) Two or more state offices;

(2) Two or more county offices;

(3) A state office and a county office;

(4) A federal office and a state or county office;

(5) Any combination of two or more municipal or township offices, or positions as a member of a city, local, or exempted village board of education, ~~or positions as a member of a governing board of an educational service center.~~

(B) The secretary of state or a board of elections shall not accept for filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition of a person seeking to become a candidate if that person,

for the same election, has already filed a declaration of 49753
candidacy, a declaration of intent to be a write-in candidate, or 49754
a nominating petition, or has become a candidate through party 49755
nomination at a primary election or by the filling of a vacancy 49756
under section 3513.30 or 3513.31 of the Revised Code for: 49757

(1) Any federal, state, or county office, if the declaration 49758
of candidacy, declaration of intent to be a write-in candidate, or 49759
nominating petition is for a state or county office; 49760

(2) Any municipal or township office, or for member of a 49761
city, local, or exempted village board of education, ~~or for member~~ 49762
~~of a governing board of an educational service center,~~ if the 49763
declaration of candidacy, declaration of intent to be a write-in 49764
candidate, or nominating petition is for a municipal or township 49765
office, or for member of a city, local, or exempted village board 49766
of education, ~~or for member of a governing board of an educational~~ 49767
~~service center.~~ 49768

(C)(1) If the secretary of state determines, before the day 49769
of the primary election, that a person is seeking nomination to 49770
more than one office at that election in violation of division (A) 49771
of this section, the secretary of state shall do one of the 49772
following: 49773

(a) If each office or the district for each office for which 49774
the person is seeking nomination is wholly within a single county 49775
and none of those offices is a federal office, the secretary of 49776
state shall notify the board of elections of that county. The 49777
board then shall determine the date on which the person first 49778
sought to become a candidate for each of those offices by filing a 49779
declaration of candidacy or a declaration of intent to be a 49780
write-in candidate or by the filling of a vacancy under section 49781
3513.30 of the Revised Code. The board shall vote promptly to 49782
disqualify that person as a candidate for each office for which 49783
the person sought to become a candidate after the date on which 49784

the person first sought to become a candidate for any of those 49785
offices. If the board determines that the person sought to become 49786
a candidate for more than one of those offices on the same date, 49787
the board shall vote promptly to disqualify that person as a 49788
candidate for each office that would be listed on the ballot below 49789
the highest office for which that person seeks nomination, 49790
according to the ballot order prescribed under section 3505.03 of 49791
the Revised Code. 49792

(b) If one or more of the offices for which the person is 49793
seeking nomination is a state office or an office with a district 49794
larger than a single county and none of the offices for which the 49795
person is seeking nomination is a federal office, the secretary of 49796
state shall determine the date on which the person first sought to 49797
become a candidate for each of those offices by filing a 49798
declaration of candidacy or a declaration of intent to be a 49799
write-in candidate or by the filling of a vacancy under section 49800
3513.30 of the Revised Code. The secretary of state shall order 49801
the board of elections of each county in which the person is 49802
seeking to appear on the ballot to disqualify that person as a 49803
candidate for each office for which the person sought to become a 49804
candidate after the date on which the person first sought to 49805
become a candidate for any of those offices. If the secretary of 49806
state determines that the person sought to become a candidate for 49807
more than one of those offices on the same date, the secretary of 49808
state shall order the board of elections of each county in which 49809
the person is seeking to appear on the ballot to disqualify that 49810
person as a candidate for each office that would be listed on the 49811
ballot below the highest office for which that person seeks 49812
nomination, according to the ballot order prescribed under section 49813
3505.03 of the Revised Code. Each board of elections so notified 49814
shall vote promptly to disqualify the person as a candidate in 49815
accordance with the order of the secretary of state. 49816

(c) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and any of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall vote promptly to disqualify that person as a candidate for each office that is not a federal office.

(d) If one or more of the offices for which the person is seeking nomination is a state office and any of the offices for which the person is seeking nomination is a federal office, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(2) If a board of elections determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the board shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within that county and none of those offices is a federal office, the board shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote

promptly to disqualify that person as a candidate for each office 49849
that would be listed on the ballot below the highest office for 49850
which that person seeks nomination, according to the ballot order 49851
prescribed under section 3505.03 of the Revised Code. 49852

(b) If one or more of the offices for which the person is 49853
seeking nomination is a state office or an office with a district 49854
larger than a single county and none of the offices for which the 49855
person is seeking nomination is a federal office, the board shall 49856
notify the secretary of state. The secretary of state then shall 49857
determine the date on which the person first sought to become a 49858
candidate for each of those offices by filing a declaration of 49859
candidacy or a declaration of intent to be a write-in candidate or 49860
by the filling of a vacancy under section 3513.30 of the Revised 49861
Code. The secretary of state shall order the board of elections of 49862
each county in which the person is seeking to appear on the ballot 49863
to disqualify that person as a candidate for each office for which 49864
the person sought to become a candidate after the date on which 49865
the person first sought to become a candidate for any of those 49866
offices. If the secretary of state determines that the person 49867
sought to become a candidate for more than one of those offices on 49868
the same date, the secretary of state shall order the board of 49869
elections of each county in which the person is seeking to appear 49870
on the ballot to disqualify that person as a candidate for each 49871
office that would be listed on the ballot below the highest office 49872
for which that person seeks nomination, according to the ballot 49873
order prescribed under section 3505.03 of the Revised Code. Each 49874
board of elections so notified shall vote promptly to disqualify 49875
the person as a candidate in accordance with the order of the 49876
secretary of state. 49877

(c) If each office or the district for each office for which 49878
the person is seeking nomination is wholly within a single county 49879
and any of those offices is a federal office, the board shall vote 49880

promptly to disqualify that person as a candidate for each office 49881
that is not a federal office. 49882

(d) If one or more of the offices for which the person is 49883
seeking nomination is a state office and any of the offices for 49884
which the person is seeking nomination is a federal office, the 49885
board shall notify the secretary of state. The secretary of state 49886
then shall order the board of elections of each county in which 49887
the person is seeking to appear on the ballot to disqualify that 49888
person as a candidate for each office that is not a federal 49889
office. Each board of elections so notified shall vote promptly to 49890
disqualify the person as a candidate in accordance with the order 49891
of the secretary of state. 49892

(D)(1) If the secretary of state determines, after the day of 49893
the primary election and before the day of the general election, 49894
that a person is seeking election to more than one office at that 49895
election in violation of division (A) of this section, the 49896
secretary of state shall do one of the following: 49897

(a) If each office or the district for each office for which 49898
the person is seeking election is wholly within a single county 49899
and none of those offices is a federal office, the secretary of 49900
state shall notify the board of elections of that county. The 49901
board then shall determine the offices for which the person seeks 49902
to appear as a candidate on the ballot. The board shall vote 49903
promptly to disqualify that person as a candidate for each office 49904
that would be listed on the ballot below the highest office for 49905
which that person seeks election, according to the ballot order 49906
prescribed under section 3505.03 of the Revised Code. If the 49907
person sought nomination at a primary election and has not yet 49908
been issued a certificate of nomination, the board shall not issue 49909
that certificate for that person for any office that would be 49910
listed on the ballot below the highest office for which that 49911
person seeks election, according to the ballot order prescribed 49912

under section 3505.03 of the Revised Code. 49913

(b) If one or more of the offices for which the person is 49914
seeking election is a state office or an office with a district 49915
larger than a single county and none of the offices for which the 49916
person is seeking election is a federal office, the secretary of 49917
state shall promptly investigate and determine the offices for 49918
which the person seeks to appear as a candidate on the ballot. The 49919
secretary of state shall order the board of elections of each 49920
county in which the person is seeking to appear on the ballot to 49921
disqualify that person as a candidate for each office that would 49922
be listed on the ballot below the highest office for which that 49923
person seeks election, according to the ballot order prescribed 49924
under section 3505.03 of the Revised Code. Each board of elections 49925
so notified shall vote promptly to disqualify the person as a 49926
candidate in accordance with the order of the secretary of state. 49927
If the person sought nomination at a primary election and has not 49928
yet been issued a certificate of nomination, the board shall not 49929
issue that certificate for that person for any office that would 49930
be listed on the ballot below the highest office for which that 49931
person seeks election, according to the ballot order prescribed 49932
under section 3505.03 of the Revised Code. 49933

(c) If each office or the district for each office for which 49934
the person is seeking election is wholly within a single county 49935
and any of those offices is a federal office, the secretary of 49936
state shall notify the board of elections of that county. The 49937
board then shall vote promptly to disqualify that person as a 49938
candidate for each office that is not a federal office. If the 49939
person sought nomination at a primary election and has not yet 49940
been issued a certificate of nomination, the board shall not issue 49941
that certificate for that person for any office that is not a 49942
federal office. 49943

(d) If one or more of the offices for which the person is 49944

seeking election is a state office and any of the offices for 49945
which the person is seeking election is a federal office, the 49946
secretary of state shall order the board of elections of each 49947
county in which the person is seeking to appear on the ballot to 49948
disqualify that person as a candidate for each office that is not 49949
a federal office. Each board of elections so notified shall vote 49950
promptly to disqualify the person as a candidate in accordance 49951
with the order of the secretary of state. If the person sought 49952
nomination at a primary election and has not yet been issued a 49953
certificate of nomination, the board shall not issue that 49954
certificate for that person for any office that is not a federal 49955
office. 49956

(2) If a board of elections determines, after the day of the 49957
primary election and before the day of the general election, that 49958
a person is seeking election to more than one office at that 49959
election in violation of division (A) of this section, the board 49960
of elections shall do one of the following: 49961

(a) If each office or the district for each office for which 49962
the person is seeking election is wholly within that county and 49963
none of those offices is a federal office, the board shall 49964
determine the offices for which the person seeks to appear as a 49965
candidate on the ballot. The board shall vote promptly to 49966
disqualify that person as a candidate for each office that would 49967
be listed on the ballot below the highest office for which that 49968
person seeks election, according to the ballot order prescribed 49969
under section 3505.03 of the Revised Code. If the person sought 49970
nomination at a primary election and has not yet been issued a 49971
certificate of nomination, the board shall not issue that 49972
certificate for that person for any office that would be listed on 49973
the ballot below the highest office for which that person seeks 49974
election, according to the ballot order prescribed under section 49975
3505.03 of the Revised Code. 49976

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking election is a federal office, the board shall notify the secretary of state. The secretary of state promptly shall investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(c) If each office or the district for each office for which the person is seeking election is wholly within that county and any of those offices is a federal office, the board shall vote promptly to disqualify that person as a candidate for each office that is not a federal office. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(d) If one or more of the offices for which the person is seeking election is a state office and any of the offices for which the person is seeking election is a federal office, the

board shall notify the secretary of state. The secretary of state 50009
shall order the board of elections of each county in which the 50010
person is seeking to appear on the ballot to disqualify that 50011
person as a candidate for each office that is not a federal 50012
office. Each board of elections so notified shall vote promptly to 50013
disqualify the person as a candidate in accordance with the order 50014
of the secretary of state. If the person sought nomination at a 50015
primary election and has not yet been issued a certificate of 50016
nomination, the board shall not issue that certificate for that 50017
person for any office that is not a federal office. 50018

(E) When a person is disqualified as a candidate under 50019
division (C) or (D) of this section, on or before the seventieth 50020
day before the day of the applicable election, the board of 50021
elections shall remove the person's name from the ballot for any 50022
office for which that person has been disqualified as a candidate 50023
according to the directions of the secretary of state. When a 50024
person is disqualified as a candidate under division (C) or (D) of 50025
this section after the seventieth day before the day of the 50026
applicable election, the board of elections shall not remove the 50027
person's name from the ballot for any office for which that person 50028
has been disqualified as a candidate. The board of elections shall 50029
post a notice at each polling location on the day of the 50030
applicable election, and shall enclose with each absent voter's 50031
ballot given or mailed after the candidate is disqualified, a 50032
notice that votes for the person for the office for which the 50033
person has been disqualified as a candidate will be void and will 50034
not be counted. If the name is not removed from the ballots before 50035
the day of the election, the votes for the disqualified candidate 50036
are void and shall not be counted. 50037

(F) Any vacancy created by the disqualification of a person 50038
as a candidate under division (C) or (D) of this section may be 50039
filled in the manner provided for in sections 3513.30 and 3513.31 50040

of the Revised Code. 50041

(G) Nothing in this section or section 3513.04, 3513.041, 50042
3513.05, 3513.251, 3513.253, 3513.254, ~~3513.255~~, 3513.257, 50043
3513.259, or 3513.261 of the Revised Code prohibits, and the 50044
secretary of state or a board of elections shall not disqualify, a 50045
person from being a candidate for an office, if that person timely 50046
withdraws as a candidate for any offices specified in division (A) 50047
of this section for which that person first sought to become a 50048
candidate by filing a declaration of candidacy and petition, a 50049
declaration of intent to be a write-in candidate, or a nominating 50050
petition, by party nomination in a primary election, or by the 50051
filling of a vacancy under section 3513.30 or 3513.31 of the 50052
Revised Code. 50053

(H) As used in this section: 50054

(1) "State office" means the offices of governor, lieutenant 50055
governor, secretary of state, auditor of state, treasurer of 50056
state, attorney general, member of the state board of education, 50057
member of the general assembly, chief justice of the supreme 50058
court, and justice of the supreme court. 50059

(2) "Timely withdraws" means either of the following: 50060

(a) Withdrawing as a candidate before the applicable deadline 50061
for filing a declaration of candidacy, declaration of intent to be 50062
a write-in candidate, or nominating petition for the subsequent 50063
office for which the person is seeking to become a candidate at 50064
the same election; 50065

(b) Withdrawing as a candidate before the applicable deadline 50066
for the filling of a vacancy under section 3513.30 or 3513.31 of 50067
the Revised Code, if the person is seeking to become a candidate 50068
for a subsequent office at the same election under either of those 50069
sections. 50070

Sec. 3513.10. (A) At the time of filing a declaration of 50071
candidacy for nomination for any office, or a declaration of 50072
intent to be a write-in candidate, each candidate, except joint 50073
candidates for governor and lieutenant governor, shall pay a fee 50074
as follows: 50075

For statewide office	\$100	50076
For court of appeals judge	\$ 50	50077
For court of common pleas judge	\$ 50	50078
For county court judge	\$ 50	50079
For municipal court judge	\$ 50	50080
For district office, including member		50081
of the United States house of		50082
representatives and member of the		50083
general assembly	\$ 50	50084
For county office	\$ 50	50085
For city office	\$ 20	50086
For village office	\$ 10	50087
For township office	\$ 10	50088
For member of state board of education	\$ 20	50089
For member of local, city, or		50090
exempted village board of education		50091
or educational service center		50092
governing board	\$ 10	50093

At the time of filing a declaration of candidacy or a 50094
declaration of intent to be a write-in candidate for the offices 50095
of governor and lieutenant governor, the joint candidates shall 50096
jointly pay to the secretary of state a fee of one hundred 50097
dollars. 50098

(B)(1) At the same time the fee required under division (A) 50099
of this section is paid, each candidate shall pay an additional 50100
fee as follows: 50101

For the joint candidates for governor		50102
and lieutenant governor	\$ 50	50103
For statewide office	\$ 50	50104
For district office, including member		50105
of the United States house of		50106
representatives and member of the		50107
general assembly	\$ 35	50108
For member of state board of education	\$ 35	50109
For court of appeals judge	\$ 30	50110
For court of common pleas judge	\$ 30	50111
For county court judge	\$ 30	50112
For municipal court judge	\$ 30	50113
For county office	\$ 30	50114
For city office	\$ 25	50115
For village office	\$ 20	50116
For township office	\$ 20	50117
For member of local, city,		50118
or exempted village board of education		50119
or educational service center		50120
governing board	\$ 20	50121
(2) Whoever seeks to propose a ballot question or issue to be		50122
submitted to the electors shall pay the following fee at the time		50123
the petition proposing the question or issue is filed:		50124
(a) If the question or issue is to be submitted to the		50125
electors throughout the entire state, twenty-five dollars;		50126
(b) If the question or issue is to be submitted to the		50127
electors of a county or of a district that consists of all or part		50128
of two or more counties but less than the entire state, fifteen		50129
dollars;		50130
(c) If the question or issue is to be submitted to the		50131
electors of a city, twelve dollars and fifty cents;		50132
(d) If the question or issue is to be submitted to the		50133

electors of a village, a township, a local, city, county, or 50134
exempted village school district, a precinct, or another district 50135
consisting of less than an entire county, ten dollars. 50136

(C) No fee shall be required of candidates filing for the 50137
office of delegate or alternate to the national convention of 50138
political parties, member of the state central committee of a 50139
political party, or member of the county central committee of a 50140
political party. 50141

(D) All fees required under division (A) of this section 50142
immediately shall be paid by the officer receiving them into the 50143
state treasury to the credit of the general revenue fund, in the 50144
case of fees received by the secretary of state, and into the 50145
county treasury to the credit of the county general fund, in the 50146
case of fees received by a board of elections. 50147

(E) The officer who receives a fee required under division 50148
(B) of this section immediately shall pay the fee to the credit of 50149
the Ohio elections commission fund created by division (I) of 50150
section 3517.152 of the Revised Code. 50151

(F)(1) In no case shall a fee paid under this section be 50152
returned to a candidate. 50153

(2) Whenever a section of law refers to a filing fee to be 50154
paid by a candidate or by a committee proposing a ballot question 50155
or issue to be submitted to the electors, that fee includes the 50156
fees required under divisions (A) and (B) of this section. 50157

(G) As used in divisions (A) and (B) of this section, 50158
"statewide office" means the office of secretary of state, auditor 50159
of state, treasurer of state, attorney general, justice and chief 50160
justice of the supreme court, and member of the United States 50161
senate. 50162

Sec. 3513.251. Nominations of candidates for election as 50163

officers of a municipal corporation having a population of less than two thousand as ascertained by the next preceding federal census shall be made only by nominating petition and their election shall occur only in nonpartisan elections, unless a majority of the electors of such municipal corporation have petitioned for a primary election. Nominations of candidates for election as officers of a municipal corporation having a population of two thousand or more shall be made either by primary election in conjunction with a partisan general election or by nominating petition in conjunction with a nonpartisan general election, as determined under section 3513.01 of the Revised Code.

The nominating petitions of nonpartisan candidates for election as officers of a municipal corporation having a population of less than two thousand, as ascertained by the most recent federal census, shall be signed by not less than ten qualified electors of the municipal corporation. Any nominating petition filed under this section shall be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election, provided that no such nominating petition shall be accepted for filing if it appears to contain signatures aggregating in number more than three times the minimum number of signatures required by this section. A board of elections shall not accept for filing a nominating petition of a person if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for any other municipal office, or for a township office, or for member of a city, local, or exempted village board of education, ~~or for member of a governing board of an educational service center~~. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed

invalid if, upon verification of signatures contained in the 50197
petition, the board of elections finds the number of signatures 50198
accepted exceeds three times the minimum number of signatures 50199
required. A board of elections may discontinue verifying 50200
signatures when the number of verified signatures on a petition 50201
equals the minimum required number of qualified signatures. 50202

Nomination of nonpartisan candidates for election as officers 50203
of a municipal corporation having a population of two thousand or 50204
more, as ascertained by the next preceding federal census, shall 50205
be made only by nominating petition. Nominating petitions of 50206
nonpartisan candidates for election as officers of a municipal 50207
corporation having a population of two thousand or more but less 50208
than five thousand, as ascertained by the next preceding federal 50209
census, shall be signed by not less than fifty qualified electors 50210
of the municipal corporation or ward thereof in the case of the 50211
nominating petition of a candidate for election as councilperson 50212
from such ward. Nominating petitions of nonpartisan candidates for 50213
election as officers of a municipal corporation having a 50214
population of five thousand or more, as ascertained by the next 50215
preceding federal census, shall be signed by not less than fifty 50216
qualified electors of the municipal corporation or ward thereof in 50217
the case of the nominating petition of a candidate for election as 50218
councilperson from such ward. 50219

Sec. 3513.253. Nominations of candidates for election as 50220
officers of a township shall be made only by nominating petitions, 50221
unless a majority of the electors of such township have petitioned 50222
for a primary election. The nominating petitions of nonpartisan 50223
candidates for township trustee and township fiscal officer shall 50224
be signed by not less than twenty-five qualified electors of the 50225
township. Such petition shall be filed with the board of elections 50226
not later than four p.m. of the ninetieth day before the day of 50227
the general election, provided that no such nominating petition 50228

shall be accepted for filing if it appears to contain signatures 50229
aggregating in number more than three times the minimum number of 50230
signatures required by this section. A board of elections shall 50231
not accept for filing a nominating petition of a person if that 50232
person, for the same election, has already filed a declaration of 50233
candidacy, a declaration of intent to be a write-in candidate, or 50234
a nominating petition, or has become a candidate through party 50235
nomination at a primary election or by the filling of a vacancy 50236
under section 3513.30 or 3513.31 of the Revised Code for any other 50237
township office, or for a municipal office, or for member of a 50238
city, local, or exempted village board of education, ~~or for member~~ 50239
~~of a governing board of an educational service center.~~ When a 50240
petition of a candidate has been accepted for filing by a board of 50241
elections, the petition shall not be deemed invalid if, upon 50242
verification of signatures contained in the petition, the board of 50243
elections finds the number of signatures accepted exceeds three 50244
times the minimum number of signatures required. A board of 50245
elections may discontinue verifying signatures when the number of 50246
verified signatures on a petition equals the minimum required 50247
number of qualified signatures. 50248

Sec. 3513.254. (A) The name of each candidate for member of a 50249
city, local, or exempted village board of education shall appear 50250
on the nonpartisan ballot. Nominating petitions of candidates for 50251
member of a board of education of a local or exempted village 50252
school district shall be signed by twenty-five qualified electors 50253
of the school district. Nominating petitions for candidates for 50254
member of a board of education of a city school district having a 50255
population of less than twenty thousand, as ascertained by the 50256
next preceding federal census, shall be signed by twenty-five 50257
qualified electors of the school district. Nominating petitions 50258
for candidates for member of a board of education of a city school 50259
district having a population of twenty thousand or more but less 50260

than fifty thousand, as ascertained by the next preceding federal 50261
census, shall be signed by seventy-five qualified electors of the 50262
school district. Nominating petitions for candidates for member of 50263
a board of education of a city school district having a population 50264
of fifty thousand or more but less than one hundred thousand, as 50265
ascertained by the next preceding federal census, shall be signed 50266
by one hundred fifty qualified electors of the school district. 50267
Nominating petitions for candidates for member of a board of 50268
education of a city school district having a population of one 50269
hundred thousand or more, as ascertained by the next preceding 50270
federal census, shall be signed by three hundred qualified 50271
electors of the school district. 50272

(B) Nominating petitions shall be filed with the board of 50273
elections not later than four p.m. of the ninetieth day before the 50274
day of the general election, provided that no such petition shall 50275
be accepted for filing if it appears to contain signatures 50276
aggregating in number more than three times the minimum number of 50277
signatures required by this section. A board of elections shall 50278
not accept for filing a nominating petition of a person if that 50279
person, for the same election, has already filed a declaration of 50280
candidacy, a declaration of intent to be a write-in candidate, or 50281
a nominating petition, or has become a candidate through party 50282
nomination at a primary election or by the filling of a vacancy 50283
under section 3513.30 or 3513.31 of the Revised Code for any other 50284
position as a member of a city, local, or exempted village board 50285
of education ~~or position as a member of a governing board of an~~ 50286
~~educational service center,~~ or for a municipal or township office. 50287
When a petition of a candidate has been accepted for filing by a 50288
board of elections, the petition shall not be deemed invalid if, 50289
upon verification of signatures contained in the petition, the 50290
board of elections finds the number of signatures accepted exceeds 50291
three times the minimum number of signatures required. A board of 50292
elections may discontinue verifying petitions when the number of 50293

verified signatures equals the minimum required number of 50294
qualified signatures. 50295

(C) This section is subject to section 3513.256 of the 50296
Revised Code. 50297

Sec. 3513.256. (A) Notwithstanding any provision of the 50298
Revised Code to the contrary, for the purpose of nominating 50299
candidates for a position as a member of the board of education of 50300
a city, local, or exempted village school district ~~or a position~~ 50301
~~as a member of a governing board of an educational service center,~~ 50302
the board may adopt, by resolution upon a three-fifths majority 50303
vote of its total membership, procedures for a nonpartisan primary 50304
election. Such procedures shall specify the following: 50305

(1) That the primary election for nominating candidates for a 50306
position as a member of that board shall be held on the same day 50307
as the primary election for nominating all other candidates for 50308
public office in that year; 50309

(2) That nominating petitions shall be filed with the board 50310
of elections not later than four p.m. of the ninetieth day before 50311
the day of the primary election; 50312

(3) That the primary election shall take place only if the 50313
number of candidates for nomination for a position on that board, 50314
as verified by the board of elections, is at least one more than 50315
two times the number of available positions on that board at the 50316
general election; 50317

(4) That the number of candidates advancing from the primary 50318
election to the general election shall equal two times the number 50319
of available positions on that board at the general election. 50320

The board shall notify the board of elections upon adoption 50321
of a resolution under this division. No such resolution shall 50322
apply for a particular election unless the resolution is adopted 50323

at least one hundred twenty days prior to the deadline specified 50324
in the resolution to become a candidate for nomination at that 50325
election. Subject to division (B) of this section, the resolution 50326
shall apply to all subsequent nominations for a position as a 50327
member of that board. 50328

(B) Not earlier than five years after the adoption of a 50329
resolution under division (A) of this section, the board of 50330
education of a city, local, or exempted village school district ~~or~~ 50331
~~the governing board of an educational service center~~ may rescind 50332
that resolution by subsequent resolution upon a three-fifths 50333
majority vote of its total membership. 50334

The board shall notify the board of elections of any 50335
resolution adopted under this division. No such resolution shall 50336
apply to a particular election unless the resolution is adopted at 50337
least one hundred twenty days prior to the deadline to become a 50338
candidate for nomination at that election under the nomination 50339
procedures the resolution is rescinding. Subject to division (D) 50340
of this section, the requirements of Chapter 3513. of the Revised 50341
Code shall apply to all subsequent nominations for a position as a 50342
member of that board. 50343

(C) Any candidate nominated pursuant to a resolution adopted 50344
under division (A) of this section shall appear on the nonpartisan 50345
ballot at the general election as prescribed in sections 3505.04~~7~~ 50346
and 3513.254~~7~~, ~~and 3513.255~~ of the Revised Code. 50347

(D) Nothing in this section prohibits or shall be construed 50348
to prohibit the board of education of a city, local, or exempted 50349
village school district ~~or the governing board of an educational~~ 50350
~~service center~~ that has rescinded a resolution under division (B) 50351
of this section from subsequently adopting the same or different 50352
procedures for a nonpartisan primary election by adopting a 50353
resolution under division (A) of this section. 50354

Sec. 3513.257. Each person desiring to become an independent 50355
candidate for an office for which candidates may be nominated at a 50356
primary election, except persons desiring to become independent 50357
joint candidates for the offices of governor and lieutenant 50358
governor and for the offices of president and vice-president of 50359
the United States, shall file no later than four p.m. of the day 50360
before the day of the primary election immediately preceding the 50361
general election at which such candidacy is to be voted for by the 50362
voters, a statement of candidacy and nominating petition as 50363
provided in section 3513.261 of the Revised Code. Persons desiring 50364
to become independent joint candidates for the offices of governor 50365
and lieutenant governor shall file, not later than four p.m. of 50366
the day before the day of the primary election, one statement of 50367
candidacy and one nominating petition for the two of them. Persons 50368
desiring to become independent joint candidates for the offices of 50369
president and vice-president of the United States shall file, not 50370
later than four p.m. of the ninetieth day before the day of the 50371
general election at which the president and vice-president are to 50372
be elected, one statement of candidacy and one nominating petition 50373
for the two of them. The prospective independent joint candidates' 50374
statement of candidacy shall be filed with the nominating petition 50375
as one instrument. 50376

The statement of candidacy and separate petition papers of 50377
each candidate or pair of joint candidates shall be filed at the 50378
same time as one instrument. 50379

The nominating petition shall contain signatures of qualified 50380
electors of the district, political subdivision, or portion of a 50381
political subdivision in which the candidacy is to be voted on in 50382
an amount to be determined as follows: 50383

(A) If the candidacy is to be voted on by electors throughout 50384
the entire state, the nominating petition, including the 50385

nominating petition of independent joint candidates for the 50386
offices of governor and lieutenant governor, shall be signed by no 50387
less than five thousand qualified electors, provided that no 50388
petition shall be accepted for filing if it purports to contain 50389
more than fifteen thousand signatures. 50390

(B) If the candidacy is to be voted on by electors in any 50391
district, political subdivision, or part thereof in which less 50392
than five thousand electors voted for the office of governor at 50393
the most recent election for that office, the nominating petition 50394
shall contain signatures of not less than twenty-five qualified 50395
electors of the district, political subdivision, or part thereof, 50396
or a number of qualified signatures equal to at least five per 50397
cent of that vote, if this number is less than twenty-five. 50398

(C) If the candidacy is to be voted on by electors in any 50399
district, political subdivision, or part thereof in which five 50400
thousand or more electors voted for the office of governor at the 50401
most recent election for that office, the nominating petition 50402
shall contain a number of signatures equal to at least one per 50403
cent of those electors. 50404

All nominating petitions of candidates for offices to be 50405
voted on by electors throughout the entire state shall be filed in 50406
the office of the secretary of state. No nominating petition for 50407
the offices of president and vice-president of the United States 50408
shall be accepted for filing unless there is submitted to the 50409
secretary of state, at the time of filing the petition, a slate of 50410
presidential electors sufficient in number to satisfy the 50411
requirement of the United States Constitution. The secretary of 50412
state shall not accept for filing the statement of candidacy of a 50413
person who desires to be an independent candidate for the office 50414
of governor unless it also shows the joint candidacy of a person 50415
who desires to be an independent candidate for the office of 50416
lieutenant governor, shall not accept for filing the statement of 50417

candidacy of a person who desires to be an independent candidate 50418
for the office of lieutenant governor unless it also shows the 50419
joint candidacy of a person who desires to be an independent 50420
candidate for the office of governor, and shall not accept for 50421
filing the statement of candidacy of a person who desires to be an 50422
independent candidate to the office of governor or lieutenant 50423
governor who, for the same election, has already filed a 50424
declaration of candidacy, a declaration of intent to be a write-in 50425
candidate, or a statement of candidacy, or has become a candidate 50426
by the filling of a vacancy under section 3513.30 of the Revised 50427
Code for any other state office or any federal or county office. 50428

Nominating petitions of candidates for offices to be voted on 50429
by electors within a district or political subdivision comprised 50430
of more than one county but less than all counties of the state 50431
shall be filed with the boards of elections of that county or part 50432
of a county within the district or political subdivision which had 50433
a population greater than that of any other county or part of a 50434
county within the district or political subdivision according to 50435
the last federal decennial census. 50436

Nominating petitions for offices to be voted on by electors 50437
within a county or district smaller than a county shall be filed 50438
with the board of elections for such county. 50439

No petition other than the petition of a candidate whose 50440
candidacy is to be considered by electors throughout the entire 50441
state shall be accepted for filing if it appears on its face to 50442
contain more than three times the minimum required number of 50443
signatures. A board of elections shall not accept for filing a 50444
nominating petition of a person seeking to become a candidate if 50445
that person, for the same election, has already filed a 50446
declaration of candidacy, a declaration of intent to be a write-in 50447
candidate, or a nominating petition, or has become a candidate by 50448
the filling of a vacancy under section 3513.30 of the Revised Code 50449

for any federal, state, or county office, if the nominating 50450
petition is for a state or county office, or for any municipal or 50451
township office, or for member of a city, local, or exempted 50452
village board of education, ~~or for member of a governing board of~~ 50453
~~an educational service center,~~ if the nominating petition is for a 50454
municipal or township office, ~~or for member of a city, local, or~~ 50455
~~exempted village board of education, or for member of a governing~~ 50456
~~board of an educational service center.~~ When a petition of a 50457
candidate has been accepted for filing by a board of elections, 50458
the petition shall not be deemed invalid if, upon verification of 50459
signatures contained in the petition, the board of elections finds 50460
the number of signatures accepted exceeds three times the minimum 50461
number of signatures required. A board of elections may 50462
discontinue verifying signatures when the number of verified 50463
signatures on a petition equals the minimum required number of 50464
qualified signatures. 50465

Any nonjudicial candidate who files a nominating petition may 50466
request, at the time of filing, that the candidate be designated 50467
on the ballot as a nonparty candidate or as an other-party 50468
candidate, or may request that the candidate's name be placed on 50469
the ballot without any designation. Any such candidate who fails 50470
to request a designation either as a nonparty candidate or as an 50471
other-party candidate shall have the candidate's name placed on 50472
the ballot without any designation. 50473

The purpose of establishing a filing deadline for independent 50474
candidates prior to the primary election immediately preceding the 50475
general election at which the candidacy is to be voted on by the 50476
voters is to recognize that the state has a substantial and 50477
compelling interest in protecting its electoral process by 50478
encouraging political stability, ensuring that the winner of the 50479
election will represent a majority of the community, providing the 50480
electorate with an understandable ballot, and enhancing voter 50481

education, thus fostering informed and educated expressions of the 50482
popular will in a general election. The filing deadline for 50483
independent candidates required in this section prevents 50484
splintered parties and unrestrained factionalism, avoids political 50485
fragmentation, and maintains the integrity of the ballot. The 50486
deadline, one day prior to the primary election, is the least 50487
drastic or restrictive means of protecting these state interests. 50488
The general assembly finds that the filing deadline for 50489
independent candidates in primary elections required in this 50490
section is reasonably related to the state's purpose of ensuring 50491
fair and honest elections while leaving unimpaired the political, 50492
voting, and associational rights secured by the first and 50493
fourteenth amendments to the United States Constitution. 50494

Sec. 3513.261. A nominating petition may consist of one or 50495
more separate petition papers, each of which shall be 50496
substantially in the form prescribed in this section. If the 50497
petition consists of more than one separate petition paper, the 50498
statement of candidacy of the candidate or joint candidates named 50499
need be signed by the candidate or joint candidates on only one of 50500
such separate petition papers, but the statement of candidacy so 50501
signed shall be copied on each other separate petition paper 50502
before the signatures of electors are placed on it. Each 50503
nominating petition containing signatures of electors of more than 50504
one county shall consist of separate petition papers each of which 50505
shall contain signatures of electors of only one county; provided 50506
that petitions containing signatures of electors of more than one 50507
county shall not thereby be declared invalid. In case petitions 50508
containing signatures of electors of more than one county are 50509
filed, the board of elections shall determine the county from 50510
which the majority of the signatures came, and only signatures 50511
from this county shall be counted. Signatures from any other 50512
county shall be invalid. 50513

All signatures on nominating petitions shall be written in ink or indelible pencil.

At the time of filing a nominating petition, the candidate designated in the nominating petition, and joint candidates for governor and lieutenant governor, shall pay to the election officials with whom it is filed the fees specified for the office under divisions (A) and (B) of section 3513.10 of the Revised Code. The fees shall be disposed of by those election officials in the manner that is provided in section 3513.10 of the Revised Code for the disposition of other fees, and in no case shall a fee required under that section be returned to a candidate.

Candidates or joint candidates whose names are written on the ballot, and who are elected, shall pay the same fees under section 3513.10 of the Revised Code that candidates who file nominating petitions pay. Payment of these fees shall be a condition precedent to the granting of their certificates of election.

Each nominating petition shall contain a statement of candidacy that shall be signed by the candidate or joint candidates named in it or by an attorney in fact acting pursuant to section 3501.382 of the Revised Code. Such statement of candidacy shall contain a declaration made under penalty of election falsification that the candidate desires to be a candidate for the office named in it, and that the candidate is an elector qualified to vote for the office the candidate seeks.

The form of the nominating petition and statement of candidacy shall be substantially as follows:

"STATEMENT OF CANDIDACY

I, (Name of candidate),
the undersigned, hereby declare under penalty of election
falsification that my voting residence is in
..... Precinct of the (Township) or

(Ward and City, or Village) in the county of Ohio; 50545
 that my post-office address is 50546
 (Street and Number, if any, or Rural Route and Number) of the 50547
 (City, Village, or post office) of 50548
, Ohio; and that I am a qualified elector in 50549
 the precinct in which my voting residence is located. I hereby 50550
 declare that I desire to be a candidate for election to the office 50551
 of in the (State, 50552
 District, County, City, Village, Township, or School District) for 50553
 the (Full term or unexpired 50554
 term ending) at the General Election to be held 50555
 on the day of, 50556

I further declare that I am an elector qualified to vote for 50557
 the office I seek. Dated this day of, 50558
 50559
 (Signature of candidate) 50560

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY 50561
 OF THE FIFTH DEGREE. 50562

I,, hereby constitute the 50563
 persons named below a committee to represent me: 50564

Name	Residence	
.....	50565
.....	50566
.....	50567
.....	50568
.....	50569
.....	50570

NOMINATING PETITION 50571

We, the undersigned, qualified electors of the state of Ohio, 50572
 whose voting residence is in the County, City, Village, Ward, 50573
 Township or Precinct set opposite our names, hereby nominate 50574
 as a candidate for election to the office of 50575
 in the 50576

(State, District, County, City, Village, Township, or School District) for the (Full term or unexpired term ending) to be voted for at the general election next hereafter to be held, and certify that this person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

Street
Address
or R.F.D.
(Must use
address on City,
file with Village
the board of or Date of
Signature elections) Township Ward Precinct County Signing

.....
.....
.....
....., declares under penalty of election falsification that such person is a qualified elector of the state of Ohio and resides at the address appearing below such person's signature hereto; that such person is the circulator of the foregoing petition paper containing signatures; that such person witnessed the affixing of every signature; that all signers were to the best of such person's knowledge and belief qualified to sign; and that every signature is to the best of such person's knowledge and belief the signature of the person whose signature it purports to be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

.....
(Signature of circulator)

.....	50609
(Address of circulator's	50610
permanent residence	50611
in this state)	50612
.....	50613
(If petition is for a statewide	50614
candidate, the name and address	50615
of person employing circulator	50616
to circulate petition, if any)	50617
WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY	50618
OF THE FIFTH DEGREE."	50619
The secretary of state shall prescribe a form of nominating	50620
petition for a group of candidates for the office of member of a	50621
board of education, township office, and offices of municipal	50622
corporations of under two thousand population.	50623
The secretary of state shall prescribe a form of statement of	50624
candidacy and nominating petition, which shall be substantially	50625
similar to the form of statement of candidacy and nominating	50626
petition set forth in this section, that will be suitable for	50627
joint candidates for the offices of governor and lieutenant	50628
governor.	50629
If such petition nominates a candidate whose election is to	50630
be determined by the electors of a county or a district or	50631
subdivision within the county, it shall be filed with the board of	50632
such county. If the petition nominates a candidate whose election	50633
is to be determined by the voters of a subdivision located in more	50634
than one county, it shall be filed with the board of the county in	50635
which the major portion of the population of such subdivision is	50636
located.	50637
If the petition nominates a candidate whose election is to be	50638
determined by the electors of a district comprised of more than	50639
one county but less than all of the counties of the state, it	50640

shall be filed with the board of elections of the most populous 50641
county in such district. If the petition nominates a candidate 50642
whose election is to be determined by the electors of the state at 50643
large, it shall be filed with the secretary of state. 50644

The secretary of state or a board of elections shall not 50645
accept for filing a nominating petition of a person seeking to 50646
become a candidate if that person, for the same election, has 50647
already filed a declaration of candidacy, a declaration of intent 50648
to be a write-in candidate, or a nominating petition, or has 50649
become a candidate through party nomination at a primary election 50650
or by the filling of a vacancy under section 3513.30 or 3513.31 of 50651
the Revised Code for any federal, state, or county office, if the 50652
nominating petition is for a state or county office, or for any 50653
municipal or township office, or for member of a city, local, or 50654
exempted village board of education, ~~or for member of a governing~~ 50655
~~board of an educational service center,~~ if the nominating petition 50656
is for a municipal or township office, ~~or for member of a city,~~ 50657
local, or exempted village board of education, ~~or for member of a~~ 50658
~~governing board of an educational service center.~~ 50659

Sec. 3599.45. (A) As used in this section: 50660

"Candidate," "campaign committee," and "contribution" have 50661
the same meanings as in section 3517.01 of the Revised Code. 50662

"Medicaid provider" has the same meaning as in section 50663
5164.01 of the Revised Code. 50664

(B) No candidate for the office of attorney general or county 50665
prosecutor or such a candidate's campaign committee shall 50666
knowingly accept any contribution from a medicaid provider ~~of~~ 50667
~~services or goods under contract with the department of job and~~ 50668
~~family services pursuant to the medicaid program of Title XIX of~~ 50669
~~the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as~~ 50670
~~amended,~~ or from any person having an ownership interest in the 50671

medicaid provider. 50672

~~As used in this section "candidate," "campaign committee,"
and "contribution" have the same meaning as in section 3517.01 of
the Revised Code.~~ 50673
50674
50675

~~(B)(C)~~ Whoever violates this section is guilty of a 50676
misdemeanor of the first degree. 50677

Sec. 3701.023. (A) The department of health shall review 50678
applications for eligibility for the program for medically 50679
handicapped children that are submitted to the department by city 50680
and general health districts and physician providers approved in 50681
accordance with division (C) of this section. The department shall 50682
determine whether the applicants meet the medical and financial 50683
eligibility requirements established by the director of health 50684
pursuant to division (A)(1) of section 3701.021 of the Revised 50685
Code, and by the department in the manual of operational 50686
procedures and guidelines for the program for medically 50687
handicapped children developed pursuant to division (B) of that 50688
section. Referrals of potentially eligible children for the 50689
program may be submitted to the department on behalf of the child 50690
by parents, guardians, public health nurses, or any other 50691
interested person. The department of health may designate other 50692
agencies to refer applicants to the department of health. 50693

(B) In accordance with the procedures established in rules 50694
adopted under division (A)(4) of section 3701.021 of the Revised 50695
Code, the department of health shall authorize a provider or 50696
providers to provide to any Ohio resident under twenty-one years 50697
of age, without charge to the resident or the resident's family 50698
and without restriction as to the economic status of the resident 50699
or the resident's family, diagnostic services necessary to 50700
determine whether the resident has a medically handicapping or 50701
potentially medically handicapping condition. 50702

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the ~~medical assistance~~ medicaid ~~program established under section 5111.01 of the Revised Code~~. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the

department may authorize payment of health insurance premiums on 50735
behalf of eligible children when the department determines, in 50736
accordance with criteria set forth in rules adopted under division 50737
(A)(9) of section 3701.021 of the Revised Code, that payment of 50738
the premiums is cost-effective. 50739

(E) The department of health shall pay, from appropriations 50740
to the department, any necessary expenses, including but not 50741
limited to, expenses for diagnosis, treatment, service 50742
coordination, supportive services, transportation, and accessories 50743
and their upkeep, provided to medically handicapped children, 50744
provided that the provision of the goods or services is authorized 50745
by the department under division (B) or (D) of this section. Money 50746
appropriated to the department of health may also be expended for 50747
reasonable administrative costs incurred by the program. The 50748
department of health also may purchase liability insurance 50749
covering the provision of services under the program for medically 50750
handicapped children by physicians and other health care 50751
professionals. 50752

Payments made to providers by the department of health 50753
pursuant to this division for inpatient hospital care, outpatient 50754
care, and all other medical assistance furnished to eligible 50755
recipients shall be made in accordance with rules adopted by the 50756
director of health pursuant to division (A) of section 3701.021 of 50757
the Revised Code. 50758

The departments of health and ~~job and family services~~ 50759
medicaid shall jointly implement procedures to ensure that 50760
duplicate payments are not made under the program for medically 50761
handicapped children and the ~~medical assistance~~ medicaid program 50762
~~established under section 5111.01 of the Revised Code~~ and to 50763
identify and recover duplicate payments. 50764

(F) At the time of applying for participation in the program 50765
for medically handicapped children, a medically handicapped child 50766

or the child's parent or guardian shall disclose the identity of 50767
any third party against whom the child or the child's parent or 50768
guardian has or may have a right of recovery for goods and 50769
services provided under division (B) or (D) of this section. The 50770
department of health shall require a medically handicapped child 50771
who receives services from the program or the child's parent or 50772
guardian to apply for all third-party benefits for which the child 50773
may be eligible and require the child, parent, or guardian to 50774
apply all third-party benefits received to the amount determined 50775
under division (E) of this section as the amount payable for goods 50776
and services authorized under division (B) or (D) of this section. 50777
The department is the payer of last resort and shall pay for 50778
authorized goods or services, up to the amount determined under 50779
division (E) of this section for the authorized goods or services, 50780
only to the extent that payment for the authorized goods or 50781
services is not made through third-party benefits. When a third 50782
party fails to act on an application or claim for benefits by a 50783
medically handicapped child or the child's parent or guardian, the 50784
department shall pay for the goods or services only after ninety 50785
days have elapsed since the date the child, parents, or guardians 50786
made an application or claim for all third-party benefits. 50787
Third-party benefits received shall be applied to the amount 50788
determined under division (E) of this section. Third-party 50789
payments for goods and services not authorized under division (B) 50790
or (D) of this section shall not be applied to payment amounts 50791
determined under division (E) of this section. Payment made by the 50792
department shall be considered payment in full of the amount 50793
determined under division (E) of this section. Medicaid payments 50794
for persons eligible for the ~~medical assistance~~ medicaid program 50795
~~established under section 5111.01 of the Revised Code~~ shall be 50796
considered payment in full of the amount determined under division 50797
(E) of this section. 50798

(G) The department of health shall administer a program to 50799

provide services to Ohio residents who are twenty-one or more 50800
years of age who have cystic fibrosis and who meet the eligibility 50801
requirements established in rules adopted by the director of 50802
health pursuant to division (A)(7) of section 3701.021 of the 50803
Revised Code, subject to all provisions of this section, but not 50804
subject to section 3701.024 of the Revised Code. 50805

(H) The department of health shall provide for appeals, in 50806
accordance with rules adopted under section 3701.021 of the 50807
Revised Code, of denials of applications for the program for 50808
medically handicapped children under division (A) or (D) of this 50809
section, disqualification of providers, or amounts paid under 50810
division (E) of this section. Appeals under this division are not 50811
subject to Chapter 119. of the Revised Code. 50812

The department may designate ombudspersons to assist 50813
medically handicapped children or their parents or guardians, upon 50814
the request of the children, parents, or guardians, in filing 50815
appeals under this division and to serve as children's, parents', 50816
or guardians' advocates in matters pertaining to the 50817
administration of the program for medically handicapped children 50818
and eligibility for program services. The ombudspersons shall 50819
receive no compensation but shall be reimbursed by the department, 50820
in accordance with rules of the office of budget and management, 50821
for their actual and necessary travel expenses incurred in the 50822
performance of their duties. 50823

(I) The department of health, and city and general health 50824
districts providing service coordination pursuant to division 50825
(A)(2) of section 3701.024 of the Revised Code, shall provide 50826
service coordination in accordance with the standards set forth in 50827
the rules adopted under section 3701.021 of the Revised Code, 50828
without charge, and without restriction as to economic status. 50829

(J)(1) The department of health may establish a manufacturer 50830
discount program under which a manufacturer of a drug or 50831

nutritional formula is permitted to enter into an agreement with 50832
the department to provide a discount on the price of the drug or 50833
nutritional formula distributed to medically handicapped children 50834
participating in the program for medically handicapped children. 50835
The program shall be administered in accordance with rules adopted 50836
under section 3701.021 of the Revised Code. 50837

(2) If a manufacturer enters into an agreement with the 50838
department as described in division (J)(1) of this section, the 50839
manufacturer and the department may negotiate the amount and terms 50840
of the discount. 50841

(3) In lieu of establishing a discount program as described 50842
in division (J)(1) of this section, the department and a 50843
manufacturer of a drug or nutritional formula may discuss a 50844
donation of drugs, nutritional formulas, or money by the 50845
manufacturer to the department. 50846

Sec. 3701.024. (A)(1) Under a procedure established in rules 50847
adopted under section 3701.021 of the Revised Code, the department 50848
of health shall determine the amount each county shall provide 50849
annually for the program for medically handicapped children, based 50850
on a proportion of the county's total general property tax 50851
duplicate, not to exceed one-tenth of a mill, and charge the 50852
county for any part of expenses incurred under the program for 50853
treatment services on behalf of medically handicapped children 50854
having legal settlement in the county that is not paid from 50855
federal funds or through the ~~medical assistance~~ medicaid program 50856
~~established under section 5111.01 of the Revised Code.~~ The 50857
department shall not charge the county for expenses exceeding the 50858
difference between the amount determined under division (A)(1) of 50859
this section and any amounts retained under divisions (A)(2) and 50860
(3) of this section. 50861

All amounts collected by the department under division (A)(1) 50862

of this section shall be deposited into the state treasury to the credit of the medically handicapped children-county assessment fund, which is hereby created. The fund shall be used by the department to comply with sections 3701.021 to 3701.028 of the Revised Code.

(2) The department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow each county to retain up to ten per cent of the amount determined under division (A)(1) of this section to provide funds to city or general health districts of the county with which the districts shall provide service coordination, public health nursing, or transportation services for medically handicapped children.

(3) In addition to any amount retained under division (A)(2) of this section, the department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow counties that it determines have significant numbers of potentially eligible medically handicapped children to retain an amount equal to the difference between:

(a) Twenty-five per cent of the amount determined under division (A)(1) of this section;

(b) Any amount retained under division (A)(2) of this section.

Counties shall use amounts retained under division (A)(3) of this section to provide funds to city or general health districts of the county with which the districts shall conduct outreach activities to increase participation in the program for medically handicapped children.

(4) Prior to any increase in the millage charged to a county, the director of health shall hold a public hearing on the proposed increase and shall give notice of the hearing to each board of county commissioners that would be affected by the increase at

least thirty days prior to the date set for the hearing. Any 50894
county commissioner may appear and give testimony at the hearing. 50895
Any increase in the millage any county is required to provide for 50896
the program for medically handicapped children shall be 50897
determined, and notice of the amount of the increase shall be 50898
provided to each affected board of county commissioners, no later 50899
than the first day of June of the fiscal year next preceding the 50900
fiscal year in which the increase will take effect. 50901

(B) Each board of county commissioners shall establish a 50902
medically handicapped children's fund and shall appropriate 50903
thereto an amount, determined in accordance with division (A)(1) 50904
of this section, for the county's share in providing medical, 50905
surgical, and other aid to medically handicapped children residing 50906
in such county and for the purposes specified in divisions (A)(2) 50907
and (3) of this section. Each county shall use money retained 50908
under divisions (A)(2) and (3) of this section only for the 50909
purposes specified in those divisions. 50910

Sec. 3701.027. The department of health shall administer 50911
funds received from the "Maternal and Child Health Block Grant," 50912
Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 50913
U.S.C.A. 701, as amended, for programs including the program for 50914
medically handicapped children, and to provide technical 50915
assistance and consultation to city and general health districts 50916
and local health planning organizations in implementing local, 50917
community-based, family-centered, coordinated systems of care for 50918
medically handicapped children. The department may make grants to 50919
persons and other entities for the provision of services with the 50920
funds. In addition, the department may use the funds to purchase 50921
liability insurance covering the provision of services under the 50922
programs by physicians and other health care professionals, and to 50923
pay health insurance premiums on behalf of medically handicapped 50924
children participating in the program for medically handicapped 50925

children when the department determines, in accordance with 50926
criteria set forth in rules adopted under division (A)(9) of 50927
section 3701.021 of the Revised Code, that payment of the premiums 50928
is cost effective. 50929

In determining eligibility for services provided with funds 50930
received from the "Maternal and Child Health Block Grant," the 50931
department may use the application form established under section 50932
~~5111.013~~ 5163.40 of the Revised Code. The department may require 50933
applicants to furnish their social security numbers. 50934

Sec. 3701.13. The department of health shall have supervision 50935
of all matters relating to the preservation of the life and health 50936
of the people and have ultimate authority in matters of quarantine 50937
and isolation, which it may declare and enforce, when neither 50938
exists, and modify, relax, or abolish, when either has been 50939
established. The department may approve methods of immunization 50940
against the diseases specified in section 3313.671 of the Revised 50941
Code for the purpose of carrying out the provisions of that 50942
section and take such actions as are necessary to encourage 50943
vaccination against those diseases. 50944

The department may make special or standing orders or rules 50945
for preventing the use of fluoroscopes for nonmedical purposes 50946
~~which~~ that emit doses of radiation likely to be harmful to any 50947
person, for preventing the spread of contagious or infectious 50948
diseases, for governing the receipt and conveyance of remains of 50949
deceased persons, and for such other sanitary matters as are best 50950
controlled by a general rule. Whenever possible, the department 50951
shall work in cooperation with the health commissioner of a 50952
general or city health district. ~~It~~ The department may make and 50953
enforce orders in local matters or reassign substantive authority 50954
for mandatory programs from a general or city health district to 50955
another general or city health district when an emergency exists, 50956

or when the board of health of a general or city health district 50957
has neglected or refused to act with sufficient promptness or 50958
efficiency, or when such board has not been established as 50959
provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 50960
3709.12, and 3709.14 of the Revised Code. In such cases, the 50961
necessary expense incurred shall be paid by the general health 50962
district or city for which the services are rendered. 50963

The department of health may require general or city health 50964
districts to enter into agreements for shared services under 50965
section 9.482 of the Revised Code. 50966

As a condition precedent to receiving funding from the 50967
department of health, the director of health may require general 50968
or city health districts to be accredited not later than July 1, 50969
2018, by an accreditation body approved by the director. 50970

The department may make evaluative studies of the nutritional 50971
status of Ohio residents, and of the food and nutrition-related 50972
programs operating within the state. Every agency of the state, at 50973
the request of the department, shall provide information and 50974
otherwise assist in the execution of such studies. 50975

Sec. 3701.132. The department of health is hereby designated 50976
as the state agency to administer the "special supplemental 50977
nutrition program for women, infants, and children" established 50978
under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 50979
1786, as amended. The director of health may adopt rules pursuant 50980
to Chapter 119. of the Revised Code as necessary for administering 50981
the program. The rules may include civil money penalties for 50982
violations of the rules. 50983

In determining eligibility for services provided under the 50984
program, the department may use the application form established 50985
under section ~~5111.013~~ 5163.40 of the Revised Code for the healthy 50986
start program. The department may require applicants to furnish 50987

their social security numbers. 50988

If the department determines that a vendor has committed an 50989
act with respect to the program that federal statutes or 50990
regulations or state statutes or rules prohibit, the department 50991
shall take action against the vendor in the manner required by 7 50992
C.F.R. part 246, including imposition of a civil money penalty in 50993
accordance with 7 C.F.R. 246.12, or rules adopted under this 50994
section. 50995

Sec. 3701.243. (A) Except as provided in this section or 50996
section 3701.248 of the Revised Code, no person or agency of state 50997
or local government that acquires the information while providing 50998
any health care service or while in the employ of a health care 50999
facility or health care provider shall disclose or compel another 51000
to disclose any of the following: 51001

(1) The identity of any individual on whom an HIV test is 51002
performed; 51003

(2) The results of an HIV test in a form that identifies the 51004
individual tested; 51005

(3) The identity of any individual diagnosed as having AIDS 51006
or an AIDS-related condition. 51007

(B)(1) Except as provided in divisions (B)(2), (C), (D), and 51008
(F) of this section, the results of an HIV test or the identity of 51009
an individual on whom an HIV test is performed or who is diagnosed 51010
as having AIDS or an AIDS-related condition may be disclosed only 51011
to the following: 51012

(a) The individual who was tested or the individual's legal 51013
guardian, and the individual's spouse or any sexual partner; 51014

(b) A person to whom disclosure is authorized by a written 51015
release, executed by the individual tested or by the individual's 51016
legal guardian and specifying to whom disclosure of the test 51017

results or diagnosis is authorized and the time period during 51018
which the release is to be effective; 51019

(c) The individual's physician; 51020

(d) The department of health or a health commissioner to 51021
which reports are made under section 3701.24 of the Revised Code; 51022

(e) A health care facility or provider that procures, 51023
processes, distributes, or uses a human body part from a deceased 51024
individual, donated for a purpose specified in Chapter 2108. of 51025
the Revised Code, and that needs medical information about the 51026
deceased individual to ensure that the body part is medically 51027
acceptable for its intended purpose; 51028

(f) Health care facility staff committees or accreditation or 51029
oversight review organizations conducting program monitoring, 51030
program evaluation, or service reviews; 51031

(g) A health care provider, emergency medical services 51032
worker, or peace officer who sustained a significant exposure to 51033
the body fluids of another individual, if that individual was 51034
tested pursuant to division (E)(6) of section 3701.242 of the 51035
Revised Code, except that the identity of the individual tested 51036
shall not be revealed; 51037

(h) To law enforcement authorities pursuant to a search 51038
warrant or a subpoena issued by or at the request of a grand jury, 51039
a prosecuting attorney, a city director of law or similar chief 51040
legal officer of a municipal corporation, or a village solicitor, 51041
in connection with a criminal investigation or prosecution. 51042

(2) The results of an HIV test or a diagnosis of AIDS or an 51043
AIDS-related condition may be disclosed to a health care provider, 51044
or an authorized agent or employee of a health care facility or a 51045
health care provider, if the provider, agent, or employee has a 51046
medical need to know the information and is participating in the 51047
diagnosis, care, or treatment of the individual on whom the test 51048

was performed or who has been diagnosed as having AIDS or an 51049
AIDS-related condition. 51050

This division does not impose a standard of disclosure 51051
different from the standard for disclosure of all other specific 51052
information about a patient to health care providers and 51053
facilities. Disclosure may not be requested or made solely for the 51054
purpose of identifying an individual who has a positive HIV test 51055
result or has been diagnosed as having AIDS or an AIDS-related 51056
condition in order to refuse to treat the individual. Referral of 51057
an individual to another health care provider or facility based on 51058
reasonable professional judgment does not constitute refusal to 51059
treat the individual. 51060

(3) Not later than ninety days after November 1, 1989, each 51061
health care facility in this state shall establish a protocol to 51062
be followed by employees and individuals affiliated with the 51063
facility in making disclosures authorized by division (B)(2) of 51064
this section. A person employed by or affiliated with a health 51065
care facility who determines in accordance with the protocol 51066
established by the facility that a disclosure is authorized by 51067
division (B)(2) of this section is immune from liability to any 51068
person in a civil action for damages for injury, death, or loss to 51069
person or property resulting from the disclosure. 51070

(C)(1) Any person or government agency may seek access to or 51071
authority to disclose the HIV test records of an individual in 51072
accordance with the following provisions: 51073

(a) The person or government agency shall bring an action in 51074
a court of common pleas requesting disclosure of or authority to 51075
disclose the results of an HIV test of a specific individual, who 51076
shall be identified in the complaint by a pseudonym but whose name 51077
shall be communicated to the court confidentially, pursuant to a 51078
court order restricting the use of the name. The court shall 51079
provide the individual with notice and an opportunity to 51080

participate in the proceedings if the individual is not named as a party. Proceedings shall be conducted in chambers unless the individual agrees to a hearing in open court.

(b) The court may issue an order granting the plaintiff access to or authority to disclose the test results only if the court finds by clear and convincing evidence that the plaintiff has demonstrated a compelling need for disclosure of the information that cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy right of the individual tested and against any disservice to the public interest that might result from the disclosure, such as discrimination against the individual or the deterrence of others from being tested.

(c) If the court issues an order, it shall guard against unauthorized disclosure by specifying the persons who may have access to the information, the purposes for which the information shall be used, and prohibitions against future disclosure.

(2) A person or government agency that considers it necessary to disclose the results of an HIV test of a specific individual in an action in which it is a party may seek authority for the disclosure by filing an in camera motion with the court in which the action is being heard. In hearing the motion, the court shall employ procedures for confidentiality similar to those specified in division (C)(1) of this section. The court shall grant the motion only if it finds by clear and convincing evidence that a compelling need for the disclosure has been demonstrated.

(3) Except for an order issued in a criminal prosecution or an order under division (C)(1) or (2) of this section granting disclosure of the result of an HIV test of a specific individual, a court shall not compel a blood bank, hospital blood center, or blood collection facility to disclose the result of HIV tests performed on the blood of voluntary donors in a way that reveals

the identity of any donor. 51113

(4) In a civil action in which the plaintiff seeks to recover 51114
damages from an individual defendant based on an allegation that 51115
the plaintiff contracted the HIV virus as a result of actions of 51116
the defendant, the prohibitions against disclosure in this section 51117
do not bar discovery of the results of any HIV test given to the 51118
defendant or any diagnosis that the defendant suffers from AIDS or 51119
an AIDS-related condition. 51120

(D) The results of an HIV test or the identity of an 51121
individual on whom an HIV test is performed or who is diagnosed as 51122
having AIDS or an AIDS-related condition may be disclosed to a 51123
federal, state, or local government agency, or the official 51124
representative of such an agency, for purposes of the ~~medical~~ 51125
~~assistance~~ medicaid program established under section 5111.01 of 51126
~~the Revised Code, the medicare program established under Title~~ 51127
~~XVIII of the "Social Security Act," 49 Stat. 620 (1935) 42~~ 51128
~~U.S.C.A. 301, as amended, or any other public assistance program.~~ 51129

(E) Any disclosure pursuant to this section shall be in 51130
writing and accompanied by a written statement that includes the 51131
following or substantially similar language: "This information has 51132
been disclosed to you from confidential records protected from 51133
disclosure by state law. You shall make no further disclosure of 51134
this information without the specific, written, and informed 51135
release of the individual to whom it pertains, or as otherwise 51136
permitted by state law. A general authorization for the release of 51137
medical or other information is not sufficient for the purpose of 51138
the release of HIV test results or diagnoses." 51139

(F) An individual who knows that the individual has received 51140
a positive result on an HIV test or has been diagnosed as having 51141
AIDS or an AIDS-related condition shall disclose this information 51142
to any other person with whom the individual intends to make 51143
common use of a hypodermic needle or engage in sexual conduct as 51144

defined in section 2907.01 of the Revised Code. An individual's 51145
compliance with this division does not prohibit a prosecution of 51146
the individual for a violation of division (B) of section 2903.11 51147
of the Revised Code. 51148

(G) Nothing in this section prohibits the introduction of 51149
evidence concerning an HIV test of a specific individual in a 51150
criminal proceeding. 51151

Sec. 3701.261. (A) As used in this section, "state 51152
university" has the same meaning as in section 3345.011 of the 51153
Revised Code. 51154

(B) The director of health shall: 51155

(1) Establish a population-based cancer registry, which shall 51156
be known as the Ohio cancer incidence surveillance system, to 51157
monitor the incidence of various types of malignant diseases in 51158
Ohio, make appropriate epidemiologic studies to determine any 51159
causal relations of such diseases with occupational, nutritional, 51160
environmental, or infectious conditions, and alleviate or 51161
eliminate any such conditions; 51162

(2) Advise, consult, cooperate with, and assist, by contract 51163
or otherwise, agencies of the state and federal government, 51164
agencies of the governments of other states, agencies of political 51165
subdivisions of this state, universities, private organizations, 51166
corporations, and associations for the purposes of division 51167
~~(A)~~(B)(1) of this section; 51168

(3) Accept and administer grants from the federal government 51169
or other sources, public or private, for carrying out any of the 51170
functions enumerated in divisions ~~(A)~~(B)(1) and (2) of this 51171
section. 51172

~~(B)~~(C) The Ohio cancer incidence surveillance system shall 51173
follow a model of cancer data collection as set forth by the 51174

survey epidemiology and end results system (SEERS).	51175
<u>(D) The department may, by contract, designate a state</u>	51176
<u>university as an agent to implement some or all of this section</u>	51177
<u>and section 3701.262 of the Revised Code and the rules adopted</u>	51178
<u>under those sections.</u>	51179
Sec. 3701.262. (A) As used in this section and section	51180
3701.263 of the Revised Code:	51181
(1) "Physician" means a person who holds a valid certificate	51182
issued under Chapter 4731. of the Revised Code authorizing the	51183
person to practice medicine or <u>and</u> surgery or osteopathic medicine	51184
and surgery.	51185
(2) "Dentist" means a person who is licensed under Chapter	51186
4715. of the Revised Code to practice dentistry.	51187
(3) "Hospital" has the same meaning as in section 3727.01 of	51188
the Revised Code.	51189
(4) "Cancer" includes those diseases specified by rule of the	51190
director of health under division (B)(2) of this section.	51191
(B) The director of health shall adopt rules in accordance	51192
with Chapter 119. of the Revised Code to do all of the following:	51193
(1) Establish the Ohio cancer incidence surveillance system	51194
required by section 3701.261 of the Revised Code;	51195
(2) Specify the types of cancer and other tumorous and	51196
precancerous diseases to be reported to the department of health	51197
under division (D) of this section;	51198
(3) Establish reporting requirements for information	51199
concerning diagnosed cancer cases as the director considers	51200
necessary to conduct epidemiologic surveys of cancer in this	51201
state;	51202
(4) Establish standards that must be met by research projects	51203

to be eligible to receive information concerning individual cancer 51204
patients from the department of health ~~under division (B) of~~ 51205
~~section 3701.263 of the Revised Code.~~ 51206

(C) The department of health shall record in the registry all 51207
reports of cancer received by it. In the development and 51208
administration of the cancer registry the department may use 51209
information compiled by public or private cancer registries and 51210
may contract for the collection and analysis of, and research 51211
related to, the information recorded under this section. 51212

(D)(1) Each physician, dentist, hospital, or person providing 51213
diagnostic or treatment services to patients with cancer shall 51214
report each case of cancer to the department. Any person required 51215
to report pursuant to this section may elect to report to the 51216
department through an existing cancer registry if the registry 51217
meets the reporting standards established by the director and 51218
reports to the department. 51219

(2) No person shall fail to make the cancer reports required 51220
by division (D)(1) of this section. 51221

(E) All physicians, dentists, hospitals, or persons providing 51222
diagnostic or treatment services to patients with cancer shall 51223
grant to the department or its authorized representative access to 51224
all records that identify cases of cancer or establish 51225
characteristics of cancer, the treatment of cancer, or the medical 51226
status of any identified cancer patient. 51227

(F) The Arthur G. James cancer hospital and Richard J. Solove 51228
research institute of the Ohio state university, shall analyze and 51229
evaluate the cancer reports collected pursuant to this section. 51230
The department shall publish and make available to the public 51231
reports summarizing the information collected. Reports shall be 51232
made on a calendar year basis and published not later than ninety 51233
days after the end of each calendar year. 51234

(G) Furnishing information, including records, reports, 51235
statements, notes, memoranda, or other information, to the 51236
department of health, either voluntarily or as required by this 51237
section, or to a person or governmental entity designated as a 51238
medical research project by the department, does not subject a 51239
physician, dentist, hospital, or person providing diagnostic or 51240
treatment services to patients with cancer to liability in an 51241
action for damages or other relief for furnishing the information. 51242

(H) This section does not affect the authority of any person 51243
or facility providing diagnostic or treatment services to patients 51244
with cancer to maintain facility-based tumor registries, in 51245
addition to complying with the reporting requirements of this 51246
section. 51247

~~(I) No person shall fail to make the cancer reports required 51248
by division (D) of this section. 51249~~

Sec. 3701.264. There is hereby created the Ohio cancer 51250
incidence surveillance system advisory board. The board shall 51251
consist of the director of health, who shall serve as chair of the 51252
board, and one representative, appointed by the governor, from 51253
each medical school accredited by the liaison committee on medical 51254
education and each osteopathic medical school accredited by the 51255
American osteopathic association in Ohio. In addition, the 51256
director of health shall appoint up to three additional members of 51257
the board. Vacancies on the board shall be filled in the same 51258
manner as the initial appointments. Members shall serve without 51259
compensation. 51260

The board shall provide oversight of the collection and 51261
analysis of data by the Ohio cancer incidence surveillance system 51262
to the director of health and the Arthur G. James cancer hospital 51263
and Richard J. Solove research institute of the Ohio state 51264
university and advise in the implementation of sections 3701.261 51265

~~to 3701.263 and 3701.262~~ of the Revised Code. The board shall meet 51266
and conduct its business as directed by the chair. 51267

~~The board shall report to the finance committees of both 51268
houses of the general assembly, not later than March 1, 2001, on 51269
the progress made in implementing sections 3701.261 to 3701.263 of 51270
the Revised Code. 51271~~

The board is not subject to sections 101.82 to 101.87 of the 51272
Revised Code. 51273

Sec. 3701.342. ~~After consultation with the public health 51274
standards task force established under section 3701.343 of the 51275
Revised Code, the~~ The director of health shall adopt rules 51276
establishing minimum standards and optimum achievable standards 51277
for boards of health and local health departments. The minimum 51278
standards shall assure that boards of health and local health 51279
departments provide for: 51280

(A) Analysis and prevention of communicable disease; 51281

(B) Analysis of the causes of, and appropriate treatment for, 51282
the leading causes of morbidity and mortality; 51283

(C) The administration and management of the local health 51284
department; 51285

(D) Access to primary health care by medically underserved 51286
individuals; 51287

(E) Environmental health management programs; 51288

(F) Health promotion services designed to encourage 51289
individual and community wellness; 51290

(G) Annual completion of eight continuing education units by 51291
each member of a board of health. 51292

The director shall adopt rules establishing a formula for 51293
distribution of state health district subsidy funds to boards of 51294

health and local health departments. The formula shall provide no 51295
subsidy funds to a board or department unless it meets minimum 51296
standards and shall provide higher funding levels for boards and 51297
districts that meet optimum achievable standards. 51298

~~Notwithstanding section 119.03 of the Revised Code, rules 51299
adopted under this section shall not take effect unless approved 51300
by concurrent resolution of the general assembly. 51301~~

Sec. 3701.344. As used in this section and sections 3701.345, 51302
3701.346, and 3701.347 of the Revised Code: 51303

(A) "Private water system" means any water system for the 51304
provision of water for human consumption, if such system has fewer 51305
than fifteen service connections and does not regularly serve an 51306
average of at least twenty-five individuals daily at least sixty 51307
days out of the year. A private water system includes any well, 51308
spring, cistern, pond, or hauled water and any equipment for the 51309
collection, transportation, filtration, disinfection, treatment, 51310
or storage of such water extending from and including the source 51311
of the water to the point of discharge from any pressure tank or 51312
other storage vessel; to the point of discharge from the water 51313
pump where no pressure tank or other storage vessel is present; 51314
or, in the case of multiple service connections serving more than 51315
one dwelling, to the point of discharge from each service 51316
connection. "Private water system" does not include the water 51317
service line extending from the point of discharge to a structure. 51318

(B) Notwithstanding section 3701.347 of the Revised Code and 51319
subject to division (C) of this section, rules adopted by the 51320
director of health regarding private water systems shall provide 51321
for the following: 51322

(1) Except as otherwise provided in this division, boards of 51323
health of city or general health districts shall be given the 51324
exclusive power to establish fees in accordance with section 51325

3709.09 of the Revised Code for administering and enforcing such 51326
rules. Such fees shall establish a different rate for 51327
administering and enforcing the rules relative to private water 51328
systems serving single-family dwelling houses and nonsingle-family 51329
dwelling houses. Except for an amount established by the director, 51330
pursuant to division (B)(5) of this section, for each new private 51331
water system installation, no portion of any fee for administering 51332
and enforcing such rules shall be returned to the department of 51333
health. If the director of health determines that a board of 51334
health of a city or general health district is unable to 51335
administer and enforce a private water system program in the 51336
district, the director shall administer and enforce such a program 51337
in the district and establish fees for such administration and 51338
enforcement. 51339

(2) Boards of health of city or general health districts 51340
shall be given the exclusive power to determine the number of 51341
inspections necessary for determining the safe drinking 51342
characteristics of a private water system. 51343

(3) Private water systems contractors, as a condition of 51344
doing business in this state, shall annually register with, and 51345
comply with competency testing, continuing education, and surety 51346
bonding or other equivalent proof of financial responsibility 51347
requirements of, the department of health. No such contractor 51348
shall be permitted to register if the contractor fails to comply 51349
with all applicable rules adopted by the director and the board of 51350
health of the city or general health district. The annual 51351
registration fee for private water systems contractors shall be 51352
sixty-five dollars. The director, by rule adopted in accordance 51353
with Chapter 119. of the Revised Code, may increase the annual 51354
registration fee. 51355

(4) Subject to rules adopted by the director, boards of 51356
health of city or general health districts shall have the option 51357

of determining whether bacteriological examinations shall be performed at approved laboratories of the state or at approved private laboratories.

(5) The director may establish fees for each new private water system installation, which shall be collected by the appropriate board of health and transmitted to the director pursuant to section 3709.092 of the Revised Code.

(6) All fees received by the director of health under divisions (B)(1), (3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the administration and enforcement of sections 3701.344 to 3701.347 of the Revised Code and the rules pertaining to private water systems adopted under those sections.

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 3701.507. (A) To assist in implementing sections

3701.503 to 3701.509 of the Revised Code, the medically	51389
handicapped children's medical advisory council created in section	51390
3701.025 of the Revised Code shall appoint a permanent infant	51391
hearing screening subcommittee. The subcommittee shall consist of	51392
the following members:	51393
(1) One otolaryngologist;	51394
(2) One neonatologist;	51395
(3) One pediatrician;	51396
(4) One neurologist;	51397
(5) One hospital administrator;	51398
(6) Two or more audiologists who are experienced in infant	51399
hearing screening and evaluation;	51400
(7) One speech-language pathologist licensed under section	51401
4753.07 of the Revised Code;	51402
(8) Two persons who are each a parent of a hearing-impaired	51403
child;	51404
(9) One geneticist;	51405
(10) One epidemiologist;	51406
(11) One adult who is deaf or hearing impaired;	51407
(12) One representative from an organization for the deaf or	51408
hearing impaired;	51409
(13) One family advocate;	51410
(14) One nurse from a well-baby neonatal nursery;	51411
(15) One nurse from a special care neonatal nursery;	51412
(16) One teacher of the deaf who works with infants and	51413
toddlers;	51414
(17) One representative of the health insurance industry;	51415

(18) One representative of the bureau for children with medical handicaps;	51416 51417
(19) One representative of the department of education;	51418
(20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid;	51419 51420
(21) Any other person the advisory council appoints.	51421
(B) The infant hearing subcommittee shall:	51422
(1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;	51423 51424 51425
(2) Advise and make recommendations regarding proposed rules prior to their adoption by the director under section 3701.508 of the Revised Code;	51426 51427 51428
(3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following:	51429 51430 51431 51432
(a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment;	51433 51434 51435 51436
(b) Identification of locations where hearing evaluations may be conducted;	51437 51438
(c) Recommendations for methods and techniques of hearing screening and hearing evaluation;	51439 51440
(d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;	51441 51442
(e) Maintenance of a register of newborns and infants who do not pass the hearing screening;	51443 51444

(f) Preparation of the information required by section 51445
3701.506 of the Revised Code. 51446

Sec. 3701.5010. (A) As used in this section: 51447

(1) "Critical congenital heart defects screening" means the 51448
identification of a newborn that may have a critical congenital 51449
heart defect, through the use of a physiologic test; 51450

(2) "Freestanding birthing center" has the same meaning as in 51451
section 3702.141 of the Revised Code; 51452

(3) "Hospital," "maternity unit," "newborn," and "physician" 51453
have the same meanings as in section 3701.503 of the Revised Code. 51454

(B) Except as provided in division (C) of this section, each 51455
hospital and each freestanding birthing center shall conduct a 51456
critical congenital heart defects screening on each newborn born 51457
in the hospital or center, unless the newborn is being transferred 51458
to another hospital. The screening shall be performed after the 51459
newborn reaches twenty-four hours of age but before discharge. If 51460
the newborn is transferred to another hospital, that hospital 51461
shall conduct the screening when determined to be medically 51462
appropriate. 51463

The hospital or center shall promptly notify the newborn's 51464
parent, guardian, or custodian and attending physician of the 51465
screening results. The hospital or center shall notify the 51466
department of health of the screening results for each newborn 51467
screened. 51468

(C) A hospital or freestanding birthing center shall not 51469
conduct a critical congenital heart defects screening if the 51470
newborn's parent objects on the grounds that the screening 51471
conflicts with the parent's religious tenets and practices. 51472

(D) The director of health shall establish and maintain a 51473
statewide tracking and monitoring system to ensure that universal 51474

critical congenital heart defects screening is implemented. 51475

(E) The director shall adopt rules in accordance with Chapter 51476
119. of the Revised Code establishing standards and procedures for 51477
the screening required by this section, including all of the 51478
following: 51479

(1) Identifying the critical congenital heart defects to be 51480
included in the screening; 51481

(2) Specifying equipment to be used for and methods of 51482
screening for critical congenital heart defects; 51483

(3) Designating the person or persons who will be responsible 51484
for causing screenings and rescreenings to be performed; 51485

(4) Providing notice to the newborn's parent, guardian, or 51486
custodian of the required initial screening and the possibility 51487
that rescreenings may be necessary; 51488

(5) Communicating to the newborn's parent, guardian, or 51489
custodian and attending physician the results of the screening and 51490
any rescreenings; 51491

(6) Causing rescreenings to be performed when initial 51492
screenings have abnormal results; 51493

(7) Referring newborns who receive abnormal screening or 51494
rescreening results to providers of follow-up services. 51495

Sec. 3701.74. (A) As used in this section and section 51496
3701.741 of the Revised Code: 51497

(1) "Ambulatory care facility" means a facility that provides 51498
medical, diagnostic, or surgical treatment to patients who do not 51499
require hospitalization, including a dialysis center, ambulatory 51500
surgical facility, cardiac catheterization facility, diagnostic 51501
imaging center, extracorporeal shock wave lithotripsy center, home 51502
health agency, inpatient hospice, birthing center, radiation 51503

therapy center, emergency facility, and an urgent care center. 51504

"Ambulatory care facility" does not include the private office of 51505
a physician or dentist, whether the office is for an individual or 51506
group practice. 51507

(2) "Chiropractor" means an individual licensed under Chapter 51508
4734. of the Revised Code to practice chiropractic. 51509

(3) "Emergency facility" means a hospital emergency 51510
department or any other facility that provides emergency medical 51511
services. 51512

(4) "Health care practitioner" means all of the following: 51513

(a) A dentist or dental hygienist licensed under Chapter 51514
4715. of the Revised Code; 51515

(b) A registered or licensed practical nurse licensed under 51516
Chapter 4723. of the Revised Code; 51517

(c) An optometrist licensed under Chapter 4725. of the 51518
Revised Code; 51519

(d) A dispensing optician, spectacle dispensing optician, 51520
contact lens dispensing optician, or spectacle-contact lens 51521
dispensing optician licensed under Chapter 4725. of the Revised 51522
Code; 51523

(e) A pharmacist licensed under Chapter 4729. of the Revised 51524
Code; 51525

(f) A physician; 51526

(g) A physician assistant authorized under Chapter 4730. of 51527
the Revised Code to practice as a physician assistant; 51528

(h) A practitioner of a limited branch of medicine issued a 51529
certificate under Chapter 4731. of the Revised Code; 51530

(i) A psychologist licensed under Chapter 4732. of the 51531
Revised Code; 51532

(j) A chiropractor;	51533
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	51534 51535
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	51536 51537
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	51538 51539
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	51540 51541
(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	51542 51543 51544 51545
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	51546 51547
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	51548 51549
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	51550 51551 51552
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	51553 51554 51555
(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	51556 51557
(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; a residential facility licensed under section 5119.22 <u>5119.34</u> of the Revised Code that provides accommodations, supervision, and personal care	51558 51559 51560 51561 51562

services for three to sixteen unrelated adults; a nursing facility 51563
~~or intermediate care facility for the mentally retarded, as those~~ 51564
~~terms are~~ defined in section ~~5111.20~~ 5165.01 of the Revised Code; 51565
~~a facility or portion of a facility certified as a skilled nursing~~ 51566
~~facility under Title XVIII of the "Social Security Act," 49 Stat.~~ 51567
~~286 (1965), 42 U.S.C.A. 1395, as amended, as defined in section~~ 51568
5165.01 of the Revised Code; and an intermediate care facility for 51569
individuals with intellectual disabilities, as defined in section 51570
5124.01 of the Revised Code. 51571

(8) "Medical record" means data in any form that pertains to 51572
a patient's medical history, diagnosis, prognosis, or medical 51573
condition and that is generated and maintained by a health care 51574
provider in the process of the patient's health care treatment. 51575

(9) "Medical records company" means a person who stores, 51576
locates, or copies medical records for a health care provider, or 51577
is compensated for doing so by a health care provider, and charges 51578
a fee for providing medical records to a patient or patient's 51579
representative. 51580

(10) "Patient" means either of the following: 51581

(a) An individual who received health care treatment from a 51582
health care provider; 51583

(b) A guardian, as defined in section 1337.11 of the Revised 51584
Code, of an individual described in division (A)(10)(a) of this 51585
section. 51586

(11) "Patient's personal representative" means a minor 51587
patient's parent or other person acting in loco parentis, a 51588
court-appointed guardian, or a person with durable power of 51589
attorney for health care for a patient, the executor or 51590
administrator of the patient's estate, or the person responsible 51591
for the patient's estate if it is not to be probated. "Patient's 51592
personal representative" does not include an insurer authorized 51593

under Title XXXIX of the Revised Code to do the business of 51594
sickness and accident insurance in this state, a health insuring 51595
corporation holding a certificate of authority under Chapter 1751. 51596
of the Revised Code, or any other person not named in this 51597
division. 51598

(12) "Pharmacy" has the same meaning as in section 4729.01 of 51599
the Revised Code. 51600

(13) "Physician" means a person authorized under Chapter 51601
4731. of the Revised Code to practice medicine and surgery, 51602
osteopathic medicine and surgery, or podiatric medicine and 51603
surgery. 51604

(14) "Authorized person" means a person to whom a patient has 51605
given written authorization to act on the patient's behalf 51606
regarding the patient's medical record. 51607

(B) A patient, a patient's personal representative or an 51608
authorized person who wishes to examine or obtain a copy of part 51609
or all of a medical record shall submit to the health care 51610
provider a written request signed by the patient, personal 51611
representative, or authorized person dated not more than one year 51612
before the date on which it is submitted. The request shall 51613
indicate whether the copy is to be sent to the requestor, 51614
physician or chiropractor, or held for the requestor at the office 51615
of the health care provider. Within a reasonable time after 51616
receiving a request that meets the requirements of this division 51617
and includes sufficient information to identify the record 51618
requested, a health care provider that has the patient's medical 51619
records shall permit the patient to examine the record during 51620
regular business hours without charge or, on request, shall 51621
provide a copy of the record in accordance with section 3701.741 51622
of the Revised Code, except that if a physician or chiropractor 51623
who has treated the patient determines for clearly stated 51624
treatment reasons that disclosure of the requested record is 51625

likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.741. (A) Each health care provider and medical records company shall provide copies of medical records in accordance with this section.

(B) Except as provided in divisions (C) and (E) of this section, a health care provider or medical records company that receives a request for a copy of a patient's medical record shall charge not more than the amounts set forth in this section.

(1) If the request is made by the patient or the patient's personal representative, total costs for copies and all services related to those copies shall not exceed the sum of the following:

(a) Except as provided in division (B)(1)(b) of this section, with respect to data recorded on paper or electronically, the

following amounts adjusted in accordance with section 3701.742 of 51656
the Revised Code: 51657

(i) Two dollars and seventy-four cents per page for the first 51658
ten pages; 51659

(ii) Fifty-seven cents per page for pages eleven through 51660
fifty; 51661

(iii) Twenty-three cents per page for pages fifty-one and 51662
higher; 51663

(b) With respect to data resulting from an x-ray, magnetic 51664
resonance imaging (MRI), or computed axial tomography (CAT) scan 51665
and recorded on paper or film, one dollar and eighty-seven cents 51666
per page; 51667

(c) The actual cost of any related postage incurred by the 51668
health care provider or medical records company. 51669

(2) If the request is made other than by the patient or the 51670
patient's personal representative, total costs for copies and all 51671
services related to those copies shall not exceed the sum of the 51672
following: 51673

(a) An initial fee of sixteen dollars and eighty-four cents 51674
adjusted in accordance with section 3701.742 of the Revised Code, 51675
which shall compensate for the records search; 51676

(b) Except as provided in division (B)(2)(c) of this section, 51677
with respect to data recorded on paper or electronically, the 51678
following amounts adjusted in accordance with section 3701.742 of 51679
the Revised Code: 51680

(i) One dollar and eleven cents per page for the first ten 51681
pages; 51682

(ii) Fifty-seven cents per page for pages eleven through 51683
fifty; 51684

(iii) Twenty-three cents per page for pages fifty-one and 51685

higher. 51686

(c) With respect to data resulting from an x-ray, magnetic 51687
resonance imaging (MRI), or computed axial tomography (CAT) scan 51688
and recorded on paper or film, one dollar and eighty-seven cents 51689
per page; 51690

(d) The actual cost of any related postage incurred by the 51691
health care provider or medical records company. 51692

(C)(1) On request, a health care provider or medical records 51693
company shall provide one copy of the patient's medical record and 51694
one copy of any records regarding treatment performed subsequent 51695
to the original request, not including copies of records already 51696
provided, without charge to the following: 51697

(a) The bureau of workers' compensation, in accordance with 51698
Chapters 4121. and 4123. of the Revised Code and the rules adopted 51699
under those chapters; 51700

(b) The industrial commission, in accordance with Chapters 51701
4121. and 4123. of the Revised Code and the rules adopted under 51702
those chapters; 51703

(c) The department of ~~job and family services~~ medicaid or a 51704
county department of job and family services, in accordance with 51705
Chapters ~~5101.~~ 5160., 5161., 5162., 5163., 5164., 5165., 5166., 51706
and ~~5111.~~ 5167. of the Revised Code and the rules adopted under 51707
those chapters; 51708

(d) The attorney general, in accordance with sections 2743.51 51709
to 2743.72 of the Revised Code and any rules that may be adopted 51710
under those sections; 51711

(e) A patient, patient's personal representative, or 51712
authorized person if the medical record is necessary to support a 51713
claim under Title II or Title XVI of the "Social Security Act," 49 51714
Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the 51715

request is accompanied by documentation that a claim has been 51716
filed. 51717

(2) Nothing in division (C)(1) of this section requires a 51718
health care provider or medical records company to provide a copy 51719
without charge to any person or entity not listed in division 51720
(C)(1) of this section. 51721

(D) Division (C) of this section shall not be construed to 51722
supersede any rule of the bureau of workers' compensation, the 51723
industrial commission, or the department of ~~job and family~~ 51724
~~services~~ medicaid. 51725

(E) A health care provider or medical records company may 51726
enter into a contract with either of the following for the copying 51727
of medical records at a fee other than as provided in division (B) 51728
of this section: 51729

(1) A patient, a patient's personal representative, or an 51730
authorized person; 51731

(2) An insurer authorized under Title XXXIX of the Revised 51732
Code to do the business of sickness and accident insurance in this 51733
state or health insuring corporations holding a certificate of 51734
authority under Chapter 1751. of the Revised Code. 51735

(F) This section does not apply to medical records the 51736
copying of which is covered by section 173.20 of the Revised Code 51737
or by 42 C.F.R. 483.10. 51738

Sec. 3701.742. ~~Not later than January 31, 2006, the~~ The 51739
amounts specified in division (B) of section 3701.741 of the 51740
Revised Code and, ~~not later than the first day of January of each~~ 51741
~~year thereafter,~~ shall be adjusted annually in accordance with 51742
this section. These amounts plus any amounts previously computed 51743
by annual adjustments made under this section, shall be increased 51744
or decreased by the average percentage of increase or decrease in 51745

the consumer price index for all urban consumers (United States
city average, all items), prepared by the United States department
of labor, bureau of labor statistics, for the
~~twelve calendar month period prior to the~~ immediately preceding
~~first day of January~~ calendar year over the calendar year
immediately preceding ~~twelve calendar month period~~ that year, as
reported by the bureau. The director of health shall make this
determination and adjust the amounts accordingly. The director
shall ~~provide a list of the adjusted amounts to any party upon~~
~~request and the department of health shall make the~~ a list of the
adjusted amounts available to the public on ~~its~~ the internet web
site maintained by the department of health.

Sec. 3701.78. (A) There is hereby created the commission on
minority health, consisting of twenty-one members. The governor
shall appoint to the commission nine members from among health
researchers, health planners, and health professionals. The
governor also shall appoint two members who are representatives of
the lupus awareness and education program. The speaker of the
house of representatives shall appoint to the commission two
members of the house of representatives, not more than one of whom
is a member of the same political party, and the president of the
senate shall appoint to the commission two members of the senate,
not more than one of whom is a member of the same political party.
The following shall be members of the commission: the directors of
health, ~~mental health~~ mental health and addiction services,
developmental disabilities, ~~alcohol and drug addiction services,~~
and job and family services, or their designees; the medicaid
director, or the director's designee; and the superintendent of
public instruction, or the superintendent's designee, ~~shall be~~
~~members of the commission.~~ The

The commission shall elect a chairperson from among its
members. ~~of~~

Of the members appointed by the governor, five shall be 51778
appointed to initial terms of one year, and four shall be 51779
appointed to initial terms of two years. Thereafter, all members 51780
appointed by the governor shall be appointed to terms of two 51781
years. All members of the commission appointed by the speaker of 51782
the house of representatives or the president of the senate shall 51783
be nonvoting members of the commission and be appointed within 51784
thirty days after the commencement of the first regular session of 51785
each general assembly, and shall serve until the expiration of the 51786
session of the general assembly during which they were appointed. 51787

~~Members~~ 51788

Members of the commission shall serve without compensation, 51789
but shall be reimbursed for the actual and necessary expenses they 51790
incur in the performance of their official duties. 51791

(B) The commission shall promote health and the prevention of 51792
disease among members of minority groups. Each year the commission 51793
shall distribute grants from available funds to community-based 51794
health groups to be used to promote health and the prevention of 51795
disease among members of minority groups. As used in this 51796
division, "minority group" means any of the following economically 51797
disadvantaged groups: Blacks, American Indians, Hispanics, and 51798
Orientals. The commission shall adopt and maintain rules pursuant 51799
to Chapter 119. of the Revised Code to provide for the 51800
distribution of these grants. No group shall qualify to receive a 51801
grant from the commission unless it receives at least twenty per 51802
cent of its funds from sources other than grants distributed under 51803
this section. 51804

(C) The commission may appoint such employees as it considers 51805
necessary to carry out its duties under this section. The 51806
department of health shall provide office space for the 51807
commission. 51808

(D) The commission shall meet at the call of its chairperson 51809

to conduct its official business. A majority of the voting members 51810
of the commission constitute a quorum. The votes of at least eight 51811
voting members of the commission are necessary for the commission 51812
to take any official action or to approve the distribution of 51813
grants under this section. 51814

Sec. 3701.83. (A) There is hereby created in the state 51815
treasury the general operations fund. Moneys in the fund shall be 51816
used for the purposes specified in sections 3701.04, 3701.344, 51817
3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 51818
3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 51819
3749.04, 3749.07, 4747.04, ~~4751.04~~, and 4769.09 of the Revised 51820
Code. 51821

(B) The alcohol testing program fund is hereby created in the 51822
state treasury. The director of health shall use the fund to 51823
administer and enforce the alcohol testing and permit program 51824
authorized by section 3701.143 of the Revised Code. 51825

The fund shall receive transfers from the liquor control fund 51826
created under section 4301.12 of the Revised Code. All investment 51827
earnings of the alcohol testing program fund shall be credited to 51828
the fund. 51829

Sec. 3701.881. (A) As used in this section: 51830

(1) "Applicant" means a person who is under final 51831
consideration for employment with a home health agency in a 51832
full-time, part-time, or temporary position that involves 51833
providing direct care to an individual or is referred to a home 51834
health agency by an employment service for such a position. 51835

(2) "Community-based long-term care agency provider" ~~has the~~ 51836
~~same meaning~~ means a provider as defined in section 173.39 of the 51837
Revised Code. 51838

(3) "Community-based long-term care subcontractor" means a 51839

<u>subcontractor as defined in section 173.38 of the Revised Code.</u>	51840
<u>(4)</u> "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	51841 51842
(4) <u>(5)</u> "Direct care" means any of the following:	51843
(a) Any service identified in divisions (A) (7) <u>(8)</u> (a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;	51844 51845 51846
(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;	51847 51848 51849 51850
(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.	51851 51852 51853
(5) <u>(6)</u> "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	51854 51855 51856
(6) <u>(7)</u> "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.	51857 51858 51859 51860 51861
(7) <u>(8)</u> "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:	51862 51863 51864 51865 51866
(a) Skilled nursing care;	51867
(b) Physical therapy;	51868
(c) Speech-language pathology;	51869

(d) Occupational therapy;	51870
(e) Medical social services;	51871
(f) Home health aide services.	51872
(8) <u>(9)</u> "Home health aide services" means any of the following services provided by an employee of a home health agency:	51873 51874
(a) Hands-on bathing or assistance with a tub bath or shower;	51875
(b) Assistance with dressing, ambulation, and toileting;	51876
(c) Catheter care but not insertion;	51877
(d) Meal preparation and feeding.	51878
(9) <u>(10)</u> "Hospice care program" and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	51879 51880 51881
(10) <u>(11)</u> "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	51882 51883 51884
(11) <u>(12)</u> "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	51885 51886
(12) <u>(13)</u> "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	51887 51888 51889
(13) <u>(14)</u> "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	51890 51891
(14) <u>(15)</u> "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	51892 51893
(15) <u>(16)</u> "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	51894 51895 51896
(16) <u>(17)</u> "Speech-language pathology" has the same meaning as	51897

in section 4753.01 of the Revised Code. 51898

~~(17)~~(18) "Waiver agency" has the same meaning as in section 51899
~~5111.033~~ 5164.342 of the Revised Code. 51900

(B) No home health agency shall employ an applicant or 51901
continue to employ an employee in a position that involves 51902
providing direct care to an individual if any of the following 51903
apply: 51904

(1) A review of the databases listed in division (D) of this 51905
section reveals any of the following: 51906

(a) That the applicant or employee is included in one or more 51907
of the databases listed in divisions (D)(1) to (5) of this 51908
section; 51909

(b) That there is in the state nurse aide registry 51910
established under section 3721.32 of the Revised Code a statement 51911
detailing findings by the director of health that the applicant or 51912
employee neglected or abused a long-term care facility or 51913
residential care facility resident or misappropriated property of 51914
such a resident; 51915

(c) That the applicant or employee is included in one or more 51916
of the databases, if any, specified in rules adopted under this 51917
section and the rules prohibit the home health agency from 51918
employing an applicant or continuing to employ an employee 51919
included in such a database in a position that involves providing 51920
direct care to an individual. 51921

(2) After the applicant or employee is provided, pursuant to 51922
division (E)(2)(a) of this section, a copy of the form prescribed 51923
pursuant to division (C)(1) of section 109.572 of the Revised Code 51924
and the standard impression sheet prescribed pursuant to division 51925
(C)(2) of that section, the applicant or employee fails to 51926
complete the form or provide the applicant's or employee's 51927
fingerprint impressions on the standard impression sheet. 51928

(3) Except as provided in rules adopted under this section, 51929
the applicant or employee is found by a criminal records check 51930
required by this section to have been convicted of, pleaded guilty 51931
to, or been found eligible for intervention in lieu of conviction 51932
for a disqualifying offense. 51933

(C) Except as provided by division (F) of this section, the 51934
chief administrator of a home health agency shall inform each 51935
applicant of both of the following at the time of the applicant's 51936
initial application for employment or referral to the home health 51937
agency by an employment service for a position that involves 51938
providing direct care to an individual: 51939

(1) That a review of the databases listed in division (D) of 51940
this section will be conducted to determine whether the home 51941
health agency is prohibited by division (B)(1) of this section 51942
from employing the applicant in the position; 51943

(2) That, unless the database review reveals that the 51944
applicant may not be employed in the position, a criminal records 51945
check of the applicant will be conducted and the applicant is 51946
required to provide a set of the applicant's fingerprint 51947
impressions as part of the criminal records check. 51948

(D) As a condition of employing any applicant in a position 51949
that involves providing direct care to an individual, the chief 51950
administrator of a home health agency shall conduct a database 51951
review of the applicant in accordance with rules adopted under 51952
this section. If rules adopted under this section so require, the 51953
chief administrator of a home health agency shall conduct a 51954
database review of an employee in accordance with the rules as a 51955
condition of continuing to employ the employee in a position that 51956
involves providing direct care to an individual. However, the 51957
chief administrator is not required to conduct a database review 51958
of an applicant or employee if division (F) of this section 51959
applies. A database review shall determine whether the applicant 51960

or employee is included in any of the following: 51961

(1) The excluded parties list system that is maintained by 51962
the United States general services administration pursuant to 51963
subpart 9.4 of the federal acquisition regulation and available at 51964
the federal web site known as the system for award management; 51965

(2) The list of excluded individuals and entities maintained 51966
by the office of inspector general in the United States department 51967
of health and human services pursuant to ~~section 1128~~ of the 51968
"Social Security Act," ~~94 Stat. 2619 (1980)~~ sections 1128 and 51969
1156, 42 U.S.C. 1320a-7, ~~as amended, and section 1156 of the~~ 51970
~~"Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. and 1320c-5,~~ 51971
~~as amended;~~ 51972

(3) The registry of MR/DD employees established under section 51973
5123.52 of the Revised Code; 51974

(4) The internet-based sex offender and child-victim offender 51975
database established under division (A)(11) of section 2950.13 of 51976
the Revised Code; 51977

(5) The internet-based database of inmates established under 51978
section 5120.66 of the Revised Code; 51979

(6) The state nurse aide registry established under section 51980
3721.32 of the Revised Code; 51981

(7) Any other database, if any, specified in rules adopted 51982
under this section. 51983

(E)(1) As a condition of employing any applicant in a 51984
position that involves providing direct care to an individual, the 51985
chief administrator of a home health agency shall request the 51986
superintendent of the bureau of criminal identification and 51987
investigation to conduct a criminal records check of the 51988
applicant. If rules adopted under this section so require, the 51989
chief administrator of a home health agency shall request the 51990

superintendent to conduct a criminal records check of an employee 51991
at times specified in the rules as a condition of continuing to 51992
employ the employee in a position that involves providing direct 51993
care to an individual. However, the chief administrator is not 51994
required to request the criminal records check of the applicant or 51995
the employee if division (F) of this section applies or the home 51996
health agency is prohibited by division (B)(1) of this section 51997
from employing the applicant or continuing to employ the employee 51998
in a position that involves providing direct care to an 51999
individual. If an applicant or employee for whom a criminal 52000
records check request is required by this section does not present 52001
proof of having been a resident of this state for the five-year 52002
period immediately prior to the date upon which the criminal 52003
records check is requested or does not provide evidence that 52004
within that five-year period the superintendent has requested 52005
information about the applicant from the federal bureau of 52006
investigation in a criminal records check, the chief administrator 52007
shall request that the superintendent obtain information from the 52008
federal bureau of investigation as a part of the criminal records 52009
check. Even if an applicant or employee for whom a criminal 52010
records check request is required by this section presents proof 52011
that the applicant or employee has been a resident of this state 52012
for that five-year period, the chief administrator may request 52013
that the superintendent include information from the federal 52014
bureau of investigation in the criminal records check. 52015

(2) The chief administrator shall do all of the following: 52016

(a) Provide to each applicant and employee for whom a 52017
criminal records check request is required by this section a copy 52018
of the form prescribed pursuant to division (C)(1) of section 52019
109.572 of the Revised Code and a standard impression sheet 52020
prescribed pursuant to division (C)(2) of that section; 52021

(b) Obtain the completed form and standard impression sheet 52022

from each applicant and employee; 52023

(c) Forward the completed form and standard impression sheet 52024
to the superintendent at the time the chief administrator requests 52025
the criminal records check. 52026

(3) A home health agency shall pay to the bureau of criminal 52027
identification and investigation the fee prescribed pursuant to 52028
division (C)(3) of section 109.572 of the Revised Code for each 52029
criminal records check the agency requests under this section. A 52030
home health agency may charge an applicant a fee not exceeding the 52031
amount the agency pays to the bureau under this section if both of 52032
the following apply: 52033

(a) The home health agency notifies the applicant at the time 52034
of initial application for employment of the amount of the fee and 52035
that, unless the fee is paid, the applicant will not be considered 52036
for employment. 52037

(b) The medicaid program ~~established under Chapter 5111. of~~ 52038
~~the Revised Code~~ does not reimburse the home health agency for the 52039
fee it pays to the bureau under this section. 52040

(F) Divisions (C) to (E) of this section do not apply with 52041
regard to an applicant or employee if the applicant or employee is 52042
referred to a home health agency by an employment service that 52043
supplies full-time, part-time, or temporary staff for positions 52044
that involve providing direct care to an individual and both of 52045
the following apply: 52046

(1) The chief administrator of the home health agency 52047
receives from the employment service confirmation that a review of 52048
the databases listed in division (D) of this section was conducted 52049
with regard to the applicant or employee. 52050

(2) The chief administrator of the home health agency 52051
receives from the employment service, applicant, or employee a 52052
report of the results of a criminal records check of the applicant 52053

or employee that has been conducted by the superintendent within 52054
the one-year period immediately preceding the following: 52055

(a) In the case of an applicant, the date of the applicant's 52056
referral by the employment service to the home health agency; 52057

(b) In the case of an employee, the date by which the home 52058
health agency would otherwise have to request a criminal records 52059
check of the employee under division (E) of this section. 52060

(G)(1) A home health agency may employ conditionally an 52061
applicant for whom a criminal records check request is required by 52062
this section before obtaining the results of the criminal records 52063
check if the agency is not prohibited by division (B) of this 52064
section from employing the applicant in a position that involves 52065
providing direct care to an individual and either of the following 52066
applies: 52067

(a) The chief administrator of the home health agency 52068
requests the criminal records check in accordance with division 52069
(E) of this section not later than five business days after the 52070
applicant begins conditional employment. 52071

(b) The applicant is referred to the home health agency by an 52072
employment service, the employment service or the applicant 52073
provides the chief administrator of the agency a letter that is on 52074
the letterhead of the employment service, the letter is dated and 52075
signed by a supervisor or another designated official of the 52076
employment service, and the letter states all of the following: 52077

(i) That the employment service has requested the 52078
superintendent to conduct a criminal records check regarding the 52079
applicant; 52080

(ii) That the requested criminal records check is to include 52081
a determination of whether the applicant has been convicted of, 52082
pleaded guilty to, or been found eligible for intervention in lieu 52083
of conviction for a disqualifying offense; 52084

(iii) That the employment service has not received the 52085
results of the criminal records check as of the date set forth on 52086
the letter; 52087

(iv) That the employment service promptly will send a copy of 52088
the results of the criminal records check to the chief 52089
administrator of the home health agency when the employment 52090
service receives the results. 52091

(2) If a home health agency employs an applicant 52092
conditionally pursuant to division (G)(1)(b) of this section, the 52093
employment service, on its receipt of the results of the criminal 52094
records check, promptly shall send a copy of the results to the 52095
chief administrator of the agency. 52096

(3) A home health agency that employs an applicant 52097
conditionally pursuant to division (G)(1)(a) or (b) of this 52098
section shall terminate the applicant's employment if the results 52099
of the criminal records check, other than the results of any 52100
request for information from the federal bureau of investigation, 52101
are not obtained within the period ending sixty days after the 52102
date the request for the criminal records check is made. 52103
Regardless of when the results of the criminal records check are 52104
obtained, if the results indicate that the applicant has been 52105
convicted of, pleaded guilty to, or been found eligible for 52106
intervention in lieu of conviction for a disqualifying offense, 52107
the home health agency shall terminate the applicant's employment 52108
unless circumstances specified in rules adopted under this section 52109
that permit the agency to employ the applicant exist and the 52110
agency chooses to employ the applicant. Termination of employment 52111
under this division shall be considered just cause for discharge 52112
for purposes of division (D)(2) of section 4141.29 of the Revised 52113
Code if the applicant makes any attempt to deceive the home health 52114
agency about the applicant's criminal record. 52115

(H) The report of any criminal records check conducted by the 52116

bureau of criminal identification and investigation in accordance 52117
with section 109.572 of the Revised Code and pursuant to a request 52118
made under this section is not a public record for the purposes of 52119
section 149.43 of the Revised Code and shall not be made available 52120
to any person other than the following: 52121

(1) The applicant or employee who is the subject of the 52122
criminal records check or the applicant's or employee's 52123
representative; 52124

(2) The home health agency requesting the criminal records 52125
check or its representative; 52126

(3) The administrator of any other facility, agency, or 52127
program that provides direct care to individuals that is owned or 52128
operated by the same entity that owns or operates the home health 52129
agency that requested the criminal records check; 52130

(4) The employment service that requested the criminal 52131
records check; 52132

(5) The director of health and the staff of the department of 52133
health who monitor a home health agency's compliance with this 52134
section; 52135

(6) The director of aging or the director's designee if 52136
either of the following apply: 52137

(a) In the case of a criminal records check requested by a 52138
home health agency, the home health agency also is a 52139
community-based long-term care ~~agency~~ provider or community-based 52140
long-term care subcontractor; 52141

(b) In the case of a criminal records check requested by an 52142
employment service, the employment service makes the request for 52143
an applicant or employee the employment service refers to a home 52144
health agency that also is a community-based long-term care ~~agency~~ 52145
provider or community-based long-term care subcontractor. 52146

(7) The medicaid director ~~of job and family services~~ and the 52147
staff of the department of ~~job and family services~~ medicaid who 52148
are involved in the administration of the medicaid program if 52149
either of the following apply: 52150

(a) In the case of a criminal records check requested by a 52151
home health agency, the home health agency also is a waiver 52152
agency; 52153

(b) In the case of a criminal records check requested by an 52154
employment service, the employment service makes the request for 52155
an applicant or employee the employment service refers to a home 52156
health agency that also is a waiver agency. 52157

(8) Any court, hearing officer, or other necessary individual 52158
involved in a case dealing with any of the following: 52159

(a) A denial of employment of the applicant or employee; 52160

(b) Employment or unemployment benefits of the applicant or 52161
employee; 52162

(c) A civil or criminal action regarding the medicaid 52163
program. 52164

(I) In a tort or other civil action for damages that is 52165
brought as the result of an injury, death, or loss to person or 52166
property caused by an applicant or employee who a home health 52167
agency employs in a position that involves providing direct care 52168
to an individual, all of the following shall apply: 52169

(1) If the home health agency employed the applicant or 52170
employee in good faith and reasonable reliance on the report of a 52171
criminal records check requested under this section, the agency 52172
shall not be found negligent solely because of its reliance on the 52173
report, even if the information in the report is determined later 52174
to have been incomplete or inaccurate. 52175

(2) If the home health agency employed the applicant in good 52176

faith on a conditional basis pursuant to division (G) of this 52177
section, the agency shall not be found negligent solely because it 52178
employed the applicant prior to receiving the report of a criminal 52179
records check requested under this section. 52180

(3) If the home health agency in good faith employed the 52181
applicant or employee according to the personal character 52182
standards established in rules adopted under this section, the 52183
agency shall not be found negligent solely because the applicant 52184
or employee had been convicted of, pleaded guilty to, or been 52185
found eligible for intervention in lieu of conviction for a 52186
disqualifying offense. 52187

(J) The director of health shall adopt rules in accordance 52188
with Chapter 119. of the Revised Code to implement this section. 52189

(1) The rules may do the following: 52190

(a) Require employees to undergo database reviews and 52191
criminal records checks under this section; 52192

(b) If the rules require employees to undergo database 52193
reviews and criminal records checks under this section, exempt one 52194
or more classes of employees from the requirements; 52195

(c) For the purpose of division (D)(7) of this section, 52196
specify other databases that are to be checked as part of a 52197
database review conducted under this section. 52198

(2) The rules shall specify all of the following: 52199

(a) The procedures for conducting database reviews under this 52200
section; 52201

(b) If the rules require employees to undergo database 52202
reviews and criminal records checks under this section, the times 52203
at which the database reviews and criminal records checks are to 52204
be conducted; 52205

(c) If the rules specify other databases to be checked as 52206

part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Circumstances under which a home health agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. 3701.921. There is hereby established the patient centered medical home education program in the department of health. For the purpose of advancing education in the patient centered medical home model of care, the director of health may implement and administer the program pursuant to sections 3701.922 to 3701.929 of the Revised Code. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinate patient centered care.

To the extent that funds are available, the program shall include the patient centered medical home education pilot project and may include any other ~~pilot~~ projects the director establishes pursuant to division (A)(3) of section 3701.922 of the Revised Code.

Sec. 3701.922. (A) The director of health may do any of the following to implement and administer the patient centered medical home education program:

(1) Develop and implement programs of education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care that

are intended to address the multifaceted needs of patients and 52237
provide whole person comprehensive and coordinated patient 52238
centered care; 52239

(2) Advise, consult, cooperate with, and assist, by contract 52240
or other arrangement, government agencies or institutions or 52241
private organizations, corporations, or associations in the 52242
development and promotion of programs pertaining to the evaluation 52243
and implementation of the patient centered medical home model of 52244
care or other similar enhanced models of coordinated patient 52245
centered care; 52246

(3) Establish ~~pilot~~ projects that ~~do any of the following:~~ 52247

~~(a) Evaluate or implement the patient centered medical home 52248
model of care or other similar enhanced models of coordinated 52249
patient centered care;~~ 52250

~~(b) Provide~~ provide education or training on the patient 52251
centered medical home model of care or other similar enhanced 52252
models of coordinated patient centered care. 52253

(4) Seek and administer state funds or grants from other 52254
sources to carry out any functions of the patient centered medical 52255
home education program. 52256

Any funds or grants received by the director for purposes of 52257
the program shall be used for the program. 52258

(B) The director may adopt rules as necessary to implement 52259
and administer the patient centered medical home education 52260
program, including rules that define what constitutes a "patient 52261
centered medical home" for purposes of an entity authorized to 52262
provide care coordination services. The rules shall be adopted in 52263
accordance with Chapter 119. of the Revised Code. 52264

Sec. 3701.94. There is hereby established the patient 52265
centered medical home program in the department of health. The 52266

patient centered medical home model of care is an advanced model 52267
of primary care in which care teams attend to the multifaceted 52268
needs of patients, providing whole person comprehensive and 52269
coordinated patient centered care. 52270

Sec. 3701.941. (A) As part of the patient centered medical 52271
home program established under section 3701.94 of the Revised 52272
Code, the department of health shall establish a voluntary patient 52273
centered medical home certification program. 52274

(B) Each primary care practice, that seeks a patient centered 52275
medical home certificate shall submit an application on a form 52276
prepared by the department. The department may require an 52277
application fee and annual renewal fee as determined by the 52278
department. If the department establishes a fee under this 52279
section, the fee shall be in an amount that is sufficient to cover 52280
the cost of any on-site evaluations conducted by the department or 52281
an entity under contract with the department pursuant to section 52282
3701.942 of the Revised Code. 52283

(C) A practice certified under this section shall do all of 52284
the following: 52285

(1) Meet any standards developed by national independent 52286
accrediting and medical home organizations, as determined by the 52287
department; 52288

(2) Develop a systematic follow-up procedure for patients, 52289
including the use of health information technology and patient 52290
registries; 52291

(3) Implement and maintain health information technology that 52292
meets the requirements of 42 U.S.C. 300jj; 52293

(4) Comply with the reporting requirements of section 52294
3701.942 of the Revised Code; 52295

<u>(5) Meet any process, outcome, and quality standards specified by the department of health;</u>	52296
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<u>(6) Meet any other requirements established by the department.</u>	52298
	52299
<u>(D) The department shall seek to do all of the following through the certification of patient centered medical homes:</u>	52300
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<u>(1) Expand, enhance, and encourage the use of primary care providers, including primary care physicians, advanced practice registered nurses, and physician assistants, as personal clinicians;</u>	52302
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<u>(2) Develop a focus on delivering high-quality, efficient, and effective health care services;</u>	52306
	52307
<u>(3) Encourage patient centered care and the provision of care that is appropriate for a patient's race, ethnicity, and language;</u>	52308
	52309
<u>(4) Encourage the education and active participation of patients and patients' families or legal guardians, as appropriate, in decision making and care plan development;</u>	52310
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<u>(5) Provide patients with consistent, ongoing contact with a personal clinician or team of clinical professionals to ensure continuous and appropriate care;</u>	52313
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<u>(6) Ensure that patient centered medical homes develop and maintain appropriate comprehensive care plans for patients with complex or chronic conditions, including an assessment of health risks and chronic conditions;</u>	52316
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<u>(7) Ensure that patient centered medical homes plan for transition of care from youth to adult to senior;</u>	52320
	52321
<u>(8) Enable and encourage use of a range of qualified health care professionals, including dedicated care coordinators, in a manner that enables those professionals to practice to the fullest extent of their professional licenses.</u>	52322
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Sec. 3701.942. (A) Each certified patient centered medical home shall report health care quality and performance information to the department of health, including any data necessary for monitoring compliance with certification standards and for evaluating the impact of patient centered medical homes on health care quality, cost, and outcomes. 52326
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(B) The department may contract with a private entity to evaluate the effectiveness of certified patient centered medical homes. The department may provide the entity with data collected under division (A) of this section. 52332
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(C) The department may contract with national independent accrediting and medical home organizations to provide on-site evaluation of primary care practices and verification of data collected under division (A) of this section. 52336
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(D) Data collected under this section is not a public record under section 149.43 of the Revised Code. 52340
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Sec. 3701.943. (A) The department of health shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly, evaluating the patient centered medical home program not later than three years after rules adopted pursuant to section 3701.944 of the Revised Code first become effective. The department shall submit a second report not later than five years after those rules first become effective. 52342
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(B) The reports submitted under division (A) of this section shall include all of the following: 52350
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(1) The number of patients receiving primary care services from certified patient centered medical homes and the number and characteristics of those patients with complex or chronic conditions. To the extent available, information regarding the 52352
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<u>income, race, ethnicity, and language of patients shall be</u>	52356
<u>included in the reports;</u>	52357
<u>(2) The number and geographic distribution of certified</u>	52358
<u>patient centered medical homes;</u>	52359
<u>(3) Performance of and quality of care measures implemented</u>	52360
<u>by certified patient centered medical homes;</u>	52361
<u>(4) Preventive care measures implemented by certified patient</u>	52362
<u>centered medical homes;</u>	52363
<u>(5) Payment arrangements of certified patient centered</u>	52364
<u>medical homes;</u>	52365
<u>(6) Costs related to implementation of the patient centered</u>	52366
<u>medical home program and payment of care coordination fees;</u>	52367
<u>(7) The estimated effect of certified patient centered</u>	52368
<u>medical homes on health disparities;</u>	52369
<u>(8) The estimated savings from establishing the patient</u>	52370
<u>centered medical home program, as those savings apply to the fee</u>	52371
<u>for service, managed care, and state-based purchasing sectors.</u>	52372
<u>Sec. 3701.944. The department of health shall adopt rules in</u>	52373
<u>accordance with Chapter 119. of the Revised Code to do all of the</u>	52374
<u>following:</u>	52375
<u>(A) Considering the goals set forth in section 3701.941 of</u>	52376
<u>the Revised Code, establish standards and procedures for</u>	52377
<u>certifying a primary care practice as a patient centered medical</u>	52378
<u>home;</u>	52379
<u>(B) Specify the types of medical practices that constitute</u>	52380
<u>primary care practices for the purpose of certifying patient</u>	52381
<u>centered medical homes;</u>	52382
<u>(C) Specify the health care quality and performance</u>	52383
<u>information that certified patient centered medical homes must</u>	52384

report to the department pursuant to section 3701.942 of the Revised Code. 52385
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Sec. 3701.95. (A) As used in this section, "direct care services" and "direct care worker" have the same meanings as in section 191.061 of the Revised Code. 52387
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(B) Not later than October 1, 2014, the director of health shall establish a direct care worker certification program. The director may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the program. The rules may address standards, procedures, and application fees charged for certification. 52390
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(C) For purposes of the program, the director shall do both of the following: 52396
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(1) Specify the minimum standards that must be met by a direct care worker to attain certification, which may include standards pertaining to education, experience, and continuing education requirements, as well as standards for compliance with administrative requirements. 52398
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(2) Specify a procedure for determining whether a direct care worker satisfies the standards specified under division (C)(1) of this section. 52403
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Sec. 3701.99. (A) Whoever violates division (C) of section 3701.23, division (C) of section 3701.232, division (C) of section 3701.24, division (B) of section 3701.25, division ~~(I)~~(D)(2) of section 3701.262, ~~division (D) of section 3701.263,~~ or sections 3701.46 to 3701.55 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree. 52406
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(B) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree. 52413
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(C) Whoever violates section 3701.352 or 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.

Sec. 3702.521. (A) Reviews of applications for certificates of need to recategorize hospital beds to skilled nursing beds shall be conducted in accordance with this division and rules adopted by the director of health.

(1) No hospital recategorizing beds shall apply for a certificate of need for more than twenty skilled nursing beds.

(2) No beds for which a certificate of need is requested under this division shall be reviewed under or counted in any formula developed under rules adopted by the director for the purpose of determining the number of long-term care beds that may be needed within the state.

(3) No beds shall be approved under this division unless the hospital certifies and demonstrates in the application that the beds will be dedicated to patients with a length of stay of no more than thirty days.

(4) No beds shall be approved under this division unless the hospital can satisfactorily demonstrate in the application that it is routinely unable to place the patients planned for the beds in accessible skilled nursing facilities.

(5) In developing rules to implement this division, the director shall give special attention to the required documentation of the need for such beds, including the efforts made by the hospital to place patients in suitable skilled nursing facilities, and special attention to the appropriate size of units with such beds given the historical pattern of the applicant hospital's documented difficulty in placing skilled nursing patients.

(B) For assistance in monitoring the use of hospital beds

recategorized as skilled nursing beds after August 5, 1989, the 52445
director shall adopt rules specifying appropriate quarterly 52446
procedures for reporting to the department of health. 52447

(C) A patient may stay in a hospital bed that, after August 52448
5, 1989, has been recategorized as a skilled nursing bed for more 52449
than thirty days if the hospital is able to demonstrate that it 52450
made a good faith effort to place the patient in an accessible 52451
skilled nursing facility acceptable to the patient within the 52452
thirty-day period, but was unable to do so. 52453

(D) No hospital bed recategorized after August 5, 1989, as a 52454
skilled nursing bed shall be covered by a provider agreement under 52455
the ~~medical assistance~~ medicaid program ~~established under Chapter~~ 52456
~~5111. of the Revised Code.~~ 52457

(E) Nothing in this section requires a hospital to place a 52458
patient in any nursing home if the patient does not wish to be 52459
placed in the nursing home. Nothing in this section limits the 52460
ability of a hospital to file a certificate of need application 52461
for the addition of long-term care beds that meet the definition 52462
of "home" in section 3721.01 of the Revised Code. Nothing in this 52463
section limits the ability of the director to grant certificates 52464
of need necessary for hospitals to engage in demonstration 52465
projects authorized by the federal government for the purpose of 52466
enhancing long-term quality of care and cost containment. Nothing 52467
in this section limits the ability of hospitals to develop swing 52468
bed programs in accordance with federal regulations. 52469

No hospital that is granted a certificate of need after 52470
August 5, 1989, to recategorize hospital beds as skilled nursing 52471
beds is subject to sections 3721.01 to 3721.09 of the Revised 52472
Code. If the portion of the hospital in which the recategorized 52473
beds are located is certified as a skilled nursing facility under 52474
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 52475
U.S.C.A. 301, as amended, that portion of the hospital is subject 52476

to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of 52477
the Revised Code. If the beds are registered pursuant to section 52478
3701.07 of the Revised Code as long-term care beds, the beds are 52479
subject to sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the 52480
Revised Code. 52481

Sec. 3702.55. A person that the director of health determines 52482
has violated section 3702.53 of the Revised Code shall cease 52483
conducting the activity that constitutes the violation or 52484
utilizing the facility resulting from the violation not later than 52485
thirty days after the person receives the notice mailed under 52486
section 3702.532 of the Revised Code or, if the person appeals the 52487
director's determination under section 3702.60 of the Revised 52488
Code, thirty days after the person receives an order upholding the 52489
director's determination that is not subject to further appeal. 52490

If any person determined to have violated section 3702.53 of 52491
the Revised Code fails to cease conducting an activity or using a 52492
facility as required by this section or if the person continues to 52493
seek payment or reimbursement for services rendered or costs 52494
incurred in conducting the activity as prohibited by section 52495
3702.56 of the Revised Code, in addition to the penalties imposed 52496
under section 3702.54 or 3702.541 of the Revised Code: 52497

(A) The director of health may refuse to include any beds 52498
involved in the activity in the bed capacity of a hospital for 52499
purposes of registration under section 3701.07 of the Revised 52500
Code; 52501

(B) The director of health may refuse to license, or may 52502
revoke a license or reduce bed capacity previously granted to, a 52503
hospice care program under section 3712.04 of the Revised Code; a 52504
nursing home, residential care facility, or home for the aging 52505
under section 3721.02 of the Revised Code; or any beds within any 52506
of those facilities that are involved in the activity; 52507

(C) A political subdivision certified under section 3721.09 52508
of the Revised Code may refuse to license, or may revoke a license 52509
or reduce bed capacity previously granted to, a nursing home, 52510
residential care facility, or home for the aging, or any beds 52511
within any of those facilities that are involved in the activity; 52512

(D) The director of ~~mental health~~ mental health and addiction 52513
services may refuse to license under section ~~5119.20~~ 5119.33 of 52514
the Revised Code, or may revoke a license or reduce bed capacity 52515
previously granted to, a hospital receiving mentally ill persons 52516
or beds within such a hospital that are involved in the activity; 52517

(E) The department of ~~job and family services~~ medicaid may 52518
refuse to enter into a provider agreement that includes a 52519
facility, beds, or services that result from the activity. 52520

Sec. 3702.62. Sections 3702.51 to 3702.61 of the Revised Code 52521
do not apply to any part of a long-term care facility's campus 52522
that is certified as an intermediate care facility for ~~the~~ 52523
~~mentally retarded under Title XIX of the "Social Security Act," 79~~ 52524
~~Stat. 343 (1965), 42 U.S.C. 1396 et seq., as amended~~ individuals 52525
with intellectual disabilities, as defined in section 5124.01 of 52526
the Revised Code. 52527

Sec. 3702.74. (A) A primary care physician who has signed a 52528
letter of intent under section 3702.73 of the Revised Code and the 52529
director of health may enter into a contract for the physician's 52530
participation in the physician loan repayment program. The 52531
physician's employer or other funding source may also be a party 52532
to the contract. 52533

(B) The contract shall include all of the following 52534
obligations: 52535

(1) The primary care physician agrees to provide primary care 52536
services in the health resource shortage area identified in the 52537

letter of intent for at least two years; 52538

(2) When providing primary care services in the health 52539
resource shortage area, the primary care physician agrees to do 52540
all of the following: 52541

(a) Provide primary care services for a minimum of forty 52542
hours per week, of which at least twenty-one hours will be spent 52543
providing patient care in an outpatient or ambulatory setting; 52544

(b) Provide primary care services without regard to a 52545
patient's ability to pay; 52546

(c) Meet the ~~conditions prescribed by the "Social Security~~ 52547
~~Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the~~ 52548
~~department of job and family services requirements for~~ 52549
~~participation in the a medicaid program established under Chapter~~ 52550
~~5111. of the Revised Code provider agreement~~ and enter into a 52551
~~contract~~ the agreement with the department of medicaid to provide 52552
primary care services to medicaid recipients ~~of the medical~~ 52553
~~assistance program.~~ 52554

(3) The department of health agrees, as provided in section 52555
3702.75 of the Revised Code, to repay, so long as the primary care 52556
physician performs the service obligation agreed to under division 52557
(B)(1) of this section, all or part of the principal and interest 52558
of a government or other educational loan taken by the primary 52559
care physician for expenses described in section 3702.75 of the 52560
Revised Code; 52561

(4) The primary care physician agrees to pay the department 52562
of health an amount established by rules adopted under section 52563
3702.79 of the Revised Code if the physician fails to complete the 52564
service obligation agreed to under division (B)(1) of this 52565
section. 52566

(C) The contract may include any other terms agreed upon by 52567
the parties. 52568

Sec. 3702.91. (A) An individual who has signed a letter of intent under section 3702.90 of the Revised Code may enter into a contract with the director of health for participation in the dentist loan repayment program. The dentist's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for at least two years.

(2) When providing dental services in the dental health resource shortage area, the individual agrees to do all of the following:

(a) Provide dental services for a minimum of forty hours per week;

(b) Provide dental services without regard to a patient's ability to pay;

(c) Meet the ~~conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the department of job and family services requirements for participation in the a~~ medicaid program established under Chapter 5111. of the Revised Code provider agreement and enter into a ~~contract~~ the agreement with the department of medicaid to provide dental services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code.

(4) The individual agrees to pay the department of health an amount established by rules adopted under section 3702.86 of the Revised Code, if the individual fails to complete the service obligation agreed to under division (B)(1) of this section.

(C) The contract may include any other terms agreed upon by the parties.

(D) Not later than the thirty-first day of January of each year, the department of health shall mail to each individual to whom or on whose behalf repayment is made under the dentist loan repayment program a statement showing the amount of principal and interest repaid by the department pursuant to the contract in the preceding year. The statement shall be sent by ordinary mail with address correction and forwarding requested in the manner prescribed by the United States postal service.

Sec. 3706.01. As used in this chapter:

(A) "Governmental agency" means a department, division, or other unit of state government, a municipal corporation, county, township, and other political subdivision, or any other public corporation or agency having the power to acquire, construct, or operate air quality facilities, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(B) "Person" means any individual, firm, partnership, association, or corporation, or any combination thereof.

(C) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, noise, vapor, heat, radioactivity, radiation, or odorous substance, or any combination thereof.

(D) "Air pollution" means the presence in the ambient air of one or more air contaminants in sufficient quantity and of such characteristics and duration as to injure human health or welfare,

plant or animal life, or property, or that unreasonably interferes 52629
with the comfortable enjoyment of life or property. 52630

(E) "Ambient air" means that portion of the atmosphere 52631
outside of buildings and other enclosures, stacks, or ducts that 52632
surrounds human, plant, or animal life, or property. 52633

(F) "Emission" means the release into the outdoor atmosphere 52634
of an air contaminant. 52635

(G) "Air quality facility" means any of the following: 52636

(1) Any method, modification or replacement of property, 52637
process, device, structure, or equipment that removes, reduces, 52638
prevents, contains, alters, conveys, stores, disperses, or 52639
disposes of air contaminants or substances containing air 52640
contaminants, or that renders less noxious or reduces the 52641
concentration of air contaminants in the ambient air, including, 52642
without limitation, facilities and expenditures that qualify as 52643
air pollution control facilities under section 103 (C)(4)(F) of 52644
the Internal Revenue Code of 1954, as amended, and regulations 52645
adopted thereunder; 52646

(2) Motor vehicle inspection stations operated in accordance 52647
with, and any equipment used for motor vehicle inspections 52648
conducted under, section 3704.14 of the Revised Code and rules 52649
adopted under it; 52650

(3) Ethanol or other biofuel facilities, including any 52651
equipment used at the ethanol or other biofuel facility for the 52652
production of ethanol or other biofuels; 52653

(4) Any property or portion thereof used for the collection, 52654
storage, treatment, utilization, processing, or final disposal of 52655
a by-product or solid waste resulting from any method, process, 52656
device, structure, or equipment that removes, reduces, prevents, 52657
contains, alters, conveys, stores, disperses, or disposes of air 52658
contaminants, or that renders less noxious or reduces the 52659

concentration of air contaminants in the ambient air;	52660
(5) Any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through improvements in the efficiency of energy utilization or energy conservation;	52661 52662 52663 52664
(6) Any coal research and development project conducted under Chapter 1555. of the Revised Code;	52665 52666
(7) As determined by the director of the Ohio coal development office, any property or portion thereof that is used for the collection, storage, treatment, utilization, processing, or final disposal of a by-product resulting from a coal research and development project as defined in section 1555.01 of the Revised Code or from the use of clean coal technology, excluding any property or portion thereof that is used primarily for other subsequent commercial purposes;	52667 52668 52669 52670 52671 52672 52673 52674
(8) Any property or portion thereof that is part of the FutureGen project of the United States department of energy or related to the siting of the FutureGen project-;i	52675 52676 52677
(9) Any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through the generation of clean, renewable energy with renewable energy resources or advanced energy resources as defined in section 3706.25 of the Revised Code-;i	52678 52679 52680 52681 52682
(10) Any property, device, structure or equipment necessary for the manufacture and production of equipment described as an air quality facility under this chapter;i	52683 52684 52685
<u>(11) Any property, device, or equipment related to the recharging or refueling of vehicles that promotes the reduction of emissions of air contaminants into the ambient air through the use of an alternative fuel as defined in section 125.831 of the Revised Code or the use of a renewable energy resource as defined</u>	52686 52687 52688 52689 52690

in section 3706.25 of the Revised Code. 52691

"Air quality facility" further includes any property or 52692
system to be used in whole or in part for any of the purposes in 52693
divisions (G)(1) to ~~(10)~~(11) of this section, whether another 52694
purpose is also served, and any property or system incidental to 52695
or that has to do with, or the end purpose of which is, any of the 52696
foregoing. Air quality facilities that are defined in this 52697
division for industry, commerce, distribution, or research, 52698
including public utility companies, are hereby determined to be 52699
those that qualify as facilities for the control of air pollution 52700
and thermal pollution related to air under Section 13 of Article 52701
VIII, Ohio Constitution. 52702

(H) "Project" or "air quality project" means any air quality 52703
facility, including undivided or other interests therein, acquired 52704
or to be acquired or constructed or to be constructed by the Ohio 52705
air quality development authority under this chapter, or acquired 52706
or to be acquired or constructed or to be constructed by a 52707
governmental agency or person with all or a part of the cost 52708
thereof being paid from a loan or grant from the authority under 52709
this chapter or otherwise paid from the proceeds of air quality 52710
revenue bonds, including all buildings and facilities that the 52711
authority determines necessary for the operation of the project, 52712
together with all property, rights, easements, and interests that 52713
may be required for the operation of the project. 52714

(I) "Cost" as applied to an air quality project means the 52715
cost of acquisition and construction, the cost of acquisition of 52716
all land, rights-of-way, property rights, easements, franchise 52717
rights, and interests required for such acquisition and 52718
construction, the cost of demolishing or removing any buildings or 52719
structures on land so acquired, including the cost of acquiring 52720
any lands to which such buildings or structures may be moved, the 52721
cost of acquiring or constructing and equipping a principal office 52722

and sub-offices of the authority, the cost of diverting highways, 52723
interchange of highways, and access roads to private property, 52724
including the cost of land or easements for such access roads, the 52725
cost of public utility and common carrier relocation or 52726
duplication, the cost of all machinery, furnishings, and 52727
equipment, financing charges, interest prior to and during 52728
construction and for no more than eighteen months after completion 52729
of construction, engineering, expenses of research and development 52730
with respect to air quality facilities, the cost of any commodity 52731
contract, including fees and expenses related thereto, legal 52732
expenses, plans, specifications, surveys, studies, estimates of 52733
cost and revenues, working capital, other expenses necessary or 52734
incident to determining the feasibility or practicability of 52735
acquiring or constructing such project, administrative expense, 52736
and such other expense as may be necessary or incident to the 52737
acquisition or construction of the project, the financing of such 52738
acquisition or construction, including the amount authorized in 52739
the resolution of the authority providing for the issuance of air 52740
quality revenue bonds to be paid into any special funds from the 52741
proceeds of such bonds, and the financing of the placing of such 52742
project in operation. Any obligation, cost, or expense incurred by 52743
any governmental agency or person for surveys, borings, 52744
preparation of plans and specifications, and other engineering 52745
services, or any other cost described above, in connection with 52746
the acquisition or construction of a project may be regarded as a 52747
part of the cost of that project and may be reimbursed out of the 52748
proceeds of air quality revenue bonds as authorized by this 52749
chapter. 52750

(J) "Owner" includes an individual, copartnership, 52751
association, or corporation having any title or interest in any 52752
property, rights, easements, or interests authorized to be 52753
acquired by this chapter. 52754

(K) "Revenues" means all rentals and other charges received 52755
by the authority for the use or services of any air quality 52756
project, any gift or grant received with respect to any air 52757
quality project, any moneys received with respect to the lease, 52758
sublease, sale, including installment sale or conditional sale, or 52759
other disposition of an air quality project, moneys received in 52760
repayment of and for interest on any loans made by the authority 52761
to a person or governmental agency, whether from the United States 52762
or any department, administration, or agency thereof, or 52763
otherwise, proceeds of such bonds to the extent that use thereof 52764
for payment of principal of, premium, if any, or interest on the 52765
bonds is authorized by the authority, amounts received or 52766
otherwise derived from a commodity contract or from the sale of 52767
the related commodity under such a contract, proceeds from any 52768
insurance, condemnation, or guaranty pertaining to a project or 52769
property mortgaged to secure bonds or pertaining to the financing 52770
of the project, and income and profit from the investment of the 52771
proceeds of air quality revenue bonds or of any revenues. 52772

(L) "Public roads" includes all public highways, roads, and 52773
streets in the state, whether maintained by the state, county, 52774
city, township, or other political subdivision. 52775

(M) "Public utility facilities" includes tracks, pipes, 52776
mains, conduits, cables, wires, towers, poles, and other equipment 52777
and appliances of any public utility. 52778

(N) "Construction," unless the context indicates a different 52779
meaning or intent, includes reconstruction, enlargement, 52780
improvement, or providing furnishings or equipment. 52781

(O) "Air quality revenue bonds," unless the context indicates 52782
a different meaning or intent, includes air quality revenue notes, 52783
air quality revenue renewal notes, and air quality revenue 52784
refunding bonds, except that notes issued in anticipation of the 52785
issuance of bonds shall have a maximum maturity of five years as 52786

provided in section 3706.05 of the Revised Code and notes or 52787
renewal notes issued as the definitive obligation may be issued 52788
maturing at such time or times with a maximum maturity of forty 52789
years from the date of issuance of the original note. 52790

(P) "Solid waste" means any garbage; refuse; sludge from a 52791
waste water treatment plant, water supply treatment plant, or air 52792
pollution control facility; and other discarded material, 52793
including solid, liquid, semisolid, or contained gaseous material 52794
resulting from industrial, commercial, mining, and agricultural 52795
operations, and from community activities, but not including solid 52796
or dissolved material in domestic sewage, or solid or dissolved 52797
material in irrigation return flows or industrial discharges that 52798
are point sources subject to permits under section 402 of the 52799
"Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 52800
880, 33 U.S.C.A. 1342, as amended, or source, special nuclear, or 52801
byproduct material as defined by the "Atomic Energy Act of 1954," 52802
68 Stat. 921, 42 U.S.C.A. 2011, as amended. 52803

(Q) "Sludge" means any solid, semisolid, or liquid waste, 52804
other than a recyclable by-product, generated from a municipal, 52805
commercial, or industrial waste water treatment plant, water 52806
supply plant, or air pollution control facility or any other such 52807
wastes having similar characteristics and effects. 52808

(R) "Ethanol or other biofuel facility" means a plant at 52809
which ethanol or other biofuel is produced. 52810

(S) "Ethanol" means fermentation ethyl alcohol derived from 52811
agricultural products, including potatoes, cereal, grains, cheese 52812
whey, and sugar beets; forest products; or other renewable or 52813
biomass resources, including residue and waste generated from the 52814
production, processing, and marketing of agricultural products, 52815
forest products, and other renewable or biomass resources, that 52816
meets all of the specifications in the American society for 52817
testing and materials (ASTM) specification D 4806-88 and is 52818

denatured as specified in Parts 20 and 21 of Title 27 of the Code 52819
of Federal Regulations. 52820

(T) "Biofuel" means any fuel that is made from cellulosic 52821
biomass resources, including renewable organic matter, crop waste 52822
residue, wood, aquatic plants and other crops, animal waste, solid 52823
waste, or sludge, and that is used for the production of energy 52824
for transportation or other purposes. 52825

(U) "FutureGen project" means the buildings, equipment, and 52826
real property and functionally related buildings, equipment, and 52827
real property, including related research projects that support 52828
the development and operation of the buildings, equipment, and 52829
real property, designated by the United States department of 52830
energy and the FutureGen industrial alliance, inc., as the 52831
coal-fueled, zero-emissions power plant designed to prove the 52832
technical and economic feasibility of producing electricity and 52833
hydrogen from coal and nearly eliminating carbon dioxide emissions 52834
through capture and permanent storage. 52835

(V) "Commodity contract" means a contract or series of 52836
contracts entered into in connection with the acquisition or 52837
construction of air quality facilities for the purchase or sale of 52838
a commodity that is eligible for prepayment with the proceeds of 52839
federally tax exempt bonds under sections 103, 141, and 148 of the 52840
Internal Revenue Code of 1986, as amended, and regulations adopted 52841
under it. 52842

Sec. 3709.01. The state shall be divided into health 52843
districts. Each city constitutes a health district and shall be 52844
known as a "city health district." 52845

The townships and villages in each county shall be combined 52846
into a health district and shall be known as a "general health 52847
district." 52848

As provided for in sections 3709.051, 3709.07, ~~3709.071~~, and 52849
3709.10 of the Revised Code, there may be a union of two or more 52850
~~contiguous~~ general health districts, ~~not to exceed five~~, a union 52851
of two or more ~~contiguous~~ city health districts to form a single 52852
city health district, or a union of a general health district and 52853
one or more city health districts located within or partially 52854
within such general health district. 52855

Sec. 3709.03. (A) There is hereby created in each general 52856
health district a district advisory council. A council shall 52857
consist of the president of the board of county commissioners, the 52858
chief executive of each municipal corporation not constituting a 52859
city health district, and the president of the board of township 52860
trustees of each township. The board of county commissioners, the 52861
legislative body of a municipal corporation, and the board of 52862
township trustees of a township may select an alternate from among 52863
themselves to serve if the president, the chief executive, or the 52864
president of the board of township trustees is unable to attend 52865
any meeting of the district advisory council. When attending a 52866
meeting on behalf of a council member, the alternate may vote on 52867
any matter on which the member is authorized to vote. 52868

The council shall organize by selecting a chair and secretary 52869
from among its members. The council shall adopt bylaws governing 52870
its meetings, the transaction of business, and voting procedures. 52871

The council shall meet annually in March at a place 52872
determined by the chair and the health commissioner for the 52873
purpose of electing the chair and the secretary, making necessary 52874
appointments to the board of health, receiving and considering the 52875
annual or special reports from the board of health, and making 52876
recommendations to the board of health or to the department of 52877
health in regard to matters for the betterment of health and 52878
sanitation within the district or for needed legislation. The 52879

secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.

Special meetings of the council shall be held on the order of any of the following:

(1) The director of health;

(2) The board of health;

(3) The lesser of five or a majority of district advisory council members.

The district health commissioner shall attend all meetings of the council.

(B) The district advisory council shall appoint four members of the board of health, and the remaining member shall be appointed by the health district licensing council established under section 3709.41 of the Revised Code. At least one member of the board of health shall be a physician, and one member shall be an executive officer or medical director of a hospital or of the largest medical facility in the district. Appointments shall be made with due regard to equal representation of all parts of the district.

(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are

not city health districts and one representative of townships in 52911
the district. If an individual is eligible for more than one 52912
position on the executive committee due to holding a particular 52913
office, the individual shall fill one position on the committee 52914
and the other position shall be filled by a member selected by a 52915
majority affirmative vote of the council members present at the 52916
meeting. A council member's alternate for annual meetings may 52917
serve as the member's alternate at meetings of the executive 52918
committee. 52919

Not later than thirty days after an executive committee is 52920
organized, the committee shall meet and the council chair shall 52921
present to the committee the matter of appointing a member of the 52922
board of health. The committee shall appoint the board member by 52923
majority affirmative vote. In the case of a combined health 52924
district, the executive committee shall appoint only members of 52925
the board of health that are to be appointed by the district 52926
advisory council, unless the contract for administration of health 52927
affairs in the combined district provides otherwise. If a majority 52928
affirmative vote is not reached within thirty days after the 52929
executive committee is organized, the director of health shall 52930
appoint the member of the board of health under the authority 52931
conferred by section 3709.03 of the Revised Code. 52932

If the council fails to meet or appoint a member of the board 52933
of health as required by this section or section 3709.02 of the 52934
Revised Code, the director of health may appoint the member. 52935

Sec. 3709.05. (A) Unless an administration of public health 52936
different from that specifically provided in this section is 52937
established and maintained under authority of its charter, or 52938
unless a combined city health district is formed under section 52939
3709.051 of the Revised Code, the legislative authority of each 52940
city constituting a city health district shall establish a board 52941

of health. The board shall be composed of four members appointed 52942
by the mayor and confirmed by the legislative authority and one 52943
member appointed by the health district licensing council 52944
established under section 3709.41 of the Revised Code. At least 52945
one member of the board shall be an executive officer or medical 52946
director of a hospital or of the largest medical facility in the 52947
district. 52948

(B) Each member of the board shall be paid a sum not to 52949
exceed eighty dollars a day for the member's attendance at each 52950
meeting of the board. No member shall receive compensation for 52951
attendance at more than eighteen meetings in any year. 52952

(C) Each member of the board shall receive travel expenses at 52953
rates established by the director of budget and management 52954
pursuant to section 126.31 of the Revised Code to cover the actual 52955
and necessary travel expenses incurred for travel to and from 52956
meetings that take place outside the county in which the member 52957
resides, except that any member may receive travel expenses for 52958
registration for any conference that takes place inside the county 52959
in which the member resides. 52960

(D) A majority of the members constitutes a quorum, and the 52961
mayor shall be president of the board. 52962

(E) The term of office of the members shall be five years 52963
from the date of appointment, except that of those first 52964
appointed, one shall serve for five years, one for four years, one 52965
for three years, one for two years, and one for one year, and 52966
thereafter one shall be appointed each year. 52967

A vacancy in the membership of the board shall be filled in 52968
like manner as an original appointment and shall be for the 52969
unexpired term. 52970

Sec. 3709.051. Two or more ~~contiguous~~ city health districts 52971

may be united to form a single city health district by a majority 52972
affirmative vote of the legislative authority of each city 52973
affected by the union. 52974

If at least three per cent of the qualified electors residing 52975
within each of two or more ~~contiguous~~ city health districts sign a 52976
petition proposing a union into a single city health district, an 52977
election shall be held as provided in this section to determine 52978
whether a single city health district shall be formed. The 52979
petition for union may specify regarding the board of health of 52980
the new district: 52981

(A) The qualifications for membership; 52982

(B) The term of office; 52983

(C) The number of members or a method by which the number may 52984
be determined from time to time; 52985

(D) The method of appointment. 52986

Such petition shall be filed with the boards of county 52987
commissioners of the respective counties affected, subject to 52988
approval of the director of health, and such boards shall promptly 52989
certify the text of the proposal to the boards of election for the 52990
purpose of having the proposal placed on the ballot at the next 52991
general election occurring more than ninety days after such 52992
certification. The election procedures provided in Chapter 3505. 52993
of the Revised Code for questions and issues shall apply to the 52994
election. If a majority of the electors voting on the proposal in 52995
each of the health districts affected vote in favor thereof, the 52996
union of such districts into a single city health district shall 52997
be established on the second succeeding first day of January. 52998

Sec. 3709.10. When it is proposed that two or more ~~contiguous~~ 52999
general health districts, ~~not to exceed five,~~ unite in the 53000
formation of one general health district, the district advisory 53001

council of each general health district shall meet and vote on the question of union. An affirmative majority vote of the district advisory council shall be required for approval. When the district advisory councils have voted affirmatively on the question, they shall meet in joint session and shall elect a board of health for the combined districts. Each original general health district shall be entitled to at least one member on the board of health of the combined districts.

When such union is completed, ~~such~~ the district shall constitute a general health district and shall be governed in the manner provided for general health districts. When two or more general health districts unite to form one district, the office of the board of health shall be located at the county seat of the county selected by the joint board of district advisory councils.

When two or more general health districts have been combined into a single district, the county auditor of the county selected by the joint board of district advisory councils as the location of the central office of the board of health shall be the auditor of such district and the county treasurer of such county shall be the custodian of the health funds of such district. When the budget of such combined general health district is a matter for consideration, the members of the budget commissions of the counties constituting the district shall sit as a joint board for considering and acting on such budget.

Sec. 3709.15. (A) The board of health of a city or general health district may appoint as many persons for sanitary duty as the public health and sanitary conditions of the district require, and such persons shall have general police powers and be known as "sanitarians." The board may also appoint as many registered nurses for public health nurse duty as the public health and sanitary conditions of the district require, who shall be known as

"public health nurses," and where such are appointed, the board 53033
may appoint licensed practical nurses as defined by section 53034
~~4723.15~~ 4723.02 of the Revised Code. The legislative authority of 53035
the city may determine the maximum number of sanitarians and 53036
public health nurses and licensed practical nurses to be 53037
appointed. 53038

(B) All sanitarians of a city or general health district who 53039
perform inspections of food service operations or of retail food 53040
establishments, both terms as defined in section 3717.01 of the 53041
Revised Code, shall, not later than July 1, 2017, obtain 53042
certification from the United States food and drug administration, 53043
and thereafter shall maintain that certification for as long as 53044
the food and drug administration continues to certify sanitarians. 53045

(C)(1) The board of health of a city or general health 53046
district may provide nursing care and other therapeutic and 53047
supportive care services to maintain an ill or infirm person in a 53048
place of residence used as such person's home or elsewhere. The 53049
board shall charge and collect reasonable fees not to exceed the 53050
cost of service for such care from patients financially able to 53051
pay, or may accept payment for such services from persons or 53052
public or private agencies on behalf of the recipient, either 53053
directly or by contract with such persons or agencies. The fees 53054
shall be retained by the board and placed in a special fund to be 53055
known as the home health services fund, and shall be used by the 53056
board only for defraying the cost of personnel, equipment, 53057
supplies, rental of physical facilities including real property, 53058
utilities, and administrative costs in providing services under 53059
this section. The approval of the auditor of state referred to in 53060
section 5705.12 of the Revised Code shall not be required for the 53061
establishment of the fund. 53062

(2) The board, in addition, may contract with any individual 53063
or a public or private agency to furnish services authorized by 53064

this section on behalf of a city or general health district for 53065
such time and for such compensation as may be agreed upon by the 53066
board and the individual or agency. The compensation shall be paid 53067
by the board from the home health services fund, or from any other 53068
available fund of the board. 53069

Sec. 3709.29. As used in this section, "general health 53070
district" includes a combined general health district formed under 53071
section 3709.10 of the Revised Code. 53072

If the estimated amount of money necessary to meet the 53073
expenses of a general health district program will not be 53074
forthcoming to the board of health of such district out of the 53075
district health fund because the taxes within the ten-mill 53076
limitation will be insufficient, the board of health shall certify 53077
the fact of such insufficiency to the board or boards of county 53078
commissioners of the county or counties in which such district is 53079
located. ~~Such~~ The board of county commissioners is hereby ordained 53080
to be a special taxing authority for the purposes of this section 53081
only, and, notwithstanding any other law to the contrary, the 53082
board of county commissioners of ~~any~~ each county in which a 53083
general health district is located is the taxing authority for 53084
such special levy outside the ten-mill limitation. The board of 53085
county commissioners, or each board of county commissioners in the 53086
case of a combined general health district located in more than 53087
one county, shall thereupon, in the year preceding that in which 53088
such health program will be effective, by vote of two-thirds of 53089
all the members of ~~that body~~ the board, declare by resolution that 53090
the amount of taxes which may be raised within the ten-mill 53091
limitation will be insufficient to provide an adequate amount for 53092
the necessary requirements of such district within the county, and 53093
that it is necessary to levy a tax in excess of such limitation in 53094
order to provide the board of health with sufficient funds to 53095
carry out such health program. ~~Such~~ The resolution shall be filed 53096

with the board of elections or, in the case of a combined general 53097
health district located in more than one county, with each board 53098
of elections, not later than four p.m. of the ninetieth day before 53099
the day of election. 53100

~~Such~~ The resolution shall specify the amount of increase in 53101
rate which it is necessary to levy and the number of years during 53102
which such increase shall be in effect, which shall not be for a 53103
longer period than ten years. 53104

The resolution shall conform to section 5705.191 of the 53105
Revised Code and be certified and submitted in the manner provided 53106
in section 5705.25 of the Revised Code, provided that the proposal 53107
shall be placed on the ballot at the next primary or general 53108
election occurring more than ninety days after the resolution is 53109
filed with the board of elections. 53110

Sec. 3709.43. (A) Not later than January 1, 2014, and not 53111
later than the first day of January of each even-numbered year 53112
thereafter, the health commissioner of a general health district 53113
shall develop a comprehensive community health assessment for the 53114
county. The health commissioners of two or more counties may 53115
jointly develop a comprehensive community health assessment for 53116
the counties. The assessment shall be developed in collaboration 53117
with all of the following entities located in the county: 53118

(1) Every city health district; 53119

(2) A representative sample of private health care providers, 53120
including private doctors and dentists; 53121

(3) Every hospital, including public, nonprofit, and 53122
proprietary hospitals; 53123

(4) A representative sample of unaffiliated medical 53124
facilities or medical service providers; 53125

(5) A representative sample of mental or behavioral health 53126

providers; and 53127

(6) At least two members of the general public. 53128

(B) The community health assessment shall comply with the 53129
national community health assessment standards of the national 53130
association of county and city health officials and shall include 53131
all of the following: 53132

(1) A description of the community, as defined in the 53133
national community health assessment standards, and of the 53134
existing community health resources; 53135

(2) A description of the process used to conduct the 53136
assessment, with a listing of all of the individuals with whom the 53137
health commissioner collaborated under division (A) of this 53138
section to develop the assessment; 53139

(3) The health needs identified through the assessment 53140
process, with an evaluation of access to affordable health care 53141
and of the necessary physical facilities for furnishing adequate 53142
services to all of the people of the county; and 53143

(4) A description of how the current assessment compares to 53144
the previous assessment, except for the first year the assessment 53145
is developed. 53146

(C) The health commissioner shall electronically submit a 53147
copy of the comprehensive community health assessment to the Ohio 53148
department of health not later than the first day of March of the 53149
year in which the assessment is due. 53150

(D) Every city health district in the county shall 53151
participate in the development of the comprehensive community 53152
health assessment. 53153

Sec. 3712.07. (A) As used in this section, "terminal care 53154
facility for the homeless" means a facility that provides 53155
accommodations to homeless individuals who are terminally ill. 53156

(B) A person or public agency licensed under this chapter to provide a hospice care program may enter into an agreement with a terminal care facility for the homeless under which hospice care program services may be provided to individuals residing at the facility, if all of the following apply:

(1) Each resident of the facility has been diagnosed by a physician as having a terminal condition and an anticipated life expectancy of six months or less;

(2) No resident of the facility has a relative or other person willing or capable of providing the care necessary to cope with ~~his~~ the resident's terminal illness or is financially capable of hiring a person to provide such care;

(3) Each resident of the facility is under the direct care of a physician;

(4) No resident of the facility requires the staff of the facility to administer medication by injection;

(5) The facility does not receive any remuneration, directly or indirectly, from the residents;

(6) The facility does not receive any remuneration, directly or indirectly, from the ~~medical assistance~~ medicaid program established under section 5111.01 of the Revised Code or the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(7) The facility meets all applicable state and federal health and safety standards, including standards for fire prevention, maintenance of safe and sanitary conditions, and proper preparation and storage of foods.

(C) Hospice care program services may be provided at a terminal care facility for the homeless only by the personnel of the person or public agency that has entered into an agreement

with the facility under this section. 53187

(D) A terminal care facility for the homeless that has 53188
entered into an agreement under this section may assist its 53189
residents with the self-administration of medication if the 53190
medication has been prescribed by a physician and is not 53191
administered by injection. In the event that a resident has 53192
entered the final stages of dying and is no longer mentally alert, 53193
the facility may administer medication to that resident if the 53194
medication has been prescribed by a physician and is not 53195
administered by injection. Determinations of whether an individual 53196
has entered the final stages of dying and is no longer mentally 53197
alert shall be based on directions from the personnel who provide 53198
hospice care program services at the facility. 53199

Sec. 3713.06. (A) Any person required to register under 53200
division (A) of section 3713.02 of the Revised Code who imports 53201
bedding or stuffed toys into this state for retail sale or use in 53202
this state and any person required to register under division (A) 53203
of section 3713.02 of the Revised Code who manufactures bedding or 53204
stuffed toys in this state for retail sale or use in this state 53205
shall submit a report to the superintendent of industrial 53206
compliance, in a form and manner prescribed by the superintendent. 53207
The form shall be submitted once ~~every six months~~ per year and 53208
shall show the total number of items of bedding or stuffed toys 53209
imported into this state or manufactured in this state. Each 53210
report shall be accompanied by a fee of four cents for each item 53211
of bedding or stuffed toy imported into this state or manufactured 53212
in this state. 53213

(B) Every importer, manufacturer, or wholesaler of stuffed 53214
toys or articles of bedding, and every mobile home and 53215
recreational vehicle dealer, conversion van dealer, secondhand 53216
dealer, and auction house shall retain records, designated by the 53217

superintendent in rule, for the time period established in rule. 53218

(C) Every importer, manufacturer, or wholesaler of stuffed 53219
toys or articles of bedding, and every mobile home and 53220
recreational vehicle dealer, conversion van dealer, secondhand 53221
dealer, and auction house shall make sufficient investigation of 53222
its records to ensure that the information reported to the 53223
superintendent under division (A) of this section is accurate. 53224

Sec. 3714.07. (A)(1) For the purpose of assisting boards of 53225
health and the environmental protection agency in administering 53226
and enforcing this chapter and rules adopted under it, there is 53227
hereby levied a fee of thirty cents per cubic yard or sixty cents 53228
per ton, as applicable, on both of the following: 53229

(a) The disposal of construction and demolition debris at a 53230
construction and demolition debris facility that is licensed under 53231
this chapter or at a solid waste facility that is licensed under 53232
Chapter 3734. of the Revised Code; 53233

(b) The disposal of asbestos or asbestos-containing materials 53234
or products at a construction and demolition debris facility that 53235
is licensed under this chapter or at a solid waste facility that 53236
is licensed under Chapter 3734. of the Revised Code. 53237

(2) The owner or operator of a construction and demolition 53238
debris facility or a solid waste facility shall determine if cubic 53239
yards or tons will be used as the unit of measurement. If basing 53240
the fee on cubic yards, the owner or operator shall utilize either 53241
the maximum cubic yard capacity of the container, or the hauling 53242
volume of the vehicle, that transports the construction and 53243
demolition debris to the facility or the cubic yards actually 53244
logged for disposal by the owner or operator in accordance with 53245
rules adopted under section 3714.02 of the Revised Code. If basing 53246
the fee on tonnage, the owner or operator shall use certified 53247
scales to determine the tonnage of construction and demolition 53248

debris that is disposed of. 53249

(3) The owner or operator of a construction and demolition 53250
debris facility or a solid waste facility shall calculate the 53251
amount of money generated from the fee levied under division 53252
(A)(1) of this section and shall hold that amount as a trustee for 53253
the health district having jurisdiction over the facility, if that 53254
district is on the approved list under section 3714.09 of the 53255
Revised Code, or for the state. The owner or operator shall 53256
prepare and file with the appropriate board of health or the 53257
director of environmental protection monthly returns indicating 53258
the total volume or weight, as applicable, of construction and 53259
demolition debris and asbestos or asbestos-containing materials or 53260
products disposed of at the facility and the total amount of money 53261
generated during that month from the fee levied under division 53262
(A)(1) of this section on the disposal of construction and 53263
demolition debris and asbestos or asbestos-containing materials or 53264
products. Not later than thirty days after the last day of the 53265
month to which the return applies, the owner or operator shall 53266
mail to the board of health or the director the return for that 53267
month together with the amount of money calculated under division 53268
(A)(3) of this section on the disposal of construction and 53269
demolition debris and asbestos or asbestos-containing materials or 53270
products during that month or may submit the return and money 53271
electronically in a manner approved by the director. The owner or 53272
operator may request, in writing, an extension of not more than 53273
thirty days after the last day of the month to which the return 53274
applies. A request for extension may be denied. If the owner or 53275
operator submits the money late, the owner or operator shall pay a 53276
penalty of ten per cent of the amount of the money due for each 53277
month that it is late. 53278

(4) Of the money that is submitted by a construction and 53279
demolition debris facility or a solid waste facility on a per 53280

cubic yard or per ton basis under this section, a board of health 53281
shall transmit three cents per cubic yard or six cents per ton, as 53282
applicable, to the director not later than forty-five days after 53283
the receipt of the money. The money retained by a board of health 53284
under this section shall be paid into a special fund, which is 53285
hereby created in each health district, and used solely ~~to~~ for the 53286
following purposes: 53287

(a) To administer and enforce this chapter and rules adopted 53288
under it; 53289

(b) To abate accumulations of construction and demolition 53290
debris as provided in section 3714.074 of the Revised Code. 53291

The director shall transmit all money received under this 53292
section to the treasurer of state to be credited to the 53293
construction and demolition debris facility oversight fund, which 53294
is hereby created in the state treasury. The fund shall be 53295
administered by the director, and money credited to the fund shall 53296
be used exclusively for the administration and enforcement of this 53297
chapter and rules adopted under it. 53298

(B) The board of health of a health district or the director 53299
may enter into an agreement with the owner or operator of a 53300
construction and demolition debris facility or a solid waste 53301
facility for the quarterly payment of money generated from the 53302
disposal fee as calculated in division (A)(3) of this section. The 53303
board of health shall notify the director of any such agreement. 53304
Not later than forty-five days after receipt of the quarterly 53305
payment, the board of health shall transmit the amount established 53306
in division (A)(4) of this section to the director. The money 53307
retained by the board of health shall be deposited in the special 53308
fund of the district as required under that division. Upon receipt 53309
of the money from a board of health, the director shall transmit 53310
the money to the treasurer of state to be credited to the 53311
construction and demolition debris facility oversight fund. 53312

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A)(1) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money generated from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money generated from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as

appropriate, shall maintain separate records of the money received 53345
under this division. 53346

The legislative authority of a municipal corporation or 53347
township may cease appropriating money under this division by 53348
repealing the ordinance or resolution that was enacted or adopted 53349
under this division. 53350

The director shall adopt rules in accordance with Chapter 53351
119. of the Revised Code establishing requirements for prorating 53352
the amount of the fee that may be appropriated under this division 53353
by a municipal corporation or township in which only a portion of 53354
a construction and demolition debris facility is located within 53355
the territorial boundaries of the municipal corporation or 53356
township. 53357

(D) The board of county commissioners of a county in which a 53358
construction and demolition debris facility or a solid waste 53359
facility is located may appropriate up to three cents per cubic 53360
yard or up to six cents per ton of the disposal fee required to be 53361
paid by the facility under division (A)(1) of this section for the 53362
same purposes that a solid waste management district may levy a 53363
fee under division (B) of section 3734.57 of the Revised Code. 53364

The board of county commissioners may appropriate the money 53365
from the fee by adopting a resolution establishing the amount of 53366
the fee to be appropriated. Upon doing so, the board of county 53367
commissioners shall mail a certified copy of the resolution to the 53368
board of health of the health district in which the construction 53369
and demolition debris facility or the solid waste facility is 53370
located or, if the facility is located in a health district that 53371
is not on the approved list under section 3714.09 of the Revised 53372
Code, to the director. Upon receipt of the copy of the resolution 53373
and not later than forty-five days after receipt of money 53374
generated from the fee, the board of health or the director, as 53375
applicable, shall transmit to the treasurer of the county that 53376

portion of the money generated from the disposal fee by the owner 53377
or operator of the facility that is required by the resolution to 53378
be paid to that county. 53379

Money received by a county treasurer under this division 53380
shall be paid into the general fund of the county. The county 53381
treasurer shall maintain separate records of the money received 53382
under this division. 53383

A board of county commissioners may cease appropriating money 53384
under this division by repealing the resolution that was adopted 53385
under this division. 53386

(E)(1) This section does not apply to the disposal of 53387
construction and demolition debris at a solid waste facility that 53388
is licensed under Chapter 3734. of the Revised Code if there is no 53389
construction and demolition debris facility licensed under this 53390
chapter within thirty-five miles of the solid waste facility as 53391
determined by a facility's property boundaries. 53392

(2) This section does not apply to the disposal of 53393
construction and demolition debris at a solid waste facility that 53394
is licensed under Chapter 3734. of the Revised Code if the owner 53395
or operator of the facility chooses to collect fees on the 53396
disposal of the construction and demolition debris and asbestos or 53397
asbestos-containing materials or products that are identical to 53398
the fees that are collected under Chapters 343. and 3734. of the 53399
Revised Code on the disposal of solid wastes at that facility. 53400

(3) This section does not apply to the disposal of source 53401
separated materials that are exclusively composed of reinforced or 53402
nonreinforced concrete, asphalt, clay tile, building or paving 53403
brick, or building or paving stone at a construction and 53404
demolition debris facility that is licensed under this chapter 53405
when either of the following applies: 53406

(a) The materials are placed within the limits of 53407

construction and demolition debris placement at the facility as 53408
specified in the license issued to the facility under section 53409
3714.06 of the Revised Code, are not placed within the unloading 53410
zone of the facility, and are used as a fire prevention measure in 53411
accordance with rules adopted by the director under section 53412
3714.02 of the Revised Code. 53413

(b) The materials are not placed within the unloading zone of 53414
the facility or within the limits of construction and demolition 53415
debris placement at the facility as specified in the license 53416
issued to the facility under section 3714.06 of the Revised Code, 53417
but are used as fill material, either alone or in conjunction with 53418
clean soil, sand, gravel, or other clean aggregates, in legitimate 53419
fill operations for construction purposes at the facility or to 53420
bring the facility up to a consistent grade. 53421

Sec. 3714.074. (A) A board of health may use money in the 53422
board's special fund created in section 3714.07 of the Revised 53423
Code for the purpose specified in division (B) of this section if 53424
both of the following apply: 53425

(1) It is the end of the fiscal year. 53426

(2) The board determines that it has more money in the fund 53427
than is necessary for the board to administer and enforce this 53428
chapter and rules adopted under it for the following fiscal year. 53429

(B) A board of health may use excess money as described in 53430
division (A) of this section to abate accumulations of 53431
construction and demolition debris at a location for which a 53432
license has not been issued pursuant to section 3714.05 of the 53433
Revised Code if all of the following apply to the property on 53434
which the accumulations are located: 53435

(1) The construction and demolition debris was placed on the 53436
property under either of the following circumstances: 53437

(a) After the owner of the property acquired title to it; 53438

(b) Before the owner of the property acquired title to it if 53439
the owner acquired title to the property by bequest or devise. 53440

(2) The owner of the property did not have knowledge that the 53441
construction and demolition debris was being placed on the 53442
property, or the owner posted on the property signs prohibiting 53443
dumping or took other action to prevent the placing of 53444
construction and demolition debris on the property. 53445

(3) The owner of the property did not participate in or 53446
consent to the placement of the construction and demolition debris 53447
on the property. 53448

(4) The owner of the property did not receive any financial 53449
benefit from the placement of the construction and demolition 53450
debris on the property or from having the construction and 53451
demolition debris on the property. 53452

(5) Title to the property was not transferred to the owner of 53453
that property for the purpose of avoiding liability for violations 53454
of this chapter or rules adopted under it. 53455

(6) The person responsible for the placement of the 53456
construction and demolition debris on the property, in placing the 53457
construction and demolition debris on the property, was not acting 53458
as an agent for the owner of the property. 53459

Sec. 3718.06. (A) A board of health shall establish fees in 53460
accordance with section 3709.09 of the Revised Code for the 53461
purpose of carrying out its duties under this chapter and rules 53462
adopted under it, including fees for installation permits, 53463
operation permits, and alteration permits issued by the board. All 53464
fees so established and collected by the board shall be deposited 53465
in a special fund of the district to be used exclusively by the 53466
board in carrying out those duties. 53467

(B) In accordance with Chapter 119. of the Revised Code, the 53468
director of health may establish by rule a fee to be collected 53469
from applicants for installation permits and alteration permits 53470
issued under rules adopted under this chapter. The director of 53471
health shall use not more than ~~seventy-five~~ ninety per cent of the 53472
proceeds from that fee for administering and enforcing this 53473
chapter and the rules adopted under it by the director. The 53474
director shall use not less than ~~twenty-five~~ ten per cent of the 53475
proceeds from that fee to establish a program in cooperation with 53476
boards of health to fund installation and evaluation of sewage 53477
treatment system new technology pilot projects through grants or 53478
other agreements. In the selection of pilot projects, the director 53479
shall consult with the sewage treatment system technical advisory 53480
committee. A board of health shall collect and transmit the fee to 53481
the director pursuant to section 3709.092 of the Revised Code. 53482

Sec. 3719.61. Nothing in the laws dealing with drugs of abuse 53483
shall be construed to prohibit treatment of narcotic drug 53484
dependent persons by the continuing maintenance of their 53485
dependence through the administration of methadone in accordance 53486
with the rules adopted by the department of ~~alcohol and drug~~ 53487
~~addiction services~~ mental health and addiction services under 53488
section ~~3793.11~~ 5119.39 of the Revised Code, when all of the 53489
following apply: 53490

(A) The likelihood that any person undergoing maintenance 53491
treatment will be cured of dependence on narcotic drugs is remote, 53492
the treatment is prescribed for the purpose of alleviating or 53493
controlling the patient's drug dependence, and the patient's 53494
prognosis while undergoing treatment is at least a partial 53495
improvement in the patient's asocial or antisocial behavior 53496
patterns; 53497

(B) In the case of an inpatient in a hospital or clinic, the 53498

amount of the maintenance drug dispensed at any one time does not 53499
exceed the quantity necessary for a single dose, and the dose is 53500
administered to the patient immediately; 53501

(C) In the case of an outpatient, the amount of the 53502
maintenance drug dispensed at any one time shall be determined by 53503
the patient's treatment provider taking into account the patient's 53504
progress in the treatment program and the patient's needs for 53505
gainful employment, education, and responsible homemaking, except 53506
that in no event shall the dosage be greater than the amount 53507
permitted by federal law and rules adopted by the department 53508
pursuant to section ~~3793.11~~ 5119.39 of the Revised Code; 53509

(D) The drug is not dispensed in any case to replace or 53510
supplement any part of a supply of the drug previously dispensed, 53511
or when there is reasonable cause to believe it will be used or 53512
disposed of unlawfully; 53513

(E) The drug is dispensed through a program licensed and 53514
operated in accordance with section ~~3793.11~~ 5119.39 of the Revised 53515
Code. 53516

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 53517
3721.99 of the Revised Code: 53518

(1)(a) "Home" means an institution, residence, or facility 53519
that provides, for a period of more than twenty-four hours, 53520
whether for a consideration or not, accommodations to three or 53521
more unrelated individuals who are dependent upon the services of 53522
others, including a nursing home, residential care facility, home 53523
for the aging, and a veterans' home operated under Chapter 5907. 53524
of the Revised Code. 53525

(b) "Home" also means both of the following: 53526

(i) Any facility that a person, as defined in section 3702.51 53527
of the Revised Code, proposes for certification as a skilled 53528

nursing facility or nursing facility under Title XVIII or XIX of 53529
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 53530
as amended, and for which a certificate of need, other than a 53531
certificate to recategorize hospital beds as described in section 53532
3702.521 of the Revised Code or division (R)(7)(d) of the version 53533
of section 3702.51 of the Revised Code in effect immediately prior 53534
to April 20, 1995, has been granted to the person under sections 53535
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 53536

(ii) A county home or district home that is or has been 53537
licensed as a residential care facility. 53538

(c) "Home" does not mean any of the following: 53539

(i) Except as provided in division (A)(1)(b) of this section, 53540
a public hospital or hospital as defined in section 3701.01 or 53541
5122.01 of the Revised Code; 53542

(ii) A residential facility as defined in section ~~5119.22~~ 53543
5119.34 of the Revised Code; 53544

(iii) A residential facility as defined in section 5123.19 of 53545
the Revised Code; 53546

(iv) ~~An alcohol or drug~~ A community addiction ~~program~~ 53547
services provider as defined in section ~~3793.01~~ 5119.01 of the 53548
Revised Code; 53549

(v) A facility licensed to provide methadone treatment under 53550
section ~~3793.11~~ 5119.39 of the Revised Code; 53551

(vi) A facility providing services under contract with the 53552
department of developmental disabilities under section 5123.18 of 53553
the Revised Code; 53554

(vii) A facility operated by a hospice care program licensed 53555
under section 3712.04 of the Revised Code that is used exclusively 53556
for care of hospice patients; 53557

(viii) A facility operated by a pediatric respite care 53558

program licensed under section 3712.041 of the Revised Code that 53559
is used exclusively for care of pediatric respite care patients; 53560

(ix) A facility, infirmary, or other entity that is operated 53561
by a religious order, provides care exclusively to members of 53562
religious orders who take vows of celibacy and live by virtue of 53563
their vows within the orders as if related, and does not 53564
participate in the medicare program ~~established under Title XVIII~~ 53565
~~of the "Social Security Act" or the medical assistance~~ medicaid 53566
~~program established under Chapter 5111. of the Revised Code and~~ 53567
~~Title XIX of the "Social Security Act,"~~ if on January 1, 1994, the 53568
facility, infirmary, or entity was providing care exclusively to 53569
members of the religious order; 53570

(x) A county home or district home that has never been 53571
licensed as a residential care facility. 53572

(2) "Unrelated individual" means one who is not related to 53573
the owner or operator of a home or to the spouse of the owner or 53574
operator as a parent, grandparent, child, grandchild, brother, 53575
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 53576
uncle. 53577

(3) "Mental impairment" does not mean mental illness as 53578
defined in section 5122.01 of the Revised Code or mental 53579
retardation as defined in section 5123.01 of the Revised Code. 53580

(4) "Skilled nursing care" means procedures that require 53581
technical skills and knowledge beyond those the untrained person 53582
possesses and that are commonly employed in providing for the 53583
physical, mental, and emotional needs of the ill or otherwise 53584
incapacitated. "Skilled nursing care" includes, but is not limited 53585
to, the following: 53586

(a) Irrigations, catheterizations, application of dressings, 53587
and supervision of special diets; 53588

(b) Objective observation of changes in the patient's 53589

condition as a means of analyzing and determining the nursing care 53590
required and the need for further medical diagnosis and treatment; 53591

(c) Special procedures contributing to rehabilitation; 53592

(d) Administration of medication by any method ordered by a 53593
physician, such as hypodermically, rectally, or orally, including 53594
observation of the patient after receipt of the medication; 53595

(e) Carrying out other treatments prescribed by the physician 53596
that involve a similar level of complexity and skill in 53597
administration. 53598

(5)(a) "Personal care services" means services including, but 53599
not limited to, the following: 53600

(i) Assisting residents with activities of daily living; 53601

(ii) Assisting residents with self-administration of 53602
medication, in accordance with rules adopted under section 3721.04 53603
of the Revised Code; 53604

(iii) Preparing special diets, other than complex therapeutic 53605
diets, for residents pursuant to the instructions of a physician 53606
or a licensed dietitian, in accordance with rules adopted under 53607
section 3721.04 of the Revised Code. 53608

(b) "Personal care services" does not include "skilled 53609
nursing care" as defined in division (A)(4) of this section. A 53610
facility need not provide more than one of the services listed in 53611
division (A)(5)(a) of this section to be considered to be 53612
providing personal care services. 53613

(6) "Nursing home" means a home used for the reception and 53614
care of individuals who by reason of illness or physical or mental 53615
impairment require skilled nursing care and of individuals who 53616
require personal care services but not skilled nursing care. A 53617
nursing home is licensed to provide personal care services and 53618
skilled nursing care. 53619

(7) "Residential care facility" means a home that provides 53620
either of the following: 53621

(a) Accommodations for seventeen or more unrelated 53622
individuals and supervision and personal care services for three 53623
or more of those individuals who are dependent on the services of 53624
others by reason of age or physical or mental impairment; 53625

(b) Accommodations for three or more unrelated individuals, 53626
supervision and personal care services for at least three of those 53627
individuals who are dependent on the services of others by reason 53628
of age or physical or mental impairment, and, to at least one of 53629
those individuals, any of the skilled nursing care authorized by 53630
section 3721.011 of the Revised Code. 53631

(8) "Home for the aging" means a home that provides services 53632
as a residential care facility and a nursing home, except that the 53633
home provides its services only to individuals who are dependent 53634
on the services of others by reason of both age and physical or 53635
mental impairment. 53636

The part or unit of a home for the aging that provides 53637
services only as a residential care facility is licensed as a 53638
residential care facility. The part or unit that may provide 53639
skilled nursing care beyond the extent authorized by section 53640
3721.011 of the Revised Code is licensed as a nursing home. 53641

(9) "County home" and "district home" mean a county home or 53642
district home operated under Chapter 5155. of the Revised Code. 53643

(B) The director of health may further classify homes. For 53644
the purposes of this chapter, any residence, institution, hotel, 53645
congregate housing project, or similar facility that meets the 53646
definition of a home under this section is such a home regardless 53647
of how the facility holds itself out to the public. 53648

(C) For purposes of this chapter, personal care services or 53649
skilled nursing care shall be considered to be provided by a 53650

facility if they are provided by a person employed by or 53651
associated with the facility or by another person pursuant to an 53652
agreement to which neither the resident who receives the services 53653
nor the resident's sponsor is a party. 53654

(D) Nothing in division (A)(4) of this section shall be 53655
construed to permit skilled nursing care to be imposed on an 53656
individual who does not require skilled nursing care. 53657

Nothing in division (A)(5) of this section shall be construed 53658
to permit personal care services to be imposed on an individual 53659
who is capable of performing the activity in question without 53660
assistance. 53661

(E) Division (A)(1)(c)(ix) of this section does not prohibit 53662
a facility, infirmary, or other entity described in that division 53663
from seeking licensure under sections 3721.01 to 3721.09 of the 53664
Revised Code or certification under Title XVIII or XIX of the 53665
"Social Security Act." However, such a facility, infirmary, or 53666
entity that applies for licensure or certification must meet the 53667
requirements of those sections or titles and the rules adopted 53668
under them and obtain a certificate of need from the director of 53669
health under section 3702.52 of the Revised Code. 53670

(F) Nothing in this chapter, or rules adopted pursuant to it, 53671
shall be construed as authorizing the supervision, regulation, or 53672
control of the spiritual care or treatment of residents or 53673
patients in any home who rely upon treatment by prayer or 53674
spiritual means in accordance with the creed or tenets of any 53675
recognized church or religious denomination. 53676

Sec. 3721.011. (A) In addition to providing accommodations, 53677
supervision, and personal care services to its residents, a 53678
residential care facility may do the following: 53679

(1) Provide the following skilled nursing care to its 53680

residents: 53681

(a) Supervision of special diets; 53682

(b) Application of dressings, in accordance with rules 53683
adopted under section 3721.04 of the Revised Code; 53684

(c) Subject to division (B)(1) of this section, 53685
administration of medication. 53686

(2) Subject to division (C) of this section, provide other 53687
skilled nursing care on a part-time, intermittent basis for not 53688
more than a total of one hundred twenty days in a twelve-month 53689
period; 53690

(3) Provide skilled nursing care for more than one hundred 53691
twenty days in a twelve-month period to a resident when the 53692
requirements of division (D) of this section are met. 53693

A residential care facility may not admit or retain an 53694
individual requiring skilled nursing care that is not authorized 53695
by this section. A residential care facility may not provide 53696
skilled nursing care beyond the limits established by this 53697
section. 53698

(B)(1) A residential care facility may admit or retain an 53699
individual requiring medication, including biologicals, only if 53700
the individual's personal physician has determined in writing that 53701
the individual is capable of self-administering the medication or 53702
the facility provides for the medication to be administered to the 53703
individual by a home health agency certified under Title XVIII of 53704
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as 53705
amended; a hospice care program licensed under Chapter 3712. of 53706
the Revised Code; or a member of the staff of the residential care 53707
facility who is qualified to perform medication administration. 53708
Medication may be administered in a residential care facility only 53709
by the following persons authorized by law to administer 53710
medication: 53711

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;	53712 53713
(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	53714 53715 53716 53717 53718 53719 53720
(c) A medication aide certified under Chapter 4723. of the Revised Code;	53721 53722
(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	53723 53724 53725
(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:	53726 53727 53728
(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;	53729 53730
(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.	53731 53732 53733 53734 53735
(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and	53736 53737 53738 53739 53740 53741 53742

place the container to the mouth of the resident. 53743

(C) Except as provided in division (D) of this section, a 53744
residential care facility may admit or retain individuals who 53745
require skilled nursing care beyond the supervision of special 53746
diets, application of dressings, or administration of medication, 53747
only if the care will be provided on a part-time, intermittent 53748
basis for not more than a total of one hundred twenty days in any 53749
twelve-month period. In accordance with Chapter 119. of the 53750
Revised Code, the director of health shall adopt rules specifying 53751
what constitutes the need for skilled nursing care on a part-time, 53752
intermittent basis. The director shall adopt rules that are 53753
consistent with rules pertaining to home health care adopted by 53754
the medicaid director ~~of job and family services~~ for the medicaid 53755
program ~~established under Chapter 5111. of the Revised Code.~~ 53756
Skilled nursing care provided pursuant to this division may be 53757
provided by a home health agency certified ~~under Title XVIII of~~ 53758
~~the "Social Security Act~~ for participation in the medicare 53759
program, a hospice care program licensed under Chapter 3712. of 53760
the Revised Code, or a member of the staff of a residential care 53761
facility who is qualified to perform skilled nursing care. 53762

A residential care facility that provides skilled nursing 53763
care pursuant to this division shall do both of the following: 53764

(1) Evaluate each resident receiving the skilled nursing care 53765
at least once every seven days to determine whether the resident 53766
should be transferred to a nursing home; 53767

(2) Meet the skilled nursing care needs of each resident 53768
receiving the care. 53769

(D)(1) A residential care facility may admit or retain an 53770
individual who requires skilled nursing care for more than one 53771
hundred twenty days in any twelve-month period only if the 53772
facility has entered into a written agreement with each of the 53773

following:	53774
(a) The individual or individual's sponsor;	53775
(b) The individual's personal physician;	53776
(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;	53777 53778
(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code.	53779 53780 53781
(2) The agreement required by division (D)(1) of this section shall include all of the following provisions:	53782 53783
(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility;	53784 53785 53786
(b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility;	53787 53788 53789
(c) That the redeterminations will be made according to a schedule specified in the agreement;	53790 53791
(d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs;	53792 53793 53794
(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.	53795 53796 53797
(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.	53798 53799 53800
Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section	53801 53802

~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section ~~5119.22~~ 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to

be licensed as a residential facility. 53835

(D) In determining the number of residents in a home for the 53836
purpose of licensing, the director shall consider all the 53837
individuals for whom the home provides accommodations as one group 53838
unless one of the following is the case: 53839

(1) The home is a home for the aging, in which case all the 53840
individuals in the part or unit licensed as a nursing home shall 53841
be considered as one group, and all the individuals in the part or 53842
unit licensed as a rest home shall be considered as another group. 53843

(2) The home is both a nursing home and a residential 53844
facility. In that case, all the individuals in the part or unit 53845
licensed as a nursing home shall be considered as one group, and 53846
all the individuals in the part or unit licensed as an adult care 53847
facility shall be considered as another group. 53848

(3) The home maintains, in addition to a nursing home or 53849
residential care facility, a separate and discrete part or unit 53850
that provides accommodations to individuals who do not require or 53851
receive skilled nursing care and do not receive personal care 53852
services from the home, in which case the individuals in the 53853
separate and discrete part or unit shall not be considered in 53854
determining the number of residents in the home if the separate 53855
and discrete part or unit is in compliance with the Ohio basic 53856
building code established by the board of building standards under 53857
Chapters 3781. and 3791. of the Revised Code and the home permits 53858
the director, on request, to inspect the separate and discrete 53859
part or unit and speak with the individuals residing there, if 53860
they consent, to determine whether the separate and discrete part 53861
or unit meets the requirements of this division. 53862

(E)(1) The director of health shall charge the following 53863
application fee and annual renewal licensing and inspection fee 53864
for each fifty persons or part thereof of a home's licensed 53865

capacity: 53866

(a) For state fiscal year 2010, two hundred twenty dollars; 53867

(b) For state fiscal year 2011, two hundred seventy dollars; 53868

(c) For each state fiscal year thereafter, three hundred 53869
twenty dollars. 53870

(2) All fees collected by the director for the issuance or 53871
renewal of licenses shall be deposited into the state treasury to 53872
the credit of the general operations fund created in section 53873
3701.83 of the Revised Code for use only in administering and 53874
enforcing this chapter and rules adopted under it. 53875

(F)(1) Except as otherwise provided in this section, the 53876
results of an inspection or investigation of a home that is 53877
conducted under this section, including any statement of 53878
deficiencies and all findings and deficiencies cited in the 53879
statement on the basis of the inspection or investigation, shall 53880
be used solely to determine the home's compliance with this 53881
chapter or another chapter of the Revised Code in any action or 53882
proceeding other than an action commenced under division (I) of 53883
section 3721.17 of the Revised Code. Those results of an 53884
inspection or investigation, that statement of deficiencies, and 53885
the findings and deficiencies cited in that statement shall not be 53886
used in any court or in any action or proceeding that is pending 53887
in any court and are not admissible in evidence in any action or 53888
proceeding unless that action or proceeding is an appeal of an 53889
action by the department of health under this chapter or is an 53890
action by any department or agency of the state to enforce this 53891
chapter or another chapter of the Revised Code. 53892

(2) Nothing in division (E)(1) of this section prohibits the 53893
results of an inspection or investigation conducted under this 53894
section from being used in a criminal investigation or 53895
prosecution. 53896

Sec. 3721.022. (A) As used in this section: 53897

(1) "Nursing facility" has the same meaning as in section 53898
~~5111.20~~ 5165.01 of the Revised Code. 53899

(2) "Deficiency" and "survey" have the same meanings as in 53900
section ~~5111.35~~ 5165.60 of the Revised Code. 53901

(3) "Title XIX" and "Title XVIII" have the same meanings as 53902
in section 5165.01 of the Revised Code. 53903

(B) The department of health is hereby designated the state 53904
agency responsible for establishing and maintaining health 53905
standards and serving as the state survey agency for the purposes 53906
of ~~Titles Title XVIII and Title XIX of the "Social Security Act,"~~ 53907
~~49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~ The department 53908
shall carry out these functions in accordance with the 53909
regulations, guidelines, and procedures issued under ~~Titles Title~~ 53910
XVIII and Title XIX by the United States secretary of health and 53911
human services and with sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 53912
5165.89 of the Revised Code. The director of health shall enter 53913
into agreements with regard to these functions with the department 53914
of ~~job and family services~~ medicaid and the United States 53915
department of health and human services. The director may also 53916
enter into agreements with the department of ~~job and family~~ 53917
~~services~~ medicaid under which the department of health is 53918
designated to perform functions under sections ~~5111.35~~ 5165.60 to 53919
~~5111.62~~ 5165.89 of the Revised Code. 53920

The director, in accordance with Chapter 119. of the Revised 53921
Code, shall adopt rules necessary to implement the survey and 53922
certification requirements for skilled nursing facilities and 53923
nursing facilities established by the United States secretary of 53924
health and human services under ~~Titles Title XVIII and Title XIX~~ 53925
~~of the "Social Security Act,"~~ and the survey requirements 53926
established under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of 53927

the Revised Code. The rules shall include an informal process by 53928
which a facility may obtain up to two reviews of any deficiencies 53929
that have been cited on a statement of deficiencies made by the 53930
department of health under 42 C.F.R. Part 488 and cause the 53931
facility to be in noncompliance as defined in 42 C.F.R. 488.301. 53932
The first review shall be conducted by an employee of the 53933
department who did not participate in and was not otherwise 53934
involved in any way with the survey. A facility that is not 53935
satisfied with the results of a first review may receive a second 53936
review on payment of a fee to the department. The amount of the 53937
fee shall be specified in rules adopted under this section. The 53938
fee shall be deposited into the state treasury to the credit of 53939
the general operations fund created in section 3701.83 of the 53940
Revised Code for use in the implementation of this section. The 53941
second review shall be conducted by either of the following as 53942
selected by the facility: a hearing officer employed by the 53943
department or a hearing officer included on a list the department 53944
shall provide the facility. A final determination that any 53945
deficiency citation is unjustified shall be reflected clearly in 53946
all records relating to the survey. 53947

The director need not adopt as rules any of the regulations, 53948
guidelines, or procedures issued under ~~Titles~~ Title XVIII and 53949
Title XIX of the "~~Social Security Act~~" by the United States 53950
secretary of health and human services. 53951

Sec. 3721.024. As used in this section, "nursing facility" 53952
has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised 53953
Code. 53954

The department of health may establish a program of 53955
recognition of nursing facilities that provide the highest quality 53956
care to residents who are medicaid recipients ~~of medical~~ 53957
~~assistance under Chapter 5111. of the Revised Code.~~ The program 53958

may be funded with public funds appropriated by the general 53959
assembly for the purpose of the program or any funds appropriated 53960
for nursing home licensure. 53961

Sec. 3721.026. (A) As used in this section and section 53962
3721.027 of the Revised Code, "nursing facility" and "survey" have 53963
the same meanings as in section ~~5111.35~~ 5165.60 of the Revised 53964
Code. 53965

(B) The director of health shall establish a unit within the 53966
department of health to provide advice and technical assistance 53967
and to conduct on-site visits to nursing facilities for the 53968
purpose of improving resident outcomes. The director shall assign 53969
to the unit employees who have training or experience in 53970
conducting or supervising surveys, but employees assigned to the 53971
unit shall not conduct surveys. The director shall adopt rules in 53972
accordance with Chapter 119. of the Revised Code to implement this 53973
section and shall consult with interested parties in developing 53974
the rules. Technical assistance reports are not public records 53975
under section 149.43 of the Revised Code and shall not be 53976
distributed to any person outside the unit except: 53977

(1) The nursing facility that is provided with the technical 53978
assistance; 53979

(2) Persons charged with inspecting nursing facilities under 53980
section 3721.02 of the Revised Code or with conducting surveys or 53981
reviews of nursing facilities under section 3721.022 of the 53982
Revised Code whenever any such person finds that there is serious 53983
harm to resident health or safety that is more than isolated at 53984
the nursing facility. 53985

The provisions of this section and rules adopted under this 53986
section do not affect the department's authority to administer and 53987
enforce other sections of this chapter. 53988

(C) On or before the last day of December each year, the 53989
director shall submit a report to the governor and the general 53990
assembly describing the unit's activities that year and its 53991
effectiveness in improving resident outcomes. 53992

Sec. 3721.042. The director of health may not deny a nursing 53993
home license to a facility seeking a license under this chapter as 53994
a nursing home on the grounds that the facility does not satisfy a 53995
requirement established in rules adopted under section 3721.04 of 53996
the Revised Code regarding the toilet rooms and dining and 53997
recreational areas of nursing homes if all of the following 53998
requirements are met: 53999

(A) The facility seeks a license under this chapter because 54000
it is a county home or district home being sold under section 54001
5155.31 of the Revised Code to a person who may not operate the 54002
facility without a nursing home license under this chapter. 54003

(B) The requirement would not have applied to the facility 54004
had the facility been a nursing home first licensed under this 54005
chapter before October 20, 2001. 54006

(C) The facility was a nursing facility, as defined in 54007
section ~~5111.20~~ 5165.01 of the Revised Code, on the date 54008
immediately preceding the date the facility is sold to the person 54009
seeking the license. 54010

Sec. 3721.071. The buildings in which a home is housed shall 54011
be equipped with both an automatic fire extinguishing system and 54012
fire alarm system. Such systems shall conform to standards set 54013
forth in the regulations of the board of building standards and 54014
the state fire marshal. 54015

The time for compliance with the requirements imposed by this 54016
section shall be January 1, 1975, except that the date for 54017
compliance with the automatic fire extinguishing requirements is 54018

extended to January 1, 1976, provided the buildings of the home 54019
are otherwise in compliance with fire safety laws and regulations 54020
and: 54021

(A) The home within thirty days after August 4, 1975, files a 54022
written plan with the state fire marshal's office that: 54023

(1) Outlines the interim safety procedures which shall be 54024
carried out to reduce the possibility of a fire; 54025

(2) Provides evidence that the home has entered into an 54026
agreement for a fire safety inspection to be conducted not less 54027
than monthly by a qualified independent safety engineer consultant 54028
or a township, municipal, or other legally constituted fire 54029
department, or by a township or municipal fire prevention officer; 54030

(3) Provides verification that the home has entered into a 54031
valid contract for the installation of an automatic fire 54032
extinguishing system or fire alarm system, or both, as required to 54033
comply with this section; 54034

(4) Includes a statement regarding the expected date for the 54035
completion of the fire extinguishing system or fire alarm system, 54036
or both. 54037

(B) Inspections by a qualified independent safety engineer 54038
consultant or a township, municipal, or other legally constituted 54039
fire department, or by a township or municipal fire prevention 54040
officer are initiated no later than sixty days after August 4, 54041
1975, and are conducted no less than monthly thereafter, and 54042
reports of the consultant, fire department, or fire prevention 54043
officer identifying existing hazards and recommended corrective 54044
actions are submitted to the state fire marshal, the division of 54045
industrial compliance in the department of commerce, and the 54046
department of health. 54047

It is the express intent of the general assembly that the 54048
department of ~~job and family services~~ medicaid shall terminate 54049

~~payments under Title XIX of the "Social Security Act," 49 Stat.~~ 54050
~~620 (1935), 42 U.S.C. 301, as amended, to the medicaid provider~~ 54051
~~agreements of those homes which that~~ do not comply with the 54052
requirements of this section for the submission of a written fire 54053
safety plan and the deadline for entering into contracts for the 54054
installation of systems. 54055

Sec. 3721.072. (A) As used in this section: 54056

(1) "Advance care planning" means providing each nursing home 54057
resident, or the resident's sponsor if the resident is unable to 54058
participate, on admission to the nursing home and quarterly 54059
thereafter, with the opportunity to discuss the resident's care 54060
goals. 54061

(2) "Overhead paging" means sending audible announcements via 54062
an electronic sound amplification and distribution system 54063
throughout part or all of a nursing home to staff, residents, 54064
residents' families, or others. 54065

(3) "Quality improvement project" means a project listed by 54066
the department of aging under the nursing home quality initiative 54067
established under section 173.51 of the Revised Code. 54068

(B) Beginning July 1, 2013, each nursing home shall 54069
participate in at least one quality improvement project every two 54070
years. 54071

(C) Beginning July 1, 2015, each nursing home shall 54072
participate in advance care planning with all residents or their 54073
sponsors. 54074

(D) Beginning July 1, 2015, each nursing home shall prohibit 54075
the use of overhead paging within the nursing home, except that 54076
the nursing home may permit the use of overhead paging for matters 54077
of urgent public safety or urgent clinical operations. The nursing 54078
home shall develop a written policy regarding its use of overhead 54079

paginq and make the policy available to staff, residents, and 54080
residents' families. 54081

Sec. 3721.08. (A) As used in this section, "real and present 54082
danger" means imminent danger of serious physical or 54083
life-threatening harm to one or more occupants of a home. 54084

(B) The director of health may petition the court of common 54085
pleas of the county in which the home is located for an order 54086
enjoining any person from operating a home without a license or 54087
enjoining a county home or district home that has had its license 54088
revoked from continuing to operate. The court shall have 54089
jurisdiction to grant such injunctive relief upon a showing that 54090
the respondent named in the petition is operating a home without a 54091
license or that the county home or district home named in the 54092
petition is operating despite the revocation of its license. The 54093
court shall have jurisdiction to grant such injunctive relief 54094
against the operation of a home without a valid license regardless 54095
of whether the home meets essential licensing requirements. 54096

(C) Unless the department of ~~job and family services~~ medicaid 54097
or contracting agency has taken action under section ~~5111.51~~ 54098
5165.77 of the Revised Code to appoint a temporary manager or seek 54099
injunctive relief, if, in the judgment of the director of health, 54100
real and present danger exists at any home, the director may 54101
petition the court of common pleas of the county in which the home 54102
is located for such injunctive relief as is necessary to close the 54103
home, transfer one or more occupants to other homes or other 54104
appropriate care settings, or otherwise eliminate the real and 54105
present danger. The court shall have the jurisdiction to grant 54106
such injunctive relief upon a showing that there is real and 54107
present danger. 54108

(D)(1) If the director determines that real and present 54109
danger exists at a home and elects not to immediately seek 54110

injunctive relief under division (C) of this section, the director 54111
may give written notice of proposed action to the home. The notice 54112
shall specify all of the following: 54113

(a) The nature of the conditions giving rise to the real and 54114
present danger; 54115

(b) The measures that the director determines the home must 54116
take to respond to the conditions; 54117

(c) The date on which the director intends to seek injunctive 54118
relief under division (C) of this section if the director 54119
determines that real and present danger exists at the home. 54120

(2) If the home notifies the director, within the time 54121
specified pursuant to division (D)(1)(c) of this section, that it 54122
believes the conditions giving rise to the real and present danger 54123
have been substantially corrected, the director shall conduct an 54124
inspection to determine whether real and present danger exists. If 54125
the director determines on the basis of the inspection that real 54126
and present danger exists, the director may petition under 54127
division (C) of this section for injunctive relief. 54128

(E)(1) If in the judgment of the director of health 54129
conditions exist at a home that will give rise to real and present 54130
danger if not corrected, the director shall give written notice of 54131
proposed action to the home. The notice shall specify all of the 54132
following: 54133

(a) The nature of the conditions giving rise to the 54134
director's judgment; 54135

(b) The measures that the director determines the home must 54136
take to respond to the conditions; 54137

(c) The date, which shall be no less than ten days after the 54138
notice is delivered, on which the director intends to seek 54139
injunctive relief under division (C) of this section if the 54140

conditions are not substantially corrected and the director 54141
determines that a real and present danger exists. 54142

(2) If the home notifies the director, within the period of 54143
time specified pursuant to division (E)(1)(c) of this section, 54144
that the conditions giving rise to the director's determination 54145
have been substantially corrected, the director shall conduct an 54146
inspection. If the director determines on the basis of the 54147
inspection that the conditions have not been corrected and a real 54148
and present danger exists, the director may petition under 54149
division (C) of this section for injunctive relief. 54150

(F)(1) A court that grants injunctive relief under division 54151
(C) of this section may also appoint a special master who, subject 54152
to division (F)(2) of this section, shall have such powers and 54153
authority over the home and length of appointment as the court 54154
considers necessary. Subject to division (F)(2) of this section, 54155
the salary of a special master and any costs incurred by a special 54156
master shall be the obligation of the home. 54157

(2) No special master shall enter into any employment 54158
contract on behalf of a home, or purchase with the home's funds 54159
any capital goods totaling more than ten thousand dollars, unless 54160
the special master has obtained approval for the contract or 54161
purchase from the home's operator or the court. 54162

(G) If the director takes action under division (C), (D), or 54163
(E) of this section, the director may also appoint employees of 54164
the department of health to conduct on-site monitoring of the 54165
home. Appointment of monitors is not subject to appeal under 54166
Chapter 119. or any other section of the Revised Code. No employee 54167
of a home for which monitors are appointed, no person employed by 54168
the home within the previous two years, and no person who 54169
currently has a consulting contract with the department or a home, 54170
shall be appointed under this division. Every monitor shall have 54171
the professional qualifications necessary to monitor correction of 54172

the conditions that give rise to or, in the director's judgment, 54173
will give rise to real and present danger. The number of monitors 54174
present at a home at any given time shall not exceed one for every 54175
fifty residents, or fraction thereof. 54176

(H) On finding that the real and present danger for which 54177
injunctive relief was granted under division (C) of this section 54178
has been eliminated and that the home's operator has demonstrated 54179
the capacity to prevent the real and present danger from 54180
recurring, the court shall terminate its jurisdiction over the 54181
home and return control and management of the home to the 54182
operator. If the real and present danger cannot be eliminated 54183
practicably within a reasonable time following appointment of a 54184
special master, the court may order the special master to close 54185
the home and transfer all residents to other homes or other 54186
appropriate care settings. 54187

(I) The director of health shall give notice of proposed 54188
action under divisions (D) and (E) of this section to both of the 54189
following: 54190

(1) The home's administrator; 54191

(2) If the home is operated by an organization described in 54192
subsection 501(c)(3) and tax exempt under subsection 501(a) of the 54193
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as 54194
amended, the board of trustees of the organization; or, if the 54195
home is not operated by such an organization, the owner of the 54196
home. 54197

Notices shall be delivered by certified mail or hand 54198
delivery. If notices are mailed, they shall be addressed to the 54199
persons specified in divisions (I)(1) and (2) of this section, as 54200
indicated in the department of health's records. If they are hand 54201
delivered, they shall be delivered to persons who would reasonably 54202
appear to the average prudent person to have authority to accept 54203

them. 54204

(J) If ownership of a home is assigned or transferred to a 54205
different person, the new owner is responsible and liable for 54206
compliance with any notice of proposed action or order issued 54207
under this section prior to the effective date of the assignment 54208
or transfer. 54209

Sec. 3721.10. As used in sections 3721.10 to 3721.18 of the 54210
Revised Code: 54211

(A) "Home" means all of the following: 54212

(1) A home as defined in section 3721.01 of the Revised Code; 54213

(2) Any facility or part of a facility not defined as a home 54214
under section 3721.01 of the Revised Code that is ~~certified as a~~ 54215
skilled nursing facility ~~under Title XVIII of the "Social Security~~ 54216
~~Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395 and 1396, as amended,~~ 54217
~~or as a~~ or nursing facility, both as defined in section ~~5111.20~~ 54218
5165.01 of the Revised Code; 54219

(3) A county home or district home operated pursuant to 54220
Chapter 5155. of the Revised Code. 54221

(B) "Resident" means a resident or a patient of a home. 54222

(C) "Administrator" means all of the following: 54223

(1) With respect to a home as defined in section 3721.01 of 54224
the Revised Code, a nursing home administrator as defined in 54225
section 4751.01 of the Revised Code; 54226

(2) With respect to a facility or part of a facility not 54227
defined as a home in section 3721.01 of the Revised Code that is 54228
authorized to provide skilled nursing facility or nursing facility 54229
services, the administrator of the facility or part of a facility; 54230

(3) With respect to a county home or district home, the 54231
superintendent appointed under Chapter 5155. of the Revised Code. 54232

(D) "Sponsor" means an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare. 54233
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(E) "Residents' rights advocate" means: 54236

(1) An employee or representative of any state or local government entity that has a responsibility regarding residents and that has registered with the department of health under division (B) of section 3701.07 of the Revised Code; 54237
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(2) An employee or representative of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and that has registered with the department of health under division (B) of section 3701.07 of the Revised Code and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services to meet their needs; 54241
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(3) A member of the general assembly. 54250

(F) "Physical restraint" means, but is not limited to, any article, device, or garment that interferes with the free movement of the resident and that the resident is unable to remove easily, a geriatric chair, or a locked room door. 54251
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(G) "Chemical restraint" means any medication bearing the American hospital formulary service therapeutic class 4.00, 28:16:08, 28:24:08, or 28:24:92 that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain the resident's highest practicable physical, mental, and psychosocial well-being. 54255
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(H) "Ancillary service" means, but is not limited to, podiatry, dental, hearing, vision, physical therapy, occupational 54262
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therapy, speech therapy, and psychological and social services. 54264

(I) "Facility" means a facility, or part of a facility, 54265
certified as a nursing facility or skilled nursing facility ~~under~~ 54266
~~Title XVIII or Title XIX of the "Social Security Act, both as~~ 54267
defined in section 5165.01 of the Revised Code." "Facility" does 54268
not include an intermediate care facility for ~~the mentally~~ 54269
~~retarded individuals with intellectual disabilities~~, as defined in 54270
section ~~5111.20~~ 5124.01 of the Revised Code. 54271

~~(J) "Medicare" means the program established by Title XVIII~~ 54272
~~of the "Social Security Act."~~ 54273

~~(K) "Medicaid" means the program established by Title XIX of~~ 54274
~~the "Social Security Act" and Chapter 5111. of the Revised Code.~~ 54275

Sec. 3721.12. (A) The administrator of a home shall: 54276

(1) With the advice of residents, their sponsors, or both, 54277
establish and review at least annually, written policies regarding 54278
the applicability and implementation of residents' rights under 54279
sections 3721.10 to 3721.17 of the Revised Code, the 54280
responsibilities of residents regarding the rights, and the home's 54281
grievance procedure established under division (A)(2) of this 54282
section. The administrator is responsible for the development of, 54283
and adherence to, procedures implementing the policies. 54284

(2) Establish a grievance committee for review of complaints 54285
by residents. The grievance committee shall be comprised of the 54286
home's staff and residents, sponsors, or outside representatives 54287
in a ratio of not more than one staff member to every two 54288
residents, sponsors, or outside representatives. 54289

(3) Furnish to each resident and sponsor prior to or at the 54290
time of admission, and to each member of the home's staff, at 54291
least one of each of the following: 54292

(a) A copy of the rights established under sections 3721.10 54293

to 3721.17 of the Revised Code;	54294
(b) A written explanation of the provisions of sections 3721.16 to 3721.162 of the Revised Code;	54295 54296
(c) A copy of the home's policies and procedures established under this section;	54297 54298
(d) A copy of the home's rules;	54299
(e) A copy of the addresses and telephone numbers of the board of health of the health district of the county in which the home is located, the county department of job and family services of the county in which the home is located, the state departments of health and job and family services <u>medicaid</u> , the state and local offices of the department of aging, and any Ohio nursing home ombudsperson program.	54300 54301 54302 54303 54304 54305 54306
(B) Written acknowledgment of the receipt of copies of the materials listed in this section shall be made part of the resident's record and the staff member's personnel record.	54307 54308 54309
(C) The administrator shall post all of the following prominently within the home:	54310 54311
(1) A copy of the rights of residents as listed in division (A) of section 3721.13 of the Revised Code;	54312 54313
(2) A copy of the home's rules and its policies and procedures regarding the rights and responsibilities of residents;	54314 54315
(3) A notice that a copy of this chapter, rules of the department of health applicable to the home, and federal regulations adopted under the medicare and medicaid programs, and the materials required to be available in the home under section 3721.021 of the Revised Code, are available for inspection in the home at reasonable hours;	54316 54317 54318 54319 54320 54321
(4) A list of residents' rights advocates;	54322
(5) A notice that the following are available in a place	54323

readily accessible to residents: 54324

(a) If the home is licensed under section 3721.02 of the Revised Code, a copy of the most recent licensure inspection report prepared for the home under that section; 54325
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(b) If the home is a facility, a copy of the most recent statement of deficiencies issued to the home under section ~~5111.42~~ 5165.68 of the Revised Code. 54328
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(D) The administrator of a home may, with the advice of residents, their sponsors, or both, establish written policies regarding the applicability and administration of any additional residents' rights beyond those set forth in sections 3721.10 to 3721.17 of the Revised Code, and the responsibilities of residents regarding the rights. Policies established under this division shall be reviewed, and procedures developed and adhered to as in division (A)(1) of this section. 54331
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Sec. 3721.13. (A) The rights of residents of a home shall include, but are not limited to, the following: 54339
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(1) The right to a safe and clean living environment pursuant to the medicare and medicaid programs and applicable state laws and rules adopted by the director of health; 54341
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(2) The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality; 54344
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(3) Upon admission and thereafter, the right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care consistent with the program for which the resident contracted. This care shall be provided without regard to considerations such as race, color, religion, national origin, age, or source of payment for care. 54347
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(4) The right to have all reasonable requests and inquiries responded to promptly; 54354
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(5) The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation; 54356
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(6) The right to obtain from the home, upon request, the name and any specialty of any physician or other person responsible for the resident's care or for the coordination of care; 54358
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(7) The right, upon request, to be assigned, within the capacity of the home to make the assignment, to the staff physician of the resident's choice, and the right, in accordance with the rules and written policies and procedures of the home, to select as the attending physician a physician who is not on the staff of the home. If the cost of a physician's services is to be met under a federally supported program, the physician shall meet the federal laws and regulations governing such services. 54361
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(8) The right to participate in decisions that affect the resident's life, including the right to communicate with the physician and employees of the home in planning the resident's treatment or care and to obtain from the attending physician complete and current information concerning medical condition, prognosis, and treatment plan, in terms the resident can reasonably be expected to understand; the right of access to all information in the resident's medical record; and the right to give or withhold informed consent for treatment after the consequences of that choice have been carefully explained. When the attending physician finds that it is not medically advisable to give the information to the resident, the information shall be made available to the resident's sponsor on the resident's behalf, if the sponsor has a legal interest or is authorized by the resident to receive the information. The home is not liable for a violation of this division if the violation is found to be the result of an act or omission on the part of a physician selected 54369
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by the resident who is not otherwise affiliated with the home. 54386

(9) The right to withhold payment for physician visitation if 54387
the physician did not visit the resident; 54388

(10) The right to confidential treatment of personal and 54389
medical records, and the right to approve or refuse the release of 54390
these records to any individual outside the home, except in case 54391
of transfer to another home, hospital, or health care system, as 54392
required by law or rule, or as required by a third-party payment 54393
contract; 54394

(11) The right to privacy during medical examination or 54395
treatment and in the care of personal or bodily needs; 54396

(12) The right to refuse, without jeopardizing access to 54397
appropriate medical care, to serve as a medical research subject; 54398

(13) The right to be free from physical or chemical 54399
restraints or prolonged isolation except to the minimum extent 54400
necessary to protect the resident from injury to self, others, or 54401
to property and except as authorized in writing by the attending 54402
physician for a specified and limited period of time and 54403
documented in the resident's medical record. Prior to authorizing 54404
the use of a physical or chemical restraint on any resident, the 54405
attending physician shall make a personal examination of the 54406
resident and an individualized determination of the need to use 54407
the restraint on that resident. 54408

Physical or chemical restraints or isolation may be used in 54409
an emergency situation without authorization of the attending 54410
physician only to protect the resident from injury to self or 54411
others. Use of the physical or chemical restraints or isolation 54412
shall not be continued for more than twelve hours after the onset 54413
of the emergency without personal examination and authorization by 54414
the attending physician. The attending physician or a staff 54415
physician may authorize continued use of physical or chemical 54416

restraints for a period not to exceed thirty days, and at the end 54417
of this period and any subsequent period may extend the 54418
authorization for an additional period of not more than thirty 54419
days. The use of physical or chemical restraints shall not be 54420
continued without a personal examination of the resident and the 54421
written authorization of the attending physician stating the 54422
reasons for continuing the restraint. 54423

If physical or chemical restraints are used under this 54424
division, the home shall ensure that the restrained resident 54425
receives a proper diet. In no event shall physical or chemical 54426
restraints or isolation be used for punishment, incentive, or 54427
convenience. 54428

(14) The right to the pharmacist of the resident's choice and 54429
the right to receive pharmaceutical supplies and services at 54430
reasonable prices not exceeding applicable and normally accepted 54431
prices for comparably packaged pharmaceutical supplies and 54432
services within the community; 54433

(15) The right to exercise all civil rights, unless the 54434
resident has been adjudicated incompetent pursuant to Chapter 54435
2111. of the Revised Code and has not been restored to legal 54436
capacity, as well as the right to the cooperation of the home's 54437
administrator in making arrangements for the exercise of the right 54438
to vote; 54439

(16) The right of access to opportunities that enable the 54440
resident, at the resident's own expense or at the expense of a 54441
third-party payer, to achieve the resident's fullest potential, 54442
including educational, vocational, social, recreational, and 54443
habilitation programs; 54444

(17) The right to consume a reasonable amount of alcoholic 54445
beverages at the resident's own expense, unless not medically 54446
advisable as documented in the resident's medical record by the 54447

attending physician or unless contradictory to written admission policies; 54448
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(18) The right to use tobacco at the resident's own expense 54450
under the home's safety rules and under applicable laws and rules 54451
of the state, unless not medically advisable as documented in the 54452
resident's medical record by the attending physician or unless 54453
contradictory to written admission policies; 54454

(19) The right to retire and rise in accordance with the 54455
resident's reasonable requests, if the resident does not disturb 54456
others or the posted meal schedules and upon the home's request 54457
remains in a supervised area, unless not medically advisable as 54458
documented by the attending physician; 54459

(20) The right to observe religious obligations and 54460
participate in religious activities; the right to maintain 54461
individual and cultural identity; and the right to meet with and 54462
participate in activities of social and community groups at the 54463
resident's or the group's initiative; 54464

(21) The right upon reasonable request to private and 54465
unrestricted communications with the resident's family, social 54466
worker, and any other person, unless not medically advisable as 54467
documented in the resident's medical record by the attending 54468
physician, except that communications with public officials or 54469
with the resident's attorney or physician shall not be restricted. 54470
Private and unrestricted communications shall include, but are not 54471
limited to, the right to: 54472

(a) Receive, send, and mail sealed, unopened correspondence; 54473

(b) Reasonable access to a telephone for private 54474
communications; 54475

(c) Private visits at any reasonable hour. 54476

(22) The right to assured privacy for visits by the spouse, 54477

or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician;

(23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending physician;

(24) The right to retain and use personal clothing and a reasonable amount of possessions, in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable as documented in the resident's medical record by the attending physician;

(25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor.

(26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates;

(27)(a) The right to be free from financial exploitation;

(b) The right to manage the resident's own personal financial affairs, or, if the resident has delegated this responsibility in writing to the home, to receive upon written request at least a quarterly accounting statement of financial transactions made on

the resident's behalf. The statement shall include: 54509

(i) A complete record of all funds, personal property, or 54510
possessions of a resident from any source whatsoever, that have 54511
been deposited for safekeeping with the home for use by the 54512
resident or the resident's sponsor; 54513

(ii) A listing of all deposits and withdrawals transacted, 54514
which shall be substantiated by receipts which shall be available 54515
for inspection and copying by the resident or sponsor. 54516

(28) The right of the resident to be allowed unrestricted 54517
access to the resident's property on deposit at reasonable hours, 54518
unless requests for access to property on deposit are so 54519
persistent, continuous, and unreasonable that they constitute a 54520
nuisance; 54521

(29) The right to receive reasonable notice before the 54522
resident's room or roommate is changed, including an explanation 54523
of the reason for either change. 54524

(30) The right not to be transferred or discharged from the 54525
home unless the transfer is necessary because of one of the 54526
following: 54527

(a) The welfare and needs of the resident cannot be met in 54528
the home. 54529

(b) The resident's health has improved sufficiently so that 54530
the resident no longer needs the services provided by the home. 54531

(c) The safety of individuals in the home is endangered. 54532

(d) The health of individuals in the home would otherwise be 54533
endangered. 54534

(e) The resident has failed, after reasonable and appropriate 54535
notice, to pay or to have the medicare or medicaid program pay on 54536
the resident's behalf, for the care provided by the home. A 54537
resident shall not be considered to have failed to have the 54538

resident's care paid for if the resident has applied for medicaid, 54539
unless both of the following are the case: 54540

(i) The resident's application, or a substantially similar 54541
previous application, has been denied ~~by the county department of~~ 54542
~~job and family services.~~ 54543

(ii) If the resident appealed the denial ~~pursuant to division~~ 54544
~~(C) of section 5101.35 of the Revised Code, the director of job~~ 54545
~~and family services has upheld the denial~~ was upheld. 54546

(f) The home's license has been revoked, the home is being 54547
closed pursuant to section 3721.08, sections ~~5111.35~~ 5165.60 to 54548
~~5111.62~~ 5165.89, or section 5155.31 of the Revised Code, or the 54549
home otherwise ceases to operate. 54550

(g) The resident is a recipient of medicaid, and the home's 54551
participation in the medicaid program is involuntarily terminated 54552
or denied. 54553

(h) The resident is a beneficiary under the medicare program, 54554
and the home's participation in the medicare program is 54555
involuntarily terminated or denied. 54556

(31) The right to voice grievances and recommend changes in 54557
policies and services to the home's staff, to employees of the 54558
department of health, or to other persons not associated with the 54559
operation of the home, of the resident's choice, free from 54560
restraint, interference, coercion, discrimination, or reprisal. 54561
This right includes access to a residents' rights advocate, and 54562
the right to be a member of, to be active in, and to associate 54563
with persons who are active in organizations of relatives and 54564
friends of nursing home residents and other organizations engaged 54565
in assisting residents. 54566

(32) The right to have any significant change in the 54567
resident's health status reported to the resident's sponsor. As 54568
soon as such a change is known to the home's staff, the home shall 54569

make a reasonable effort to notify the sponsor within twelve 54570
hours. 54571

(B) A sponsor may act on a resident's behalf to assure that 54572
the home does not deny the residents' rights under sections 54573
3721.10 to 3721.17 of the Revised Code. 54574

(C) Any attempted waiver of the rights listed in division (A) 54575
of this section is void. 54576

Sec. 3721.14. To assist in the implementation of the rights 54577
granted in division (A) of section 3721.13 of the Revised Code, 54578
each home shall provide: 54579

(A) Appropriate staff training to implement each resident's 54580
rights under division (A) of section 3721.13 of the Revised Code, 54581
including, but not limited to, explaining: 54582

(1) The resident's rights and the staff's responsibility in 54583
the implementation of the rights; 54584

(2) The staff's obligation to provide all residents who have 54585
similar needs with comparable service. 54586

(B) Arrangements for a resident's needed ancillary services; 54587

(C) Protected areas outside the home for residents to enjoy 54588
outdoor activity, within the capacity of the facility, consistent 54589
with applicable laws and rules; 54590

(D) Adequate indoor space, which need not be dedicated to 54591
that purpose, for families of residents to meet privately with 54592
families of other residents; 54593

(E) Access to the following persons to enter the home during 54594
reasonable hours, except where such access would interfere with 54595
resident care or the privacy of residents: 54596

(1) Employees of the department of health, department of 54597
~~mental health~~ mental health and addiction services, department of 54598

developmental disabilities, department of aging, department of job and family services, and county departments of job and family services;	54599
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(2) Prospective residents and their sponsors;	54602
(3) A resident's sponsors;	54603
(4) Residents' rights advocates;	54604
(5) A resident's attorney;	54605
(6) A minister, priest, rabbi, or other person ministering to a resident's religious needs.	54606
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(F) In writing, a description of the home's grievance procedures.	54608
	54609
Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section 5111.113 <u>5162.22</u> of the Revised Code.	54610
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(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited	54622
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in an interest-bearing account may be deposited in a 54629
noninterest-bearing account or petty cash fund. 54630

(C) Each resident whose financial affairs are managed by a 54631
home shall be promptly notified by the home when the total of the 54632
amount of funds in the resident's accounts and the petty cash fund 54633
plus other nonexempt resources reaches two hundred dollars less 54634
than the maximum amount permitted a recipient of medicaid. The 54635
notice shall include an explanation of the potential effect on the 54636
resident's eligibility for medicaid if the amount in the 54637
resident's accounts and the petty cash fund, plus the value of 54638
other nonexempt resources, exceeds the maximum assets a medicaid 54639
recipient may retain. 54640

(D) Each home that manages the financial affairs of residents 54641
shall purchase a surety bond or otherwise provide assurance 54642
satisfactory to the director of health, or, in the case of a home 54643
that participates in the medicaid program, to the medicaid 54644
director ~~of job and family services~~, to assure the security of all 54645
residents' funds managed by the home. 54646

Sec. 3721.16. For each resident of a home, notice of a 54647
proposed transfer or discharge shall be in accordance with this 54648
section. 54649

(A)(1) The administrator of a home shall notify a resident in 54650
writing, and the resident's sponsor in writing by certified mail, 54651
return receipt requested, in advance of any proposed transfer or 54652
discharge from the home. The administrator shall send a copy of 54653
the notice to the state department of health. The notice shall be 54654
provided at least thirty days in advance of the proposed transfer 54655
or discharge, unless any of the following applies: 54656

(a) The resident's health has improved sufficiently to allow 54657
a more immediate discharge or transfer to a less skilled level of 54658
care; 54659

(b) The resident has resided in the home less than thirty days;	54660 54661
(c) An emergency arises in which the safety of individuals in the home is endangered;	54662 54663
(d) An emergency arises in which the health of individuals in the home would otherwise be endangered;	54664 54665
(e) An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.	54666 54667
In any of the circumstances described in divisions (A)(1)(a) to (e) of this section, the notice shall be provided as many days in advance of the proposed transfer or discharge as is practicable.	54668 54669 54670 54671
(2) The notice required under division (A)(1) of this section shall include all of the following:	54672 54673
(a) The reasons for the proposed transfer or discharge;	54674
(b) The proposed date the resident is to be transferred or discharged;	54675 54676
(c) Subject to division (A)(3) of this section, a proposed location to which the resident may relocate and a notice that the resident and resident's sponsor may choose another location to which the resident will relocate;	54677 54678 54679 54680
(d) Notice of the right of the resident and the resident's sponsor to an impartial hearing at the home on the proposed transfer or discharge, and of the manner in which and the time within which the resident or sponsor may request a hearing pursuant to section 3721.161 of the Revised Code;	54681 54682 54683 54684 54685
(e) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier	54686 54687 54688 54689

date; 54690

(f) The address of the legal services office of the 54691
department of health; 54692

(g) The name, address, and telephone number of a 54693
representative of the state long-term care ombudsperson program 54694
and, if the resident or patient has a developmental disability or 54695
mental illness, the name, address, and telephone number of the 54696
Ohio protection and advocacy system. 54697

(3) The proposed location to which a resident may relocate as 54698
specified pursuant to division (A)(2)(c) of this section in the 54699
proposed transfer or discharge notice shall be capable of meeting 54700
the resident's health-care and safety needs. The proposed location 54701
for relocation need not have accepted the resident at the time the 54702
notice is issued to the resident and resident's sponsor. 54703

(B) No home shall transfer or discharge a resident before the 54704
date specified in the notice required by division (A) of this 54705
section unless the home and the resident or, if the resident is 54706
not competent to make a decision, the home and the resident's 54707
sponsor, agree to an earlier date. 54708

(C) Transfer or discharge actions shall be documented in the 54709
resident's medical record by the home if there is a medical basis 54710
for the action. 54711

(D) A resident or resident's sponsor may challenge a transfer 54712
or discharge by requesting an impartial hearing pursuant to 54713
section 3721.161 of the Revised Code, unless the transfer or 54714
discharge is required because of one of the following reasons: 54715

(1) The home's license has been revoked under this chapter; 54716

(2) The home is being closed pursuant to section 3721.08, 54717
sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89, or section 5155.31 of 54718
the Revised Code; 54719

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;

(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.

(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.

(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for therapeutic leave, the home shall provide notice in writing to the resident and in writing by certified mail, return receipt requested, to the resident's sponsor, specifying the number of days, if any, during which the resident will be permitted under the medicaid program to return and resume residence in the home and specifying the medicaid program's coverage of the days during which the resident is absent from the home. An individual who is absent from a home for more than the number of days specified in the notice and continues to require the services provided by the facility shall be given priority for the first available bed in a semi-private room.

Sec. 3721.17. (A) Any resident who believes that the resident's rights under sections 3721.10 to 3721.17 of the Revised Code have been violated may file a grievance under procedures adopted pursuant to division (A)(2) of section 3721.12 of the

Revised Code. 54751

When the grievance committee determines a violation of 54752
sections 3721.10 to 3721.17 of the Revised Code has occurred, it 54753
shall notify the administrator of the home. If the violation 54754
cannot be corrected within ten days, or if ten days have elapsed 54755
without correction of the violation, the grievance committee shall 54756
refer the matter to the department of health. 54757

(B) Any person who believes that a resident's rights under 54758
sections 3721.10 to 3721.17 of the Revised Code have been violated 54759
may report or cause reports to be made of the information directly 54760
to the department of health. No person who files a report is 54761
liable for civil damages resulting from the report. 54762

(C)(1) Within thirty days of receiving a complaint under this 54763
section, the department of health shall investigate any complaint 54764
referred to it by a home's grievance committee and any complaint 54765
from any source that alleges that the home provided substantially 54766
less than adequate care or treatment, or substantially unsafe 54767
conditions, or, within seven days of receiving a complaint, refer 54768
it to the attorney general, if the attorney general agrees to 54769
investigate within thirty days. 54770

(2) Within thirty days of receiving a complaint under this 54771
section, the department of health may investigate any alleged 54772
violation of sections 3721.10 to 3721.17 of the Revised Code, or 54773
of rules, policies, or procedures adopted pursuant to those 54774
sections, not covered by division (C)(1) of this section, or it 54775
may, within seven days of receiving a complaint, refer the 54776
complaint to the grievance committee at the home where the alleged 54777
violation occurred, or to the attorney general if the attorney 54778
general agrees to investigate within thirty days. 54779

(D) If, after an investigation, the department of health 54780
finds probable cause to believe that a violation of sections 54781

3721.10 to 3721.17 of the Revised Code, or of rules, policies, or 54782
procedures adopted pursuant to those sections, has occurred at a 54783
home that is certified under the medicare or medicaid program, it 54784
shall cite one or more findings or deficiencies under sections 54785
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. If the 54786
home is not so certified, the department shall hold an 54787
adjudicative hearing within thirty days under Chapter 119. of the 54788
Revised Code. 54789

(E) Upon a finding at an adjudicative hearing under division 54790
(D) of this section that a violation of sections 3721.10 to 54791
3721.17 of the Revised Code, or of rules, policies, or procedures 54792
adopted pursuant thereto, has occurred, the department of health 54793
shall make an order for compliance, set a reasonable time for 54794
compliance, and assess a fine pursuant to division (F) of this 54795
section. The fine shall be paid to the general revenue fund only 54796
if compliance with the order is not shown to have been made within 54797
the reasonable time set in the order. The department of health may 54798
issue an order prohibiting the continuation of any violation of 54799
sections 3721.10 to 3721.17 of the Revised Code. 54800

Findings at the hearings conducted under this section may be 54801
appealed pursuant to Chapter 119. of the Revised Code, except that 54802
an appeal may be made to the court of common pleas of the county 54803
in which the home is located. 54804

The department of health shall initiate proceedings in court 54805
to collect any fine assessed under this section that is unpaid 54806
thirty days after the violator's final appeal is exhausted. 54807

(F) Any home found, pursuant to an adjudication hearing under 54808
division (D) of this section, to have violated sections 3721.10 to 54809
3721.17 of the Revised Code, or rules, policies, or procedures 54810
adopted pursuant to those sections may be fined not less than one 54811
hundred nor more than five hundred dollars for a first offense. 54812
For each subsequent offense, the home may be fined not less than 54813

two hundred nor more than one thousand dollars. 54814

A violation of sections 3721.10 to 3721.17 of the Revised 54815
Code is a separate offense for each day of the violation and for 54816
each resident who claims the violation. 54817

(G) No home or employee of a home shall retaliate against any 54818
person who: 54819

(1) Exercises any right set forth in sections 3721.10 to 54820
3721.17 of the Revised Code, including, but not limited to, filing 54821
a complaint with the home's grievance committee or reporting an 54822
alleged violation to the department of health; 54823

(2) Appears as a witness in any hearing conducted under this 54824
section or section 3721.162 of the Revised Code; 54825

(3) Files a civil action alleging a violation of sections 54826
3721.10 to 3721.17 of the Revised Code, or notifies a county 54827
prosecuting attorney or the attorney general of a possible 54828
violation of sections 3721.10 to 3721.17 of the Revised Code. 54829

If, under the procedures outlined in this section, a home or 54830
its employee is found to have retaliated, the violator may be 54831
fined up to one thousand dollars. 54832

(H) When legal action is indicated, any evidence of criminal 54833
activity found in an investigation under division (C) of this 54834
section shall be given to the prosecuting attorney in the county 54835
in which the home is located for investigation. 54836

(I)(1)(a) Any resident whose rights under sections 3721.10 to 54837
3721.17 of the Revised Code are violated has a cause of action 54838
against any person or home committing the violation. 54839

(b) An action under division (I)(1)(a) of this section may be 54840
commenced by the resident or by the resident's legal guardian or 54841
other legally authorized representative on behalf of the resident 54842
or the resident's estate. If the resident or the resident's legal 54843

guardian or other legally authorized representative is unable to 54844
commence an action under that division on behalf of the resident, 54845
the following persons in the following order of priority have the 54846
right to and may commence an action under that division on behalf 54847
of the resident or the resident's estate: 54848

(i) The resident's spouse; 54849

(ii) The resident's parent or adult child; 54850

(iii) The resident's guardian if the resident is a minor 54851
child; 54852

(iv) The resident's brother or sister; 54853

(v) The resident's niece, nephew, aunt, or uncle. 54854

(c) Notwithstanding any law as to priority of persons 54855
entitled to commence an action, if more than one eligible person 54856
within the same level of priority seeks to commence an action on 54857
behalf of a resident or the resident's estate, the court shall 54858
determine, in the best interest of the resident or the resident's 54859
estate, the individual to commence the action. A court's 54860
determination under this division as to the person to commence an 54861
action on behalf of a resident or the resident's estate shall bar 54862
another person from commencing the action on behalf of the 54863
resident or the resident's estate. 54864

(d) The result of an action commenced pursuant to division 54865
(I)(1)(a) of this section by a person authorized under division 54866
(I)(1)(b) of this section shall bind the resident or the 54867
resident's estate that is the subject of the action. 54868

(e) A cause of action under division (I)(1)(a) of this 54869
section shall accrue, and the statute of limitations applicable to 54870
that cause of action shall begin to run, based upon the violation 54871
of a resident's rights under sections 3721.10 to 3721.17 of the 54872
Revised Code, regardless of the party commencing the action on 54873

behalf of the resident or the resident's estate as authorized 54874
under divisions (I)(1)(b) and (c) of this section. 54875

(2)(a) The plaintiff in an action filed under division (I)(1) 54876
of this section may obtain injunctive relief against the violation 54877
of the resident's rights. The plaintiff also may recover 54878
compensatory damages based upon a showing, by a preponderance of 54879
the evidence, that the violation of the resident's rights resulted 54880
from a negligent act or omission of the person or home and that 54881
the violation was the proximate cause of the resident's injury, 54882
death, or loss to person or property. 54883

(b) If compensatory damages are awarded for a violation of 54884
the resident's rights, section 2315.21 of the Revised Code shall 54885
apply to an award of punitive or exemplary damages for the 54886
violation. 54887

(c) The court, in a case in which only injunctive relief is 54888
granted, may award to the prevailing party reasonable attorney's 54889
fees limited to the work reasonably performed. 54890

(3) Division (I)(2) (b) of this section shall be considered 54891
to be purely remedial in operation and shall be applied in a 54892
remedial manner in any civil action in which this section is 54893
relevant, whether the action is pending in court or commenced on 54894
or after July 9, 1998. 54895

(4) Within thirty days after the filing of a complaint in an 54896
action for damages brought against a home under division (I)(1)(a) 54897
of this section by or on behalf of a resident or former resident 54898
of the home, the plaintiff or plaintiff's counsel shall send 54899
written notice of the filing of the complaint to the department of 54900
~~job and family services~~ medicaid if the department has a right of 54901
recovery under section ~~5101.58~~ 5160.37 of the Revised Code against 54902
the liability of the home for the cost of ~~medical~~ medicaid 54903
services ~~and care~~ arising out of injury, disease, or disability of 54904

the resident or former resident. 54905

Sec. 3721.19. (A) As used in this section: 54906

(1) "Home" and "residential care facility" have the same 54907
meanings as in section 3721.01 of the Revised Code; 54908

(2) "Provider agreement" has the same meaning as in section 54909
5165.01 of the Revised Code. 54910

(3) "Sponsor" and "residents' rights advocate" have the same 54911
meanings as in section 3721.10 of the Revised Code. 54912

A home licensed under this chapter that is not a party to a 54913
provider agreement, ~~as defined in section 5111.20 of the Revised~~ 54914
~~Code,~~ shall provide each prospective resident, before admission, 54915
with the following information, orally and in a separate written 54916
notice on which is printed in a conspicuous manner: "This home is 54917
not a participant in the ~~medical assistance~~ medicaid program 54918
administered by the Ohio department of ~~job and family services~~ 54919
medicaid. Consequently, you may be discharged from this home if 54920
you are unable to pay for the services provided by this home." 54921

If the prospective resident has a sponsor whose identity is 54922
made known to the home, the home shall also inform the sponsor, 54923
before admission of the resident, of the home's status relative to 54924
the ~~medical assistance~~ medicaid program. Written acknowledgement 54925
of the receipt of the information shall be provided by the 54926
resident and, if the prospective resident has a sponsor who has 54927
been identified to the home, by the sponsor. The written 54928
acknowledgement shall be made part of the resident's record by the 54929
home. 54930

No home shall terminate its ~~status as a provider under the~~ 54931
~~medicaid program agreement~~ unless it has complied with section 54932
~~5111.66~~ 5165.50 of the Revised Code and, at least ninety days 54933
prior to such termination, provided written notice to the 54934

residents of the home and their sponsors of such action. This 54935
requirement shall not apply in cases where the department of ~~job~~ 54936
~~and family services~~ medicaid terminates a home's provider 54937
agreement or provider status. 54938

(B) A home licensed under this chapter as a residential care 54939
facility shall provide notice to each prospective resident or the 54940
individual's sponsor of the services offered by the facility and 54941
the types of skilled nursing care that the facility may provide. A 54942
residential care facility that, pursuant to section 3721.012 of 54943
the Revised Code, has a policy of entering into risk agreements 54944
with residents or their sponsors shall provide each prospective 54945
resident or the individual's sponsor a written explanation of the 54946
policy and the provisions that may be contained in a risk 54947
agreement. At the time the information is provided, the facility 54948
shall obtain a statement signed by the individual receiving the 54949
information acknowledging that the individual received the 54950
information. The facility shall maintain on file the individual's 54951
signed statement. 54952

(C) A resident has a cause of action against a home for 54953
breach of any duty imposed by this section. The action may be 54954
commenced by the resident, or on the resident's behalf by the 54955
resident's sponsor or a residents' rights advocate, by the filing 54956
of a civil action in the court of common pleas of the county in 54957
which the home is located, or in the court of common pleas of 54958
Franklin county. 54959

If the court finds that a breach of any duty imposed by this 54960
section has occurred, the court shall enjoin the home from 54961
discharging the resident from the home until arrangements 54962
satisfactory to the court are made for the orderly transfer of the 54963
resident to another mode of health care including, but not limited 54964
to, another home, and may award the resident and a person or 54965
public agency that brings an action on behalf of a resident 54966

reasonable attorney's fees. If a home discharges a resident to 54967
whom or to whose sponsor information concerning its status 54968
relative to the ~~medical-assistance~~ medicaid program was not 54969
provided as required under this section, the court shall grant any 54970
appropriate relief including, but not limited to, actual damages, 54971
reasonable attorney's fees, and costs. 54972

Sec. 3727.01. (A) As used in this section, "health 54973
maintenance organization" means a public or private organization 54974
organized under the law of any state that is qualified under 54975
section 1310(d) of Title XIII of the "Public Health Service Act," 54976
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 54977
following: 54978

(1) Provides or otherwise makes available to enrolled 54979
participants health care services including at least the following 54980
basic health care services: usual physician services, 54981
hospitalization, laboratory, x-ray, emergency and preventive 54982
service, and out-of-area coverage; 54983

(2) Is compensated, except for copayments, for the provision 54984
of basic health care services to enrolled participants by a 54985
payment that is paid on a periodic basis without regard to the 54986
date the health care services are provided and that is fixed 54987
without regard to the frequency, extent, or kind of health service 54988
actually provided; 54989

(3) Provides physician services primarily in either of the 54990
following ways: 54991

(a) Directly through physicians who are either employees or 54992
partners of the organization; 54993

(b) Through arrangements with individual physicians or one or 54994
more groups of physicians organized on a group-practice or 54995
individual-practice basis. 54996

(B) As used in this chapter:	54997
(1) "Children's hospital" means any of the following:	54998
(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;	54999 55000 55001 55002 55003
(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;	55004 55005 55006 55007 55008 55009 55010
(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (B)(1)(a) of this section.	55011 55012 55013 55014
(2) "Hospital" means an institution classified as a hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of mental health <u>mental health and addiction services</u> or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where	55015 55016 55017 55018 55019 55020 55021 55022 55023 55024 55025 55026 55027

patients are not regularly admitted as inpatients. "Hospital" also 55028
does not include an institution for the sick that is operated 55029
exclusively for patients who use spiritual means for healing and 55030
for whom the acceptance of medical care is inconsistent with their 55031
religious beliefs, accredited by a national accrediting 55032
organization, exempt from federal income taxation under section 55033
501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 55034
U.S.C.A. 1, as amended, and providing twenty-four hour nursing 55035
care pursuant to the exemption in division (E) of section 4723.32 55036
of the Revised Code from the licensing requirements of Chapter 55037
4723. of the Revised Code. 55038

(3) "Joint commission" means the commission formerly known as 55039
the joint commission on accreditation of healthcare organizations 55040
or the joint commission on accreditation of hospitals. 55041

Sec. 3734.01. As used in this chapter: 55042

(A) "Board of health" means the board of health of a city or 55043
general health district or the authority having the duties of a 55044
board of health in any city as authorized by section 3709.05 of 55045
the Revised Code. 55046

(B) "Director" means the director of environmental 55047
protection. 55048

(C) "Health district" means a city or general health district 55049
as created by or under authority of Chapter 3709. of the Revised 55050
Code. 55051

(D) "Agency" means the environmental protection agency. 55052

(E) "Solid wastes" means such unwanted residual solid or 55053
semisolid material as results from industrial, commercial, 55054
agricultural, and community operations, excluding earth or 55055
material from construction, mining, or demolition operations, or 55056
other waste materials of the type that normally would be included 55057

in demolition debris, nontoxic fly ash and bottom ash, including 55058
at least ash that results from the combustion of coal and ash that 55059
results from the combustion of coal in combination with scrap 55060
tires where scrap tires comprise not more than fifty per cent of 55061
heat input in any month, spent nontoxic foundry sand, and slag and 55062
other substances that are not harmful or inimical to public 55063
health, and includes, but is not limited to, garbage, scrap tires, 55064
combustible and noncombustible material, street dirt, and debris. 55065
"Solid wastes" does not include any material that is an infectious 55066
waste or a hazardous waste. 55067

(F) "Disposal" means the discharge, deposit, injection, 55068
dumping, spilling, leaking, emitting, or placing of any solid 55069
wastes or hazardous waste into or on any land or ground or surface 55070
water or into the air, except if the disposition or placement 55071
constitutes storage or treatment or, if the solid wastes consist 55072
of scrap tires, the disposition or placement constitutes a 55073
beneficial use or occurs at a scrap tire recovery facility 55074
licensed under section 3734.81 of the Revised Code. 55075

(G) "Person" includes the state, any political subdivision 55076
and other state or local body, the United States and any agency or 55077
instrumentality thereof, and any legal entity defined as a person 55078
under section 1.59 of the Revised Code. 55079

(H) "Open burning" means the burning of solid wastes in an 55080
open area or burning of solid wastes in a type of chamber or 55081
vessel that is not approved or authorized in rules adopted by the 55082
director under section 3734.02 of the Revised Code or, if the 55083
solid wastes consist of scrap tires, in rules adopted under 55084
division (V) of this section or section 3734.73 of the Revised 55085
Code, or the burning of treated or untreated infectious wastes in 55086
an open area or in a type of chamber or vessel that is not 55087
approved in rules adopted by the director under section 3734.021 55088
of the Revised Code. 55089

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process that renders the wastes noninfectious so that it is no longer an infectious waste and is no longer an infectious substance as defined in applicable federal law, including, without limitation, steam sterilization and incineration, and, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of

the Revised Code; processed at a scrap tire recovery facility 55154
licensed under that section or a solid waste incineration or 55155
energy recovery facility subject to regulation under this chapter; 55156
or transported to a scrap tire monocell, monofill, or recovery 55157
facility, any other solid waste facility authorized to dispose of 55158
scrap tires, or a facility that will beneficially use the scrap 55159
tires, that is located in another state and is operating in 55160
compliance with the laws of the state in which the facility is 55161
located. 55162

(N) "Facility" means any site, location, tract of land, 55163
installation, or building used for incineration, composting, 55164
sanitary landfilling, or other methods of disposal of solid wastes 55165
or, if the solid wastes consist of scrap tires, for the 55166
collection, storage, or processing of the solid wastes; for the 55167
transfer of solid wastes; for the treatment of infectious wastes; 55168
or for the storage, treatment, or disposal of hazardous waste. 55169

(O) "Closure" means the time at which a hazardous waste 55170
facility will no longer accept hazardous waste for treatment, 55171
storage, or disposal, the time at which a solid waste facility 55172
will no longer accept solid wastes for transfer or disposal or, if 55173
the solid wastes consist of scrap tires, for storage or 55174
processing, or the effective date of an order revoking the permit 55175
for a hazardous waste facility or the registration certificate, 55176
permit, or license for a solid waste facility, as applicable. 55177
"Closure" includes measures performed to protect public health or 55178
safety, to prevent air or water pollution, or to make the facility 55179
suitable for other uses, if any, including, but not limited to, 55180
the removal of processing residues resulting from solid wastes 55181
that consist of scrap tires; the establishment and maintenance of 55182
a suitable cover of soil and vegetation over cells in which 55183
hazardous waste or solid wastes are buried; minimization of 55184
erosion, the infiltration of surface water into such cells, the 55185

production of leachate, and the accumulation and runoff of 55186
contaminated surface water; the final construction of facilities 55187
for the collection and treatment of leachate and contaminated 55188
surface water runoff, except as otherwise provided in this 55189
division; the final construction of air and water quality 55190
monitoring facilities, except as otherwise provided in this 55191
division; the final construction of methane gas extraction and 55192
treatment systems; or the removal and proper disposal of hazardous 55193
waste or solid wastes from a facility when necessary to protect 55194
public health or safety or to abate or prevent air or water 55195
pollution. With regard to a solid waste facility that is a scrap 55196
tire facility, "closure" includes the final construction of 55197
facilities for the collection and treatment of leachate and 55198
contaminated surface water runoff and the final construction of 55199
air and water quality monitoring facilities only if those actions 55200
are determined to be necessary. 55201

(P) "Premises" means either of the following: 55202

(1) Geographically contiguous property owned by a generator; 55203

(2) Noncontiguous property that is owned by a generator and 55204
connected by a right-of-way that the generator controls and to 55205
which the public does not have access. Two or more pieces of 55206
property that are geographically contiguous and divided by public 55207
or private right-of-way or rights-of-way are a single premises. 55208

(Q) "Post-closure" means that period of time following 55209
closure during which a hazardous waste facility is required to be 55210
monitored and maintained under this chapter and rules adopted 55211
under it, including, without limitation, operation and maintenance 55212
of methane gas extraction and treatment systems, or the period of 55213
time after closure during which a scrap tire monocell or monofill 55214
facility licensed under section 3734.81 of the Revised Code is 55215
required to be monitored and maintained under this chapter and 55216
rules adopted under it. 55217

(R) "Infectious wastes" means any wastes or combination of wastes that include cultures and stocks of infectious agents and associated biologicals, human blood and blood products, and substances that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent, including all of the following:

(1) Laboratory wastes;

(2) Pathological wastes;

(3) Animal blood and blood products;

(4) Animal carcasses and parts;

(5) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(7) of this section.

(6) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals;

(7) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the director of health, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because

they are contaminated with, or are likely to be contaminated with, 55249
infectious agents. 55250

As used in this division, "blood products" does not include 55251
patient care waste such as bandages or disposable gowns that are 55252
lightly soiled with blood or other body fluids unless those wastes 55253
are soiled to the extent that the generator of the wastes 55254
determines that they should be managed as infectious wastes. 55255

(S) "Infectious agent" means a type of microorganism, 55256
pathogen, virus, or proteinaceous infectious particle that can 55257
cause or significantly contribute to disease in or death of human 55258
beings. 55259

(T) "Zoonotic agent" means a type of microorganism, pathogen, 55260
or virus that causes disease in vertebrate animals, is 55261
transmissible to human beings, and can cause or significantly 55262
contribute to disease in or death of human beings. 55263

(U) "Solid waste transfer facility" means any site, location, 55264
tract of land, installation, or building that is used or intended 55265
to be used primarily for the purpose of transferring solid wastes 55266
that were generated off the premises of the facility from vehicles 55267
or containers into other vehicles for transportation to a solid 55268
waste disposal facility. "Solid waste transfer facility" does not 55269
include any facility that consists solely of portable containers 55270
that have an aggregate volume of fifty cubic yards or less nor any 55271
facility where legitimate recycling activities are conducted. 55272

(V) "Beneficially use" means: 55273

(1) With regard to scrap tires, to use a scrap tire in a 55274
manner that results in a commodity for sale or exchange or in any 55275
other manner authorized as a beneficial use in rules adopted by 55276
the director in accordance with Chapter 119. of the Revised Code; 55277

(2) With regard to material from a horizontal well that has 55278
come in contact with a refined oil-based substance and that is not 55279

technologically enhanced naturally occurring radioactive material, 55280
to use the material in any manner authorized as a beneficial use 55281
in rules adopted by the director under section 3734.125 of the 55282
Revised Code. 55283

(W) "Commercial car," "commercial tractor," "farm machinery," 55284
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 55285
the same meanings as in section 4501.01 of the Revised Code. 55286

(X) "Construction equipment" means road rollers, traction 55287
engines, power shovels, power cranes, and other equipment used in 55288
construction work, or in mining or producing or processing 55289
aggregates, and not designed for or used in general highway 55290
transportation. 55291

(Y) "Motor vehicle salvage dealer" has the same meaning as in 55292
section 4738.01 of the Revised Code. 55293

(Z) "Scrap tire" means an unwanted or discarded tire. 55294

(AA) "Scrap tire collection facility" means any facility that 55295
meets all of the following qualifications: 55296

(1) The facility is used for the receipt and storage of whole 55297
scrap tires from the public prior to their transportation to a 55298
scrap tire storage, monocell, monofill, or recovery facility 55299
licensed under section 3734.81 of the Revised Code; a solid waste 55300
incineration or energy recovery facility subject to regulation 55301
under this chapter; a premises within the state where the scrap 55302
tires will be beneficially used; or a scrap tire storage, 55303
monocell, monofill, or recovery facility, any other solid waste 55304
disposal facility authorized to dispose of scrap tires, or a 55305
facility that will beneficially use the scrap tires, that is 55306
located in another state, and that is operating in compliance with 55307
the laws of the state in which the facility is located. 55308

(2) The facility exclusively stores scrap tires in portable 55309
containers. 55310

(3) The aggregate storage of the portable containers in which 55311
the scrap tires are stored does not exceed five thousand cubic 55312
feet. 55313

(BB) "Scrap tire monocell facility" means an individual site 55314
within a solid waste landfill that is used exclusively for the 55315
environmentally sound storage or disposal of whole scrap tires or 55316
scrap tires that have been shredded, chipped, or otherwise 55317
mechanically processed. 55318

(CC) "Scrap tire monofill facility" means an engineered 55319
facility used or intended to be used exclusively for the storage 55320
or disposal of scrap tires, including at least facilities for the 55321
submergence of whole scrap tires in a body of water. 55322

(DD) "Scrap tire recovery facility" means any facility, or 55323
portion thereof, for the processing of scrap tires for the purpose 55324
of extracting or producing usable products, materials, or energy 55325
from the scrap tires through a controlled combustion process, 55326
mechanical process, or chemical process. "Scrap tire recovery 55327
facility" includes any facility that uses the controlled 55328
combustion of scrap tires in a manufacturing process to produce 55329
process heat or steam or any facility that produces usable heat or 55330
electric power through the controlled combustion of scrap tires in 55331
combination with another fuel, but does not include any solid 55332
waste incineration or energy recovery facility that is designed, 55333
constructed, and used for the primary purpose of incinerating 55334
mixed municipal solid wastes and that burns scrap tires in 55335
conjunction with mixed municipal solid wastes, or any tire 55336
retreading business, tire manufacturing finishing center, or tire 55337
adjustment center having on the premises of the business a single, 55338
covered scrap tire storage area at which not more than four 55339
thousand scrap tires are stored. 55340

(EE) "Scrap tire storage facility" means any facility where 55341
whole scrap tires are stored prior to their transportation to a 55342

scrap tire monocell, monofill, or recovery facility licensed under 55343
section 3734.81 of the Revised Code; a solid waste incineration or 55344
energy recovery facility subject to regulation under this chapter; 55345
a premises within the state where the scrap tires will be 55346
beneficially used; or a scrap tire storage, monocell, monofill, or 55347
recovery facility, any other solid waste disposal facility 55348
authorized to dispose of scrap tires, or a facility that will 55349
beneficially use the scrap tires, that is located in another 55350
state, and that is operating in compliance with the laws of the 55351
state in which the facility is located. 55352

(FF) "Used oil" means any oil that has been refined from 55353
crude oil, or any synthetic oil, that has been used and, as a 55354
result of that use, is contaminated by physical or chemical 55355
impurities. "Used oil" includes only those substances identified 55356
as used oil by the United States environmental protection agency 55357
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 55358
U.S.C.A. 6901a, as amended. 55359

(GG) "Accumulated speculatively" has the same meaning as in 55360
rules adopted by the director under section 3734.12 of the Revised 55361
Code. 55362

(HH) "Horizontal well" has the same meaning as in section 55363
1509.01 of the Revised Code. 55364

(II) "Technologically enhanced naturally occurring 55365
radioactive material" has the same meaning as in section 3748.01 55366
of the Revised Code. 55367

Sec. 3734.02. (A) The director of environmental protection, 55368
in accordance with Chapter 119. of the Revised Code, shall adopt 55369
and may amend, suspend, or rescind rules having uniform 55370
application throughout the state governing solid waste facilities 55371
and the inspections of and issuance of permits and licenses for 55372
all solid waste facilities in order to ensure that the facilities 55373

will be located, maintained, and operated, and will undergo 55374
closure and post-closure care, in a sanitary manner so as not to 55375
create a nuisance, cause or contribute to water pollution, create 55376
a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 55377
257.3-8, as amended. The rules may include, without limitation, 55378
financial assurance requirements for closure and post-closure care 55379
and corrective action and requirements for taking corrective 55380
action in the event of the surface or subsurface discharge or 55381
migration of explosive gases or leachate from a solid waste 55382
facility, or of ground water contamination resulting from the 55383
transfer or disposal of solid wastes at a facility, beyond the 55384
boundaries of any area within a facility that is operating or is 55385
undergoing closure or post-closure care where solid wastes were 55386
disposed of or are being disposed of. The rules shall not concern 55387
or relate to personnel policies, salaries, wages, fringe benefits, 55388
or other conditions of employment of employees of persons owning 55389
or operating solid waste facilities. The director, in accordance 55390
with Chapter 119. of the Revised Code, shall adopt and may amend, 55391
suspend, or rescind rules governing the issuance, modification, 55392
revocation, suspension, or denial of variances from the director's 55393
solid waste rules, including, without limitation, rules adopted 55394
under this chapter governing the management of scrap tires. 55395

Variances shall be issued, modified, revoked, suspended, or 55396
rescinded in accordance with this division, rules adopted under 55397
it, and Chapter 3745. of the Revised Code. The director may order 55398
the person to whom a variance is issued to take such action within 55399
such time as the director may determine to be appropriate and 55400
reasonable to prevent the creation of a nuisance or a hazard to 55401
the public health or safety or the environment. Applications for 55402
variances shall contain such detail plans, specifications, and 55403
information regarding objectives, procedures, controls, and other 55404
pertinent data as the director may require. The director shall 55405
grant a variance only if the applicant demonstrates to the 55406

director's satisfaction that construction and operation of the 55407
solid waste facility in the manner allowed by the variance and any 55408
terms or conditions imposed as part of the variance will not 55409
create a nuisance or a hazard to the public health or safety or 55410
the environment. In granting any variance, the director shall 55411
state the specific provision or provisions whose terms are to be 55412
varied and also shall state specific terms or conditions imposed 55413
upon the applicant in place of the provision or provisions. The 55414
director may hold a public hearing on an application for a 55415
variance or renewal of a variance at a location in the county 55416
where the operations that are the subject of the application for 55417
the variance are conducted. The director shall give not less than 55418
twenty days' notice of the hearing to the applicant by certified 55419
mail or by another type of mail accompanied by a receipt and shall 55420
publish at least one notice of the hearing in a newspaper with 55421
general circulation in the county where the hearing is to be held. 55422
The director shall make available for public inspection at the 55423
principal office of the environmental protection agency a current 55424
list of pending applications for variances and a current schedule 55425
of pending variance hearings. The director shall make a complete 55426
stenographic record of testimony and other evidence submitted at 55427
the hearing. Within ten days after the hearing, the director shall 55428
make a written determination to issue, renew, or deny the variance 55429
and shall enter the determination and the basis for it into the 55430
record of the hearing. The director shall issue, renew, or deny an 55431
application for a variance or renewal of a variance within six 55432
months of the date upon which the director receives a complete 55433
application with all pertinent information and data required. No 55434
variance shall be issued, revoked, modified, or denied until the 55435
director has considered the relative interests of the applicant, 55436
other persons and property affected by the variance, and the 55437
general public. Any variance granted under this division shall be 55438
for a period specified by the director and may be renewed from 55439

time to time on such terms and for such periods as the director 55440
determines to be appropriate. No application shall be denied and 55441
no variance shall be revoked or modified without a written order 55442
stating the findings upon which the denial, revocation, or 55443
modification is based. A copy of the order shall be sent to the 55444
applicant or variance holder by certified mail or by another type 55445
of mail accompanied by a receipt. 55446

(B) The director shall prescribe and furnish the forms 55447
necessary to administer and enforce this chapter. The director may 55448
cooperate with and enter into agreements with other state, local, 55449
or federal agencies to carry out the purposes of this chapter. The 55450
director may exercise all incidental powers necessary to carry out 55451
the purposes of this chapter. 55452

The director may use moneys in the infectious waste 55453
management fund created in section 3734.021 of the Revised Code 55454
exclusively for administering and enforcing the provisions of this 55455
chapter governing the management of infectious wastes. 55456

(C) Except as provided in this division and divisions (N)(2) 55457
and (3) of this section, no person shall establish a new solid 55458
waste facility or infectious waste treatment facility, or modify 55459
an existing solid waste facility or infectious waste treatment 55460
facility, without submitting an application for a permit with 55461
accompanying detail plans, specifications, and information 55462
regarding the facility and method of operation and receiving a 55463
permit issued by the director, except that no permit shall be 55464
required under this division to install or operate a solid waste 55465
facility for sewage sludge treatment or disposal when the 55466
treatment or disposal is authorized by a current permit issued 55467
under Chapter 3704. or 6111. of the Revised Code. 55468

No person shall continue to operate a solid waste facility 55469
for which the director has denied a permit for which an 55470
application was required under division (A)(3) of section 3734.05 55471

of the Revised Code, or for which the director has disapproved 55472
plans and specifications required to be filed by an order issued 55473
under division (A)(5) of that section, after the date prescribed 55474
for commencement of closure of the facility in the order issued 55475
under division (A)(6) of section 3734.05 of the Revised Code 55476
denying the permit application or approval. 55477

On and after the effective date of the rules adopted under 55478
division (A) of this section and division (D) of section 3734.12 55479
of the Revised Code governing solid waste transfer facilities, no 55480
person shall establish a new, or modify an existing, solid waste 55481
transfer facility without first submitting an application for a 55482
permit with accompanying engineering detail plans, specifications, 55483
and information regarding the facility and its method of operation 55484
to the director and receiving a permit issued by the director. 55485

No person shall establish a new compost facility or continue 55486
to operate an existing compost facility that accepts exclusively 55487
source separated yard wastes without submitting a completed 55488
registration for the facility to the director in accordance with 55489
rules adopted under divisions (A) and (N)(3) of this section. 55490

This division does not apply to a generator of infectious 55491
wastes that does any of the following: 55492

(1) Treats, by methods, techniques, and practices established 55493
by rules adopted under division (B)(2)(a) of section 3734.021 of 55494
the Revised Code, any of the following: 55495

(a) Infectious wastes that are generated on any premises that 55496
are owned or operated by the generator; 55497

(b) Infectious wastes that are generated by a generator who 55498
has staff privileges at a hospital as defined in section 3727.01 55499
of the Revised Code; 55500

(c) Infectious wastes that are generated in providing care to 55501
a patient by an emergency medical services organization as defined 55502

in section 4765.01 of the Revised Code. 55503

(2) Holds a license or renewal of a license to operate a 55504
crematory facility issued under Chapter 4717. and a permit issued 55505
under Chapter 3704. of the Revised Code; 55506

(3) Treats or disposes of dead animals or parts thereof, or 55507
the blood of animals, and is subject to any of the following: 55508

(a) Inspection under the "Federal Meat Inspection Act," 81 55509
Stat. 584 (1967), 21 U.S.C.A. 603, as amended; 55510

(b) Chapter 918. of the Revised Code; 55511

(c) Chapter 953. of the Revised Code. 55512

(D) Neither this chapter nor any rules adopted under it apply 55513
to single-family residential premises; to infectious wastes 55514
generated by individuals for purposes of their own care or 55515
treatment; to the temporary storage of solid wastes, other than 55516
scrap tires, prior to their collection for disposal; to the 55517
storage of one hundred or fewer scrap tires unless they are stored 55518
in such a manner that, in the judgment of the director or the 55519
board of health of the health district in which the scrap tires 55520
are stored, the storage causes a nuisance, a hazard to public 55521
health or safety, or a fire hazard; or to the collection of solid 55522
wastes, other than scrap tires, by a political subdivision or a 55523
person holding a franchise or license from a political subdivision 55524
of the state; to composting, as defined in section 1511.01 of the 55525
Revised Code, conducted in accordance with section 1511.022 of the 55526
Revised Code; or to any person who is licensed to transport raw 55527
rendering material to a compost facility pursuant to section 55528
953.23 of the Revised Code. 55529

(E)(1) As used in this division: 55530

(a) "On-site facility" means a facility that stores, treats, 55531
or disposes of hazardous waste that is generated on the premises 55532

of the facility. 55533

(b) "Off-site facility" means a facility that stores, treats, 55534
or disposes of hazardous waste that is generated off the premises 55535
of the facility and includes such a facility that is also an 55536
on-site facility. 55537

(c) "Satellite facility" means any of the following: 55538

(i) An on-site facility that also receives hazardous waste 55539
from other premises owned by the same person who generates the 55540
waste on the facility premises; 55541

(ii) An off-site facility operated so that all of the 55542
hazardous waste it receives is generated on one or more premises 55543
owned by the person who owns the facility; 55544

(iii) An on-site facility that also receives hazardous waste 55545
that is transported uninterruptedly and directly to the facility 55546
through a pipeline from a generator who is not the owner of the 55547
facility. 55548

(2) Except as provided in division (E)(3) of this section, no 55549
person shall establish or operate a hazardous waste facility, or 55550
use a solid waste facility for the storage, treatment, or disposal 55551
of any hazardous waste, without a hazardous waste facility 55552
installation and operation permit issued in accordance with 55553
section 3734.05 of the Revised Code and subject to the payment of 55554
an application fee not to exceed one thousand five hundred 55555
dollars, payable upon application for a hazardous waste facility 55556
installation and operation permit and upon application for a 55557
renewal permit issued under division (H) of section 3734.05 of the 55558
Revised Code, to be credited to the hazardous waste facility 55559
management fund created in section 3734.18 of the Revised Code. 55560
The term of a hazardous waste facility installation and operation 55561
permit shall not exceed ten years. 55562

In addition to the application fee, there is hereby levied an 55563

annual permit fee to be paid by the permit holder upon the			55564
anniversaries of the date of issuance of the hazardous waste			55565
facility installation and operation permit and of any subsequent			55566
renewal permits and to be credited to the hazardous waste facility			55567
management fund. Annual permit fees totaling forty thousand			55568
dollars or more for any one facility may be paid on a quarterly			55569
basis with the first quarterly payment each year being due on the			55570
anniversary of the date of issuance of the hazardous waste			55571
facility installation and operation permit and of any subsequent			55572
renewal permits. The annual permit fee shall be determined for			55573
each permit holder by the director in accordance with the			55574
following schedule:			55575
TYPE OF BASIC			55576
MANAGEMENT UNIT	TYPE OF FACILITY	FEE	55577
Storage facility using:			55578
Containers	On-site, off-site, and		55579
	satellite	\$ 500	55580
Tanks	On-site, off-site, and		55581
	satellite	500	55582
Waste pile	On-site, off-site, and		55583
	satellite	3,000	55584
Surface impoundment	On-site and satellite	8,000	55585
	Off-site	10,000	55586
Disposal facility using:			55587
Deep well injection	On-site and satellite	15,000	55588
	Off-site	25,000	55589
Landfill	On-site and satellite	25,000	55590
	Off-site	40,000	55591
Land application	On-site and satellite	2,500	55592
	Off-site	5,000	55593
Surface impoundment	On-site and satellite	10,000	55594
	Off-site	20,000	55595
Treatment facility using:			55596

Tanks	On-site, off-site, and		55597
	satellite	700	55598
Surface impoundment	On-site and satellite	8,000	55599
	Off-site	10,000	55600
Incinerator	On-site and satellite	5,000	55601
	Off-site	10,000	55602
Other forms			55603
of treatment	On-site, off-site, and		55604
	satellite	1,000	55605

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of

the annual permit fee is due bears to three hundred sixty-five. 55629

The director, by rules adopted in accordance with Chapters 55630
119. and 3745. of the Revised Code, shall prescribe procedures for 55631
collecting the annual permit fee established by this division and 55632
may prescribe other requirements necessary to carry out this 55633
division. 55634

(3) The prohibition against establishing or operating a 55635
hazardous waste facility without a hazardous waste facility 55636
installation and operation permit does not apply to either of the 55637
following: 55638

(a) A facility that is operating in accordance with a permit 55639
renewal issued under division (H) of section 3734.05 of the 55640
Revised Code, a revision issued under division (I) of that section 55641
as it existed prior to August 20, 1996, or a modification issued 55642
by the director under division (I) of that section on and after 55643
August 20, 1996; 55644

(b) Except as provided in division (J) of section 3734.05 of 55645
the Revised Code, a facility that will operate or is operating in 55646
accordance with a permit by rule, or that is not subject to permit 55647
requirements, under rules adopted by the director. In accordance 55648
with Chapter 119. of the Revised Code, the director shall adopt, 55649
and subsequently may amend, suspend, or rescind, rules for the 55650
purposes of division (E)(3)(b) of this section. Any rules so 55651
adopted shall be consistent with and equivalent to regulations 55652
pertaining to interim status adopted under the "Resource 55653
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 55654
6921, as amended, except as otherwise provided in this chapter. 55655

If a modification is requested or proposed for a facility 55656
described in division (E)(3)(a) or (b) of this section, division 55657
(I)(7) of section 3734.05 of the Revised Code applies. 55658

(F) No person shall store, treat, or dispose of hazardous 55659

waste identified or listed under this chapter and rules adopted 55660
under it, regardless of whether generated on or off the premises 55661
where the waste is stored, treated, or disposed of, or transport 55662
or cause to be transported any hazardous waste identified or 55663
listed under this chapter and rules adopted under it to any other 55664
premises, except at or to any of the following: 55665

(1) A hazardous waste facility operating under a permit 55666
issued in accordance with this chapter; 55667

(2) A facility in another state operating under a license or 55668
permit issued in accordance with the "Resource Conservation and 55669
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 55670
amended; 55671

(3) A facility in another nation operating in accordance with 55672
the laws of that nation; 55673

(4) A facility holding a permit issued pursuant to Title I of 55674
the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 55675
Stat. 1052, 33 U.S.C.A. 1401, as amended; 55676

(5) A hazardous waste facility as described in division 55677
(E)(3)(a) or (b) of this section. 55678

(G) The director, by order, may exempt any person generating, 55679
collecting, storing, treating, disposing of, or transporting solid 55680
wastes, infectious wastes, or hazardous waste, or processing solid 55681
wastes that consist of scrap tires, in such quantities or under 55682
such circumstances that, in the determination of the director, are 55683
unlikely to adversely affect the public health or safety or the 55684
environment from any requirement to obtain a registration 55685
certificate, permit, or license or comply with the manifest system 55686
or other requirements of this chapter. Such an exemption shall be 55687
consistent with and equivalent to any regulations adopted by the 55688
administrator of the United States environmental protection agency 55689
under the "Resource Conservation and Recovery Act of 1976," 90 55690

Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise 55691
provided in this chapter. 55692

(H) No person shall engage in filling, grading, excavating, 55693
building, drilling, or mining on land where a hazardous waste 55694
facility, or a solid waste facility, was operated without prior 55695
authorization from the director, who shall establish the procedure 55696
for granting such authorization by rules adopted in accordance 55697
with Chapter 119. of the Revised Code. 55698

A public utility that has main or distribution lines above or 55699
below the land surface located on an easement or right-of-way 55700
across land where a solid waste facility was operated may engage 55701
in any such activity within the easement or right-of-way without 55702
prior authorization from the director for purposes of performing 55703
emergency repair or emergency replacement of its lines; of the 55704
poles, towers, foundations, or other structures supporting or 55705
sustaining any such lines; or of the appurtenances to those 55706
structures, necessary to restore or maintain existing public 55707
utility service. A public utility may enter upon any such easement 55708
or right-of-way without prior authorization from the director for 55709
purposes of performing necessary or routine maintenance of those 55710
portions of its existing lines; of the existing poles, towers, 55711
foundations, or other structures sustaining or supporting its 55712
lines; or of the appurtenances to any such supporting or 55713
sustaining structure, located on or above the land surface on any 55714
such easement or right-of-way. Within twenty-four hours after 55715
commencing any such emergency repair, replacement, or maintenance 55716
work, the public utility shall notify the director or the 55717
director's authorized representative of those activities and shall 55718
provide such information regarding those activities as the 55719
director or the director's representative may request. Upon 55720
completion of the emergency repair, replacement, or maintenance 55721
activities, the public utility shall restore any land of the solid 55722

waste facility disturbed by those activities to the condition 55723
existing prior to the commencement of those activities. 55724

(I) No owner or operator of a hazardous waste facility, in 55725
the operation of the facility, shall cause, permit, or allow the 55726
emission therefrom of any particulate matter, dust, fumes, gas, 55727
mist, smoke, vapor, or odorous substance that, in the opinion of 55728
the director, unreasonably interferes with the comfortable 55729
enjoyment of life or property by persons living or working in the 55730
vicinity of the facility, or that is injurious to public health. 55731
Any such action is hereby declared to be a public nuisance. 55732

(J) Notwithstanding any other provision of this chapter, in 55733
the event the director finds an imminent and substantial danger to 55734
public health or safety or the environment that creates an 55735
emergency situation requiring the immediate treatment, storage, or 55736
disposal of hazardous waste, the director may issue a temporary 55737
emergency permit to allow the treatment, storage, or disposal of 55738
the hazardous waste at a facility that is not otherwise authorized 55739
by a hazardous waste facility installation and operation permit to 55740
treat, store, or dispose of the waste. The emergency permit shall 55741
not exceed ninety days in duration and shall not be renewed. The 55742
director shall adopt, and may amend, suspend, or rescind, rules in 55743
accordance with Chapter 119. of the Revised Code governing the 55744
issuance, modification, revocation, and denial of emergency 55745
permits. 55746

(K) Except for infectious wastes generated by a person who 55747
produces fewer than fifty pounds of infectious wastes at a 55748
premises during any one month, no owner or operator of a sanitary 55749
landfill shall knowingly accept for disposal, or dispose of, any 55750
infectious wastes that have not been treated to render them 55751
noninfectious. 55752

(L) The director, in accordance with Chapter 119. of the 55753
Revised Code, shall adopt, and may amend, suspend, or rescind, 55754

rules having uniform application throughout the state establishing 55755
a training and certification program that shall be required for 55756
employees of boards of health who are responsible for enforcing 55757
the solid waste and infectious waste provisions of this chapter 55758
and rules adopted under them and for persons who are responsible 55759
for the operation of solid waste facilities or infectious waste 55760
treatment facilities. The rules shall provide all of the 55761
following, without limitation: 55762

(1) The program shall be administered by the director and 55763
shall consist of a course on new solid waste and infectious waste 55764
technologies, enforcement procedures, and rules; 55765

(2) The course shall be offered on an annual basis; 55766

(3) Those persons who are required to take the course under 55767
division (L) of this section shall do so triennially; 55768

(4) Persons who successfully complete the course shall be 55769
certified by the director; 55770

(5) Certification shall be required for all employees of 55771
boards of health who are responsible for enforcing the solid waste 55772
or infectious waste provisions of this chapter and rules adopted 55773
under them and for all persons who are responsible for the 55774
operation of solid waste facilities or infectious waste treatment 55775
facilities; 55776

(6)(a) All employees of a board of health who, on the 55777
effective date of the rules adopted under this division, are 55778
responsible for enforcing the solid waste or infectious waste 55779
provisions of this chapter and the rules adopted under them shall 55780
complete the course and be certified by the director not later 55781
than January 1, 1995; 55782

(b) All employees of a board of health who, after the 55783
effective date of the rules adopted under division (L) of this 55784
section, become responsible for enforcing the solid waste or 55785

infectious waste provisions of this chapter and rules adopted 55786
under them and who do not hold a current and valid certification 55787
from the director at that time shall complete the course and be 55788
certified by the director within two years after becoming 55789
responsible for performing those activities. 55790

No person shall fail to obtain the certification required 55791
under this division. 55792

(M) The director shall not issue a permit under section 55793
3734.05 of the Revised Code to establish a solid waste facility, 55794
or to modify a solid waste facility operating on December 21, 55795
1988, in a manner that expands the disposal capacity or geographic 55796
area covered by the facility, that is or is to be located within 55797
the boundaries of a state park established or dedicated under 55798
Chapter 1541. of the Revised Code, a state park purchase area 55799
established under section 1541.02 of the Revised Code, any unit of 55800
the national park system, or any property that lies within the 55801
boundaries of a national park or recreation area, but that has not 55802
been acquired or is not administered by the secretary of the 55803
United States department of the interior, located in this state, 55804
or any candidate area located in this state and identified for 55805
potential inclusion in the national park system in the edition of 55806
the "national park system plan" submitted under paragraph (b) of 55807
section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 55808
U.S.C.A. 1a-5, as amended, current at the time of filing of the 55809
application for the permit, unless the facility or proposed 55810
facility is or is to be used exclusively for the disposal of solid 55811
wastes generated within the park or recreation area and the 55812
director determines that the facility or proposed facility will 55813
not degrade any of the natural or cultural resources of the park 55814
or recreation area. The director shall not issue a variance under 55815
division (A) of this section and rules adopted under it, or issue 55816
an exemption order under division (G) of this section, that would 55817

authorize any such establishment or expansion of a solid waste 55818
facility within the boundaries of any such park or recreation 55819
area, state park purchase area, or candidate area, other than a 55820
solid waste facility exclusively for the disposal of solid wastes 55821
generated within the park or recreation area when the director 55822
determines that the facility will not degrade any of the natural 55823
or cultural resources of the park or recreation area. 55824

(N)(1) The rules adopted under division (A) of this section, 55825
other than those governing variances, do not apply to scrap tire 55826
collection, storage, monocell, monofill, and recovery facilities. 55827
Those facilities are subject to and governed by rules adopted 55828
under sections 3734.70 to 3734.73 of the Revised Code, as 55829
applicable. 55830

(2) Division (C) of this section does not apply to scrap tire 55831
collection, storage, monocell, monofill, and recovery facilities. 55832
The establishment and modification of those facilities are subject 55833
to sections 3734.75 to 3734.78 and section 3734.81 of the Revised 55834
Code, as applicable. 55835

(3) The director may adopt, amend, suspend, or rescind rules 55836
under division (A) of this section creating an alternative system 55837
for authorizing the establishment, operation, or modification of a 55838
solid waste compost facility in lieu of the requirement that a 55839
person seeking to establish, operate, or modify a solid waste 55840
compost facility apply for and receive a permit under division (C) 55841
of this section and section 3734.05 of the Revised Code and a 55842
license under division (A)(1) of that section. The rules may 55843
include requirements governing, without limitation, the 55844
classification of solid waste compost facilities, the submittal of 55845
operating records for solid waste compost facilities, and the 55846
creation of a registration or notification system in lieu of the 55847
issuance of permits and licenses for solid waste compost 55848
facilities. The rules shall specify the applicability of divisions 55849

(A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised Code to a solid waste compost facility. 55850
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(O)(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes. 55852
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(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste. 55857
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(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it. 55860
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(P)(1) As used in divisions (P) and (Q) of this section: 55864

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health. 55865
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(b) "Drilling operation" includes a production operation as defined in section 1509.01 of the Revised Code. 55869
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(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background. 55871
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(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material 55877
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that contains or is contaminated with radium-226, radium-228, or 55880
any combination of radium-226 and radium-228 at concentrations 55881
equal to or greater than five picocuries per gram above natural 55882
background, provided that the owner or operator has obtained and 55883
maintains all other necessary authorizations, including any 55884
authorization required by rules adopted by the director of health 55885
under section 3748.04 of the Revised Code. 55886

(4) The director of environmental protection may adopt rules 55887
in accordance with Chapter 119. of the Revised Code governing the 55888
receipt, acceptance, processing, handling, management, and 55889
disposal by solid waste facilities of material that contains or is 55890
contaminated with radioactive material, including, without 55891
limitation, technologically enhanced naturally occurring 55892
radioactive material that contains or is contaminated with 55893
radium-226, radium-228, or any combination of radium-226 and 55894
radium-228 at concentrations less than five picocuries per gram 55895
above natural background. Rules adopted by the director may 55896
include at a minimum all of the following: 55897

(a) Requirements in accordance with which the owner or 55898
operator of a solid waste facility must monitor leachate and 55899
ground water for radium-226, radium-228, and other radionuclides; 55900

(b) Requirements in accordance with which the owner or 55901
operator of a solid waste facility must develop procedures to 55902
ensure that technologically enhanced naturally occurring 55903
radioactive material accepted at the facility neither contains nor 55904
is contaminated with radium-226, radium-228, or any combination of 55905
radium-226 and radium-228 at concentrations equal to or greater 55906
than five picocuries per gram above natural background; 55907

(c) Requirements in accordance with which the owner or 55908
operator of a solid waste facility must dispose of radioactive 55909
material, including, without limitation, technologically enhanced 55910
naturally occurring radioactive material that contains or is 55911

contaminated with radium-226, radium-228, or any combination of 55912
radium-226 and radium-228 at concentrations less than five 55913
picocuries per gram above natural background, only in a monocell 55914
or monofill that has been permitted for that purpose in accordance 55915
with this chapter and rules adopted under it. 55916

(O) Notwithstanding any other provision of this section, the 55917
owner or operator of a solid waste facility shall not receive, 55918
accept, process, handle, manage, or dispose of technologically 55919
enhanced naturally occurring radioactive material associated with 55920
drilling operations without first obtaining representative 55921
analytical results to determine compliance with divisions (P)(2) 55922
and (3) of this section and rules adopted under it. 55923

Sec. 3734.125. The director of environmental protection may 55924
adopt rules in accordance with Chapter 119. of the Revised Code 55925
establishing requirements governing the beneficial use of material 55926
from a horizontal well that has come in contact with a refined 55927
oil-based substance and that is not technologically enhanced 55928
naturally occurring radioactive material. 55929

Sec. 3734.20. (A) If the director of environmental protection 55930
has reason to believe that hazardous waste was treated, stored, or 55931
disposed of at any location within the state, the director may 55932
conduct such investigations and make such inquiries, including 55933
obtaining samples and examining and copying records, as are 55934
reasonable or necessary to determine if conditions at a hazardous 55935
waste facility, solid waste facility, or other location where the 55936
director has reason to believe hazardous waste was treated, 55937
stored, or disposed of constitute a substantial threat to public 55938
health or safety or are causing or contributing to or threatening 55939
to cause or contribute to air or water pollution or soil 55940
contamination. The director or the director's authorized 55941
representative may apply for, and any judge of a court of common 55942

pleas shall issue, an appropriate search warrant necessary to 55943
achieve the purposes of this section within the court's 55944
territorial jurisdiction. The director may expend moneys from the 55945
hazardous waste facility management fund created in section 55946
3734.18 of the Revised Code, the hazardous waste clean-up fund 55947
created in section 3734.28 of the Revised Code, or the 55948
environmental protection remediation fund created in section 55949
3734.281 of the Revised Code for conducting investigations under 55950
this section. 55951

(B) If the director determines that conditions at a hazardous 55952
waste facility, solid waste facility, or other location where 55953
hazardous waste was treated, stored, or disposed of constitute a 55954
substantial threat to public health or safety or are causing or 55955
contributing to or threatening to cause or contribute to air or 55956
water pollution or soil contamination, the director shall initiate 55957
appropriate action under this chapter or Chapter 3704. or 6111. of 55958
the Revised Code or seek any other appropriate legal or equitable 55959
remedies to investigate or abate the pollution or contamination or 55960
to protect public health or safety. The action may include the 55961
issuance of an order to any person who is violating or has 55962
violated this chapter or Chapter 3704. or 6111. of the Revised 55963
Code, a rule adopted under any of those chapters, or a term or 55964
condition of a permit, license, variance, or order issued under 55965
any of those chapters. The order may include an agreement by the 55966
person to whom the order is issued to pay the costs incurred by 55967
the environmental protection agency as a result of the violation. 55968

If an order of the director to abate or prevent air or water 55969
pollution or soil contamination or to remedy a threat to public 55970
health or safety caused by conditions at such a facility or 55971
location issued pursuant to this chapter or Chapter 3704. or 6111. 55972
of the Revised Code is not wholly complied with within the time 55973
prescribed in the order, the director may, through officers or 55974

employees of the ~~environmental protection~~ agency or through 55975
contractors employed for that purpose in accordance with the 55976
bidding procedure established in division (C) of section 3734.23 55977
of the Revised Code, enter upon the facility or location and 55978
perform those investigations or measures necessary to abate or 55979
prevent air or water pollution or soil contamination from the 55980
facility or location or to protect public health or safety, 55981
including, but not limited to, measures prescribed in division (B) 55982
of section 3734.23 of the Revised Code. The director shall keep an 55983
itemized record of the cost of the ~~investigation~~ investigations 55984
and measures performed, including costs incurred by the agency for 55985
labor, materials, and any contract services required. Upon 55986
completion of the ~~investigation~~ investigations or measures, the 55987
director shall record the cost of performing those investigations 55988
or measures at the office of the county recorder of the county in 55989
which the facility or location is located. The cost so recorded 55990
constitutes a lien against the property on which the facility or 55991
location is located until discharged. Upon written request of the 55992
director, the attorney general shall institute a civil action to 55993
recover the cost. Any moneys so received shall be credited to the 55994
hazardous waste facility management fund, the hazardous waste 55995
clean-up fund, or the environmental protection remediation fund, 55996
as applicable. 55997

When entering upon a facility or location under this 55998
division, the director shall perform or cause to be performed only 55999
those investigations or measures necessary to abate or prevent air 56000
or water pollution or soil contamination caused by conditions at 56001
the facility or location or to abate threats to public health or 56002
safety caused by conditions at the facility or location. For this 56003
purpose the director may expend moneys from the hazardous waste 56004
facility management fund, the hazardous waste clean-up fund, or 56005
the environmental protection remediation fund and may expend 56006
moneys from loans from the Ohio water development authority to the 56007

environmental protection agency that pledge moneys from the 56008
hazardous waste facility management fund, the hazardous waste 56009
clean-up fund, or the environmental protection remediation fund 56010
for the repayment of and for the interest on such loans. 56011

Sec. 3734.28. Except as otherwise provided in sections 56012
3734.281 and 3734.282 of the Revised Code, moneys collected under 56013
sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 56014
of the Revised Code and under the "Comprehensive Environmental 56015
Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 56016
42 U.S.C.A. 9601, et seq., as amended, including moneys recovered 56017
under division (B)(1) of this section, shall be paid into the 56018
state treasury to the credit of the hazardous waste clean-up fund, 56019
which is hereby created. In addition, both of the following shall 56020
be credited to the fund: 56021

(A) Moneys recovered for costs paid from the fund for 56022
activities described in divisions (A)(1) and (2) of section 56023
3745.12 of the Revised Code; 56024

(B) Natural resource damage assessment costs recovered under 56025
any of the following: 56026

(1) The "Comprehensive Environmental Response, Compensation, 56027
and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et 56028
seq., as amended; 56029

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 56030
2701, et seq., as amended; 56031

(3) ~~The Federal Water Pollution Control Act as defined in~~ 56032
~~section 6111.01 of the Revised Code~~ "Clean Water Act of 1977," 91 56033
Stat. 1566, 33 U.S.C. 1321, et seq., as amended; 56034

(4) Any other applicable federal or state law. 56035

The environmental protection agency shall use the moneys in 56036
the fund for the purposes set forth in division (D) of section 56037

3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 56038
3734.26, and 3734.27, divisions (A)(1) and (2) of section 3745.12, 56039
and Chapter 3746. of the Revised Code, including any related 56040
enforcement expenses and administrative expenses of any related 56041
closure or corrective action program. In addition, the agency 56042
shall use the moneys in the fund to pay the state's long-term 56043
operation and maintenance costs or matching share for actions 56044
taken under the "Comprehensive Environmental Response, 56045
Compensation, and Liability Act of 1980," as amended. If those 56046
moneys are reimbursed by grants or other moneys from the United 56047
States or any other person, the moneys shall be placed in the fund 56048
and not in the general revenue fund. 56049

The director of environmental protection may enter into 56050
contracts and grant agreements with federal, state, or local 56051
government agencies, nonprofit organizations, and colleges and 56052
universities for the purpose of carrying out the responsibilities 56053
of the environmental protection agency for which money may be 56054
expended from the fund. 56055

Sec. 3734.57. (A) The following fees are hereby levied on the 56056
transfer or disposal of solid wastes in this state: 56057

(1) One dollar per ton through June 30, ~~2014~~ 2016, ~~one-half~~ 56058
thirty per cent of the proceeds of which shall be deposited in the 56059
state treasury to the credit of the hazardous waste facility 56060
management fund created in section 3734.18 of the Revised Code and 56061
~~one-half~~ seventy per cent of the proceeds of which shall be 56062
deposited in the state treasury to the credit of the hazardous 56063
waste clean-up fund created in section 3734.28 of the Revised 56064
Code; 56065

(2) An additional one dollar per ton through June 30, ~~2014~~ 56066
2016, the proceeds of which shall be deposited in the state 56067
treasury to the credit of the solid waste fund, which is hereby 56068

created. The environmental protection agency shall use money in 56069
the solid waste fund to pay the costs of administering and 56070
enforcing the laws pertaining to solid wastes, infectious wastes, 56071
and construction and demolition debris, including, without 56072
limitation, ground water evaluations related to solid wastes, 56073
infectious wastes, and construction and demolition debris, under 56074
this chapter and Chapter 3714. of the Revised Code and any rules 56075
adopted under them, providing compliance assistance to small 56076
businesses, and paying a share of the administrative costs of the 56077
environmental protection agency pursuant to section 3745.014 of 56078
the Revised Code. 56079

(3) An additional two dollars and fifty cents per ton through 56080
June 30, ~~2014~~ 2016, the proceeds of which shall be deposited in 56081
the state treasury to the credit of the environmental protection 56082
fund created in section 3745.015 of the Revised Code; 56083

(4) An additional twenty-five cents per ton through June 30, 56084
~~2013~~ 2016, the proceeds of which shall be deposited in the state 56085
treasury to the credit of the soil and water conservation district 56086
assistance fund created in section 1515.14 of the Revised Code. 56087

In the case of solid wastes that are taken to a solid waste 56088
transfer facility located in this state prior to being transported 56089
for disposal at a solid waste disposal facility located in this 56090
state or outside of this state, the fees levied under this 56091
division shall be collected by the owner or operator of the 56092
transfer facility as a trustee for the state. The amount of fees 56093
required to be collected under this division at such a transfer 56094
facility shall equal the total tonnage of solid wastes received at 56095
the facility multiplied by the fees levied under this division. In 56096
the case of solid wastes that are not taken to a solid waste 56097
transfer facility located in this state prior to being transported 56098
to a solid waste disposal facility, the fees shall be collected by 56099
the owner or operator of the solid waste disposal facility as a 56100

trustee for the state. The amount of fees required to be collected 56101
under this division at such a disposal facility shall equal the 56102
total tonnage of solid wastes received at the facility that was 56103
not previously taken to a solid waste transfer facility located in 56104
this state multiplied by the fees levied under this division. Fees 56105
levied under this division do not apply to materials separated 56106
from a mixed waste stream for recycling by a generator or 56107
materials removed from the solid waste stream through recycling, 56108
as "recycling" is defined in rules adopted under section 3734.02 56109
of the Revised Code. 56110

The owner or operator of a solid waste transfer facility or 56111
disposal facility, as applicable, shall prepare and file with the 56112
director of environmental protection each month a return 56113
indicating the total tonnage of solid wastes received at the 56114
facility during that month and the total amount of the fees 56115
required to be collected under this division during that month. In 56116
addition, the owner or operator of a solid waste disposal facility 56117
shall indicate on the return the total tonnage of solid wastes 56118
received from transfer facilities located in this state during 56119
that month for which the fees were required to be collected by the 56120
transfer facilities. The monthly returns shall be filed on a form 56121
prescribed by the director. Not later than thirty days after the 56122
last day of the month to which a return applies, the owner or 56123
operator shall mail to the director the return for that month 56124
together with the fees required to be collected under this 56125
division during that month as indicated on the return or may 56126
submit the return and fees electronically in a manner approved by 56127
the director. If the return is filed and the amount of the fees 56128
due is paid in a timely manner as required in this division, the 56129
owner or operator may retain a discount of three-fourths of one 56130
per cent of the total amount of the fees that are required to be 56131
paid as indicated on the return. 56132

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in

writing, on a form prescribed by the director, and shall be 56165
supported by evidence that may be required in rules adopted by the 56166
director under this chapter. After reviewing the request, and if 56167
the request and evidence submitted with the request indicate that 56168
a refund or credit is warranted, the director shall grant a refund 56169
to the owner or operator or shall permit a credit to be taken by 56170
the owner or operator on a subsequent monthly return submitted by 56171
the owner or operator. The amount of a refund or credit shall not 56172
exceed an amount that is equal to ninety days' worth of fees owed 56173
to an owner or operator by a particular debtor of the owner or 56174
operator. A refund or credit shall not be granted by the director 56175
to an owner or operator more than once in any twelve-month period 56176
for fees owed to the owner or operator by a particular debtor. 56177

If, after receiving a refund or credit from the director, an 56178
owner or operator receives payment of all or part of the fees, the 56179
owner or operator shall remit the fees with the next monthly 56180
return submitted to the director together with a written 56181
explanation of the reason for the submittal. 56182

For purposes of computing the fees levied under this division 56183
or division (B) of this section, any solid waste transfer or 56184
disposal facility that does not use scales as a means of 56185
determining gate receipts shall use a conversion factor of three 56186
cubic yards per ton of solid waste or one cubic yard per ton for 56187
baled waste, as applicable. 56188

The fees levied under this division and divisions (B) and (C) 56189
of this section are in addition to all other applicable fees and 56190
taxes and shall be paid by the customer or a political subdivision 56191
to the owner or operator of a solid waste transfer or disposal 56192
facility. In the alternative, the fees shall be paid by a customer 56193
or political subdivision to a transporter of waste who 56194
subsequently transfers the fees to the owner or operator of such a 56195
facility. The fees shall be paid notwithstanding the existence of 56196

any provision in a contract that the customer or a political 56197
subdivision may have with the owner or operator or with a 56198
transporter of waste to the facility that would not require or 56199
allow such payment regardless of whether the contract was entered 56200
prior to or after October 16, 2009. For those purposes, "customer" 56201
means a person who contracts with, or utilizes the solid waste 56202
services of, the owner or operator of a solid waste transfer or 56203
disposal facility or a transporter of solid waste to such a 56204
facility. 56205

(B) For the purposes specified in division (G) of this 56206
section, the solid waste management policy committee of a county 56207
or joint solid waste management district may levy fees upon the 56208
following activities: 56209

(1) The disposal at a solid waste disposal facility located 56210
in the district of solid wastes generated within the district; 56211

(2) The disposal at a solid waste disposal facility within 56212
the district of solid wastes generated outside the boundaries of 56213
the district, but inside this state; 56214

(3) The disposal at a solid waste disposal facility within 56215
the district of solid wastes generated outside the boundaries of 56216
this state. 56217

The solid waste management plan of the county or joint 56218
district approved under section 3734.521 or 3734.55 of the Revised 56219
Code and any amendments to it, or the resolution adopted under 56220
this division, as appropriate, shall establish the rates of the 56221
fees levied under divisions (B)(1), (2), and (3) of this section, 56222
if any, and shall specify whether the fees are levied on the basis 56223
of tons or cubic yards as the unit of measurement. A solid waste 56224
management district that levies fees under this division on the 56225
basis of cubic yards shall do so in accordance with division (A) 56226
of this section. 56227

The fee levied under division (B)(1) of this section shall be 56228
not less than one dollar per ton nor more than two dollars per 56229
ton, the fee levied under division (B)(2) of this section shall be 56230
not less than two dollars per ton nor more than four dollars per 56231
ton, and the fee levied under division (B)(3) of this section 56232
shall be not more than the fee levied under division (B)(1) of 56233
this section. 56234

Prior to the approval of the solid waste management plan of a 56235
district under section 3734.55 of the Revised Code, the solid 56236
waste management policy committee of a district may levy fees 56237
under this division by adopting a resolution establishing the 56238
proposed amount of the fees. Upon adopting the resolution, the 56239
committee shall deliver a copy of the resolution to the board of 56240
county commissioners of each county forming the district and to 56241
the legislative authority of each municipal corporation and 56242
township under the jurisdiction of the district and shall prepare 56243
and publish the resolution and a notice of the time and location 56244
where a public hearing on the fees will be held. Upon adopting the 56245
resolution, the committee shall deliver written notice of the 56246
adoption of the resolution; of the amount of the proposed fees; 56247
and of the date, time, and location of the public hearing to the 56248
director and to the fifty industrial, commercial, or institutional 56249
generators of solid wastes within the district that generate the 56250
largest quantities of solid wastes, as determined by the 56251
committee, and to their local trade associations. The committee 56252
shall make good faith efforts to identify those generators within 56253
the district and their local trade associations, but the 56254
nonprovision of notice under this division to a particular 56255
generator or local trade association does not invalidate the 56256
proceedings under this division. The publication shall occur at 56257
least thirty days before the hearing. After the hearing, the 56258
committee may make such revisions to the proposed fees as it 56259
considers appropriate and thereafter, by resolution, shall adopt 56260

the revised fee schedule. Upon adopting the revised fee schedule, 56261
the committee shall deliver a copy of the resolution doing so to 56262
the board of county commissioners of each county forming the 56263
district and to the legislative authority of each municipal 56264
corporation and township under the jurisdiction of the district. 56265
Within sixty days after the delivery of a copy of the resolution 56266
adopting the proposed revised fees by the policy committee, each 56267
such board and legislative authority, by ordinance or resolution, 56268
shall approve or disapprove the revised fees and deliver a copy of 56269
the ordinance or resolution to the committee. If any such board or 56270
legislative authority fails to adopt and deliver to the policy 56271
committee an ordinance or resolution approving or disapproving the 56272
revised fees within sixty days after the policy committee 56273
delivered its resolution adopting the proposed revised fees, it 56274
shall be conclusively presumed that the board or legislative 56275
authority has approved the proposed revised fees. The committee 56276
shall determine if the resolution has been ratified in the same 56277
manner in which it determines if a draft solid waste management 56278
plan has been ratified under division (B) of section 3734.55 of 56279
the Revised Code. 56280

The committee may amend the schedule of fees levied pursuant 56281
to a resolution adopted and ratified under this division by 56282
adopting a resolution establishing the proposed amount of the 56283
amended fees. The committee may repeal the fees levied pursuant to 56284
such a resolution by adopting a resolution proposing to repeal 56285
them. Upon adopting such a resolution, the committee shall proceed 56286
to obtain ratification of the resolution in accordance with this 56287
division. 56288

Not later than fourteen days after declaring the new fees to 56289
be ratified or the fees to be repealed under this division, the 56290
committee shall notify by certified mail the owner or operator of 56291
each solid waste disposal facility that is required to collect the 56292

fees of the ratification and the amount of the fees or of the 56293
repeal of the fees. Collection of any fees shall commence or 56294
collection of repealed fees shall cease on the first day of the 56295
second month following the month in which notification is sent to 56296
the owner or operator. 56297

Fees levied under this division also may be established, 56298
amended, or repealed by a solid waste management policy committee 56299
through the adoption of a new district solid waste management 56300
plan, the adoption of an amended plan, or the amendment of the 56301
plan or amended plan in accordance with sections 3734.55 and 56302
3734.56 of the Revised Code or the adoption or amendment of a 56303
district plan in connection with a change in district composition 56304
under section 3734.521 of the Revised Code. 56305

Not later than fourteen days after the director issues an 56306
order approving a district's solid waste management plan, amended 56307
plan, or amendment to a plan or amended plan that establishes, 56308
amends, or repeals a schedule of fees levied by the district, the 56309
committee shall notify by certified mail the owner or operator of 56310
each solid waste disposal facility that is required to collect the 56311
fees of the approval of the plan or amended plan, or the amendment 56312
to the plan, as appropriate, and the amount of the fees, if any. 56313
In the case of an initial or amended plan approved under section 56314
3734.521 of the Revised Code in connection with a change in 56315
district composition, other than one involving the withdrawal of a 56316
county from a joint district, the committee, within fourteen days 56317
after the change takes effect pursuant to division (G) of that 56318
section, shall notify by certified mail the owner or operator of 56319
each solid waste disposal facility that is required to collect the 56320
fees that the change has taken effect and of the amount of the 56321
fees, if any. Collection of any fees shall commence or collection 56322
of repealed fees shall cease on the first day of the second month 56323
following the month in which notification is sent to the owner or 56324

operator. 56325

If, in the case of a change in district composition involving 56326
the withdrawal of a county from a joint district, the director 56327
completes the actions required under division (G)(1) or (3) of 56328
section 3734.521 of the Revised Code, as appropriate, forty-five 56329
days or more before the beginning of a calendar year, the policy 56330
committee of each of the districts resulting from the change that 56331
obtained the director's approval of an initial or amended plan in 56332
connection with the change, within fourteen days after the 56333
director's completion of the required actions, shall notify by 56334
certified mail the owner or operator of each solid waste disposal 56335
facility that is required to collect the district's fees that the 56336
change is to take effect on the first day of January immediately 56337
following the issuance of the notice and of the amount of the fees 56338
or amended fees levied under divisions (B)(1) to (3) of this 56339
section pursuant to the district's initial or amended plan as so 56340
approved or, if appropriate, the repeal of the district's fees by 56341
that initial or amended plan. Collection of any fees set forth in 56342
such a plan or amended plan shall commence on the first day of 56343
January immediately following the issuance of the notice. If such 56344
an initial or amended plan repeals a schedule of fees, collection 56345
of the fees shall cease on that first day of January. 56346

If, in the case of a change in district composition involving 56347
the withdrawal of a county from a joint district, the director 56348
completes the actions required under division (G)(1) or (3) of 56349
section 3734.521 of the Revised Code, as appropriate, less than 56350
forty-five days before the beginning of a calendar year, the 56351
director, on behalf of each of the districts resulting from the 56352
change that obtained the director's approval of an initial or 56353
amended plan in connection with the change proceedings, shall 56354
notify by certified mail the owner or operator of each solid waste 56355
disposal facility that is required to collect the district's fees 56356

that the change is to take effect on the first day of January 56357
immediately following the mailing of the notice and of the amount 56358
of the fees or amended fees levied under divisions (B)(1) to (3) 56359
of this section pursuant to the district's initial or amended plan 56360
as so approved or, if appropriate, the repeal of the district's 56361
fees by that initial or amended plan. Collection of any fees set 56362
forth in such a plan or amended plan shall commence on the first 56363
day of the second month following the month in which notification 56364
is sent to the owner or operator. If such an initial or amended 56365
plan repeals a schedule of fees, collection of the fees shall 56366
cease on the first day of the second month following the month in 56367
which notification is sent to the owner or operator. 56368

If the schedule of fees that a solid waste management 56369
district is levying under divisions (B)(1) to (3) of this section 56370
is amended or repealed, the fees in effect immediately prior to 56371
the amendment or repeal shall continue to be collected until 56372
collection of the amended fees commences or collection of the 56373
repealed fees ceases, as applicable, as specified in this 56374
division. In the case of a change in district composition, money 56375
so received from the collection of the fees of the former 56376
districts shall be divided among the resulting districts in 56377
accordance with division (B) of section 343.012 of the Revised 56378
Code and the agreements entered into under division (B) of section 56379
343.01 of the Revised Code to establish the former and resulting 56380
districts and any amendments to those agreements. 56381

For the purposes of the provisions of division (B) of this 56382
section establishing the times when newly established or amended 56383
fees levied by a district are required to commence and the 56384
collection of fees that have been amended or repealed is required 56385
to cease, "fees" or "schedule of fees" includes, in addition to 56386
fees levied under divisions (B)(1) to (3) of this section, those 56387
levied under section 3734.573 or 3734.574 of the Revised Code. 56388

(C) For the purposes of defraying the added costs to a 56389
municipal corporation or township of maintaining roads and other 56390
public facilities and of providing emergency and other public 56391
services, and compensating a municipal corporation or township for 56392
reductions in real property tax revenues due to reductions in real 56393
property valuations resulting from the location and operation of a 56394
solid waste disposal facility within the municipal corporation or 56395
township, a municipal corporation or township in which such a 56396
solid waste disposal facility is located may levy a fee of not 56397
more than twenty-five cents per ton on the disposal of solid 56398
wastes at a solid waste disposal facility located within the 56399
boundaries of the municipal corporation or township regardless of 56400
where the wastes were generated. 56401

The legislative authority of a municipal corporation or 56402
township may levy fees under this division by enacting an 56403
ordinance or adopting a resolution establishing the amount of the 56404
fees. Upon so doing the legislative authority shall mail a 56405
certified copy of the ordinance or resolution to the board of 56406
county commissioners or directors of the county or joint solid 56407
waste management district in which the municipal corporation or 56408
township is located or, if a regional solid waste management 56409
authority has been formed under section 343.011 of the Revised 56410
Code, to the board of trustees of that regional authority, the 56411
owner or operator of each solid waste disposal facility in the 56412
municipal corporation or township that is required to collect the 56413
fee by the ordinance or resolution, and the director of 56414
environmental protection. Although the fees levied under this 56415
division are levied on the basis of tons as the unit of 56416
measurement, the legislative authority, in its ordinance or 56417
resolution levying the fees under this division, may direct that 56418
the fees be levied on the basis of cubic yards as the unit of 56419
measurement based upon a conversion factor of three cubic yards 56420
per ton generally or one cubic yard per ton for baled wastes. 56421

Not later than five days after enacting an ordinance or 56422
adopting a resolution under this division, the legislative 56423
authority shall so notify by certified mail the owner or operator 56424
of each solid waste disposal facility that is required to collect 56425
the fee. Collection of any fee levied on or after March 24, 1992, 56426
shall commence on the first day of the second month following the 56427
month in which notification is sent to the owner or operator. 56428

(D)(1) The fees levied under divisions (A), (B), and (C) of 56429
this section do not apply to the disposal of solid wastes that: 56430

(a) Are disposed of at a facility owned by the generator of 56431
the wastes when the solid waste facility exclusively disposes of 56432
solid wastes generated at one or more premises owned by the 56433
generator regardless of whether the facility is located on a 56434
premises where the wastes are generated; 56435

(b) Are generated from the combustion of coal, or from the 56436
combustion of primarily coal, regardless of whether the disposal 56437
facility is located on the premises where the wastes are 56438
generated; 56439

(c) Are asbestos or asbestos-containing materials or products 56440
disposed of at a construction and demolition debris facility that 56441
is licensed under Chapter 3714. of the Revised Code or at a solid 56442
waste facility that is licensed under this chapter. 56443

(2) Except as provided in section 3734.571 of the Revised 56444
Code, any fees levied under division (B)(1) of this section apply 56445
to solid wastes originating outside the boundaries of a county or 56446
joint district that are covered by an agreement for the joint use 56447
of solid waste facilities entered into under section 343.02 of the 56448
Revised Code by the board of county commissioners or board of 56449
directors of the county or joint district where the wastes are 56450
generated and disposed of. 56451

(3) When solid wastes, other than solid wastes that consist 56452

of scrap tires, are burned in a disposal facility that is an 56453
incinerator or energy recovery facility, the fees levied under 56454
divisions (A), (B), and (C) of this section shall be levied upon 56455
the disposal of the fly ash and bottom ash remaining after burning 56456
of the solid wastes and shall be collected by the owner or 56457
operator of the sanitary landfill where the ash is disposed of. 56458

(4) When solid wastes are delivered to a solid waste transfer 56459
facility, the fees levied under divisions (B) and (C) of this 56460
section shall be levied upon the disposal of solid wastes 56461
transported off the premises of the transfer facility for disposal 56462
and shall be collected by the owner or operator of the solid waste 56463
disposal facility where the wastes are disposed of. 56464

(5) The fees levied under divisions (A), (B), and (C) of this 56465
section do not apply to sewage sludge that is generated by a waste 56466
water treatment facility holding a national pollutant discharge 56467
elimination system permit and that is disposed of through 56468
incineration, land application, or composting or at another 56469
resource recovery or disposal facility that is not a landfill. 56470

(6) The fees levied under divisions (A), (B), and (C) of this 56471
section do not apply to solid wastes delivered to a solid waste 56472
composting facility for processing. When any unprocessed solid 56473
waste or compost product is transported off the premises of a 56474
composting facility and disposed of at a landfill, the fees levied 56475
under divisions (A), (B), and (C) of this section shall be 56476
collected by the owner or operator of the landfill where the 56477
unprocessed waste or compost product is disposed of. 56478

(7) When solid wastes that consist of scrap tires are 56479
processed at a scrap tire recovery facility, the fees levied under 56480
divisions (A), (B), and (C) of this section shall be levied upon 56481
the disposal of the fly ash and bottom ash or other solid wastes 56482
remaining after the processing of the scrap tires and shall be 56483
collected by the owner or operator of the solid waste disposal 56484

facility where the ash or other solid wastes are disposed of. 56485

(8) The director of environmental protection may issue an 56486
order exempting from the fees levied under this section solid 56487
wastes, including, but not limited to, scrap tires, that are 56488
generated, transferred, or disposed of as a result of a contract 56489
providing for the expenditure of public funds entered into by the 56490
administrator or regional administrator of the United States 56491
environmental protection agency, the director of environmental 56492
protection, or the director of administrative services on behalf 56493
of the director of environmental protection for the purpose of 56494
remediating conditions at a hazardous waste facility, solid waste 56495
facility, or other location at which the administrator or regional 56496
administrator or the director of environmental protection has 56497
reason to believe that there is a substantial threat to public 56498
health or safety or the environment or that the conditions are 56499
causing or contributing to air or water pollution or soil 56500
contamination. An order issued by the director of environmental 56501
protection under division (D)(8) of this section shall include a 56502
determination that the amount of the fees not received by a solid 56503
waste management district as a result of the order will not 56504
adversely impact the implementation and financing of the 56505
district's approved solid waste management plan and any approved 56506
amendments to the plan. Such an order is a final action of the 56507
director of environmental protection. 56508

(E) The fees levied under divisions (B) and (C) of this 56509
section shall be collected by the owner or operator of the solid 56510
waste disposal facility where the wastes are disposed of as a 56511
trustee for the county or joint district and municipal corporation 56512
or township where the wastes are disposed of. Moneys from the fees 56513
levied under division (B) of this section shall be forwarded to 56514
the board of county commissioners or board of directors of the 56515
district in accordance with rules adopted under division (H) of 56516

this section. Moneys from the fees levied under division (C) of 56517
this section shall be forwarded to the treasurer or such other 56518
officer of the municipal corporation as, by virtue of the charter, 56519
has the duties of the treasurer or to the fiscal officer of the 56520
township, as appropriate, in accordance with those rules. 56521

(F) Moneys received by the treasurer or other officer of the 56522
municipal corporation under division (E) of this section shall be 56523
paid into the general fund of the municipal corporation. Moneys 56524
received by the fiscal officer of the township under that division 56525
shall be paid into the general fund of the township. The treasurer 56526
or other officer of the municipal corporation or the township 56527
fiscal officer, as appropriate, shall maintain separate records of 56528
the moneys received from the fees levied under division (C) of 56529
this section. 56530

(G) Moneys received by the board of county commissioners or 56531
board of directors under division (E) of this section or section 56532
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code 56533
shall be paid to the county treasurer, or other official acting in 56534
a similar capacity under a county charter, in a county district or 56535
to the county treasurer or other official designated by the board 56536
of directors in a joint district and kept in a separate and 56537
distinct fund to the credit of the district. If a regional solid 56538
waste management authority has been formed under section 343.011 56539
of the Revised Code, moneys received by the board of trustees of 56540
that regional authority under division (E) of this section shall 56541
be kept by the board in a separate and distinct fund to the credit 56542
of the district. Moneys in the special fund of the county or joint 56543
district arising from the fees levied under division (B) of this 56544
section and the fee levied under division (A) of section 3734.573 56545
of the Revised Code shall be expended by the board of county 56546
commissioners or directors of the district in accordance with the 56547
district's solid waste management plan or amended plan approved 56548

under section 3734.521, 3734.55, or 3734.56 of the Revised Code 56549
exclusively for the following purposes: 56550

(1) Preparation of the solid waste management plan of the 56551
district under section 3734.54 of the Revised Code, monitoring 56552
implementation of the plan, and conducting the periodic review and 56553
amendment of the plan required by section 3734.56 of the Revised 56554
Code by the solid waste management policy committee; 56555

(2) Implementation of the approved solid waste management 56556
plan or amended plan of the district, including, without 56557
limitation, the development and implementation of solid waste 56558
recycling or reduction programs; 56559

(3) Providing financial assistance to boards of health within 56560
the district, if solid waste facilities are located within the 56561
district, for enforcement of this chapter and rules, orders, and 56562
terms and conditions of permits, licenses, and variances adopted 56563
or issued under it, other than the hazardous waste provisions of 56564
this chapter and rules adopted and orders and terms and conditions 56565
of permits issued under those provisions; 56566

(4) Providing financial assistance to each county within the 56567
district to defray the added costs of maintaining roads and other 56568
public facilities and of providing emergency and other public 56569
services resulting from the location and operation of a solid 56570
waste facility within the county under the district's approved 56571
solid waste management plan or amended plan; 56572

(5) Pursuant to contracts entered into with boards of health 56573
within the district, if solid waste facilities contained in the 56574
district's approved plan or amended plan are located within the 56575
district, for paying the costs incurred by those boards of health 56576
for collecting and analyzing samples from public or private water 56577
wells on lands adjacent to those facilities; 56578

(6) Developing and implementing a program for the inspection 56579

of solid wastes generated outside the boundaries of this state 56580
that are disposed of at solid waste facilities included in the 56581
district's approved solid waste management plan or amended plan; 56582

(7) Providing financial assistance to boards of health within 56583
the district for the enforcement of section 3734.03 of the Revised 56584
Code or to local law enforcement agencies having jurisdiction 56585
within the district for enforcing anti-littering laws and 56586
ordinances; 56587

(8) Providing financial assistance to boards of health of 56588
health districts within the district that are on the approved list 56589
under section 3734.08 of the Revised Code to defray the costs to 56590
the health districts for the participation of their employees 56591
responsible for enforcement of the solid waste provisions of this 56592
chapter and rules adopted and orders and terms and conditions of 56593
permits, licenses, and variances issued under those provisions in 56594
the training and certification program as required by rules 56595
adopted under division (L) of section 3734.02 of the Revised Code; 56596

(9) Providing financial assistance to individual municipal 56597
corporations and townships within the district to defray their 56598
added costs of maintaining roads and other public facilities and 56599
of providing emergency and other public services resulting from 56600
the location and operation within their boundaries of a 56601
composting, energy or resource recovery, incineration, or 56602
recycling facility that either is owned by the district or is 56603
furnishing solid waste management facility or recycling services 56604
to the district pursuant to a contract or agreement with the board 56605
of county commissioners or directors of the district; 56606

(10) Payment of any expenses that are agreed to, awarded, or 56607
ordered to be paid under section 3734.35 of the Revised Code and 56608
of any administrative costs incurred pursuant to that section. In 56609
the case of a joint solid waste management district, if the board 56610
of county commissioners of one of the counties in the district is 56611

negotiating on behalf of affected communities, as defined in that 56612
section, in that county, the board shall obtain the approval of 56613
the board of directors of the district in order to expend moneys 56614
for administrative costs incurred. 56615

Prior to the approval of the district's solid waste 56616
management plan under section 3734.55 of the Revised Code, moneys 56617
in the special fund of the district arising from the fees shall be 56618
expended for those purposes in the manner prescribed by the solid 56619
waste management policy committee by resolution. 56620

Notwithstanding division (G)(6) of this section as it existed 56621
prior to October 29, 1993, or any provision in a district's solid 56622
waste management plan prepared in accordance with division 56623
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 56624
prior to that date, any moneys arising from the fees levied under 56625
division (B)(3) of this section prior to January 1, 1994, may be 56626
expended for any of the purposes authorized in divisions (G)(1) to 56627
(10) of this section. 56628

(H) The director shall adopt rules in accordance with Chapter 56629
119. of the Revised Code prescribing procedures for collecting and 56630
forwarding the fees levied under divisions (B) and (C) of this 56631
section to the boards of county commissioners or directors of 56632
county or joint solid waste management districts and to the 56633
treasurers or other officers of municipal corporations and the 56634
fiscal officers of townships. The rules also shall prescribe the 56635
dates for forwarding the fees to the boards and officials and may 56636
prescribe any other requirements the director considers necessary 56637
or appropriate to implement and administer divisions (A), (B), and 56638
(C) of this section. 56639

Sec. 3734.901. (A)(1) For the purpose of providing revenue to 56640
defray the cost of administering and enforcing the scrap tire 56641
provisions of this chapter, rules adopted under those provisions, 56642

and terms and conditions of orders, variances, and licenses issued 56643
under those provisions; to abate accumulations of scrap tires; to 56644
make grants supporting market development activities for scrap 56645
tires and synthetic rubber from tire manufacturing processes and 56646
tire recycling processes and to support scrap tire amnesty and 56647
cleanup events; to make loans to promote the recycling or recovery 56648
of energy from scrap tires; and to defray the costs of 56649
administering and enforcing sections 3734.90 to 3734.9014 of the 56650
Revised Code, a fee of fifty cents per tire is hereby levied on 56651
the sale of tires. The proceeds of the fee shall be deposited in 56652
the state treasury to the credit of the scrap tire management fund 56653
created in section 3734.82 of the Revised Code. The fee is levied 56654
from the first day of the calendar month that begins next after 56655
thirty days from October 29, 1993, through June 30, ~~2013~~ 2016. 56656

(2) Beginning on July 1, 2011, and ending on June 30, ~~2013~~ 56657
2016, there is hereby levied an additional fee of fifty cents per 56658
tire on the sale of tires the proceeds of which shall be deposited 56659
in the state treasury to the credit of the soil and water 56660
conservation district assistance fund created in section 1515.14 56661
of the Revised Code. 56662

(B) Only one sale of the same article shall be used in 56663
computing the amount of the fee due. 56664

Sec. 3734.907. (A) Any person required to pay the fee imposed 56665
by section 3734.901 of the Revised Code is personally liable for 56666
the fee. The tax commissioner may make an assessment, based upon 56667
any information in the commissioner's possession, against any 56668
person who fails to file a return or pay any fee, interest, or 56669
additional charge as required by sections 3734.90 to 3734.9014 of 56670
the Revised Code. The commissioner shall give the person assessed 56671
written notice of the assessment in the manner provided in section 56672
5703.37 of the Revised Code. With the notice, the commissioner 56673

shall provide instructions on how to petition for reassessment and 56674
request a hearing on the petition. 56675

(B) When the information in the possession of the tax 56676
commissioner indicates that a person liable for the fee imposed by 56677
section 3734.901 of the Revised Code has not paid the full amount 56678
of fee due, the commissioner may audit a representative sample of 56679
the person's business and may issue an assessment based on the 56680
audit. 56681

(C) A penalty of up to fifteen per cent may be added to all 56682
amounts assessed under this section. The commissioner may adopt 56683
rules providing for the imposition and remission of the penalties. 56684

(D) Unless the person assessed files with the tax 56685
commissioner within sixty days after service of the notice of 56686
assessment, either personally or by certified mail, a written 56687
petition for reassessment signed by the person assessed or that 56688
person's authorized agent having knowledge of the facts, the 56689
assessment becomes final and the amount of the assessment is due 56690
and payable from the person assessed to the treasurer of state. 56691
The petition shall indicate the objections of the person assessed, 56692
but additional objections may be raised in writing if received by 56693
the commissioner prior to the date shown on the final 56694
determination. If the petition has been properly filed, the 56695
commissioner shall proceed under section 5703.60 of the Revised 56696
Code. 56697

(E) After an assessment becomes final, if any portion of the 56698
assessment, including accrued interest, remains unpaid, a 56699
certified copy of the tax commissioner's entry making the 56700
assessment final may be filed in the office of the clerk of the 56701
court of common pleas in the county in which the person assessed 56702
resides or in which the person's business is conducted. If the 56703
person assessed maintains no place of business in this state and 56704
is not a resident of this state, the certified copy of the entry 56705

may be filed in the office of the clerk of the court of common 56706
pleas of Franklin county. 56707

Immediately upon the filing of the entry, the clerk shall 56708
enter a judgment for the state against the person assessed in the 56709
amount shown on the entry. The judgment may be filed by the clerk 56710
in a loose-leaf book entitled "special judgments for state tire 56711
fee," and shall have the same effect as other judgments. Execution 56712
shall issue upon the judgment upon the request of the tax 56713
commissioner, and all laws applicable to sales on execution shall 56714
apply to sales made under the judgment. 56715

~~The portion of~~ If the assessment is not paid in its entirety 56716
within sixty days after the day the assessment was issued, the 56717
portion of the assessment consisting of tax due shall bear 56718
interest at the rate per annum prescribed by section 5703.47 of 56719
the Revised Code from the day the commissioner issues the 56720
assessment until the day the assessment is paid or until it is 56721
certified to the attorney general for collection under section 56722
131.02 of the Revised Code, whichever comes first. If the unpaid 56723
portion of the assessment is certified to the attorney general for 56724
collection, the entire unpaid portion of the assessment shall bear 56725
interest at the rate per annum prescribed by section 5703.47 of 56726
the Revised Code from the date of certification until the date it 56727
is paid in its entirety. Interest shall be paid in the same manner 56728
as the fee and may be collected by the issuance of an assessment 56729
under this section. 56730

(F) If the tax commissioner believes that collection of the 56731
fee will be jeopardized unless proceedings to collect or secure 56732
collection of the fee are instituted without delay, the 56733
commissioner may issue a jeopardy assessment against the person 56734
liable for the fee. Immediately upon the issuance of the jeopardy 56735
assessment, the commissioner shall file an entry with the clerk of 56736
the court of common pleas in the manner prescribed by division (E) 56737

of this section. Notice of the jeopardy assessment shall be served 56738
on the person assessed or the person's legal representative, as 56739
provided in section 5703.37 of the Revised Code, within five days 56740
of the filing of the entry with the clerk. The total amount 56741
assessed is immediately due and payable, unless the person 56742
assessed files a petition for reassessment in accordance with 56743
division (D) of this section and provides security in a form 56744
satisfactory to the commissioner and in an amount sufficient to 56745
satisfy the unpaid balance of the assessment. Full or partial 56746
payment of the assessment does not prejudice the commissioner's 56747
consideration of the petition for reassessment. 56748

(G) All money collected by the tax commissioner under this 56749
section shall be paid to the treasurer of state as revenue arising 56750
from the fee imposed by section 3734.901 of the Revised Code. 56751

Sec. 3735.58. (A) The director of ~~mental health~~ mental health 56752
and addiction services, the director of developmental 56753
disabilities, or the director of rehabilitation and correction may 56754
enter into contracts for the sale of land not needed by their 56755
departments and under their jurisdiction or supervision to 56756
metropolitan housing authorities for use by such an authority for 56757
a housing project or projects. Such contract may contain such 56758
conditions and terms as are, in the discretion of the directors, 56759
in the best interests of the state and the welfare of the 56760
residents of the state. 56761

(B) The director may, upon receipt of a request from a 56762
metropolitan housing authority, request the approval of the 56763
governor to sell and convey land not needed by the director's 56764
department and under the director's jurisdiction or supervision to 56765
an authority, subject to such terms and conditions consistent with 56766
the public interest and welfare of the residents of the state as 56767
the director considers necessary. The governor, with the approval 56768

of the controlling board, may approve the request. Such property 56769
shall be appraised at its fair market value before it is conveyed. 56770
The director of administrative services shall cause it to be 56771
appraised by three disinterested persons and shall determine the 56772
fee which each appraiser shall receive, not to exceed fifty 56773
dollars. All appraisal fees shall be paid by the authority which 56774
shall deposit with the director one hundred fifty dollars before 56775
the appraisal is made. If the deposit exceeds the appraisal fee, 56776
the balance shall be returned to the authority. The appraisal 56777
value, when approved by the director, is the purchase price. If 56778
the purchase price is not paid within ninety days after notice to 56779
the authority of the approved appraisal value, the director shall 56780
withdraw approval of the appraisal value and no deed shall be 56781
delivered to the authority without the written approval of the 56782
director of the purchase price. If the purchase price is paid 56783
within ninety days, a deed shall be prepared and recorded pursuant 56784
to section 5301.13 of the Revised Code. 56785

(C) Moneys received from sales of land to a metropolitan 56786
housing authority shall be placed in the state treasury in special 56787
funds, to be used for such purposes of the department of ~~mental~~ 56788
~~health~~ mental health and addiction services, the department of 56789
developmental disabilities, or the department of rehabilitation 56790
and correction as is appropriate. 56791

Sec. 3737.02. (A) The fire marshal may collect fees to cover 56792
the costs of performing inspections and other duties that the fire 56793
marshal is authorized or required by law to perform. Except as 56794
provided in division (B) of this section, all fees collected by 56795
the fire marshal shall be deposited to the credit of the fire 56796
marshal's fund. 56797

(B) All of the following shall be credited to the underground 56798
storage tank administration fund, which is hereby created in the 56799

state treasury: 56800

(1) Fees collected under sections 3737.88 and 3737.881 of the Revised Code for operation of the underground storage tank and underground storage tank installer certification programs, ~~moneys;~~ 56801
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(2) Moneys recovered under section 3737.89 of the Revised Code for the state's costs of undertaking corrective or enforcement actions under that section or section 3737.882 of the Revised Code, ~~and fines;~~ 56804
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(3) Fines and penalties collected under section 3737.882 of the Revised Code ~~shall be credited to the underground storage tank administration fund, which is hereby created in the state treasury. All;~~ 56808
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(4) Amounts repaid for underground storage tank revolving loans under section 3737.883 of the Revised Code. 56812
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(C) All interest earned on moneys credited to the underground storage tank administration fund shall be credited to the fund. Moneys credited to the underground storage tank administration fund shall be used by the fire marshal for implementation and enforcement of underground storage tank, corrective action, and installer certification programs under sections 3737.88 to 3737.89 of the Revised Code. Only moneys described in divisions (B)(3) and (4) of this section shall be used by the fire marshal to make underground storage tank revolving loans under section 3737.883 of the Revised Code, and no other moneys may be used to make those loans. 56814
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~~(C)~~(D) The fire marshal shall take all actions necessary to obtain any federal funding available to carry out the fire marshal's responsibilities under sections 3737.88 to 3737.89 of the Revised Code and federal laws regarding the cleaning up of releases of petroleum, as "release" is defined in section 3737.87 of the Revised Code, including, without limitation, any federal 56825
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funds that are available to reimburse the state for the costs of 56831
undertaking corrective actions for such releases of petroleum. The 56832
state may, when appropriate, return to the United States any 56833
federal funds recovered under sections 3737.882 and 3737.89 of the 56834
Revised Code. 56835

Sec. 3737.83. The fire marshal shall, as part of the state 56836
fire code, adopt rules to: 56837

(A) Establish minimum standards of performance for fire 56838
protection equipment and fire fighting equipment; 56839

(B) Establish minimum standards of training, fix minimum 56840
qualifications, and require certificates for all persons who 56841
engage in the business for profit of installing, testing, 56842
repairing, or maintaining fire protection equipment; 56843

(C) Provide for the issuance of certificates required under 56844
division (B) of this section and establish the fees to be charged 56845
for such certificates. A certificate shall be granted, renewed, or 56846
revoked according to rules the fire marshal shall adopt. 56847

(D) Establish minimum standards of flammability for consumer 56848
goods in any case where the federal government or any department 56849
or agency thereof has established, or may from time to time 56850
establish standards of flammability for consumer goods. The 56851
standards established by the fire marshal shall be identical to 56852
the minimum federal standards. 56853

In any case where the federal government or any department or 56854
agency thereof, establishes standards of flammability for consumer 56855
goods subsequent to the adoption of a flammability standard by the 56856
fire marshal, standards previously adopted by the fire marshal 56857
shall not continue in effect to the extent such standards are not 56858
identical to the minimum federal standards. 56859

With respect to the adoption of minimum standards of 56860

flammability, this division shall supersede any authority granted 56861
a political subdivision by any other section of the Revised Code. 56862

(E) Establish minimum standards pursuant to section 5104.05 56863
of the Revised Code for fire prevention and fire safety in child 56864
day-care centers and in type A family day-care homes, as defined 56865
in section 5104.01 of the Revised Code. 56866

(F) Establish minimum standards for fire prevention and 56867
safety in a residential facility licensed under section ~~5119.22~~ 56868
5119.34 of the Revised Code that provides accommodations, 56869
supervision, and personal care services for three to sixteen 56870
unrelated adults. The fire marshal shall adopt the rules under 56871
this division in consultation with the director of ~~mental health~~ 56872
mental health and addiction services and interested parties 56873
designated by the director of ~~mental health~~ mental health and 56874
addiction services. 56875

Sec. 3737.841. As used in this section and section 3737.842 56876
of the Revised Code: 56877

(A) "Public occupancy" means all of the following: 56878

(1) Any state correctional institution as defined in section 56879
2967.01 of the Revised Code and any county, multicounty, 56880
municipal, or municipal-county jail or workhouse; 56881

(2) Any hospital as defined in section 3727.01 of the Revised 56882
Code, any hospital licensed by the department of ~~mental health~~ 56883
mental health and addiction services under section ~~5119.20~~ 5119.33 56884
of the Revised Code, and any institution, hospital, or other place 56885
established, controlled, or supervised by the department of ~~mental~~ 56886
~~health~~ mental health and addiction services under Chapter 5119. of 56887
the Revised Code; 56888

(3) Any nursing home, residential care facility, or home for 56889
the aging as defined in section 3721.01 of the Revised Code and 56890

any residential facility licensed under section ~~5119.22~~ 5119.34 of 56891
the Revised Code that provides accommodations, supervision, and 56892
personal care services for three to sixteen unrelated adults; 56893

(4) Any child day-care center and any type A family day-care 56894
home as defined in section 5104.01 of the Revised Code; 56895

(5) Any public auditorium or stadium; 56896

(6) Public assembly areas of hotels and motels containing 56897
more than ten articles of seating furniture. 56898

(B) "Sell" includes sell, offer or expose for sale, barter, 56899
trade, deliver, give away, rent, consign, lease, possess for sale, 56900
or dispose of in any other commercial manner. 56901

(C) Except as provided in division (D) of this section, 56902
"seating furniture" means any article of furniture, including 56903
children's furniture, that can be used as a support for an 56904
individual, or an individual's limbs or feet, when sitting or 56905
resting in an upright or reclining position and that either: 56906

(1) Is made with loose or attached cushions or pillows; 56907

(2) Is stuffed or filled in whole or in part with any filling 56908
material; 56909

(3) Is or can be stuffed or filled in whole or in part with 56910
any substance or material, concealed by fabric or any other 56911
covering. 56912

"Seating furniture" includes the cushions or pillows 56913
belonging to or forming a part of the furniture, the structural 56914
unit, and the filling material and its container or covering. 56915

(D) "Seating furniture" does not include, except if intended 56916
for use by children or in facilities designed for the care or 56917
treatment of humans, any of the following: 56918

(1) Cushions or pads intended solely for outdoor use; 56919

(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;

(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and

upgraded underground storage tank systems located in those areas. 56951
In designating such areas, the fire marshal shall take into 56952
consideration such factors as soil conditions, hydrogeology, water 56953
use, and the location of public and private water supplies. Not 56954
later than July 11, 1990, the fire marshal shall file the rules 56955
required under this division with the secretary of state, director 56956
of the legislative service commission, and joint committee on 56957
agency rule review in accordance with divisions (B) and (H) of 56958
section 119.03 of the Revised Code. 56959

(3) Notwithstanding sections 3737.87 to 3737.89 of the 56960
Revised Code, a person who is not a responsible person, as 56961
determined by the fire marshal pursuant to this chapter, may 56962
conduct a voluntary action in accordance with Chapter 3746. of the 56963
Revised Code and rules adopted under it for either of the 56964
following: 56965

(a) A class C release; 56966

(b) A release, other than a class C release, that is subject 56967
to the rules adopted by the fire marshal under division (B) of 56968
section 3737.882 of the Revised Code pertaining to a corrective 56969
action, provided that both of the following apply: 56970

(i) The voluntary action also addresses hazardous substances 56971
or petroleum that is not subject to the rules adopted under 56972
division (B) of section 3737.882 of the Revised Code pertaining to 56973
a corrective action. 56974

(ii) The fire marshal has not issued an administrative order 56975
concerning the release or referred the release to the attorney 56976
general for enforcement. 56977

The director of environmental protection, pursuant to section 56978
3746.12 of the Revised Code, may issue a covenant not to sue to 56979
any person who properly completes a voluntary action with respect 56980
to any such release in accordance with Chapter 3746. of the 56981

Revised Code and rules adopted under it. 56982

(B) Before adopting any rule under this section or section 56983
3737.881 or 3737.882 of the Revised Code, the fire marshal shall 56984
file written notice of the proposed rule with the chairperson of 56985
the state fire council, and, within sixty days after notice is 56986
filed, the council may file responses to or comments on and may 56987
recommend alternative or supplementary rules to the fire marshal. 56988
At the end of the sixty-day period or upon the filing of 56989
responses, comments, or recommendations by the council, the fire 56990
marshal may adopt the rule filed with the council or any 56991
alternative or supplementary rule recommended by the council. 56992

(C) The state fire council may recommend courses of action to 56993
be taken by the fire marshal in carrying out the fire marshal's 56994
duties under this section. The council shall file its 56995
recommendations in the office of the fire marshal, and, within 56996
sixty days after the recommendations are filed, the fire marshal 56997
shall file with the chairperson of the council comments on, and 56998
proposed action in response to, the recommendations. 56999

(D) For the purpose of sections 3737.87 to 3737.89 of the 57000
Revised Code, the fire marshal shall adopt, and may amend and 57001
rescind, rules identifying or listing hazardous substances. The 57002
rules shall be consistent with and equivalent in scope, coverage, 57003
and content to regulations identifying or listing hazardous 57004
substances adopted under the "Comprehensive Environmental 57005
Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 57006
42 U.S.C.A. 9602, as amended, except that the fire marshal shall 57007
not identify or list as a hazardous substance any hazardous waste 57008
identified or listed in rules adopted under division (A) of 57009
section 3734.12 of the Revised Code. 57010

(E) Except as provided in division (A)(3) of this section, 57011
the fire marshal shall have exclusive jurisdiction to regulate the 57012
storage, treatment, and disposal of petroleum contaminated soil 57013

generated from corrective actions undertaken in response to 57014
releases of petroleum from underground storage tank systems. The 57015
fire marshal may adopt, amend, or rescind such rules as the fire 57016
marshal considers to be necessary or appropriate to regulate the 57017
storage, treatment, or disposal of petroleum contaminated soil so 57018
generated. 57019

(F) The fire marshal shall adopt, amend, and rescind rules 57020
under sections 3737.88 to ~~3737.882~~ 3737.883 of the Revised Code in 57021
accordance with Chapter 119. of the Revised Code. 57022

Sec. 3737.883. (A) As used in this section, "political 57023
subdivision" has the same meaning as in section 2744.01 of the 57024
Revised Code, but includes a community improvement corporation as 57025
that term is defined in section 1724.01 of the Revised Code. 57026

(B) A political subdivision may do any of the following for 57027
an underground storage tank located within its territorial 57028
boundaries if the responsible person is not identifiable or if the 57029
state fire marshal determines that an identified responsible 57030
person is unable to pay the costs of the action to be taken by the 57031
political subdivision: 57032

(1) Initiate, continue, or properly complete the removal of 57033
an underground storage tank system; 57034

(2) Initiate, continue, or properly complete an assessment of 57035
the site of an underground storage tank or the site of an 57036
underground storage tank system; 57037

(3) Initiate, continue, or properly complete a corrective 57038
action. 57039

(C) The state fire marshal or the state fire marshal's 57040
designee shall administer an underground storage tank revolving 57041
loan program under which the state fire marshal issues loans to 57042
assist with the costs of actions described in divisions (B)(1) to 57043

(3) of this section. The state fire marshal shall issue a loan 57044
under the program to a political subdivision that meets the 57045
application requirements of division (D) of this section and 57046
agrees to written terms and conditions of the loan with the state 57047
fire marshal. 57048

(D) A political subdivision shall apply to the state fire 57049
marshal for a loan under this section on a form prescribed by the 57050
state fire marshal. In the application, the political subdivision 57051
shall do all of the following: 57052

(1) Describe the action for which it is requesting a loan; 57053

(2) State the requested loan amount; 57054

(3) Explain how the political subdivision plans to spend, of 57055
its own funds, in undertaking the action for which the loan is 57056
requested, an amount equal to at least five per cent of the 57057
requested loan amount; 57058

(4) Provide any other information requested by the state fire 57059
marshal. 57060

(E) The state fire marshal shall consult with the director of 57061
development services before issuing any loan under this section. 57062

(F) A loan issued under this section shall not carry 57063
interest. No loan issued under this section shall have a term of 57064
more than ten years. The political subdivision shall repay a loan 57065
issued under this section to the state fire marshal. 57066

(G) If, at any time after the expenditure of loan funds by a 57067
political subdivision under this section, the state fire marshal 57068
or any law enforcement agency identifies the responsible person or 57069
determines, for any reason, that the previously identified 57070
responsible person was or is able to pay the costs of the action 57071
for which the loan was issued, the political subdivision may bring 57072
any appropriate proceedings against the responsible person to 57073

recover the costs incurred by the political subdivision. The 57074
proceedings may be brought in either the court of common pleas 57075
having jurisdiction where the underground storage tank is located 57076
or the court of common pleas of Franklin county. 57077

(H)(1) The state fire marshal shall adopt and may amend and 57078
rescind rules as necessary for the administration and operation of 57079
the underground storage tank revolving loan program. The rules may 57080
do any of the following: 57081

(a) Further define the entities considered "political 57082
subdivisions" eligible to receive loans; 57083

(b) Establish qualifying criteria for loan recipients; 57084

(c) Establish criteria for awarding loans, loan amounts, loan 57085
payment terms, and permissible expenditures of loan funds, 57086
including methods that the state fire marshal may use to verify 57087
the proper use of loan funds or to obtain reimbursement for or the 57088
return of improperly used loan funds. 57089

(2) The state fire marshal may adopt and may amend and 57090
rescind rules for the issuance of emergency underground storage 57091
tank revolving loans to qualifying entities during a natural 57092
disaster or another similar event as defined in the rules. 57093

Sec. ~~3737.883~~ 3737.884. On receipt of a notice pursuant to 57094
section 3123.43 of the Revised Code, the state fire marshal shall 57095
comply with sections 3123.41 to 3123.50 of the Revised Code and 57096
any applicable rules adopted under section 3123.63 of the Revised 57097
Code with respect to a certificate issued pursuant to section 57098
3737.34, 3737.65, 3737.83, or 3737.881 of the Revised Code. 57099

Sec. 3742.31. (A) The director of health shall establish, 57100
promote, and maintain a child lead poisoning prevention program. 57101
The program shall provide statewide coordination of screening, 57102
diagnosis, and treatment services for children under age six, 57103

including both of the following: 57104

(1) Collecting the social security numbers of all children 57105
screened, diagnosed, or treated as part of the program's case 57106
management system; 57107

(2) Disclosing to the ~~office of medical assistance in the~~ 57108
department of ~~job and family services~~ medicaid on at least an 57109
annual basis the identity and lead screening test results of each 57110
child screened pursuant to section 3742.30 of the Revised Code. 57111
The director shall collect and disseminate information relating to 57112
child lead poisoning and controlling lead hazards. 57113

(B) The director of health shall operate the child lead 57114
poisoning prevention program in accordance with rules adopted 57115
under section 3742.50 of the Revised Code. The director may enter 57116
into an interagency agreement with one or more other state 57117
agencies to perform one or more of the program's duties. The 57118
director shall supervise and direct an agency's performance of 57119
such a duty. 57120

Sec. 3742.32. (A) The director of health shall appoint an 57121
advisory council to assist in the ongoing development and 57122
implementation of the child lead poisoning prevention program 57123
created under section 3742.31 of the Revised Code. The advisory 57124
council shall consist of the following members: 57125

(1) A representative of the ~~office of medical assistance in~~ 57126
~~the~~ department of ~~job and family services~~ medicaid; 57127

(2) A representative of the bureau of child care in the 57128
department of job and family services; 57129

(3) A representative of the department of environmental 57130
protection; 57131

(4) A representative of the department of education; 57132

(5) A representative of the department of development	57133
<u>services agency</u> ;	57134
(6) A representative of the Ohio apartment owner's	57135
association;	57136
(7) A representative of the Ohio help end lead poisoning	57137
coalition;	57138
(8) A representative of the Ohio environmental health	57139
association;	57140
(9) An Ohio representative of the national paint and coatings	57141
association.	57142
(B) The advisory council shall do both of the following:	57143
(1) Provide the director with advice regarding the policies	57144
the child lead poisoning prevention program should emphasize,	57145
preferred methods of financing the program, and any other matter	57146
relevant to the program's operation;	57147
(2) Submit a report of the state's activities to the	57148
governor, president of the senate, and speaker of the house of	57149
representatives on or before the first day of March each year.	57150
(C) The advisory council is not subject to sections 101.82 to	57151
101.87 of the Revised Code.	57152
Sec. 3745.11. (A) Applicants for and holders of permits,	57153
licenses, variances, plan approvals, and certifications issued by	57154
the director of environmental protection pursuant to Chapters	57155
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee	57156
to the environmental protection agency for each such issuance and	57157
each application for an issuance as provided by this section. No	57158
fee shall be charged for any issuance for which no application has	57159
been submitted to the director.	57160
(B) Except as otherwise provided in division (C)(2) of this	57161

section, beginning July 1, 1994, each person who owns or operates 57162
an air contaminant source and who is required to apply for and 57163
obtain a Title V permit under section 3704.036 of the Revised Code 57164
shall pay the fees set forth in this division. For the purposes of 57165
this division, total emissions of air contaminants may be 57166
calculated using engineering calculations, emissions factors, 57167
material balance calculations, or performance testing procedures, 57168
as authorized by the director. 57169

The following fees shall be assessed on the total actual 57170
emissions from a source in tons per year of the regulated 57171
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 57172
organic compounds, and lead: 57173

(1) Fifteen dollars per ton on the total actual emissions of 57174
each such regulated pollutant during the period July through 57175
December 1993, to be collected no sooner than July 1, 1994; 57176

(2) Twenty dollars per ton on the total actual emissions of 57177
each such regulated pollutant during calendar year 1994, to be 57178
collected no sooner than April 15, 1995; 57179

(3) Twenty-five dollars per ton on the total actual emissions 57180
of each such regulated pollutant in calendar year 1995, and each 57181
subsequent calendar year, to be collected no sooner than the 57182
fifteenth day of April of the year next succeeding the calendar 57183
year in which the emissions occurred. 57184

The fees levied under this division do not apply to that 57185
portion of the emissions of a regulated pollutant at a facility 57186
that exceed four thousand tons during a calendar year. 57187

(C)(1) The fees assessed under division (B) of this section 57188
are for the purpose of providing funding for the Title V permit 57189
program. 57190

(2) The fees assessed under division (B) of this section do 57191
not apply to emissions from any electric generating unit 57192

designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(3) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (B) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300

100 or more 700 57225

(2) Except as provided in division (D)(3) of this section, 57226
beginning January 1, 2004, each person who owns or operates an air 57227
contaminant source; who is required to apply for a permit to 57228
operate pursuant to rules adopted under division (G), or a 57229
variance pursuant to division (H), of section 3704.03 of the 57230
Revised Code; and who is not required to apply for and obtain a 57231
Title V permit under section 3704.03 of the Revised Code shall pay 57232
a single fee based upon the sum of the actual annual emissions 57233
from the facility of the regulated pollutants particulate matter, 57234
sulfur dioxide, nitrogen oxides, organic compounds, and lead in 57235
accordance with the following schedule: 57236

Total tons per year		57237
of regulated pollutants	Annual fee	57238
emitted	per facility	57239
More than 0, but less than 10	\$ 100	57240
10 or more, but less than 50	200	57241
50 or more, but less than 100	300	57242
100 or more	700	57243

(3)(a) As used in division (D) of this section, "synthetic 57244
minor facility" means a facility for which one or more permits to 57245
install or permits to operate have been issued for the air 57246
contaminant sources at the facility that include terms and 57247
conditions that lower the facility's potential to emit air 57248
contaminants below the major source thresholds established in 57249
rules adopted under section 3704.036 of the Revised Code. 57250

(b) Beginning January 1, 2000, through June 30, ~~2014~~ 2016, 57251
each person who owns or operates a synthetic minor facility shall 57252
pay an annual fee based on the sum of the actual annual emissions 57253
from the facility of particulate matter, sulfur dioxide, nitrogen 57254
dioxide, organic compounds, and lead in accordance with the 57255
following schedule: 57256

Combined total tons		57257
per year of all regulated	Annual fee	57258
pollutants emitted	per facility	57259
Less than 10	\$ 170	57260
10 or more, but less than 20	340	57261
20 or more, but less than 30	670	57262
30 or more, but less than 40	1,010	57263
40 or more, but less than 50	1,340	57264
50 or more, but less than 60	1,680	57265
60 or more, but less than 70	2,010	57266
70 or more, but less than 80	2,350	57267
80 or more, but less than 90	2,680	57268
90 or more, but less than 100	3,020	57269
100 or more	3,350	57270

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall

increase the fees prescribed in division (B) of this section by 57290
the percentage, if any, by which the consumer price index for the 57291
most recent calendar year ending before the beginning of a year 57292
exceeds the consumer price index for calendar year 1989. Upon 57293
calculating an increase in fees authorized by division (E)(1) of 57294
this section, the director shall compile revised fee schedules for 57295
the purposes of division (B) of this section and shall make the 57296
revised schedules available to persons required to pay the fees 57297
assessed under that division and to the public. 57298

(2) For the purposes of division (E)(1) of this section: 57299

(a) The consumer price index for any year is the average of 57300
the consumer price index for all urban consumers published by the 57301
United States department of labor as of the close of the 57302
twelve-month period ending on the thirty-first day of August of 57303
that year. 57304

(b) If the 1989 consumer price index is revised, the director 57305
shall use the revision of the consumer price index that is most 57306
consistent with that for calendar year 1989. 57307

(F) Each person who is issued a permit to install pursuant to 57308
rules adopted under division (F) of section 3704.03 of the Revised 57309
Code on or after July 1, 2003, shall pay the fees specified in the 57310
following schedules: 57311

(1) Fuel-burning equipment (boilers, furnaces, or process 57312
heaters used in the process of burning fuel for the primary 57313
purpose of producing heat or power by indirect heat transfer) 57314
Input capacity (maximum) 57315
(million British thermal units per hour) Permit to install 57316
Greater than 0, but less than 10 \$ 200 57317
10 or more, but less than 100 400 57318
100 or more, but less than 300 1000 57319
300 or more, but less than 500 2250 57320

500 or more, but less than 1000	3750	57321
1000 or more, but less than 5000	6000	57322
5000 or more	9000	57323

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install	
0 or more, but less than 10	\$ 25	57330
10 or more, but less than 25	150	57331
25 or more, but less than 50	300	57332
50 or more, but less than 100	500	57333
100 or more, but less than 250	1000	57334
250 or more	2000	57335

(3) Incinerators

Input capacity (pounds per hour)	Permit to install	
0 to 100	\$ 100	57338
101 to 500	500	57339
501 to 2000	1000	57340
2001 to 20,000	1500	57341
more than 20,000	3750	57342

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install	
0 to 1000	\$ 200	57345
1001 to 5000	500	57346
5001 to 10,000	750	57347
10,001 to 50,000	1000	57348
more than 50,000	1250	57349

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or

process heater designed to provide direct heat or power to a 57353
process not designed to generate electricity shall be assessed a 57354
fee established in division (F)(4)(a) of this section. A 57355
combustion turbine or stationary internal combustion engine 57356
designed to generate electricity shall be assessed a fee 57357
established in division (F)(2) of this section. 57358

(b) Notwithstanding division (F)(4)(a) of this section, any 57359
person issued a permit to install pursuant to rules adopted under 57360
division (F) of section 3704.03 of the Revised Code shall pay the 57361
fees set forth in division (F)(4)(c) of this section for a process 57362
used in any of the following industries, as identified by the 57363
applicable two-digit, three-digit, or four-digit standard 57364
industrial classification code according to the Standard 57365
Industrial Classification Manual published by the United States 57366
office of management and budget in the executive office of the 57367
president, 1987, as revised: 57368

Major group 10, metal mining; 57369

Major group 12, coal mining; 57370

Major group 14, mining and quarrying of nonmetallic minerals; 57371

Industry group 204, grain mill products; 57372

2873 Nitrogen fertilizers; 57373

2874 Phosphatic fertilizers; 57374

3281 Cut stone and stone products; 57375

3295 Minerals and earth, ground or otherwise treated; 57376

4221 Grain elevators (storage only); 57377

5159 Farm related raw materials; 57378

5261 Retail nurseries and lawn and garden supply stores. 57379

(c) The fees set forth in the following schedule apply to the 57380
issuance of a permit to install pursuant to rules adopted under 57381

division (F) of section 3704.03 of the Revised Code for a process		57382
identified in division (F)(4)(b) of this section:		57383
Process weight rate (pounds per	Permit to install	57384
hour)		
0 to 10,000	\$ 200	57385
10,001 to 50,000	400	57386
50,001 to 100,000	500	57387
100,001 to 200,000	600	57388
200,001 to 400,000	750	57389
400,001 or more	900	57390
(5) Storage tanks		57391
Gallons (maximum useful capacity)	Permit to install	57392
0 to 20,000	\$ 100	57393
20,001 to 40,000	150	57394
40,001 to 100,000	250	57395
100,001 to 500,000	400	57396
500,001 or greater	750	57397
(6) Gasoline/fuel dispensing facilities		57398
For each gasoline/fuel		57399
dispensing facility (includes all	Permit to install	57400
units at the facility)	\$ 100	57401
(7) Dry cleaning facilities		57402
For each dry cleaning		57403
facility (includes all units	Permit to install	57404
at the facility)	\$ 100	57405
(8) Registration status		57406
For each source covered	Permit to install	57407
by registration status	\$ 75	57408
(G) An owner or operator who is responsible for an asbestos		57409
demolition or renovation project pursuant to rules adopted under		57410
section 3704.03 of the Revised Code shall pay the fees set forth		57411

in the following schedule: 57412

Action	Fee	
Each notification	\$75	57414
Asbestos removal	\$3/unit	57415
Asbestos cleanup	\$4/cubic yard	57416

For purposes of this division, "unit" means any combination of 57417
linear feet or square feet equal to fifty. 57418

(H) A person who is issued an extension of time for a permit 57419
to install an air contaminant source pursuant to rules adopted 57420
under division (F) of section 3704.03 of the Revised Code shall 57421
pay a fee equal to one-half the fee originally assessed for the 57422
permit to install under this section, except that the fee for such 57423
an extension shall not exceed two hundred dollars. 57424

(I) A person who is issued a modification to a permit to 57425
install an air contaminant source pursuant to rules adopted under 57426
section 3704.03 of the Revised Code shall pay a fee equal to 57427
one-half of the fee that would be assessed under this section to 57428
obtain a permit to install the source. The fee assessed by this 57429
division only applies to modifications that are initiated by the 57430
owner or operator of the source and shall not exceed two thousand 57431
dollars. 57432

(J) Notwithstanding division (F) of this section, a person 57433
who applies for or obtains a permit to install pursuant to rules 57434
adopted under division (F) of section 3704.03 of the Revised Code 57435
after the date actual construction of the source began shall pay a 57436
fee for the permit to install that is equal to twice the fee that 57437
otherwise would be assessed under the applicable division unless 57438
the applicant received authorization to begin construction under 57439
division (W) of section 3704.03 of the Revised Code. This division 57440
only applies to sources for which actual construction of the 57441
source begins on or after July 1, 1993. The imposition or payment 57442
of the fee established in this division does not preclude the 57443

director from taking any administrative or judicial enforcement 57444
action under this chapter, Chapter 3704., 3714., 3734., or 6111. 57445
of the Revised Code, or a rule adopted under any of them, in 57446
connection with a violation of rules adopted under division (F) of 57447
section 3704.03 of the Revised Code. 57448

As used in this division, "actual construction of the source" 57449
means the initiation of physical on-site construction activities 57450
in connection with improvements to the source that are permanent 57451
in nature, including, without limitation, the installation of 57452
building supports and foundations and the laying of underground 57453
pipework. 57454

(K)(1) Money received under division (B) of this section 57455
shall be deposited in the state treasury to the credit of the 57456
Title V clean air fund created in section 3704.035 of the Revised 57457
Code. Annually, fifty cents per ton of each fee assessed under 57458
division (B) of this section on actual emissions from a source and 57459
received by the environmental protection agency pursuant to that 57460
division shall be transferred using an interstate transfer voucher 57461
to the state treasury to the credit of the small business 57462
assistance fund created in section 3706.19 of the Revised Code. In 57463
addition, annually, the amount of money necessary for the 57464
operation of the office of ombudsperson as determined under 57465
division (B) of that section shall be transferred to the state 57466
treasury to the credit of the small business ombudsperson fund 57467
created by that section. 57468

(2) Money received by the agency pursuant to divisions (D), 57469
(F), (G), (H), (I), and (J) of this section shall be deposited in 57470
the state treasury to the credit of the non-Title V clean air fund 57471
created in section 3704.035 of the Revised Code. 57472

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 57473
or (c) of this section, a person issued a water discharge permit 57474
or renewal of a water discharge permit pursuant to Chapter 6111. 57475

of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	57476
1,001 to 5000	100	57477
5,001 to 50,000	200	57478
50,001 to 100,000	300	57479
100,001 to 300,000	525	57480
over 300,000	750	57481

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2014~~ 2016, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2014~~ 2016, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2014~~ 2016, and five thousand dollars on and after July 1, ~~2014~~ 2016. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise

would be charged for a water discharge permit, except that the fee 57508
for the modification shall not exceed four hundred dollars. 57509

(4) A person who has entered into an agreement with the 57510
director under section 6111.14 of the Revised Code shall pay an 57511
administrative service fee for each plan submitted under that 57512
section for approval that shall not exceed the minimum amount 57513
necessary to pay administrative costs directly attributable to 57514
processing plan approvals. The director annually shall calculate 57515
the fee and shall notify all persons who have entered into 57516
agreements under that section, or who have applied for agreements, 57517
of the amount of the fee. 57518

(5)(a)(i) Not later than January 30, ~~2012~~ 2014, and January 57519
30, ~~2013~~ 2015, a person holding an NPDES discharge permit issued 57520
pursuant to Chapter 6111. of the Revised Code with an average 57521
daily discharge flow of five thousand gallons or more shall pay a 57522
nonrefundable annual discharge fee. Any person who fails to pay 57523
the fee at that time shall pay an additional amount that equals 57524
ten per cent of the required annual discharge fee. 57525

(ii) The billing year for the annual discharge fee 57526
established in division (L)(5)(a)(i) of this section shall consist 57527
of a twelve-month period beginning on the first day of January of 57528
the year preceding the date when the annual discharge fee is due. 57529
In the case of an existing source that permanently ceases to 57530
discharge during a billing year, the director shall reduce the 57531
annual discharge fee, including the surcharge applicable to 57532
certain industrial facilities pursuant to division (L)(5)(c) of 57533
this section, by one-twelfth for each full month during the 57534
billing year that the source was not discharging, but only if the 57535
person holding the NPDES discharge permit for the source notifies 57536
the director in writing, not later than the first day of October 57537
of the billing year, of the circumstances causing the cessation of 57538
discharge. 57539

(iii) The annual discharge fee established in division 57540
(L)(5)(a)(i) of this section, except for the surcharge applicable 57541
to certain industrial facilities pursuant to division (L)(5)(c) of 57542
this section, shall be based upon the average daily discharge flow 57543
in gallons per day calculated using first day of May through 57544
thirty-first day of October flow data for the period two years 57545
prior to the date on which the fee is due. In the case of NPDES 57546
discharge permits for new sources, the fee shall be calculated 57547
using the average daily design flow of the facility until actual 57548
average daily discharge flow values are available for the time 57549
period specified in division (L)(5)(a)(iii) of this section. The 57550
annual discharge fee may be prorated for a new source as described 57551
in division (L)(5)(a)(ii) of this section. 57552

(b) An NPDES permit holder that is a public discharger shall 57553
pay the fee specified in the following schedule: 57554

Average daily	Fee due by	
discharge flow	January 30,	
	2012 <u>2014</u> , and	
	January 30, 2013	
	<u>2015</u>	
5,000 to 49,999	\$ 200	57559
50,000 to 100,000	500	57560
100,001 to 250,000	1,050	57561
250,001 to 1,000,000	2,600	57562
1,000,001 to 5,000,000	5,200	57563
5,000,001 to 10,000,000	10,350	57564
10,000,001 to 20,000,000	15,550	57565
20,000,001 to 50,000,000	25,900	57566
50,000,001 to 100,000,000	41,400	57567
100,000,001 or more	62,100	57568

Public dischargers owning or operating two or more publicly 57569
owned treatment works serving the same political subdivision, as 57570

"treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2012 <u>2014</u> , and January 30, 2013 <u>2015</u>	
5,000 to 49,999	\$ 250	57585
50,000 to 250,000	1,200	57586
250,001 to 1,000,000	2,950	57587
1,000,001 to 5,000,000	5,850	57588
5,000,001 to 10,000,000	8,800	57589
10,000,001 to 20,000,000	11,700	57590
20,000,001 to 100,000,000	14,050	57591
100,000,001 to 250,000,000	16,400	57592
250,000,001 or more	18,700	57593

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2012~~ 2014, and not later than January 30, ~~2013~~ 2015. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals

ten per cent of the amount of the surcharge. 57602

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 57603
section, a public discharger identified by I in the third 57604
character of the permittee's NPDES permit number and an industrial 57605
discharger identified by I, J, L, V, W, X, Y, or Z in the third 57606
character of the permittee's NPDES permit number shall pay a 57607
nonrefundable annual discharge fee of one hundred eighty dollars 57608
not later than January 30, ~~2012~~ 2014, and not later than January 57609
30, ~~2013~~ 2015. Any person who fails to pay the fee at that time 57610
shall pay an additional amount that equals ten per cent of the 57611
required fee. 57612

(6) Each person obtaining a national pollutant discharge 57613
elimination system general or individual permit for municipal 57614
storm water discharge shall pay a nonrefundable storm water 57615
discharge fee of one hundred dollars per square mile of area 57616
permitted. The fee shall not exceed ten thousand dollars and shall 57617
be payable on or before January 30, 2004, and the thirtieth day of 57618
January of each year thereafter. Any person who fails to pay the 57619
fee on the date specified in division (L)(6) of this section shall 57620
pay an additional amount per year equal to ten per cent of the 57621
annual fee that is unpaid. 57622

(7) The director shall transmit all moneys collected under 57623
division (L) of this section to the treasurer of state for deposit 57624
into the state treasury to the credit of the surface water 57625
protection fund created in section 6111.038 of the Revised Code. 57626

(8) As used in division (L) of this section: 57627

(a) "NPDES" means the federally approved national pollutant 57628
discharge elimination system program for issuing, modifying, 57629
revoking, reissuing, terminating, monitoring, and enforcing 57630
permits and imposing and enforcing pretreatment requirements under 57631
Chapter 6111. of the Revised Code and rules adopted under it. 57632

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director. 57633
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(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director. 57636
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(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director. 57639
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(M) Through June 30, ~~2014~~ 2016, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code. 57643
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Except as provided in ~~division~~ divisions (M)(4) and (5) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule: 57653
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(1) For the initial license required under section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2014~~ 2016, the fee is: 57656
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Number of service connections	Fee amount	
Not more than 49	\$ 112	57661 57662
50 to 99	176	57663

Number of service connections	Average cost per connection	57664
100 to 2,499	\$ 1.92	57665
2,500 to 4,999	1.48	57666
5,000 to 7,499	1.42	57667
7,500 to 9,999	1.34	57668
10,000 to 14,999	1.16	57669
15,000 to 24,999	1.10	57670
25,000 to 49,999	1.04	57671
50,000 to 99,999	.92	57672
100,000 to 149,999	.86	57673
150,000 to 199,999	.80	57674
200,000 or more	.76	57675

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2014~~ 2016, the fee is:

Population served	Fee amount	57689
Fewer than 150	\$ 112	57690
150 to 299	176	57691
300 to 749	384	57692
750 to 1,499	628	57693
1,500 to 2,999	1,268	57694
3,000 to 7,499	2,816	57695

7,500 to 14,999	5,510	57696
15,000 to 22,499	9,048	57697
22,500 to 29,999	12,430	57698
30,000 or more	16,820	57699

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2014~~ 2016, the fee is:

Number of wells or sources, other than surface water, supplying system	Fee amount	
1	\$112	57712
2	112	57713
3	176	57714
4	278	57715
5	568	57716
System designated as using a surface water source	792	57718

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(5) An applicant for an initial license who is proposing to operate a new public water supply system shall submit a fee that equals a prorated amount of the appropriate fee for the remainder of the licensing year.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2014~~ 2016, and fifteen thousand dollars on and after July 1, ~~2014~~ 2016. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2014~~ 2016, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological		57754
MMO-MUG	\$2,000	57755
MF	2,100	57756
MMO-MUG and MF	2,550	57757
organic chemical	5,400	57758

trace metals	5,400	57759
standard chemistry	2,800	57760
limited chemistry	1,550	57761

On and after July 1, ~~2014~~ 2016, the following fee, on a per survey basis, shall be charged any such person:

microbiological	\$ 1,650	57764
organic chemicals	3,500	57765
trace metals	3,500	57766
standard chemistry	1,800	57767
limited chemistry	1,000	57768

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2014~~ 2016, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director to take an examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the

application is submitted, shall pay a fee in accordance with the 57789
following schedule through November 30, ~~2014~~ 2016: 57790

Class A operator	\$ 80	57791
Class I operator	105	57792
Class II operator	120	57793
Class III operator	130	57794
Class IV operator	145	57795

On and after December 1, ~~2014~~ 2016, the applicant shall pay a 57796
fee in accordance with the following schedule: 57797

Class A operator	\$ 50	57798
Class I operator	70	57799
Class II operator	80	57800
Class III operator	90	57801
Class IV operator	100	57802

Any person applying to the director for certification as an 57803
operator of a water supply system or wastewater system who has 57804
passed an examination administered by an examination provider 57805
approved by the director shall pay a certification fee of 57806
forty-five dollars. 57807

A person shall pay a biennial certification renewal fee for 57808
each applicable class of certification in accordance with the 57809
following schedule: 57810

Class A operator	\$25	57811
Class I operator	35	57812
Class II operator	45	57813
Class III operator	55	57814
Class IV operator	65	57815

If a certification renewal fee is received by the director 57816
more than thirty days, but not more than one year after the 57817
expiration date of the certification, the person shall pay a 57818
certification renewal fee in accordance with the following 57819
schedule: 57820

Class A operator	\$45	57821
Class I operator	55	57822
Class II operator	65	57823
Class III operator	75	57824
Class IV operator	85	57825

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay

the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a

person issued a permit to install or modify a solid waste facility 57886
or an infectious waste treatment facility under that chapter who 57887
fails to pay the permit fee to the director in compliance with 57888
division (V) of this section shall pay an additional ten per cent 57889
of the amount of the fee for each week that the permit fee is 57890
late. 57891

Permit and late payment fees paid to the director under this 57892
division shall be credited to the general revenue fund. 57893

(R)(1) A person issued a registration certificate for a scrap 57894
tire collection facility under section 3734.75 of the Revised Code 57895
shall pay a fee of two hundred dollars, except that if the 57896
facility is owned or operated by a motor vehicle salvage dealer 57897
licensed under Chapter 4738. of the Revised Code, the person shall 57898
pay a fee of twenty-five dollars. 57899

(2) A person issued a registration certificate for a new 57900
scrap tire storage facility under section 3734.76 of the Revised 57901
Code shall pay a fee of three hundred dollars, except that if the 57902
facility is owned or operated by a motor vehicle salvage dealer 57903
licensed under Chapter 4738. of the Revised Code, the person shall 57904
pay a fee of twenty-five dollars. 57905

(3) A person issued a permit for a scrap tire storage 57906
facility under section 3734.76 of the Revised Code shall pay a fee 57907
of one thousand dollars, except that if the facility is owned or 57908
operated by a motor vehicle salvage dealer licensed under Chapter 57909
4738. of the Revised Code, the person shall pay a fee of fifty 57910
dollars. 57911

(4) A person issued a permit for a scrap tire monocell or 57912
monofill facility under section 3734.77 of the Revised Code shall 57913
pay a fee of ten dollars per thousand cubic yards of disposal 57914
capacity or one thousand dollars, whichever is greater, except 57915
that the total fee for any such permit shall not exceed eighty 57916

thousand dollars. 57917

(5) A person issued a registration certificate for a scrap 57918
tire recovery facility under section 3734.78 of the Revised Code 57919
shall pay a fee of one hundred dollars. 57920

(6) A person issued a permit for a scrap tire recovery 57921
facility under section 3734.78 of the Revised Code shall pay a fee 57922
of one thousand dollars. 57923

(7) In addition to the applicable registration certificate or 57924
permit fee under divisions (R)(1) to (6) of this section, a person 57925
issued a registration certificate or permit for any such scrap 57926
tire facility who fails to pay the registration certificate or 57927
permit fee to the director in compliance with division (V) of this 57928
section shall pay an additional ten per cent of the amount of the 57929
fee for each week that the fee is late. 57930

(8) The registration certificate, permit, and late payment 57931
fees paid to the director under divisions (R)(1) to (7) of this 57932
section shall be credited to the scrap tire management fund 57933
created in section 3734.82 of the Revised Code. 57934

(S)(1) Except as provided by divisions (L), (M), (N), (O), 57935
(P), and (S)(2) of this section, division (A)(2) of section 57936
3734.05 of the Revised Code, section 3734.79 of the Revised Code, 57937
and rules adopted under division (T)(1) of this section, any 57938
person applying for a registration certificate under section 57939
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 57940
variance, or plan approval under Chapter 3734. of the Revised Code 57941
shall pay a nonrefundable fee of fifteen dollars at the time the 57942
application is submitted. 57943

Except as otherwise provided, any person applying for a 57944
permit, variance, or plan approval under Chapter 6109. or 6111. of 57945
the Revised Code shall pay a nonrefundable fee of one hundred 57946
dollars at the time the application is submitted through June 30, 57947

~~2014~~ 2016, and a nonrefundable fee of fifteen dollars at the time 57948
the application is submitted on and after July 1, ~~2014~~ 2016. 57949
Except as provided in division (S)(3) of this section, through 57950
June 30, ~~2014~~ 2016, any person applying for a national pollutant 57951
discharge elimination system permit under Chapter 6111. of the 57952
Revised Code shall pay a nonrefundable fee of two hundred dollars 57953
at the time of application for the permit. On and after July 1, 57954
~~2014~~ 2016, such a person shall pay a nonrefundable fee of fifteen 57955
dollars at the time of application. 57956

In addition to the application fee established under division 57957
(S)(1) of this section, any person applying for a national 57958
pollutant discharge elimination system general storm water 57959
construction permit shall pay a nonrefundable fee of twenty 57960
dollars per acre for each acre that is permitted above five acres 57961
at the time the application is submitted. However, the per acreage 57962
fee shall not exceed three hundred dollars. In addition, any 57963
person applying for a national pollutant discharge elimination 57964
system general storm water industrial permit shall pay a 57965
nonrefundable fee of one hundred fifty dollars at the time the 57966
application is submitted. 57967

The director shall transmit all moneys collected under 57968
division (S)(1) of this section pursuant to Chapter 6109. of the 57969
Revised Code to the treasurer of state for deposit into the 57970
drinking water protection fund created in section 6109.30 of the 57971
Revised Code. 57972

The director shall transmit all moneys collected under 57973
division (S)(1) of this section pursuant to Chapter 6111. of the 57974
Revised Code and under division (S)(3) of this section to the 57975
treasurer of state for deposit into the surface water protection 57976
fund created in section 6111.038 of the Revised Code. 57977

If a registration certificate is issued under section 57978
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 57979

the application fee paid shall be deducted from the amount of the 57980
registration certificate fee due under division (R)(1), (2), or 57981
(5) of this section, as applicable. 57982

If a person submits an electronic application for a 57983
registration certificate, permit, variance, or plan approval for 57984
which an application fee is established under division (S)(1) of 57985
this section, the person shall pay the applicable application fee 57986
as expeditiously as possible after the submission of the 57987
electronic application. An application for a registration 57988
certificate, permit, variance, or plan approval for which an 57989
application fee is established under division (S)(1) of this 57990
section shall not be reviewed or processed until the applicable 57991
application fee, and any other fees established under this 57992
division, are paid. 57993

(2) Division (S)(1) of this section does not apply to an 57994
application for a registration certificate for a scrap tire 57995
collection or storage facility submitted under section 3734.75 or 57996
3734.76 of the Revised Code, as applicable, if the owner or 57997
operator of the facility or proposed facility is a motor vehicle 57998
salvage dealer licensed under Chapter 4738. of the Revised Code. 57999

(3) A person applying for coverage under a national pollutant 58000
discharge elimination system general discharge permit for 58001
household sewage treatment systems shall pay the following fees: 58002

(a) A nonrefundable fee of two hundred dollars at the time of 58003
application for initial permit coverage; 58004

(b) A nonrefundable fee of one hundred dollars at the time of 58005
application for a renewal of permit coverage. 58006

(T) The director may adopt, amend, and rescind rules in 58007
accordance with Chapter 119. of the Revised Code that do all of 58008
the following: 58009

(1) Prescribe fees to be paid by applicants for and holders 58010

of any license, permit, variance, plan approval, or certification 58011
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 58012
the Revised Code that are not specifically established in this 58013
section. The fees shall be designed to defray the cost of 58014
processing, issuing, revoking, modifying, denying, and enforcing 58015
the licenses, permits, variances, plan approvals, and 58016
certifications. 58017

The director shall transmit all moneys collected under rules 58018
adopted under division (T)(1) of this section pursuant to Chapter 58019
6109. of the Revised Code to the treasurer of state for deposit 58020
into the drinking water protection fund created in section 6109.30 58021
of the Revised Code. 58022

The director shall transmit all moneys collected under rules 58023
adopted under division (T)(1) of this section pursuant to Chapter 58024
6111. of the Revised Code to the treasurer of state for deposit 58025
into the surface water protection fund created in section 6111.038 58026
of the Revised Code. 58027

(2) Exempt the state and political subdivisions thereof, 58028
including education facilities or medical facilities owned by the 58029
state or a political subdivision, or any person exempted from 58030
taxation by section 5709.07 or 5709.12 of the Revised Code, from 58031
any fee required by this section; 58032

(3) Provide for the waiver of any fee, or any part thereof, 58033
otherwise required by this section whenever the director 58034
determines that the imposition of the fee would constitute an 58035
unreasonable cost of doing business for any applicant, class of 58036
applicants, or other person subject to the fee; 58037

(4) Prescribe measures that the director considers necessary 58038
to carry out this section. 58039

(U) When the director reasonably demonstrates that the direct 58040
cost to the state associated with the issuance of a permit to 58041

install, license, variance, plan approval, or certification 58042
exceeds the fee for the issuance or review specified by this 58043
section, the director may condition the issuance or review on the 58044
payment by the person receiving the issuance or review of, in 58045
addition to the fee specified by this section, the amount, or any 58046
portion thereof, in excess of the fee specified under this 58047
section. The director shall not so condition issuances for which a 58048
fee is prescribed in division (L)(1)(b) of this section. 58049

(V) Except as provided in divisions (L), (M), and (P) of this 58050
section or unless otherwise prescribed by a rule of the director 58051
adopted pursuant to Chapter 119. of the Revised Code, all fees 58052
required by this section are payable within thirty days after the 58053
issuance of an invoice for the fee by the director or the 58054
effective date of the issuance of the license, permit, variance, 58055
plan approval, or certification. If payment is late, the person 58056
responsible for payment of the fee shall pay an additional ten per 58057
cent of the amount due for each month that it is late. 58058

(W) As used in this section, "fuel-burning equipment," 58059
"fuel-burning equipment input capacity," "incinerator," 58060
"incinerator input capacity," "process," "process weight rate," 58061
"storage tank," "gasoline dispensing facility," "dry cleaning 58062
facility," "design flow discharge," and "new source treatment 58063
works" have the meanings ascribed to those terms by applicable 58064
rules or standards adopted by the director under Chapter 3704. or 58065
6111. of the Revised Code. 58066

(X) As used in divisions (B), (D), (E), (F), (H), (I), and 58067
(J) of this section, and in any other provision of this section 58068
pertaining to fees paid pursuant to Chapter 3704. of the Revised 58069
Code: 58070

(1) "Facility," "federal Clean Air Act," "person," and "Title 58071
V permit" have the same meanings as in section 3704.01 of the 58072
Revised Code. 58073

(2) "Title V permit program" means the following activities 58074
as necessary to meet the requirements of Title V of the federal 58075
Clean Air Act and 40 C.F.R. part 70, including at least: 58076

(a) Preparing and adopting, if applicable, generally 58077
applicable rules or guidance regarding the permit program or its 58078
implementation or enforcement; 58079

(b) Reviewing and acting on any application for a Title V 58080
permit, permit revision, or permit renewal, including the 58081
development of an applicable requirement as part of the processing 58082
of a permit, permit revision, or permit renewal; 58083

(c) Administering the permit program, including the 58084
supporting and tracking of permit applications, compliance 58085
certification, and related data entry; 58086

(d) Determining which sources are subject to the program and 58087
implementing and enforcing the terms of any Title V permit, not 58088
including any court actions or other formal enforcement actions; 58089

(e) Emission and ambient monitoring; 58090

(f) Modeling, analyses, or demonstrations; 58091

(g) Preparing inventories and tracking emissions; 58092

(h) Providing direct and indirect support to small business 58093
stationary sources to determine and meet their obligations under 58094
the federal Clean Air Act pursuant to the small business 58095
stationary source technical and environmental compliance 58096
assistance program required by section 507 of that act and 58097
established in sections 3704.18, 3704.19, and 3706.19 of the 58098
Revised Code. 58099

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 58100
of this section, each sewage sludge facility shall pay a 58101
nonrefundable annual sludge fee equal to three dollars and fifty 58102
cents per dry ton of sewage sludge, including the dry tons of 58103

sewage sludge in materials derived from sewage sludge, that the 58104
sewage sludge facility treats or disposes of in this state. The 58105
annual volume of sewage sludge treated or disposed of by a sewage 58106
sludge facility shall be calculated using the first day of January 58107
through the thirty-first day of December of the calendar year 58108
preceding the date on which payment of the fee is due. 58109

(2)(a) Except as provided in division (Y)(2)(d) of this 58110
section, each sewage sludge facility shall pay a minimum annual 58111
sewage sludge fee of one hundred dollars. 58112

(b) The annual sludge fee required to be paid by a sewage 58113
sludge facility that treats or disposes of exceptional quality 58114
sludge in this state shall be thirty-five per cent less per dry 58115
ton of exceptional quality sludge than the fee assessed under 58116
division (Y)(1) of this section, subject to the following 58117
exceptions: 58118

(i) Except as provided in division (Y)(2)(d) of this section, 58119
a sewage sludge facility that treats or disposes of exceptional 58120
quality sludge shall pay a minimum annual sewage sludge fee of one 58121
hundred dollars. 58122

(ii) A sewage sludge facility that treats or disposes of 58123
exceptional quality sludge shall not be required to pay the annual 58124
sludge fee for treatment or disposal in this state of exceptional 58125
quality sludge generated outside of this state and contained in 58126
bags or other containers not greater than one hundred pounds in 58127
capacity. 58128

A thirty-five per cent reduction for exceptional quality 58129
sludge applies to the maximum annual fees established under 58130
division (Y)(3) of this section. 58131

(c) A sewage sludge facility that transfers sewage sludge to 58132
another sewage sludge facility in this state for further treatment 58133
prior to disposal in this state shall not be required to pay the 58134

annual sludge fee for the tons of sewage sludge that have been 58135
transferred. In such a case, the sewage sludge facility that 58136
disposes of the sewage sludge shall pay the annual sludge fee. 58137
However, the facility transferring the sewage sludge shall pay the 58138
one-hundred-dollar minimum fee required under division (Y)(2)(a) 58139
of this section. 58140

In the case of a sewage sludge facility that treats sewage 58141
sludge in this state and transfers it out of this state to another 58142
entity for disposal, the sewage sludge facility in this state 58143
shall be required to pay the annual sludge fee for the tons of 58144
sewage sludge that have been transferred. 58145

(d) A sewage sludge facility that generates sewage sludge 58146
resulting from an average daily discharge flow of less than five 58147
thousand gallons per day is not subject to the fees assessed under 58148
division (Y) of this section. 58149

(3) No sewage sludge facility required to pay the annual 58150
sludge fee shall be required to pay more than the maximum annual 58151
fee for each disposal method that the sewage sludge facility uses. 58152
The maximum annual fee does not include the additional amount that 58153
may be charged under division (Y)(5) of this section for late 58154
payment of the annual sludge fee. The maximum annual fee for the 58155
following methods of disposal of sewage sludge is as follows: 58156

(a) Incineration: five thousand dollars; 58157

(b) Preexisting land reclamation project or disposal in a 58158
landfill: five thousand dollars; 58159

(c) Land application, land reclamation, surface disposal, or 58160
any other disposal method not specified in division (Y)(3)(a) or 58161
(b) of this section: twenty thousand dollars. 58162

(4)(a) In the case of an entity that generates sewage sludge 58163
or a sewage sludge facility that treats sewage sludge and 58164
transfers the sewage sludge to an incineration facility for 58165

disposal, the incineration facility, and not the entity generating 58166
the sewage sludge or the sewage sludge facility treating the 58167
sewage sludge, shall pay the annual sludge fee for the tons of 58168
sewage sludge that are transferred. However, the entity or 58169
facility generating or treating the sewage sludge shall pay the 58170
one-hundred-dollar minimum fee required under division (Y)(2)(a) 58171
of this section. 58172

(b) In the case of an entity that generates sewage sludge and 58173
transfers the sewage sludge to a landfill for disposal or to a 58174
sewage sludge facility for land reclamation or surface disposal, 58175
the entity generating the sewage sludge, and not the landfill or 58176
sewage sludge facility, shall pay the annual sludge fee for the 58177
tons of sewage sludge that are transferred. 58178

(5) Not later than the first day of April of the calendar 58179
year following March 17, 2000, and each first day of April 58180
thereafter, the director shall issue invoices to persons who are 58181
required to pay the annual sludge fee. The invoice shall identify 58182
the nature and amount of the annual sludge fee assessed and state 58183
the first day of May as the deadline for receipt by the director 58184
of objections regarding the amount of the fee and the first day of 58185
July as the deadline for payment of the fee. 58186

Not later than the first day of May following receipt of an 58187
invoice, a person required to pay the annual sludge fee may submit 58188
objections to the director concerning the accuracy of information 58189
regarding the number of dry tons of sewage sludge used to 58190
calculate the amount of the annual sludge fee or regarding whether 58191
the sewage sludge qualifies for the exceptional quality sludge 58192
discount established in division (Y)(2)(b) of this section. The 58193
director may consider the objections and adjust the amount of the 58194
fee to ensure that it is accurate. 58195

If the director does not adjust the amount of the annual 58196
sludge fee in response to a person's objections, the person may 58197

appeal the director's determination in accordance with Chapter 58198
119. of the Revised Code. 58199

Not later than the first day of June, the director shall 58200
notify the objecting person regarding whether the director has 58201
found the objections to be valid and the reasons for the finding. 58202
If the director finds the objections to be valid and adjusts the 58203
amount of the annual sludge fee accordingly, the director shall 58204
issue with the notification a new invoice to the person 58205
identifying the amount of the annual sludge fee assessed and 58206
stating the first day of July as the deadline for payment. 58207

Not later than the first day of July, any person who is 58208
required to do so shall pay the annual sludge fee. Any person who 58209
is required to pay the fee, but who fails to do so on or before 58210
that date shall pay an additional amount that equals ten per cent 58211
of the required annual sludge fee. 58212

(6) The director shall transmit all moneys collected under 58213
division (Y) of this section to the treasurer of state for deposit 58214
into the surface water protection fund created in section 6111.038 58215
of the Revised Code. The moneys shall be used to defray the costs 58216
of administering and enforcing provisions in Chapter 6111. of the 58217
Revised Code and rules adopted under it that govern the use, 58218
storage, treatment, or disposal of sewage sludge. 58219

(7) Beginning in fiscal year 2001, and every two years 58220
thereafter, the director shall review the total amount of moneys 58221
generated by the annual sludge fees to determine if that amount 58222
exceeded six hundred thousand dollars in either of the two 58223
preceding fiscal years. If the total amount of moneys in the fund 58224
exceeded six hundred thousand dollars in either fiscal year, the 58225
director, after review of the fee structure and consultation with 58226
affected persons, shall issue an order reducing the amount of the 58227
fees levied under division (Y) of this section so that the 58228
estimated amount of moneys resulting from the fees will not exceed 58229

six hundred thousand dollars in any fiscal year. 58230

If, upon review of the fees under division (Y)(7) of this 58231
section and after the fees have been reduced, the director 58232
determines that the total amount of moneys collected and 58233
accumulated is less than six hundred thousand dollars, the 58234
director, after review of the fee structure and consultation with 58235
affected persons, may issue an order increasing the amount of the 58236
fees levied under division (Y) of this section so that the 58237
estimated amount of moneys resulting from the fees will be 58238
approximately six hundred thousand dollars. Fees shall never be 58239
increased to an amount exceeding the amount specified in division 58240
(Y)(7) of this section. 58241

Notwithstanding section 119.06 of the Revised Code, the 58242
director may issue an order under division (Y)(7) of this section 58243
without the necessity to hold an adjudicatory hearing in 58244
connection with the order. The issuance of an order under this 58245
division is not an act or action for purposes of section 3745.04 58246
of the Revised Code. 58247

(8) As used in division (Y) of this section: 58248

(a) "Sewage sludge facility" means an entity that performs 58249
treatment on or is responsible for the disposal of sewage sludge. 58250

(b) "Sewage sludge" means a solid, semi-solid, or liquid 58251
residue generated during the treatment of domestic sewage in a 58252
treatment works as defined in section 6111.01 of the Revised Code. 58253
"Sewage sludge" includes, but is not limited to, scum or solids 58254
removed in primary, secondary, or advanced wastewater treatment 58255
processes. "Sewage sludge" does not include ash generated during 58256
the firing of sewage sludge in a sewage sludge incinerator, grit 58257
and screenings generated during preliminary treatment of domestic 58258
sewage in a treatment works, animal manure, residue generated 58259
during treatment of animal manure, or domestic septage. 58260

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:	58261
	58262
(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);	58263
	58264
(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	58265
	58266
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	58267
	58268
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	58269
	58270
(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.	58271
	58272
	58273
(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.	58274
	58275
	58276
(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.	58277
	58278
	58279
	58280
	58281
(g) "Land reclamation" means the returning of disturbed land to productive use.	58282
	58283
(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.	58284
	58285
	58286
	58287
(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed	58288
	58289
	58290

device. 58291

(j) "Incineration facility" includes all incinerators owned 58292
or operated by the same entity and located on a contiguous tract 58293
of land. Areas of land are considered to be contiguous even if 58294
they are separated by a public road or highway. 58295

(k) "Annual sludge fee" means the fee assessed under division 58296
(Y)(1) of this section. 58297

(l) "Landfill" means a sanitary landfill facility, as defined 58298
in rules adopted under section 3734.02 of the Revised Code, that 58299
is licensed under section 3734.05 of the Revised Code. 58300

(m) "Preexisting land reclamation project" means a 58301
property-specific land reclamation project that has been in 58302
continuous operation for not less than five years pursuant to 58303
approval of the activity by the director and includes the 58304
implementation of a community outreach program concerning the 58305
activity. 58306

Sec. 3745.113. (A) A person that applies for a state isolated 58307
wetland permit under Chapter 6111. of the Revised Code and rules 58308
adopted under it shall pay an application fee of two hundred 58309
dollars at the time of application. 58310

In addition, that person shall pay, at the time of 58311
application, a review fee of five hundred dollars per acre of the 58312
wetlands to be impacted. 58313

However, the review fee shall not exceed five thousand 58314
dollars per application. In addition, if an application is denied, 58315
the director of environmental protection shall refund to the 58316
applicant one-half of the amount of the review fee paid by the 58317
applicant under division (A) of this section. 58318

(B) If a person conducts any activities for which an 58319
individual state isolated wetland permit is required under Chapter 58320

6111. of the Revised Code and rules adopted under it without first 58321
obtaining such a permit, the person shall pay twice the amount of 58322
the application and review fees that the person otherwise would 58323
have been required to pay under division (A) of this section, not 58324
to exceed ten thousand dollars. 58325

(C) All moneys collected under this section shall be 58326
deposited in the state treasury to the credit of the ~~dredge and~~ 58327
~~fill~~ surface water protection fund created in section ~~6111.029~~ 58328
6111.038 of the Revised Code. 58329

(D) Fees established under this section shall not apply to 58330
any agency or department of the state or to any county, township, 58331
or municipal corporation in this state. 58332

Sec. 3748.01. As used in this chapter: 58333

(A) "Byproduct material" means either of the following: 58334

(1) Any radioactive material, except special nuclear 58335
material, yielded in or made radioactive by exposure to radiation 58336
incident to the process of producing or utilizing special nuclear 58337
material; 58338

(2) The tailings or wastes produced by the extraction or 58339
concentration of uranium or thorium from any ore processed 58340
primarily for its source material content. 58341

(B) "Certified radiation expert" means an individual who has 58342
complied with all of the following: 58343

(1) Applied to the director of health for certification as a 58344
radiation expert under section 3748.12 of the Revised Code; 58345

(2) Met minimum education and experience requirements 58346
established in rules adopted under division (C) of section 3748.04 58347
of the Revised Code; 58348

(3) Been granted a certificate as a radiation expert by the 58349

director under section 3748.12 of the Revised Code. 58350

(C) "Closure" or "site closure" refers to a facility for the 58351
disposal of low-level radioactive waste or a byproduct material 58352
site, as "byproduct material" is defined in division (A)(2) of 58353
this section, and means all activities performed at a licensed 58354
operation, such as stabilization and contouring, to ensure that 58355
the site where the operation occurred is in a stable condition so 58356
that only minor custodial care, surveillance, and monitoring are 58357
necessary at the site following the termination of the licensed 58358
operation. 58359

(D) "Decommissioning" means to safely remove any licensed 58360
operation from service and reduce residual radioactivity to a 58361
level that permits release of the licensee's property for 58362
unrestricted use. With regard to a facility for the disposal of 58363
low-level radioactive waste or a byproduct material site, as 58364
"byproduct material" is defined in division (A)(2) of this 58365
section, "decommissioning" does not include the reduction of 58366
residual radioactivity to a level that permits release of the 58367
facility for unrestricted use. 58368

(E) "Director of health" includes a designee or authorized 58369
representative of the director. 58370

(F) "Disposal," with regard to low-level radioactive waste, 58371
means the permanent isolation of that waste in accordance with 58372
requirements established by the United States nuclear regulatory 58373
commission or the licensing agreement state. 58374

(G) "Disposal site" means that portion of a facility that is 58375
used for the disposal of low-level radioactive waste and that 58376
consists of disposal units and a buffer zone. "Disposal unit" 58377
means a discrete portion of such a facility into which low-level 58378
radioactive waste is placed for disposal. 58379

(H)(1) Except as provided in division (H)(2) of this section, 58380

"facility" means the state, any political subdivision, person, 58381
public or private institution, or group, or any unit of one of 58382
those entities, but does not include the federal government or any 58383
of its agencies. 58384

(2) For the purposes of the disposal of low-level radioactive 58385
waste, "facility" has the same meaning as in section 3747.01 of 58386
the Revised Code. 58387

(I) "Handle" means receive, possess, use, store, transfer, 58388
install, service, or dispose of sources of radiation unless 58389
possession is solely for the purpose of transportation. 58390

(J) "Handler" means a facility that handles sources of 58391
radiation unless possession is solely for the purpose of 58392
transportation. 58393

(K) "Inspection" means an official review, examination, or 58394
observation, including, without limitation, tests, surveys, and 58395
monitoring, that is used to determine compliance with rules, 58396
orders, requirements, and conditions of the department of health 58397
and that is conducted by the director of health. 58398

(L) "Low-level radioactive waste" has the same meaning as in 58399
section 3747.01 of the Revised Code with regard to the disposal of 58400
low-level radioactive waste. In regard to regulatory control at 58401
locations other than a disposal facility, "low-level radioactive 58402
waste" has the same meaning as in 42 U.S.C.A. 2021b. 58403

(M) "Quality assurance program" means a program providing for 58404
verification by written procedures such as testing, auditing, and 58405
inspection to ensure that deficiencies, deviations, defective 58406
equipment, or unsafe practices, or a combination thereof, relating 58407
to the use, disposal, management, or manufacture of radiation 58408
sources are identified, promptly corrected, and reported to the 58409
appropriate regulatory authorities. 58410

(N) "Radiation" means ionizing and nonionizing radiation. 58411

(1) "Ionizing radiation" means gamma rays and X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, but does not include sound or radio waves or visible, infrared, or ultraviolet light.

(2) "Nonionizing radiation" means any electromagnetic radiation, other than ionizing electromagnetic radiation, or any sonic, ultrasonic, or infrasonic wave.

(O) "Radioactive material" means any solid, liquid, or gaseous material that emits ionizing radiation spontaneously. "Radioactive material" includes accelerator-produced and naturally occurring materials and byproduct, source, and special nuclear material.

(P) "Radiation-generating equipment" means any manufactured product or device, or component of such a product or device, or any machine or system that during operation can generate or emit radiation, except those that emit radiation only from radioactive material. "Radiation-generating equipment" does not include either of the following:

(1) Diathermy machines;

(2) Microwave ovens, including food service microwave ovens used for commercial and industrial uses, television receivers, electric lamps, and other household appliances and products that generate very low levels of radiation.

(Q) "Source material" means uranium, thorium, or any combination thereof in any physical or chemical form, or any ores that contain by weight at least one-twentieth of one per cent of uranium, thorium, or any combination thereof. "Source material" does not include special nuclear material.

(R) "Source of radiation" means radioactive material or radiation-generating equipment.

(S) "Special nuclear material" means either of the following: 58442

(1) Plutonium, uranium 233, uranium enriched in the isotope 58443
233 or in the isotope 235, and any other material that the United 58444
States nuclear regulatory commission determines to be special 58445
nuclear material, but does not include source material pursuant to 58446
section 51 of the "Atomic Energy Act of 1954," 68 Stat. 919, 42 58447
U.S.C.A. 2071. 58448

(2) Except for any source material, any material artificially 58449
enriched by any of the materials identified in division (S)(1) of 58450
this section. 58451

(T) "Storage" means the retention of radioactive materials, 58452
including low-level radioactive waste, prior to disposal in a 58453
manner that allows for surveillance, control, and subsequent 58454
retrieval. 58455

(U) "Medical practitioner" means a person who is authorized 58456
pursuant to Chapter 4715. of the Revised Code to practice 58457
dentistry; pursuant to Chapter 4731. of the Revised Code to 58458
practice medicine and surgery, osteopathic medicine and surgery, 58459
or podiatric medicine and surgery; or pursuant to Chapter 4734. of 58460
the Revised Code to practice chiropractic. 58461

(V) "Medical-practitioner group" means a corporation, 58462
partnership, or other business entity, other than a hospital as 58463
defined in section 3727.01 of the Revised Code, consisting of 58464
medical practitioners. 58465

(W) "Naturally occurring radioactive material" means material 58466
that contains any nuclide that is radioactive in its natural 58467
physical state. "Naturally occurring radioactive material" does 58468
not include source material, byproduct material, or special 58469
nuclear material. 58470

(X) "Technologically enhanced naturally occurring radioactive 58471
material" means naturally occurring radioactive material with 58472

radionuclide concentrations that are increased by or as a result 58473
of past or present human activities. "Technologically enhanced 58474
naturally occurring radioactive material" does not include natural 58475
background radiation, byproduct material, or source material. 58476

Sec. 3748.04. The director of health, in accordance with 58477
Chapter 119. of the Revised Code, shall adopt and may amend or 58478
rescind rules doing all of the following: 58479

(A) Listing types of radioactive material for which licensure 58480
by its handler is required and types of radiation-generating 58481
equipment for which registration by its handler is required, and 58482
establishing requirements governing them. Rules adopted under 58483
division (A) of this section shall be compatible with applicable 58484
federal regulations and shall establish all of the following, 58485
without limitation: 58486

(1) Requirements governing both of the following: 58487

(a) The licensing and inspection of handlers of radioactive 58488
material. Standards established in rules adopted under division 58489
(A)(1)(a) of this section regarding byproduct material or any 58490
activity that results in the production of that material, to the 58491
extent practicable, shall be equivalent to or more stringent than 58492
applicable standards established by the United States nuclear 58493
regulatory commission. 58494

(b) The registration and inspection of handlers of 58495
radiation-generating equipment. Standards established in rules 58496
adopted under division (A)(1)(b) of this section, to the extent 58497
practicable, shall be equivalent to applicable standards 58498
established by the food and drug administration in the United 58499
States department of health and human services. 58500

(2) Identification of and requirements governing possession 58501
and use of specifically licensed and generally licensed quantities 58502

of radioactive material as either sealed sources or unsealed sources;	58503 58504
(3) A procedure for the issuance of and the frequency of renewal of the licenses of handlers of radioactive material, other than a license for a facility for the disposal of low-level radioactive waste, and of the certificates of registration of handlers of radiation-generating equipment;	58505 58506 58507 58508 58509
(4) Procedures for suspending and revoking the licenses of handlers of radioactive material and the certificates of registration of handlers of radiation-generating equipment;	58510 58511 58512
(5) Criteria to be used by the director of health in amending the license of a handler of radioactive material or the certificate of registration of a handler of radiation-generating equipment subsequent to its issuance;	58513 58514 58515 58516
(6) Criteria for achieving and maintaining compliance with this chapter and rules adopted under it by licensees and registrants;	58517 58518 58519
(7) Criteria governing environmental monitoring of licensed and registered activities to assess compliance with this chapter and rules adopted under it;	58520 58521 58522
(8) Fees for both of the following:	58523
(a) The licensing of handlers, other than facilities for the disposal of low-level radioactive waste, of radioactive material;	58524 58525
(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.	58526 58527 58528
(9) A fee schedule for both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding:	58529 58530 58531
(a) The inspection of handlers of radioactive material;	58532

(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.

(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;

(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment.

In adopting rules under divisions (A) and (B) of this section, the director shall use standards no less stringent than the "suggested state regulations for control of radiation" prepared by the conference of radiation control program directors, inc., and regulations adopted by the United States nuclear regulatory commission, the United States environmental protection agency, and the United States department of health and human services and shall consider reports of the national council on radiation protection and measurement and the relevant standards of the American national standards institute.

(C) Establishing fees, procedures, and requirements for certification as a radiation expert, including all of the following, without limitation:

(1) Minimum training and experience requirements;

(2) Procedures for applying for certification;	58564
(3) Procedures for review of applications and issuance of certificates;	58565 58566
(4) Procedures for suspending and revoking certification.	58567
(D) Establishing a schedule for inspection of sources of radiation and their shielding and surroundings;	58568 58569
(E) Establishing the responsibilities of a radiation expert;	58570
(F) Establishing criteria for quality assurance programs for licensees of radioactive material and registrants of radiation-generating equipment;	58571 58572 58573
(G) Establishing fees to be paid by any facility that, on September 8, 1995, holds a license from the United States nuclear regulatory commission in order to provide moneys necessary for the transfer of licensing and other regulatory authority from the commission to the state pursuant to section 3748.03 of the Revised Code. Rules adopted under this division shall stipulate that fees so established do not apply to any functions dealing specifically with a facility for the disposal of low-level radioactive waste. Fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.	58574 58575 58576 58577 58578 58579 58580 58581 58582 58583 58584 58585 58586
(H) Establishing fees to be collected annually from generators of low-level radioactive waste, which shall be based upon the volume and radioactivity of the waste generated and the costs of administering low-level radioactive waste management activities under this chapter and rules adopted under it. All fees collected under this division shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely	58587 58588 58589 58590 58591 58592 58593 58594

to administer and enforce this chapter and rules adopted under it. 58595
Any fee required under this division that remains unpaid on the 58596
ninety-first day after the original invoice date shall be assessed 58597
an additional amount equal to ten per cent of the original fee. 58598

(I) Establishing requirements governing closure, 58599
decontamination, decommissioning, reclamation, and long-term 58600
surveillance and care of a facility licensed under this chapter 58601
and rules adopted under it. Rules adopted under division (I) of 58602
this section shall include, without limitation, all of the 58603
following: 58604

(1) Standards and procedures to ensure that a licensee 58605
prepares a decommissioning funding plan that provides an adequate 58606
financial guaranty to permit the completion of all requirements 58607
governing the closure, decontamination, decommissioning, and 58608
reclamation of sites, structures, and equipment used in 58609
conjunction with a licensed activity; 58610

(2) For licensed activities where radioactive material that 58611
will require surveillance or care is likely to remain at the site 58612
after the licensed activities cease, as indicated in the 58613
application for the license submitted under section 3748.07 of the 58614
Revised Code, standards and procedures to ensure that the licensee 58615
prepares an additional decommissioning funding plan for long-term 58616
surveillance and care, before termination of the license, that 58617
provides an additional adequate financial guaranty as necessary to 58618
provide for that surveillance and care; 58619

(3) For the purposes of the decommissioning funding plans 58620
required in rules adopted under divisions (I)(1) and (2) of this 58621
section, the types of acceptable financial guaranties, which shall 58622
include bonds issued by fidelity or surety companies authorized to 58623
do business in the state, certificates of deposit, deposits of 58624
government securities, irrevocable letters or lines of credit, 58625
trust funds, escrow accounts, or other similar types of 58626

arrangements, but shall not include any arrangement that 58627
constitutes self-insurance; 58628

(4) A requirement that the decommissioning funding plans 58629
required in rules adopted under divisions (I)(1) and (2) of this 58630
section contain financial guaranties in amounts sufficient to 58631
ensure compliance with any standards established by the United 58632
States nuclear regulatory commission, or by the state if it has 58633
become an agreement state pursuant to section 3748.03 of the 58634
Revised Code, pertaining to closure, decontamination, 58635
decommissioning, reclamation, and long-term surveillance and care 58636
of licensed activities and sites of licensees. 58637

Standards established in rules adopted under division (I) of 58638
this section regarding any activity that resulted in the 58639
production of byproduct material, as defined in division (A)(2) of 58640
section 3748.01 of the Revised Code, to the extent practicable, 58641
shall be equivalent to or more stringent than standards 58642
established by the United States nuclear regulatory commission for 58643
sites at which ores were processed primarily for their source 58644
material content and at which byproduct material, as defined in 58645
division (A)(2) of section 3748.01 of the Revised Code, is 58646
deposited. 58647

(J) Establishing criteria governing inspections of a facility 58648
for the disposal of low-level radioactive waste, including, 58649
without limitation, the establishment of a resident inspector 58650
program at such a facility; 58651

(K) Establishing requirements and procedures governing the 58652
filing of complaints under section 3748.16 of the Revised Code, 58653
including, without limitation, those governing intervention in a 58654
hearing held under division (B)(3) of that section; 58655

(L) Establishing requirements governing technologically 58656
enhanced naturally occurring radioactive material. Rules adopted 58657

under this division shall not apply to naturally occurring 58658
radioactive material. 58659

Sec. 3769.08. (A) Any person holding a permit to conduct a 58660
horse-racing meeting may provide a place in the race meeting 58661
grounds or enclosure at which the permit holder may conduct and 58662
supervise the pari-mutuel system of wagering by patrons of legal 58663
age on the live racing programs and simulcast racing programs 58664
conducted by the permit holder. 58665

The pari-mutuel method of wagering upon the live racing 58666
programs and simulcast racing programs held at or conducted within 58667
such race track, and at the time of such horse-racing meeting, or 58668
at other times authorized by the state racing commission, shall 58669
not be unlawful. No other place, except that provided and 58670
designated by the permit holder and except as provided in section 58671
3769.26 of the Revised Code, nor any other method or system of 58672
betting or wagering on live racing programs and simulcast racing 58673
programs, except the pari-mutuel system, shall be used or 58674
permitted by the permit holder; nor, except as provided in section 58675
3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel 58676
system of wagering be conducted by the permit holder on any races 58677
except the races at the race track, grounds, or enclosure for 58678
which the person holds a permit. Each permit holder may retain as 58679
a commission an amount not to exceed eighteen per cent of the 58680
total of all moneys wagered on live racing programs and simulcast 58681
racing programs. 58682

The pari-mutuel wagering authorized by this section is 58683
subject to sections 3769.25 to 3769.28 of the Revised Code. 58684

(B) At the close of each racing day, each permit holder 58685
authorized to conduct thoroughbred racing, out of the amount 58686
retained on that day by the permit holder, shall pay by check, 58687
draft, or money order to the tax commissioner, as a tax, a sum 58688

equal to the following percentages of the total of all moneys 58689
wagered on live racing programs on that day and shall separately 58690
compute and pay by check, draft, or money order to the tax 58691
commissioner, as a tax, a sum equal to the following percentages 58692
of the total of all money wagered on simulcast racing programs on 58693
that day: 58694

(1) One per cent of the first two hundred thousand dollars 58695
wagered, or any part of that amount; 58696

(2) Two per cent of the next one hundred thousand dollars 58697
wagered, or any part of that amount; 58698

(3) Three per cent of the next one hundred thousand dollars 58699
wagered, or any part of that amount; 58700

(4) Four per cent of all sums over four hundred thousand 58701
dollars wagered. 58702

Except as otherwise provided in section 3769.089 of the 58703
Revised Code, each permit holder authorized to conduct 58704
thoroughbred racing shall use for purse money a sum equal to fifty 58705
per cent of the pari-mutuel revenues retained by the permit holder 58706
as a commission after payment of the state tax. This fifty per 58707
cent payment shall be in addition to the purse distribution from 58708
breakage specified in this section. 58709

Subject to division (M) of this section, from the moneys paid 58710
to the tax commissioner by thoroughbred racing permit holders, 58711
one-half of one per cent of the total of all moneys so wagered on 58712
a racing day shall be paid into the Ohio fairs fund created by 58713
section 3769.082 of the Revised Code, one and one-eighth per cent 58714
of the total of all moneys so wagered on a racing day shall be 58715
paid into the Ohio thoroughbred race fund created by section 58716
3769.083 of the Revised Code, and one-quarter of one per cent of 58717
the total of all moneys wagered on a racing day by each permit 58718
holder shall be paid into the state racing commission operating 58719

fund created by section 3769.03 of the Revised Code. The required 58720
payment to the state racing commission operating fund does not 58721
apply to county and independent fairs and agricultural societies. 58722
The remaining moneys may be retained by the permit holder, except 58723
as provided in this section with respect to the odd cents 58724
redistribution. Amounts paid into the nursing home franchise 58725
permit fee fund pursuant to this section and section 3769.26 of 58726
the Revised Code shall be used solely for the support of the 58727
PASSPORT program as determined in appropriations made by the 58728
general assembly. If the PASSPORT program is abolished, the amount 58729
that would have been paid to the nursing home franchise permit fee 58730
fund under this chapter shall be paid to the general revenue fund 58731
of the state. As used in this chapter, "PASSPORT program" ~~means~~ 58732
~~the PASSPORT program created under~~ has the same meaning as in 58733
section ~~173.40~~ 173.51 of the Revised Code. 58734

The total amount paid to the Ohio thoroughbred race fund 58735
under this section and division (A) of section 3769.087 of the 58736
Revised Code shall not exceed by more than six per cent the total 58737
amount paid to this fund under this section and division (A) of 58738
that section during the immediately preceding calendar year. 58739

Each year, the total amount calculated for payment into the 58740
Ohio fairs fund under this division, division (C) of this section, 58741
and division (A) of section 3769.087 of the Revised Code shall be 58742
an amount calculated using the percentages specified in this 58743
division, division (C) of this section, and division (A) of 58744
section 3769.087 of the Revised Code. 58745

A permit holder may contract with a thoroughbred horsemen's 58746
organization for the organization to act as a representative of 58747
all thoroughbred owners and trainers participating in a 58748
horse-racing meeting conducted by the permit holder. A 58749
"thoroughbred horsemen's organization" is any corporation or 58750
association that represents, through membership or otherwise, more 58751

than one-half of the aggregate of all thoroughbred owners and 58752
trainers who were licensed and actively participated in racing 58753
within this state during the preceding calendar year. Except as 58754
otherwise provided in this paragraph, any moneys received by a 58755
thoroughbred horsemen's organization shall be used exclusively for 58756
the benefit of thoroughbred owners and trainers racing in this 58757
state through the administrative purposes of the organization, 58758
benevolent activities on behalf of the horsemen, promotion of the 58759
horsemen's rights and interests, and promotion of equine research. 58760
A thoroughbred horsemen's organization may expend not more than an 58761
aggregate of five per cent of its annual gross receipts, or a 58762
larger amount as approved by the organization, for dues, 58763
assessments, and other payments to all other local, national, or 58764
international organizations having as their primary purposes the 58765
promotion of thoroughbred horse racing, thoroughbred horsemen's 58766
rights, and equine research. 58767

(C) Except as otherwise provided in division (B) of this 58768
section, at the close of each racing day, each permit holder 58769
authorized to conduct harness or quarter horse racing, out of the 58770
amount retained that day by the permit holder, shall pay by check, 58771
draft, or money order to the tax commissioner, as a tax, a sum 58772
equal to the following percentages of the total of all moneys 58773
wagered on live racing programs and shall separately compute and 58774
pay by check, draft, or money order to the tax commissioner, as a 58775
tax, a sum equal to the following percentages of the total of all 58776
money wagered on simulcast racing programs on that day: 58777

(1) One per cent of the first two hundred thousand dollars 58778
wagered, or any part of that amount; 58779

(2) Two per cent of the next one hundred thousand dollars 58780
wagered, or any part of that amount; 58781

(3) Three per cent of the next one hundred thousand dollars 58782
wagered, or any part of that amount; 58783

(4) Four per cent of all sums over four hundred thousand dollars wagered. 58784
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Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys wagered on that racing day shall be paid into the Ohio fairs fund; from the moneys paid to the tax commissioner by permit holders authorized to conduct harness racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio standardbred development fund; and from the moneys paid to the tax commissioner by permit holders authorized to conduct quarter horse racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio quarter horse development fund. 58786
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(D) In addition, subject to division (M) of this section, beginning on January 1, 1996, from the money paid to the tax commissioner as a tax under this section and division (A) of section 3769.087 of the Revised Code by harness horse permit holders, one-half of one per cent of the amount wagered on a racing day shall be paid into the Ohio standardbred development fund. Beginning January 1, 1998, the payment to the Ohio standardbred development fund required under this division does not apply to county agricultural societies or independent agricultural societies. 58799
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The total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code and the total amount paid to the Ohio quarter horse development fund under this division and division (A) of that section shall not exceed by more than six per cent the total amount paid into the fund under this division, division (C) of this section, and division (A) of 58809
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section 3769.087 of the Revised Code in the immediately preceding 58816
calendar year. 58817

(E) Subject to division (M) of this section, from the money 58818
paid as a tax under this chapter by harness and quarter horse 58819
permit holders, one-quarter of one per cent of the total of all 58820
moneys wagered on a racing day by each permit holder shall be paid 58821
into the state racing commission operating fund created by section 58822
3769.03 of the Revised Code. This division does not apply to 58823
county and independent fairs and agricultural societies. 58824

(F) Except as otherwise provided in section 3769.089 of the 58825
Revised Code, each permit holder authorized to conduct harness 58826
racing shall pay to the harness horsemen's purse pool a sum equal 58827
to fifty per cent of the pari-mutuel revenues retained by the 58828
permit holder as a commission after payment of the state tax. This 58829
fifty per cent payment is to be in addition to the purse 58830
distribution from breakage specified in this section. 58831

(G) In addition, each permit holder authorized to conduct 58832
harness racing shall be allowed to retain the odd cents of all 58833
redistribution to be made on all mutual contributions exceeding a 58834
sum equal to the next lowest multiple of ten. 58835

Forty per cent of that portion of that total sum of such odd 58836
cents shall be used by the permit holder for purse money for Ohio 58837
sired, bred, and owned colts, for purse money for Ohio bred 58838
horses, and for increased purse money for horse races. Upon the 58839
formation of the corporation described in section 3769.21 of the 58840
Revised Code to establish a harness horsemen's health and 58841
retirement fund, twenty-five per cent of that portion of that 58842
total sum of odd cents shall be paid at the close of each racing 58843
day by the permit holder to that corporation to establish and fund 58844
the health and retirement fund. Until that corporation is formed, 58845
that twenty-five per cent shall be paid at the close of each 58846
racing day by the permit holder to the tax commissioner or the tax 58847

commissioner's agent in the county seat of the county in which the 58848
permit holder operates race meetings. The remaining thirty-five 58849
per cent of that portion of that total sum of odd cents shall be 58850
retained by the permit holder. 58851

(H) In addition, each permit holder authorized to conduct 58852
thoroughbred racing shall be allowed to retain the odd cents of 58853
all redistribution to be made on all mutuel contributions 58854
exceeding a sum equal to the next lowest multiple of ten. Twenty 58855
per cent of that portion of that total sum of such odd cents shall 58856
be used by the permit holder for increased purse money for horse 58857
races. Upon the formation of the corporation described in section 58858
3769.21 of the Revised Code to establish a thoroughbred horsemen's 58859
health and retirement fund, forty-five per cent of that portion of 58860
that total sum of odd cents shall be paid at the close of each 58861
racing day by the permit holder to that corporation to establish 58862
and fund the health and retirement fund. Until that corporation is 58863
formed, that forty-five per cent shall be paid by the permit 58864
holder to the tax commissioner or the tax commissioner's agent in 58865
the county seat of the county in which the permit holder operates 58866
race meetings, at the close of each racing day. The remaining 58867
thirty-five per cent of that portion of that total sum of odd 58868
cents shall be retained by the permit holder. 58869

(I) In addition, each permit holder authorized to conduct 58870
quarter horse racing shall be allowed to retain the odd cents of 58871
all redistribution to be made on all mutuel contributions 58872
exceeding a sum equal to the next lowest multiple of ten, subject 58873
to a tax of twenty-five per cent on that portion of the total sum 58874
of such odd cents that is in excess of two thousand dollars during 58875
a calendar year, which tax shall be paid at the close of each 58876
racing day by the permit holder to the tax commissioner or the tax 58877
commissioner's agent in the county seat of the county within which 58878
the permit holder operates race meetings. Forty per cent of that 58879

portion of that total sum of such odd cents shall be used by the 58880
permit holder for increased purse money for horse races. The 58881
remaining thirty-five per cent of that portion of that total sum 58882
of odd cents shall be retained by the permit holder. 58883

(J)(1) To encourage the improvement of racing facilities for 58884
the benefit of the public, breeders, and horse owners, and to 58885
increase the revenue to the state from the increase in pari-mutuel 58886
wagering resulting from those improvements, the taxes paid by a 58887
permit holder to the state as provided for in this chapter shall 58888
be reduced by three-fourths of one per cent of the total amount 58889
wagered for those permit holders who make capital improvements to 58890
existing race tracks or construct new race tracks. The percentage 58891
of the reduction that may be taken each racing day shall equal 58892
seventy-five per cent of the taxes levied under divisions (B) and 58893
(C) of this section and section 3769.087 of the Revised Code, and 58894
division (F)(2) of section 3769.26 of the Revised Code, as 58895
applicable, divided by the calculated amount each fund should 58896
receive under divisions (B) and (C) of this section and section 58897
3769.087 of the Revised Code, and division (F)(2) of section 58898
3769.26 of the Revised Code and the reduction provided for in this 58899
division. If the resulting percentage is less than one, that 58900
percentage shall be multiplied by the amount of the reduction 58901
provided for in this division. Otherwise, the permit holder shall 58902
receive the full reduction provided for in this division. The 58903
amount of the allowable reduction not received shall be carried 58904
forward and applied against future tax liability. After any 58905
reductions expire, any reduction carried forward shall be treated 58906
as a reduction as provided for in this division. 58907

If more than one permit holder is authorized to conduct 58908
racing at the facility that is being built or improved, the cost 58909
of the new race track or capital improvement shall be allocated 58910
between or among all the permit holders in the ratio that the 58911

permit holders' number of racing days bears to the total number of 58912
racing days conducted at the facility. 58913

A reduction for a new race track or a capital improvement 58914
shall start from the day racing is first conducted following the 58915
date actual construction of the new race track or each capital 58916
improvement is completed and the construction cost has been 58917
approved by the racing commission, unless otherwise provided in 58918
this section. A reduction for a new race track or a capital 58919
improvement shall continue for a period of twenty-five years for 58920
new race tracks and for fifteen years for capital improvements if 58921
the construction of the capital improvement or new race track 58922
commenced prior to March 29, 1988, and for a period of ten years 58923
for new race tracks or capital improvements if the construction of 58924
the capital improvement or new race track commenced on or after 58925
March 29, 1988, but before June 6, 2001, or until the total tax 58926
reduction reaches seventy per cent of the approved cost of the new 58927
race track or capital improvement, as allocated to each permit 58928
holder, whichever occurs first. A reduction for a new race track 58929
or a capital improvement approved after June 6, 2001, shall 58930
continue until the total tax reduction reaches one hundred per 58931
cent of the approved cost of the new race track or capital 58932
improvement, as allocated to each permit holder. 58933

A reduction granted for a new race track or a capital 58934
improvement, the application for which was approved by the racing 58935
commission after March 29, 1988, but before June 6, 2001, shall 58936
not commence nor shall the ten-year period begin to run until all 58937
prior tax reductions with respect to the same race track have 58938
ended. The total tax reduction because of capital improvements 58939
shall not during any one year exceed for all permit holders using 58940
any one track three-fourths of one per cent of the total amount 58941
wagered, regardless of the number of capital improvements made. 58942
Several capital improvements to a race track may be consolidated 58943

in an application if the racing commission approved the 58944
application prior to March 29, 1988. No permit holder may receive 58945
a tax reduction for a capital improvement approved by the racing 58946
commission on or after March 29, 1988, at a race track until all 58947
tax reductions have ended for all prior capital improvements 58948
approved by the racing commission under this section or section 58949
3769.20 of the Revised Code at that race track. If there are two 58950
or more permit holders operating meetings at the same track, they 58951
may consolidate their applications. The racing commission shall 58952
notify the tax commissioner when the reduction of tax begins and 58953
when it ends. 58954

Each fiscal year the racing commission shall submit a report 58955
to the tax commissioner, the office of budget and management, and 58956
the legislative service commission. The report shall identify each 58957
capital improvement project undertaken under this division and in 58958
progress at each race track, indicate the total cost of each 58959
project, state the tax reduction that resulted from each project 58960
during the immediately preceding fiscal year, estimate the tax 58961
reduction that will result from each project during the current 58962
fiscal year, state the total tax reduction that resulted from all 58963
such projects at all race tracks during the immediately preceding 58964
fiscal year, and estimate the total tax reduction that will result 58965
from all such projects at all race tracks during the current 58966
fiscal year. 58967

(2) In order to qualify for the reduction in tax, a permit 58968
holder shall apply to the racing commission in such form as the 58969
commission may require and shall provide full details of the new 58970
race track or capital improvement, including a schedule for its 58971
construction and completion, and set forth the costs and expenses 58972
incurred in connection with it. The racing commission shall not 58973
approve an application unless the permit holder shows that a 58974
contract for the new race track or capital improvement has been 58975

let under an unrestricted competitive bidding procedure, unless 58976
the contract is exempted by the controlling board because of its 58977
unusual nature. In determining whether to approve an application, 58978
the racing commission shall consider whether the new race track or 58979
capital improvement will promote the safety, convenience, and 58980
comfort of the racing public and horse owners and generally tend 58981
towards the improvement of racing in this state. 58982

(3) If a new race track or capital improvement is approved by 58983
the racing commission and construction has started, the tax 58984
reduction may be authorized by the commission upon presentation of 58985
copies of paid bills in excess of one hundred thousand dollars or 58986
ten per cent of the approved cost, whichever is greater. After the 58987
initial authorization, the permit holder shall present copies of 58988
paid bills. If the permit holder is in substantial compliance with 58989
the schedule for construction and completion of the new race track 58990
or capital improvement, the racing commission may authorize the 58991
continuation of the tax reduction upon the presentation of the 58992
additional paid bills. The total amount of the tax reduction 58993
authorized shall not exceed the percentage of the approved cost of 58994
the new race track or capital improvement specified in division 58995
(J)(1) of this section. The racing commission may terminate any 58996
tax reduction immediately if a permit holder fails to complete the 58997
new race track or capital improvement, or to substantially comply 58998
with the schedule for construction and completion of the new race 58999
track or capital improvement. If a permit holder fails to complete 59000
a new race track or capital improvement, the racing commission 59001
shall order the permit holder to repay to the state the total 59002
amount of tax reduced. The normal tax paid by the permit holder 59003
shall be increased by three-fourths of one per cent of the total 59004
amount wagered until the total amount of the additional tax 59005
collected equals the total amount of tax reduced. 59006

(4) As used in this section: 59007

(a) "Capital improvement" means an addition, replacement, or remodeling of a structural unit of a race track facility costing at least one hundred thousand dollars, including, but not limited to, the construction of barns used exclusively for the race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, the installation of permanent new heating or air conditioning, roof replacement or restoration, installations of a permanent nature forming a part of the track structure, and construction of buildings that are located on a permit holder's premises. "Capital improvement" does not include the cost of replacement of equipment that is not permanently installed, ordinary repairs, painting, and maintenance required to keep a race track facility in ordinary operating condition.

(b) "New race track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

(c) "Approved cost" includes all debt service and interest costs that are associated with a capital improvement or new race track and that the racing commission approves for a tax reduction under division (J) of this section.

(5) The racing commission shall not approve an application for a tax reduction under this section if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track due to fire or other cause. The racing commission shall obtain any data or information available from a fire marshal, law enforcement official, or insurance company concerning any fire or other damage

suffered by a track, prior to approving an application for a tax reduction. 59040
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(6) The approved cost to which a tax reduction applies shall be determined by generally accepted accounting principles and verified by an audit of the permit holder's records upon completion of the project by the racing commission, or by an independent certified public accountant selected by the permit holder and approved by the commission. 59042
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(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society. 59048
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(L) From the tax paid under this section by harness track 59071

permit holders, the tax commissioner shall pay into the Ohio 59072
thoroughbred race fund a sum equal to a percentage of the amount 59073
wagered upon which the tax is paid. The percentage shall be 59074
determined by the tax commissioner and shall be rounded to the 59075
nearest one-hundredth. The percentage shall be such that, when 59076
multiplied by the amount wagered upon which tax was paid by the 59077
harness track permit holders in the most recent year for which 59078
final figures are available, it results in a sum that 59079
substantially equals the same amount of tax paid by the tax 59080
commissioner during that year into the Ohio fairs fund from taxes 59081
paid by thoroughbred permit holders. This division does not apply 59082
to county and independent fairs and agricultural societies. 59083

(M) Twenty-five per cent of the taxes levied on thoroughbred 59084
racing permit holders, harness racing permit holders, and quarter 59085
horse racing permit holders under this section, division (A) of 59086
section 3769.087 of the Revised Code, and division (F)(2) of 59087
section 3769.26 of the Revised Code shall be paid into the nursing 59088
home franchise permit fee fund. The tax commissioner shall pay any 59089
money remaining, after the payment into the nursing home franchise 59090
permit fee fund and the reductions provided for in division (J) of 59091
this section and in section 3769.20 of the Revised Code, into the 59092
Ohio fairs fund, Ohio thoroughbred race fund, Ohio standardbred 59093
development fund, Ohio quarter horse fund, and state racing 59094
commission operating fund as prescribed in this section and 59095
division (A) of section 3769.087 of the Revised Code. The tax 59096
commissioner shall thereafter use and apply the balance of the 59097
money paid as a tax by any permit holder to cover any shortage in 59098
the accounts of such funds resulting from an insufficient payment 59099
as a tax by any other permit holder. The moneys received by the 59100
tax commissioner shall be deposited weekly and paid by the tax 59101
commissioner into the funds to cover the total aggregate amount 59102
due from all permit holders to the funds, as calculated under this 59103
section and division (A) of section 3769.087 of the Revised Code, 59104

as applicable. If, after the payment into the nursing home 59105
franchise permit fee fund, sufficient funds are not available from 59106
the tax deposited by the tax commissioner to pay the required 59107
amounts into the Ohio fairs fund, Ohio standardbred development 59108
fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and 59109
the state racing commission operating fund, the tax commissioner 59110
shall prorate on a proportional basis the amount paid to each of 59111
the funds. Any shortage to the funds as a result of a proration 59112
shall be applied against future deposits for the same calendar 59113
year when funds are available. After this application, the tax 59114
commissioner shall pay any remaining money paid as a tax by all 59115
permit holders into the nursing home franchise permit fee fund. 59116
This division does not apply to permit holders conducting racing 59117
at the course of an agricultural exposition or fair as described 59118
in division (K) of this section. 59119

Sec. 3769.087. (A) In addition to the commission of eighteen 59120
per cent retained by each permit holder as provided in section 59121
3769.08 of the Revised Code, each permit holder shall retain an 59122
additional amount equal to four per cent of the total of all 59123
moneys wagered on each racing day on all wagering pools other than 59124
win, place, and show, of which amount retained an amount equal to 59125
three per cent of the total of all moneys wagered on each racing 59126
day on those pools shall be paid by check, draft, or money order 59127
to the tax commissioner, as a tax. Subject to the restrictions 59128
contained in divisions (B), (C), and (M) of section 3769.08 of the 59129
Revised Code, from such additional moneys paid to the tax 59130
commissioner: 59131

(1) Four-sixths shall be allocated to fund distribution as 59132
provided in division (M) of section 3769.08 of the Revised Code. 59133

(2) One-twelfth shall be paid into the Ohio fairs fund 59134
created by section 3769.082 of the Revised Code. 59135

(3) One-twelfth of the additional moneys paid to the tax commissioner by thoroughbred racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code.

(4) One-twelfth of the additional moneys paid to the tax commissioner by harness horse racing permit holders shall be paid to the Ohio standardbred development fund created by section 3769.085 of the Revised Code.

(5) One-twelfth of the additional moneys paid to the tax commissioner by quarter horse racing permit holders shall be paid to the Ohio quarter horse development fund created by section 3769.086 of the Revised Code.

(6) One-sixth shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code.

The remaining one per cent that is retained of the total of all moneys wagered on each racing day on all pools other than win, place, and show, shall be retained by racing permit holders, and, except as otherwise provided in section 3769.089 of the Revised Code, racing permit holders shall use one-half for purse money and retain one-half.

(B) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code and the additional amount retained by each permit holder as provided in division (A) of this section, each permit holder shall retain an additional amount equal to one-half of one per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show. The additional amount retained under this division shall be paid by check, draft, or money order to the tax commissioner, as a tax. The tax commissioner shall pay the amount of the tax received under this division to the state racing commission operating fund created by

section 3769.03 of the Revised Code. 59167

(C) Unless otherwise agreed to by the video lottery sales 59168
agent and the applicable horsemen's association recognized by the 59169
state racing commission to represent such persons, the state 59170
racing commission may direct through rule that a percentage of the 59171
lottery sales agent's commission as determined by the state 59172
lottery commission for conducting video lottery terminal gaming on 59173
behalf of the state be paid to the state racing commission for the 59174
benefit of breeding and racing in this state. The percentage so 59175
determined shall not be less than nine per cent or more than 59176
eleven per cent of the video lottery terminal income. The 59177
aggregate of one hundred per cent of video lottery terminal income 59178
minus the lottery sales agent's commission percentage as 59179
determined by the state lottery commission plus the percentage of 59180
the lottery sale agent's commission, as determined by the state 59181
racing commission or otherwise agreed to by the video lottery 59182
sales agent and the applicable horsemen's association recognized 59183
by the state racing commission to represent such persons, for the 59184
benefit of breeding and racing in this state plus the percentage 59185
dispersed to the state lottery commission to provide funding 59186
support to appropriate state agencies for programs that provide 59187
for gambling addiction and other related addiction services as 59188
prescribed by the state lottery commission shall not exceed 59189
forty-five per cent of the video lottery terminal income. ~~In~~ 59190
~~addition, beginning~~ 59191

By July 1, 2013, the state lottery commission shall adopt a 59192
rule to require the lottery sales agent conducting video lottery 59193
terminal gaming on behalf of the state to disperse to the state 59194
lottery commission one-half of one per cent of such a lottery 59195
sales agent's commission for the purpose of providing funding 59196
support to appropriate state agencies for programs that provide 59197
for gambling addiction and other related addiction services. The 59198

state lottery commission's rule also may require the lottery sales 59199
agent conducting video lottery terminal gaming on behalf of the 59200
state to disperse to the state lottery commission an additional 59201
amount up to one-half of one per cent of such a lottery sales 59202
agent's commission for that purpose. 59203

Sec. 3769.088. (A) If any permit holder required by this 59204
chapter to pay the taxes levied by sections 3769.08, 3769.087, 59205
3769.26, and 3769.28 of the Revised Code fails to pay the taxes, 59206
the tax commissioner may make an assessment against the permit 59207
holder based upon any information in the commissioner's 59208
possession. 59209

A penalty of up to fifteen per cent may be added to the 59210
amount of every assessment made under this section. The 59211
commissioner may adopt rules providing for the imposition and 59212
remission of penalties added to assessments made under this 59213
section. 59214

The commissioner shall give the party assessed written notice 59215
of the assessment in the manner provided in section 5703.37 of the 59216
Revised Code. With the notice, the commissioner shall provide 59217
instructions on how to petition for reassessment and request a 59218
hearing on the petition. 59219

(B) Unless the party assessed files with the tax commissioner 59220
within sixty days after service of the notice of assessment, 59221
either personally or by certified mail, a written petition for 59222
reassessment signed by the party assessed or that party's 59223
authorized agent having knowledge of the facts, the assessment 59224
becomes final and the amount of the assessment is due and payable 59225
from the party assessed to the commissioner. The petition shall 59226
indicate the objections of the party assessed, but additional 59227
objections may be raised in writing if received by the 59228
commissioner prior to the date shown on the final determination. 59229

If the petition has been properly filed, the commissioner shall 59230
proceed under section 5703.60 of the Revised Code. 59231

(C) After an assessment becomes final, if any portion of the 59232
assessment remains unpaid, including accrued interest, a certified 59233
copy of the tax commissioner's entry making the assessment final 59234
may be filed in the office of the clerk of the court of common 59235
pleas in the county in which the place, track, or enclosure for 59236
which the permit was issued is located or the county in which the 59237
party assessed resides or has its principal place of business. If 59238
the party assessed maintains no place of business in this state 59239
and is not a resident of this state, the certified copy of the 59240
entry may be filed in the office of the clerk of the court of 59241
common pleas of Franklin county. 59242

Immediately upon the filing of the entry, the clerk shall 59243
enter a judgment for the state against the party assessed in the 59244
amount shown on the entry. The judgment may be filed by the clerk 59245
in a loose-leaf book entitled "special judgments for state horse 59246
racing tax," and shall have the same effect as other judgments. 59247
Execution shall issue upon the judgment upon the request of the 59248
tax commissioner, and all laws applicable to sales on execution 59249
shall apply to sales made under the judgment. 59250

~~The portion of~~ If the assessment is not paid in its entirety 59251
within sixty days after the day the assessment was issued, the 59252
portion of the assessment consisting of tax due shall bear 59253
interest at the rate per annum prescribed by section 5703.47 of 59254
the Revised Code from the day the tax commissioner issues the 59255
assessment until the day the assessment is paid or until it is 59256
certified to the attorney general for collection under section 59257
131.02 of the Revised Code, whichever comes first. If the unpaid 59258
portion of the assessment is certified to the attorney general for 59259
collection, the entire unpaid portion of the assessment shall bear 59260
interest at the rate per annum prescribed by section 5703.47 of 59261

the Revised Code from the date of certification until the date it 59262
is paid in its entirety. Interest shall be paid in the same manner 59263
as the tax and may be collected by the issuance of an assessment 59264
under this section. 59265

(D) All money collected by the tax commissioner under this 59266
section shall be treated as revenue arising from the taxes imposed 59267
by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised 59268
Code. 59269

Sec. 3770.01. (A) There is hereby created the state lottery 59270
commission consisting of nine members appointed by the governor 59271
with the advice and consent of the senate. No more than five 59272
members of the commission shall be members of the same political 59273
party. Of the additional and new appointments made to the 59274
commission pursuant to the amendment of August 1, 1980, three 59275
shall be for terms ending August 1, 1981, three shall be for terms 59276
ending August 1, 1982, and three shall be for terms ending August 59277
1, 1983. Thereafter, terms of office shall be for three years, 59278
each term ending on the same day of the same month of the year as 59279
did the term which it succeeds. 59280

(B) Each member shall hold office from the date of 59281
appointment until the end of the term for which the member was 59282
appointed. Any member appointed to fill a vacancy occurring prior 59283
to the expiration of the term for which the member's predecessor 59284
was appointed shall hold office for the remainder of that term. 59285
Any member shall continue in office subsequent to the expiration 59286
date of the member's term until the member's successor takes 59287
office, or until a period of sixty days has elapsed, whichever 59288
occurs first. 59289

(C) All members of the commission shall be citizens of the 59290
United States and residents of this state. The members of the 59291
commission shall represent the various geographic regions of the 59292

state. No member of the commission shall have any pecuniary 59293
interest in any contract or license awarded by the commission. One 59294
person appointed as a member of the commission shall ~~represent an~~ 59295
~~organization that deals with~~ have experience or training in the 59296
areas of problem gambling and assists or other addictions and 59297
assistance to recovering gambling or other addicts. Each person 59298
appointed as a member of the commission, except the member 59299
appointed as a ~~representative of an organization that deals with~~ 59300
having experience or training in the area of problem gambling ~~and~~ 59301
~~assists recovering gambling addicts or other addictions~~, shall 59302
have prior experience or education in business administration, 59303
management, sales, marketing, or advertising. 59304

(D) The commission shall elect annually one of its members to 59305
serve as chairperson for a term of one year. Election as 59306
chairperson shall not extend a member's appointive term. Each 59307
member of the commission shall receive an annual salary of five 59308
thousand dollars, payable in monthly installments. Each member of 59309
the commission also shall receive the member's actual and 59310
necessary expenses incurred in the discharge of the member's 59311
official duties. 59312

(E) Each member of the commission, before entering upon the 59313
discharge of the member's official duties, shall give a bond, 59314
payable to the treasurer of state, in the sum of ten thousand 59315
dollars with sufficient sureties to be approved by the treasurer 59316
of state, which bond shall be filed with the secretary of state. 59317

(F) The governor may remove any member of the commission for 59318
malfeasance, misfeasance, or nonfeasance in office, giving the 59319
member a copy of the charges against the member and affording the 59320
member an opportunity to be publicly heard in person or by counsel 59321
in the member's own defense upon not less than ten days' notice. 59322
If the member is removed, the governor shall file in the office of 59323
the secretary of state a complete statement of all charges made 59324

against the member and the governor's finding on the charges, 59325
together with a complete report of the proceedings, and the 59326
governor's decision on the charges is final. 59327

(G) The commission shall maintain offices at locations in the 59328
state as it may consider necessary for the efficient performance 59329
of its functions. The director shall maintain an office in 59330
Columbus to coordinate the activities of the state lottery 59331
commission with other state departments. 59332

Sec. 3770.02. (A) Subject to the advice and consent of the 59333
senate, the governor shall appoint a director of the state lottery 59334
commission who shall serve at the pleasure of the governor. The 59335
director shall devote full time to the duties of the office and 59336
shall hold no other office or employment. The director shall meet 59337
all requirements for appointment as a member of the commission and 59338
shall, by experience and training, possess management skills that 59339
equip the director to administer an enterprise of the nature of a 59340
state lottery. The director shall receive an annual salary in 59341
accordance with pay range 48 of section 124.152 of the Revised 59342
Code. 59343

(B)(1) The director shall attend all meetings of the 59344
commission and shall act as its secretary. The director shall keep 59345
a record of all commission proceedings and shall keep the 59346
commission's records, files, and documents at the commission's 59347
principal office. All records of the commission's meetings shall 59348
be available for inspection by any member of the public, upon a 59349
showing of good cause and prior notification to the director. 59350

(2) The director shall be the commission's executive officer 59351
and shall be responsible for keeping all commission records and 59352
supervising and administering the state lottery in accordance with 59353
this chapter, and carrying out all commission rules adopted under 59354
section 3770.03 of the Revised Code. 59355

(C)(1) The director shall appoint an assistant director, 59356
deputy directors of marketing, operations, sales, finance, public 59357
relations, security, and administration, and as many regional 59358
managers as are required. The director may also appoint necessary 59359
professional, technical, and clerical assistants. All such 59360
officers and employees shall be appointed and compensated pursuant 59361
to Chapter 124. of the Revised Code. Regional and assistant 59362
regional managers, sales representatives, and any lottery 59363
executive account representatives shall remain in the unclassified 59364
service. 59365

(2) The director, in consultation with the director of 59366
administrative services, may establish standards of proficiency 59367
and productivity for commission field representatives. 59368

(D) The director shall request the bureau of criminal 59369
identification and investigation, the department of public safety, 59370
or any other state, local, or federal agency to supply the 59371
director with the criminal records of any job applicant and may 59372
periodically request the criminal records of commission employees. 59373
At or prior to the time of making such a request, the director 59374
shall require a job applicant or commission employee to obtain 59375
fingerprint cards prescribed by the superintendent of the bureau 59376
of criminal identification and investigation at a qualified law 59377
enforcement agency, and the director shall cause these fingerprint 59378
cards to be forwarded to the bureau of criminal identification and 59379
investigation and the federal bureau of investigation. The 59380
commission shall assume the cost of obtaining the fingerprint 59381
cards and shall pay to each agency supplying criminal records for 59382
each investigation under this division a reasonable fee, as 59383
determined by the agency. 59384

(E) The director shall license lottery sales agents pursuant 59385
to section 3770.05 of the Revised Code and, when it is considered 59386
necessary, may revoke or suspend the license of any lottery sales 59387

agent. The director may license video lottery technology 59388
providers, independent testing laboratories, and gaming employees, 59389
and promulgate rules relating thereto. When the director considers 59390
it necessary, the director may suspend or revoke the license of a 59391
video lottery technology provider, independent testing laboratory, 59392
or gaming employee, including suspension or revocation without 59393
affording an opportunity for a prior hearing under section 119.07 59394
of the Revised Code when the public safety, convenience, or trust 59395
requires immediate action. 59396

(F) The director shall confer at least once each month with 59397
the commission, at which time the director shall advise it 59398
regarding the operation and administration of the lottery. The 59399
director shall make available at the request of the commission all 59400
documents, files, and other records pertaining to the operation 59401
and administration of the lottery. The director shall prepare and 59402
make available to the commission each month a complete and 59403
accurate accounting of lottery revenues, prize money disbursements 59404
and the cost of goods and services awarded as prizes, operating 59405
expenses, and all other relevant financial information, including 59406
an accounting of all transfers made from any lottery funds in the 59407
custody of the treasurer of state to benefit education. 59408

(G) The director may enter into contracts for the operation 59409
or promotion of the lottery pursuant to Chapter 125. of the 59410
Revised Code. 59411

(H)(1) Pursuant to rules adopted by the commission under 59412
section 3770.03 of the Revised Code, the director shall require 59413
any lottery sales agents to ~~either mail directly to the commission~~ 59414
~~or~~ deposit to the credit of the state lottery fund, in banking 59415
institutions designated by the treasurer of state, net proceeds 59416
due the commission as determined by the director, ~~and to file with~~ 59417
~~the director or the director's designee reports of their receipts~~ 59418
~~and transactions in the sale of lottery tickets in the form~~ 59419

~~required by the director.~~ 59420

(2) Pursuant to rules adopted by the commission under Chapter 59421
119. of the Revised Code, the director may impose penalties for 59422
the failure of a sales agent to transfer funds to the commission 59423
in a timely manner. Penalties may include monetary penalties, 59424
immediate suspension or revocation of a license, or any other 59425
penalty the commission adopts by rule. 59426

(I) The director may arrange for any person, or any banking 59427
institution, to perform functions and services in connection with 59428
the operation of the lottery as the director may consider 59429
necessary to carry out this chapter. 59430

(J)(1) As used in this chapter, "statewide joint lottery 59431
game" means a lottery game that the commission sells solely within 59432
this state under an agreement with other lottery jurisdictions to 59433
sell the same lottery game solely within their statewide or other 59434
jurisdictional boundaries. 59435

(2) If the governor directs the director to do so, the 59436
director shall enter into an agreement with other lottery 59437
jurisdictions to conduct statewide joint lottery games. If the 59438
governor signs the agreement personally or by means of an 59439
authenticating officer pursuant to section 107.15 of the Revised 59440
Code, the director then may conduct statewide joint lottery games 59441
under the agreement. 59442

(3) The entire net proceeds from any statewide joint lottery 59443
games shall be used to fund elementary, secondary, vocational, and 59444
special education programs in this state. 59445

(4) The commission shall conduct any statewide joint lottery 59446
games in accordance with rules it adopts under division (B)(5) of 59447
section 3770.03 of the Revised Code. 59448

(K)(1) The director shall enter into an agreement with the 59449
department of ~~alcohol and drug addiction services~~ mental health 59450

and addiction services under which the department shall provide a 59451
program of gambling addiction services on behalf of the 59452
commission. The commission shall pay the costs of the program 59453
provided pursuant to the agreement. 59454

(2) As used in this section, "gambling addiction services" 59455
has the same meaning as in section ~~3793.01~~ 5119.01 of the Revised 59456
Code. 59457

Sec. 3770.06. (A) There is hereby created the state lottery 59458
gross revenue fund, which shall be in the custody of the treasurer 59459
of state but shall not be part of the state treasury. All gross 59460
revenues received from sales of lottery tickets, fines, fees, and 59461
related proceeds in connection with the statewide lottery and all 59462
gross proceeds from statewide joint lottery games shall be 59463
deposited into the fund. The treasurer of state shall invest any 59464
portion of the fund not needed for immediate use in the same 59465
manner as, and subject to all provisions of law with respect to 59466
the investment of, state funds. The treasurer of state shall 59467
disburse money from the fund on order of the director of the state 59468
lottery commission or the director's designee. 59469

Except for gross proceeds from statewide joint lottery games, 59470
all revenues of the state lottery gross revenue fund that are not 59471
paid to holders of winning lottery tickets, that are not required 59472
to meet short-term prize liabilities, that are not credited to 59473
lottery sales agents in the form of bonuses, commissions, or 59474
reimbursements, that are not paid to financial institutions to 59475
reimburse those institutions for sales agent nonsufficient funds, 59476
and that are collected from sales agents for remittance to 59477
insurers under contract to provide sales agent bonding services 59478
shall be transferred to the state lottery fund, which is hereby 59479
created in the state treasury. In addition, all revenues of the 59480
state lottery gross revenue fund that represent the gross proceeds 59481

from the statewide joint lottery games and that are not paid to 59482
holders of winning lottery tickets, that are not required to meet 59483
short-term prize liabilities, that are not credited to lottery 59484
sales agents in the form of bonuses, commissions, or 59485
reimbursements, and that are not necessary to cover operating 59486
expenses associated with those games or to otherwise comply with 59487
the agreements signed by the governor that the director enters 59488
into under division (J) of section 3770.02 of the Revised Code or 59489
the rules the commission adopts under division (B)(5) of section 59490
3770.03 of the Revised Code shall be transferred to the state 59491
lottery fund. All investment earnings of the fund shall be 59492
credited to the fund. Moneys shall be disbursed from the fund 59493
pursuant to vouchers approved by the director. Total disbursements 59494
for monetary prize awards to holders of winning lottery tickets in 59495
connection with the statewide lottery and purchases of goods and 59496
services awarded as prizes to holders of winning lottery tickets 59497
shall be of an amount equal to at least fifty per cent of the 59498
total revenue accruing from the sale of lottery tickets. 59499

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 59500
there is hereby established in the state treasury the lottery 59501
profits education fund. Whenever, in the judgment of the director 59502
of the state lottery commission, the amount to the credit of the 59503
state lottery fund that does not represent proceeds from statewide 59504
joint lottery games is in excess of that needed to meet the 59505
maturing obligations of the commission and as working capital for 59506
its further operations, the director of the state lottery 59507
commission shall recommend the amount of the excess to be 59508
transferred to the lottery profits education fund, and the 59509
director of budget and management may transfer the excess to the 59510
lottery profits education fund in connection with the statewide 59511
lottery. In addition, whenever, in the judgment of the director of 59512
the state lottery commission, the amount to the credit of the 59513
state lottery fund that represents proceeds from statewide joint 59514

lottery games equals the entire net proceeds of those games as 59515
described in division (B)(5) of section 3770.03 of the Revised 59516
Code and the rules adopted under that division, the director of 59517
the state lottery commission shall recommend the amount of the 59518
proceeds to be transferred to the lottery profits education fund, 59519
and the director of budget and management may transfer those 59520
proceeds to the lottery profits education fund. Investment 59521
earnings of the lottery profits education fund shall be credited 59522
to the fund. 59523

The lottery profits education fund shall be used solely for 59524
the support of elementary, secondary, vocational, and special 59525
education programs as determined in appropriations made by the 59526
general assembly, or as provided in applicable bond proceedings 59527
for the payment of debt service on obligations issued to pay costs 59528
of capital facilities, including those for a system of common 59529
schools throughout the state pursuant to section 2n of Article 59530
VIII, Ohio Constitution. When determining the availability of 59531
money in the lottery profits education fund, the director of 59532
budget and management may consider all balances and estimated 59533
revenues of the fund. 59534

(C) There is hereby established in the state treasury the 59535
deferred prizes trust fund. With the approval of the director of 59536
budget and management, an amount sufficient to fund annuity prizes 59537
shall be transferred from the state lottery fund and credited to 59538
the trust fund. The treasurer of state shall credit all earnings 59539
arising from investments purchased under this division to the 59540
trust fund. Within sixty days after the end of each fiscal year, 59541
the treasurer of state shall certify to the director of budget and 59542
management whether the actuarial amount of the trust fund is 59543
sufficient over the fund's life for continued funding of all 59544
remaining deferred prize liabilities as of the last day of the 59545
fiscal year just ended. Also, within that sixty days, the director 59546

of budget and management shall certify the amount of investment 59547
earnings necessary to have been credited to the trust fund during 59548
the fiscal year just ending to provide for such continued funding 59549
of deferred prizes. Any earnings credited in excess of the latter 59550
certified amount shall be transferred to the lottery profits 59551
education fund. 59552

To provide all or a part of the amounts necessary to fund 59553
deferred prizes awarded by the commission in connection with the 59554
statewide lottery, the treasurer of state, in consultation with 59555
the commission, may invest moneys contained in the deferred prizes 59556
trust fund which represents proceeds from the statewide lottery in 59557
obligations of the type permitted for the investment of state 59558
funds but whose maturities are thirty years or less. 59559
Notwithstanding the requirements of any other section of the 59560
Revised Code, to provide all or part of the amounts necessary to 59561
fund deferred prizes awarded by the commission in connection with 59562
statewide joint lottery games, the treasurer of state, in 59563
consultation with the commission, may invest moneys in the trust 59564
fund which represent proceeds derived from the statewide joint 59565
lottery games in accordance with the rules the commission adopts 59566
under division (B)(5) of section 3770.03 of the Revised Code. 59567
Investments of the trust fund are not subject to the provisions of 59568
division (A)(10) of section 135.143 of the Revised Code limiting 59569
to twenty-five per cent the amount of the state's total average 59570
portfolio that may be invested in debt interests and limiting to 59571
one-half of one per cent the amount that may be invested in debt 59572
interests of a single issuer. 59573

All purchases made under this division shall be effected on a 59574
delivery versus payment method and shall be in the custody of the 59575
treasurer of state. 59576

The treasurer of state may retain an investment advisor, if 59577
necessary. The commission shall pay any costs incurred by the 59578

treasurer of state in retaining an investment advisor. 59579

(D) The auditor of state shall conduct annual audits of all 59580
funds and any other audits as the auditor of state or the general 59581
assembly considers necessary. The auditor of state may examine all 59582
records, files, and other documents of the commission, and records 59583
of lottery sales agents that pertain to their activities as 59584
agents, for purposes of conducting authorized audits. 59585

(E) The state lottery commission shall establish an internal 59586
audit ~~program~~ plan before the beginning of each fiscal year, 59587
subject to the approval of the ~~auditor office~~ of ~~state internal~~ 59588
audit in the office of budget and management. At the end of each 59589
fiscal year, the commission shall prepare and submit an annual 59590
report to the ~~auditor office~~ of ~~state internal audit~~ for the 59591
~~auditor of state's office's~~ review and approval, specifying the 59592
internal audit work completed by the end of that fiscal year and 59593
reporting on compliance with the annual internal audit ~~program~~. 59594
~~The form and content of the report shall be prescribed by the~~ 59595
~~auditor of state under division (C) of section 117.20 of the~~ 59596
~~Revised Code~~ plan. 59597

~~(E)~~(F) Whenever, in the judgment of the director of budget 59598
and management, an amount of net state lottery proceeds is 59599
necessary to be applied to the payment of debt service on 59600
obligations, all as defined in sections 151.01 and 151.03 of the 59601
Revised Code, the director shall transfer that amount directly 59602
from the state lottery fund or from the lottery profits education 59603
fund to the bond service fund defined in those sections. The 59604
provisions of this division are subject to any prior pledges or 59605
obligation of those amounts to the payment of bond service charges 59606
as defined in division (C) of section 3318.21 of the Revised Code, 59607
as referred to in division (B) of this section. 59608

Sec. 3772.03. (A) To ensure the integrity of casino gaming, 59609

the commission shall have authority to complete the functions of 59610
licensing, regulating, investigating, and penalizing casino 59611
operators, management companies, holding companies, key employees, 59612
casino gaming employees, and gaming-related vendors. The 59613
commission also shall have jurisdiction over all persons 59614
participating in casino gaming authorized by Section 6(C) of 59615
Article XV, Ohio Constitution, and this chapter. 59616

(B) All rules adopted by the commission under this chapter 59617
shall be adopted under procedures established in Chapter 119. of 59618
the Revised Code. The commission may contract for the services of 59619
experts and consultants to assist the commission in carrying out 59620
its duties under this section. 59621

(C) Within six months of September 10, 2010, the commission 59622
shall adopt initial rules as are necessary for completing the 59623
functions stated in division (A) of this section and for 59624
addressing the subjects enumerated in division (D) of this 59625
section. 59626

(D) The commission shall adopt, and as advisable and 59627
necessary shall amend or repeal, rules that include all of the 59628
following: 59629

(1) The prevention of practices detrimental to the public 59630
interest; 59631

(2) Prescribing the method of applying, and the form of 59632
application, that an applicant for a license under this chapter 59633
must follow as otherwise described in this chapter; 59634

(3) Prescribing the information to be furnished by an 59635
applicant or licensee as described in section 3772.11 of the 59636
Revised Code; 59637

(4) Describing the certification standards and duties of an 59638
independent testing laboratory certified under section 3772.31 of 59639
the Revised Code and the relationship between the commission, the 59640

laboratory, the gaming-related vendor, and the casino operator; 59641

(5) The minimum amount of insurance that must be maintained 59642
by a casino operator, management company, holding company, or 59643
gaming-related vendor; 59644

(6) The approval process for ~~a significant~~ any change in 59645
~~ownership~~ or transfer of control of a ~~licensee~~ casino operator as 59646
provided in section 3772.091 of the Revised Code; 59647

(7) The design of gaming supplies, devices, and equipment to 59648
be distributed by gaming-related vendors; 59649

(8) Identifying the casino gaming that is permitted, 59650
identifying the gaming supplies, devices, and equipment, that are 59651
permitted, defining the area in which the permitted casino gaming 59652
may be conducted, and specifying the method of operation according 59653
to which the permitted casino gaming is to be conducted as 59654
provided in section 3772.20 of the Revised Code, and requiring 59655
gaming devices and equipment to meet the standards of this state; 59656

(9) Tournament play in any casino facility; 59657

(10) Establishing and implementing a voluntary exclusion 59658
program that provides all of the following: 59659

(a) Except as provided by commission rule, a person who 59660
participates in the program shall agree to refrain from entering a 59661
casino facility. 59662

(b) The name of a person participating in the program shall 59663
be included on a list of persons excluded from all casino 59664
facilities. 59665

(c) Except as provided by commission rule, no person who 59666
participates in the program shall petition the commission for 59667
admittance into a casino facility. 59668

(d) The list of persons participating in the program and the 59669
personal information of those persons shall be confidential and 59670

shall only be disseminated by the commission to a casino operator 59671
and the agents and employees of the casino operator for purposes 59672
of enforcement and to other entities, upon request of the 59673
participant and agreement by the commission. 59674

(e) A casino operator shall make all reasonable attempts as 59675
determined by the commission to cease all direct marketing efforts 59676
to a person participating in the program. 59677

(f) A casino operator shall not cash the check of a person 59678
participating in the program or extend credit to the person in any 59679
manner. However, the program shall not exclude a casino operator 59680
from seeking the payment of a debt accrued by a person before 59681
participating in the program. 59682

(g) Any and all locations at which a person may register as a 59683
participant in the program shall be published. 59684

(11) Requiring the commission to adopt standards regarding 59685
the marketing materials of a licensed casino operator, including 59686
allowing the commission to prohibit marketing materials that are 59687
contrary to the adopted standards; 59688

(12) Requiring that the records, including financial 59689
statements, of any casino operator, management company, holding 59690
company, and gaming-related vendor be maintained in the manner 59691
prescribed by the commission and made available for inspection 59692
upon demand by the commission, but shall be subject to section 59693
3772.16 of the Revised Code; 59694

(13) Permitting a licensed casino operator, management 59695
company, key employee, or casino gaming employee to question a 59696
person suspected of violating this chapter; 59697

(14) The chips, tokens, tickets, electronic cards, or similar 59698
objects that may be purchased by means of an agreement under which 59699
credit is extended to a wagerer by a casino operator; 59700

(15) Establishing standards for provisional key employee licenses for a person who is required to be licensed as a key employee and is in exigent circumstances and standards for provisional licenses for casino gaming employees who submit complete applications and are compliant under an instant background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed one time, at the commission's discretion, for an additional three months. In establishing standards with regard to instant background checks the commission shall take notice of criminal records checks as they are conducted under section 311.41 of the Revised Code using electronic fingerprint reading devices.

(16) Establishing approval procedures for third-party engineering or accounting firms, as described in section 3772.09 of the Revised Code;

(17) Prescribing the manner in which winnings, compensation from casino gaming, and gross revenue must be computed and reported by a licensee as described in Chapter 5753. of the Revised Code;

(18) Prescribing conditions under which a licensee's license may be suspended or revoked as described in section 3772.04 of the Revised Code;

(19) Prescribing the manner and procedure of all hearings to be conducted by the commission or by any hearing examiner;

(20) Prescribing technical standards and requirements that are to be met by security and surveillance equipment that is used at and standards and requirements to be met by personnel who are employed at casino facilities, and standards and requirements for the provision of security at and surveillance of casino facilities;

(21) Prescribing requirements for a casino operator to

provide unarmed security services at a casino facility by licensed 59732
casino employees, and the training that shall be completed by 59733
these employees; 59734

(22) Prescribing standards according to which casino 59735
operators shall keep accounts and standards according to which 59736
casino accounts shall be audited, and establish means of assisting 59737
the tax commissioner in levying and collecting the gross casino 59738
revenue tax levied under section 5753.02 of the Revised Code; 59739

(23) Defining penalties for violation of commission rules and 59740
a process for imposing such penalties subject to the review of the 59741
joint committee on gaming and wagering; 59742

(24) Establishing standards for decertifying contractors that 59743
violate statutes or rules of this state or the federal government; 59744

(25) Establishing standards for the repair of casino gaming 59745
equipment; 59746

(26) Establishing procedures to ensure that casino operators, 59747
management companies, and holding companies are compliant with the 59748
compulsive and problem gambling plan submitted under section 59749
3772.18 of the Revised Code; 59750

(27) Prescribing, for institutional investors in or holding 59751
companies of a casino operator, management company, holding 59752
company, or gaming-related vendor that fall below the threshold 59753
needed to be considered an institutional investor or a holding 59754
company, standards regarding what any employees, members, or 59755
owners of those investors or holding companies may do and shall 59756
not do in relation to casino facilities and casino gaming in this 59757
state, which standards shall rationally relate to the need to 59758
proscribe conduct that is inconsistent with passive institutional 59759
investment status; 59760

(28) Providing for any other thing necessary and proper for 59761
successful and efficient regulation of casino gaming under this 59762

chapter. 59763

(E) The commission shall employ and assign gaming agents as 59764
necessary to assist the commission in carrying out the duties of 59765
this chapter. In order to maintain employment as a gaming agent, 59766
the gaming agent shall successfully complete all continuing 59767
training programs required by the commission and shall not have 59768
been convicted of or pleaded guilty or no contest to a 59769
disqualifying offense as defined in section 3772.07 of the Revised 59770
Code. 59771

(F) The commission, as a law enforcement agency, and its 59772
gaming agents, as law enforcement officers as defined in section 59773
2901.01 of the Revised Code, shall have authority with regard to 59774
the detection and investigation of, the seizure of evidence 59775
allegedly relating to, and the apprehension and arrest of persons 59776
allegedly committing gaming offenses, and shall have access to 59777
casino facilities to carry out the requirements of this chapter. 59778

(G) The commission may eject or exclude or authorize the 59779
ejection or exclusion of and a gaming agent may eject a person 59780
from a casino facility for any of the following reasons: 59781

(1) The person's name is on the list of persons voluntarily 59782
excluding themselves from all casinos in a program established 59783
according to rules adopted by the commission; 59784

(2) The person violates or conspires to violate this chapter 59785
or a rule adopted thereunder; or 59786

(3) The commission determines that the person's conduct or 59787
reputation is such that the person's presence within a casino 59788
facility may call into question the honesty and integrity of the 59789
casino gaming operations or interfere with the orderly conduct of 59790
the casino gaming operations. 59791

(H) A person, other than a person participating in a 59792
voluntary exclusion program, may petition the commission for a 59793

public hearing on the person's ejection or exclusion under this 59794
chapter. 59795

(I) A casino operator or management company shall have the 59796
same authority to eject or exclude a person from the management 59797
company's casino facilities as authorized in division (G) of this 59798
section. The licensee shall immediately notify the commission of 59799
an ejection or exclusion. 59800

(J) The commission shall submit a written annual report with 59801
the governor, president and minority leader of the senate, speaker 59802
and minority leader of the house of representatives, and joint 59803
committee on gaming and wagering before the first day of September 59804
each year. The annual report shall include a statement describing 59805
the receipts and disbursements of the commission, relevant 59806
financial data regarding casino gaming, including gross revenues 59807
and disbursements made under this chapter, actions taken by the 59808
commission, an update on casino operators', management companies', 59809
and holding companies' compulsive and problem gambling plans and 59810
the voluntary exclusion program and list, and any additional 59811
information that the commission considers useful or that the 59812
governor, president or minority leader of the senate, speaker or 59813
minority leader of the house of representatives, or joint 59814
committee on gaming and wagering requests. 59815

(K) Notwithstanding any law to the contrary, beginning on 59816
July 1, 2011, the commission shall assume jurisdiction over and 59817
oversee the regulation of skill-based amusement machines as is 59818
provided in the law of this state. 59819

Sec. 3772.062. (A) The executive director of the commission 59820
shall enter into an agreement with the department of ~~alcohol and~~ 59821
~~drug addiction services~~ mental health and addiction services under 59822
which the department provides a program of gambling and addiction 59823
services on behalf of the commission. 59824

(B) The executive director of the commission, in conjunction with the department of ~~alcohol and drug addiction services~~ mental health and addiction services and the state lottery commission, shall establish, operate, and publicize an in-state, toll-free telephone number Ohio residents may call to obtain basic information about problem gambling, the gambling addiction services available to problem gamblers, and how a problem gambler may obtain help. The telephone number shall be staffed twenty-four hours per day, seven days a week, to respond to inquiries and provide that information. The costs of establishing, operating, and publicizing the telephone number shall be paid for with money in the problem casino gambling and addictions fund.

Sec. 3772.091. (A) ~~No~~ A casino operator license issued under this chapter is transferable, subject to approval by the commission. ~~Except as provided in division (B) of this section, new majority ownership interest or~~ Any change or transfer of control of a licensee casino operator shall require a ~~new license~~ commission approval. ~~The commission may reopen a licensing investigation at any time. A significant~~ Any change in or transfer of control of a casino operator, as determined by the commission, shall require the filing of an application for a ~~new~~ transferring the casino operator license and submission of a ~~license~~ an application fee with the commission before any such change or transfer of control ~~is~~ may be approved. ~~A change in or transfer of control to an immediate family member is not considered a significant change under this section~~ Additionally, the commission may assess an applicant a reasonable fee in the amount necessary to review the application for the transfer of a casino operator license to the applicant. In determining whether to approve the transfer of a casino operator license to the applicant, the commission shall consider all the factors established in this chapter that pertain to the granting of a casino operator license.

~~The commission may reopen a licensing investigation at any time.~~ 59857

~~(B) An initial license shall not be considered transferred, and a new license shall not be required, when an initial licensee that is licensed before June 1, 2013, does or has done both of the following:~~ 59858
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~~(1) Obtains a majority ownership interest in, or a change in or transfer of control of, another initial licensee for the same casino facility; and~~ 59862
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~~(2) Was investigated under this chapter as a parent, affiliate, subsidiary, key employee, or partner, or joint venturer with another initial licensee that has held for the same casino facility a majority ownership interest in or control of the initial license when the initial license was issued and when such an initial licensee obtains a majority ownership interest in or a change in or transfer of control.~~ 59865
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~~(C) As used in this section:~~ 59872

~~(1) "Control", "control" means either of the following:~~ 59873

~~(a)(1) Either:~~ 59874

~~(i)(a) Holding fifty per cent or more of the outstanding voting securities of a licensee; or~~ 59875
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~~(ii)(b) For an unincorporated licensee, having the right to fifty per cent or more of the profits of the licensee, or having the right in the event of dissolution to fifty per cent or more of the assets of the licensee.~~ 59877
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~~(b)(2) Having the contractual power presently to designate fifty per cent or more of the directors of a for-profit or not-for-profit corporation, or in the case of trusts described in paragraphs (c)(3) to (5) of 16 C.F.R. 801.1, the trustees of such a trust.~~ 59881
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~~(2) "Initial license" means the first plenary license issued to an initial licensee.~~ 59886
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~~(3) "Initial licensee" means any of the persons issued an initial license to conduct or participate in conducting casino gaming at each casino facility as either a casino operator, a management company, or a holding company of a casino operator or management company.~~ 59888
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Sec. 3781.112. (A) As used in this section, "secured facility" means any of the following: 59893
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(1) A maternity unit, newborn care nursery, or maternity home licensed under Chapter 3711. of the Revised Code; 59895
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(2) A pediatric intensive care unit subject to rules adopted by the director of health pursuant to section 3702.11 of the Revised Code; 59897
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(3) A children's hospital, as defined in section 3727.01 of the Revised Code; 59900
59901

(4) A hospital that is licensed under section ~~5119.20~~ 5119.33 of the Revised Code to receive mentally ill persons; 59902
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(5) The portion of a nursing home licensed under section 3721.02 of the Revised Code or in accordance with section 3721.09 of the Revised Code in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public. 59904
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(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under division (A) of section 3781.10 of the Revised Code and in accordance with the state fire code the fire marshal adopts under section 3737.82 of the Revised Code, to deny egress to confine and 59911
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protect patients or residents of the secured facility who are not 59916
capable of self-preservation. A secured facility that wishes to 59917
deny egress to those patients or residents may use delayed-egress 59918
doors and electronically coded doors to deny egress, on the 59919
condition that those doors are installed and used in accordance 59920
with rules the board of building standards adopts under division 59921
(A) of section 3781.10 of the Revised Code and in accordance with 59922
the state fire code the fire marshal adopts under section 3737.82 59923
of the Revised Code. A secured facility also may install 59924
controlled-egress locks, in compliance with rules the board of 59925
building standards adopts under division (A) of section 3781.10 of 59926
the Revised Code and in compliance with the state fire code the 59927
fire marshal adopts under section 3737.82 of the Revised Code, in 59928
areas of the secured facility where patients or residents who have 59929
physical or mental conditions that would endanger the patients or 59930
residents, the staff attending the patients or residents, or the 59931
general public if those patients or residents are not restricted 59932
in their freedom of movement. A secured facility that uses 59933
delayed-egress doors and electronically coded doors, 59934
controlled-egress locks, or both, shall do both of the following: 59935

(1) Provide continuous, twenty-four-hour custodial care to 59936
the patients or residents of the facility; 59937

(2) Establish a system to evacuate patients or residents in 59938
the event of fire or other emergency. 59939

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 59940
3795.03 of the Revised Code: 59941

(A) "Assist suicide" or "assisting suicide" means knowingly 59942
doing either of the following, with the purpose of helping another 59943
person to commit or attempt suicide: 59944

(1) Providing the physical means by which the person commits 59945
or attempts to commit suicide; 59946

(2) Participating in a physical act by which the person commits or attempts to commit suicide.	59947 59948
(B) "Certified nurse practitioner," "certified nurse-midwife," and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code.	59949 59950 59951
(C) "CPR" has the same meaning as in section 2133.21 of the Revised Code.	59952 59953
(D) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat a person's physical or mental condition.	59954 59955 59956
(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.	59957 59958 59959
(F) "Health care facility" means any of the following:	59960
(1) A hospital;	59961
(2) A hospice care program or pediatric respite care program as defined in section 3712.01 of the Revised Code;	59962 59963
(3) A nursing home;	59964
(4) A home health agency;	59965
(5) An intermediate care facility for the mentally retarded <u>individuals with intellectual disabilities</u> .	59966 59967
(G) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	59968 59969 59970 59971 59972 59973
(H) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery	59974 59975

or osteopathic medicine and surgery. 59976

Sec. 3798.01. As used in this chapter: 59977

(A) "Administrative safeguards," "physical safeguards," and 59978
"technical safeguards" have the same meanings as in 45 C.F.R. 59979
164.304. 59980

(B) "Approved health information exchange" means a health 59981
information exchange that has been approved or reapproved by the 59982
director of job and family services pursuant to the approval or 59983
reapproval process, as applicable, the director establishes in 59984
rules adopted under division (A) of section 3798.15 of the Revised 59985
Code or that has been certified by the office of the national 59986
coordinator for health information technology in the United States 59987
department of health and human services. 59988

(C) "Covered entity," "disclosure," "health care provider," 59989
"health information," "individually identifiable health 59990
information," "protected health information," and "use" have the 59991
same meanings as in 45 C.F.R. 160.103. 59992

(D) "Designated record set" has the same meaning as in 45 59993
C.F.R. 164.501. 59994

(E) "Direct exchange" means the activity of electronic 59995
transmission of health information through a direct connection 59996
between the electronic record systems of health care providers 59997
without the use of a health information exchange. 59998

(F) "Health care component" and "hybrid entity" have the same 59999
meanings as in 45 C.F.R. 164.103. 60000

(G) "Health information exchange" means any person or 60001
governmental entity that provides in this state a technical 60002
infrastructure to connect computer systems or other electronic 60003
devices used by covered entities to facilitate the secure 60004
transmission of health information. "Health information exchange" 60005

excludes health care providers engaged in direct exchange, 60006
including direct exchange through the use of a health information 60007
service provider. 60008

(H) "HIPAA privacy rule" means the standards for privacy of 60009
individually identifiable health information in 45 C.F.R. part 160 60010
and in 45 C.F.R. part 164, subparts A and E. 60011

(I) "Interoperability" means the capacity of two or more 60012
information systems to exchange information in an accurate, 60013
effective, secure, and consistent manner. 60014

(J) "Minor" means an unemancipated person under eighteen 60015
years of age or a mentally or physically disabled person under 60016
twenty-one years of age who meets criteria specified in rules 60017
adopted by the director of job and family services under section 60018
3798.13 of the Revised Code. 60019

(K) "More stringent" has the same meaning as in 45 C.F.R. 60020
160.202. 60021

(L) "Office of health transformation" means the office of 60022
health transformation created by executive order 2011-02K or a 60023
successor governmental entity responsible for health system 60024
oversight in this state. 60025

(M) "Personal representative" means a person who has 60026
authority under applicable law to make decisions related to health 60027
care on behalf of an adult or emancipated minor, or the parent, 60028
legal guardian, or other person acting in loco parentis who is 60029
authorized under law to make health care decisions on behalf of an 60030
unemancipated minor. "Personal representative" does not include 60031
the parent or legal guardian of, or another person acting in loco 60032
parentis to, a minor who consents to the minor's own receipt of 60033
health care or a minor who makes medical decisions on the minor's 60034
own behalf pursuant to law, court approval, or because the minor's 60035
parent, legal guardian, or other person acting in loco parentis 60036

has assented to an agreement of confidentiality between the provider and the minor.

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

(O) "State agency" means any one or more of the following:

(1) The department of aging;

(2) The department of ~~alcohol and drug addiction services~~ mental health and addiction services;

(3) The department of developmental disabilities;

(4) The department of education;

(5) The department of health;

(6) The department of insurance;

(7) The department of job and family services;

(8) The department of ~~mental health~~ medicaid;

(9) The department of rehabilitation and correction;

(10) The department of youth services;

(11) The bureau of workers' compensation;

(12) The ~~rehabilitation services commission~~ opportunities for Ohioans with disabilities agency;

(13) The office of the attorney general;

(14) A health care licensing board created under Title XLVII of the Revised Code that possesses individually identifiable health information.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under 60064
Chapters 3935. and 3937. of the Revised Code; 60065

(B) An employer's self-insurance plan and any of its 60066
administrators, as defined in section 3959.01 of the Revised Code, 60067
to the extent that federal law supersedes, preempts, prohibits, or 60068
otherwise precludes the application of any provisions of those 60069
sections to the plan and its administrators; 60070

(C) A third-party payer for coverage provided under the 60071
medicare advantage program operated under Title XVIII of the 60072
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 60073
amended; 60074

(D) A third-party payer for coverage provided under the 60075
medicaid program ~~operated under Title XIX of the "Social Security~~ 60076
~~Act,"~~ except that if a federal waiver applied for under section 60077
~~5111.178~~ 5167.25 of the Revised Code is granted or the medicaid 60078
~~director of job and family services~~ determines that this provision 60079
can be implemented without a waiver, sections 3901.38 and 3901.381 60080
to 3901.3813 of the Revised Code apply to claims submitted 60081
electronically or non-electronically that are made with respect to 60082
coverage of medicaid recipients by health insuring corporations 60083
licensed under Chapter 1751. of the Revised Code, instead of the 60084
prompt payment requirements of 42 C.F.R. 447.46; 60085

(E) A third-party payer for coverage provided under the 60086
tricare program offered by the United States department of 60087
defense. 60088

Sec. 3905.40. There shall be paid to the superintendent of 60089
insurance the following fees: 60090

(A) Each insurance company doing business in this state shall 60091
pay: 60092

(1) For filing a copy of its charter or deed of settlement, 60093

two hundred fifty dollars;	60094
(2) For filing each statement, one hundred seventy-five dollars;	60095 60096
(3) For each certificate of authority or license, one hundred seventy-five, and for each certified copy thereof, five dollars;	60097 60098
(4) For each copy of a paper filed in the superintendent's office, twenty cents per page;	60099 60100
(5) For issuing certificates of deposits or certified copies thereof, five dollars for the first certificate or copy and one dollar for each additional certificate or copy;	60101 60102 60103
(6) For issuing certificates of compliance or certified copies thereof, sixty dollars;	60104 60105
(7) For affixing the seal of office and certifying documents, other than those enumerated herein, two dollars;	60106 60107
(8) For each agent appointment and each annual renewal of an agent appointment, <u>not more than</u> twenty dollars;	60108 60109
(9) For each termination of an agent appointment, five dollars.	60110 60111
(B) Each domestic life insurance company doing business in this state shall pay for annual valuation of its policies, one cent on every one thousand dollars of insurance.	60112 60113 60114
(C) Each applicant for licensure as an insurance agent except applicants for licensure as surety bail bond agents, surplus line brokers, and portable electronics insurance vendors shall pay ten dollars for each line of authority requested. Fees collected under this division shall be credited to the department of insurance operating fund created in section 3901.021 of the Revised Code.	60115 60116 60117 60118 60119 60120
(D) Each domestic mutual life insurance company shall pay for verifying that any amendment to its articles of incorporation was regularly adopted, two hundred fifty dollars with each application	60121 60122 60123

for verification. Any such amendment shall be considered to have 60124
been regularly adopted when approved by the affirmative vote of 60125
two-thirds of the policyholders present in person or by proxy at 60126
any annual meeting of policyholders or at a special meeting of 60127
policyholders called for that purpose. 60128

(E) Each insurance agent doing business in this state shall 60129
pay a biennial license renewal fee of twenty-five dollars, except 60130
the following insurance agents are not required to pay that 60131
license renewal fee: 60132

(1) Individual resident agents who have met their continuing 60133
education requirements under section 3905.481 of the Revised Code; 60134

(2) Surety bail bond agents; 60135

(3) Surplus line brokers; 60136

(4) Portable electronics insurance vendors. 60137

(F) Each applicant for licensure as a portable electronics 60138
insurance vendor with a portable electronics insurance limited 60139
lines license and each licensed vendor doing business in this 60140
state shall pay the following fees prescribed by the 60141
superintendent: 60142

(1) For vendors engaged in portable electronic transactions 60143
at more than ten locations in this state, an application fee not 60144
to exceed five thousand dollars for an initial license and a 60145
biennial license renewal fee not to exceed two thousand five 60146
hundred dollars for each renewal thereafter; 60147

(2) For vendors engaged in portable electronic transactions 60148
at ten or fewer locations in this state, an application fee not to 60149
exceed three thousand dollars for an initial license and a 60150
biennial license renewal fee not to exceed one thousand dollars 60151
for each renewal thereafter. 60152

(G) All fees collected by the superintendent under this 60153

section except any fees collected under divisions (A)(2), (3), and 60154
(6) of this section shall be credited to the department of 60155
insurance operating fund created under section 3901.021 of the 60156
Revised Code. 60157

Sec. 3905.862. Upon the expiration or cancellation of a 60158
surety bail bond agent's appointment, the agent shall not engage 60159
or attempt to engage in any activity requiring such an 60160
appointment. However, an insurer that cancels the appointment of a 60161
surety bail bond agent may authorize the agent to continue to 60162
attempt the arrest and surrender of a defendant for whom a bail 60163
bond had been written prior to the cancellation and to seek 60164
discharge of forfeitures and judgments. 60165

~~An insurer that cancels the appointment of a surety bail bond 60166
agent or allows that appointment to expire shall pay to the 60167
superintendent of insurance a fee pursuant to division (A)(9) of 60168
section 3905.40 of the Revised Code. 60169~~

Sec. 3923.281. (A) As used in this section: 60170

(1) "Biologically based mental illness" means schizophrenia, 60171
schizoaffective disorder, major depressive disorder, bipolar 60172
disorder, paranoia and other psychotic disorders, 60173
obsessive-compulsive disorder, and panic disorder, as these terms 60174
are defined in the most recent edition of the diagnostic and 60175
statistical manual of mental disorders published by the American 60176
psychiatric association. 60177

(2) "Policy of sickness and accident insurance" has the same 60178
meaning as in section 3923.01 of the Revised Code, but excludes 60179
any hospital indemnity, medicare supplement, long-term care, 60180
disability income, one-time-limited-duration policy of not longer 60181
than six months, supplemental benefit, or other policy that 60182
provides coverage for specific diseases or accidents only; any 60183

policy that provides coverage for workers' compensation claims 60184
compensable pursuant to Chapters 4121. and 4123. of the Revised 60185
Code; and any policy that provides coverage to ~~beneficiaries~~ 60186
~~enrolled in Title XIX of the "Social Security Act," 49 Stat. 620~~ 60187
~~(1935), 42 U.S.C.A. 301, as amended, known as the medical~~ 60188
~~assistance program or medicaid, as provided by the Ohio department~~ 60189
~~of job and family services under Chapter 5111. of the Revised Code~~ 60190
recipients. 60191

(B) Notwithstanding section 3901.71 of the Revised Code, and 60192
subject to division (E) of this section, every policy of sickness 60193
and accident insurance shall provide benefits for the diagnosis 60194
and treatment of biologically based mental illnesses on the same 60195
terms and conditions as, and shall provide benefits no less 60196
extensive than, those provided under the policy of sickness and 60197
accident insurance for the treatment and diagnosis of all other 60198
physical diseases and disorders, if both of the following apply: 60199

(1) The biologically based mental illness is clinically 60200
diagnosed by a physician authorized under Chapter 4731. of the 60201
Revised Code to practice medicine and surgery or osteopathic 60202
medicine and surgery; a psychologist licensed under Chapter 4732. 60203
of the Revised Code; a professional clinical counselor, 60204
professional counselor, or independent social worker licensed 60205
under Chapter 4757. of the Revised Code; or a clinical nurse 60206
specialist licensed under Chapter 4723. of the Revised Code whose 60207
nursing specialty is mental health. 60208

(2) The prescribed treatment is not experimental or 60209
investigational, having proven its clinical effectiveness in 60210
accordance with generally accepted medical standards. 60211

(C) Division (B) of this section applies to all coverages and 60212
terms and conditions of the policy of sickness and accident 60213
insurance, including, but not limited to, coverage of inpatient 60214
hospital services, outpatient services, and medication; maximum 60215

lifetime benefits; copayments; and individual and family 60216
deductibles. 60217

(D) Nothing in this section shall be construed as prohibiting 60218
a sickness and accident insurance company from taking any of the 60219
following actions: 60220

(1) Negotiating separately with mental health care providers 60221
with regard to reimbursement rates and the delivery of health care 60222
services; 60223

(2) Offering policies that provide benefits solely for the 60224
diagnosis and treatment of biologically based mental illnesses; 60225

(3) Managing the provision of benefits for the diagnosis or 60226
treatment of biologically based mental illnesses through the use 60227
of pre-admission screening, by requiring beneficiaries to obtain 60228
authorization prior to treatment, or through the use of any other 60229
mechanism designed to limit coverage to that treatment determined 60230
to be necessary; 60231

(4) Enforcing the terms and conditions of a policy of 60232
sickness and accident insurance. 60233

(E) An insurer that offers any policy of sickness and 60234
accident insurance is not required to provide benefits for the 60235
diagnosis and treatment of biologically based mental illnesses 60236
pursuant to division (B) of this section if all of the following 60237
apply: 60238

(1) The insurer submits documentation certified by an 60239
independent member of the American academy of actuaries to the 60240
superintendent of insurance showing that incurred claims for 60241
diagnostic and treatment services for biologically based mental 60242
illnesses for a period of at least six months independently caused 60243
the insurer's costs for claims and administrative expenses for the 60244
coverage of all other physical diseases and disorders to increase 60245
by more than one per cent per year. 60246

(2) The insurer submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

(3) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section:

(a) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year.

(b) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

Sec. 3923.443. (A)(1) No agent shall sell, solicit, or negotiate long-term care insurance on or after September 1, 2008, without completing an initial eight-hour partnership program training course as described in division (B) of this section.

(2)(a) Any agent that sells, solicits, or negotiates any long-term care insurance shall complete at least four hours of continuing education in every twenty-four-month period commencing on the first day of January of the year immediately following the

year of the issuance of the agent's license. 60277

(b) No agent shall fail to complete the continuing education requirements in division (A)(2)(a) of this section in the twenty-four-month period described in that division. 60278
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(B) The initial training course and continuing education required under division (A) of this section may be approved by the superintendent of insurance as continuing education courses under sections 3905.481 to 3905.486 of the Revised Code and shall consist of combined topics related to long-term care insurance, long-term care services, and state long-term care insurance partnership programs, including all of the following: 60281
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(1) State and federal regulations and requirements and the relationship between state long-term care insurance partnership programs and other public and private coverage of long-term care services, including medicaid; 60288
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(2) Available long-term care services and providers; 60292

(3) Changes or improvements in long-term care services or providers; 60293
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(4) Alternatives to the purchase of private long-term care insurance; 60295
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(5) The effect of inflation on benefits and the importance of inflation protection; 60297
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(6) Consumer suitability standards and guidelines; 60299

(7) Any other topics required by the superintendent. 60300

(C) The initial training and continuing education required by division (A) of this section shall not include training that is specific to a particular insurer or company product or that includes any sales or marketing information, materials, or training other than those required by state or federal law. 60301
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(D) A resident agent shall satisfy the training and 60306

continuing education required by division (A) of this section by 60307
completing long-term care courses that are approved by the 60308
superintendent. A nonresident agent may satisfy the training and 60309
continuing education required by division (A) of this section by 60310
completing the training requirements in any other state, provided 60311
that the course is approved for credit by the insurance department 60312
of that state prior to the agent taking the course. 60313

(E) Each insurer shall obtain records of the initial training 60314
and continuing education completed by agents of that insurer 60315
pursuant to division (A) of this section as well as the training 60316
completed by the insurer's agents concerning the distribution of 60317
the insurer's partnership program policies and shall make those 60318
records available to the superintendent upon request. 60319

(F) Each insurer shall maintain records with respect to the 60320
training of its agents concerning the distribution of the 60321
insurer's partnership program policies. Each insurer shall provide 60322
documentation to the superintendent that will allow the 60323
superintendent to provide assurance to the medicaid director ~~of~~ 60324
~~job and family services~~ that agents have received the training 60325
required by this section and that agents have demonstrated an 60326
understanding of the partnership program policies and their 60327
relationship to public and private coverage of long-term care in 60328
this state, including medicaid. The superintendent may audit each 60329
insurer's records annually to verify that the insurer is 60330
maintaining the records required by this division. The 60331
superintendent shall make the records provided to the 60332
superintendent pursuant to division (E) of this section available 60333
to the director. 60334

Sec. 3923.49. The department of insurance shall establish an 60335
outreach program to educate consumers about the following: 60336

(A) The need for long-term care insurance; 60337

(B) Mechanisms for financing long-term care; 60338

(C) The availability of long-term care insurance; 60339

(D) The resource protection provided by the Ohio long-term care insurance program under section ~~5111.18~~ 5164.86 of the Revised Code; 60340
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(E) That a consumer who purchased a long-term care insurance policy that does not meet the requirements of section 3923.50 of the Revised Code may purchase a policy that meets those requirements. 60343
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The department shall develop and make available to consumers information to assist them in choosing long-term care insurance coverage. 60347
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Sec. 3923.50. For the purposes of the Ohio long-term care insurance program established under section ~~5111.18~~ 5164.86 of the Revised Code, the department of insurance shall notify the department of ~~job and family services~~ medicaid of all long-term care insurance policies that meet all of the following requirements: 60350
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(A) Comply with sections 3923.41 to 3923.48 of the Revised Code and the rules adopted under section 3923.47 of the Revised Code; 60356
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(B) Provide benefits for home and community-based services in addition to nursing home care; 60359
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(C) Include case management services in its coverage of home and community-based services; 60361
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(D) Provide five per cent inflation protection compounded annually; 60363
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(E) Provide for the keeping of records and explanation-of-benefit reports on insurance payments that count 60365
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toward resource exclusion for the ~~medical assistance~~ medicaid program; 60367
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(F) Provide the information the medicaid director ~~of job and family services~~ determines is necessary to document the extent of resource exclusion and to evaluate the Ohio long-term care insurance program; 60369
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(G) Comply with other requirements established in rules adopted under this section. 60373
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The superintendent of insurance shall adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements under division (G) of this section that policies must meet to qualify under the Ohio long-term care insurance program. The superintendent shall consult with the departments of aging and ~~job and family services~~ medicaid in adopting those rules. 60375
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Sec. 3923.601. (A)(1) This section applies to both of the following: 60381
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(a) A sickness and accident insurer that issues or requires the use of a standardized identification card or an electronic technology for submission and routing of prescription drug claims pursuant to a policy, contract, or agreement for health care services; 60383
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(b) A person that a sickness and accident insurer contracts with to issue a standardized identification card or an electronic technology described in division (A)(1)(a) of this section. 60388
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(2) Notwithstanding division (A)(1) of this section, this section does not apply to the issuance or required use of a standardized identification card or an electronic technology for the submission and routing of prescription drug claims in connection with any of the following: 60391
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(a) Any individual or group policy of sickness and accident 60396

insurance covering only accident, credit, dental, disability 60397
income, long-term care, hospital indemnity, medicare supplement, 60398
medicare, tricare, specified disease, or vision care; coverage 60399
under a one-time-limited-duration policy of not longer than six 60400
months; coverage issued as a supplement to liability insurance; 60401
insurance arising out of workers' compensation or similar law; 60402
automobile medical payment insurance; or insurance under which 60403
benefits are payable with or without regard to fault and which is 60404
statutorily required to be contained in any liability insurance 60405
policy or equivalent self-insurance. 60406

(b) Coverage provided under the medicaid, ~~as defined in~~ 60407
~~section 5111.01 of the Revised Code~~ program. 60408

(c) Coverage provided under an employer's self-insurance plan 60409
or by any of its administrators, as defined in section 3959.01 of 60410
the Revised Code, to the extent that federal law supersedes, 60411
preempts, prohibits, or otherwise precludes the application of 60412
this section to the plan and its administrators. 60413

(B) A standardized identification card or an electronic 60414
technology issued or required to be used as provided in division 60415
(A)(1) of this section shall contain uniform prescription drug 60416
information in accordance with either division (B)(1) or (2) of 60417
this section. 60418

(1) The standardized identification card or the electronic 60419
technology shall be in a format and contain information fields 60420
approved by the national council for prescription drug programs or 60421
a successor organization, as specified in the council's or 60422
successor organization's pharmacy identification card 60423
implementation guide in effect on the first day of October most 60424
immediately preceding the issuance or required use of the 60425
standardized identification card or the electronic technology. 60426

(2) If the insurer or person under contract with the insurer 60427

to issue a standardized identification card or an electronic 60428
technology requires the information for the submission and routing 60429
of a claim, the standardized identification card or the electronic 60430
technology shall contain any of the following information: 60431

(a) The insurer's name; 60432

(b) The insured's name, group number, and identification 60433
number; 60434

(c) A telephone number to inquire about pharmacy-related 60435
issues; 60436

(d) The issuer's international identification number, labeled 60437
as "ANSI BIN" or "RxBIN"; 60438

(e) The processor's control number, labeled as "RxPCN"; 60439

(f) The insured's pharmacy benefits group number if different 60440
from the insured's medical group number, labeled as "RxGrp." 60441

(C) If the standardized identification card or the electronic 60442
technology issued or required to be used as provided in division 60443
(A)(1) of this section is also used for submission and routing of 60444
nonpharmacy claims, the designation "Rx" is required to be 60445
included as part of the labels identified in divisions (B)(2)(d) 60446
and (e) of this section if the issuer's international 60447
identification number or the processor's control number is 60448
different for medical and pharmacy claims. 60449

(D) Each sickness and accident insurer described in division 60450
(A) of this section shall annually file a certificate with the 60451
superintendent of insurance certifying that it or any person it 60452
contracts with to issue a standardized identification card or 60453
electronic technology for submission and routing of prescription 60454
drug claims complies with this section. 60455

(E)(1) Except as provided in division (E)(2) of this section, 60456
if there is a change in the information contained in the 60457

standardized identification card or the electronic technology 60458
issued to an insured, the insurer or person under contract with 60459
the insurer to issue a standardized identification card or an 60460
electronic technology shall issue a new card or electronic 60461
technology to the insured. 60462

(2) An insurer or person under contract with the insurer is 60463
not required under division (E)(1) of this section to issue a new 60464
card or electronic technology to an insured more than once during 60465
a twelve-month period. 60466

(F) Nothing in this section shall be construed as requiring 60467
an insurer to produce more than one standardized identification 60468
card or one electronic technology for use by insureds accessing 60469
health care benefits provided under a policy of sickness and 60470
accident insurance. 60471

Sec. 3923.83. (A)(1) This section applies to both of the 60472
following: 60473

(a) A public employee benefit plan that issues or requires 60474
the use of a standardized identification card or an electronic 60475
technology for submission and routing of prescription drug claims 60476
pursuant to a policy, contract, or agreement for health care 60477
services; 60478

(b) A person or entity that a public employee benefit plan 60479
contracts with to issue a standardized identification card or an 60480
electronic technology described in division (A)(1)(a) of this 60481
section. 60482

(2) Notwithstanding division (A)(1) of this section, this 60483
section does not apply to the issuance or required use of a 60484
standardized identification card or an electronic technology for 60485
the submission and routing of prescription drug claims in 60486
connection with either of the following: 60487

(a) Any individual or group policy of insurance covering only 60488
accident, credit, dental, disability income, long-term care, 60489
hospital indemnity, medicare supplement, medicare, tricare, 60490
specified disease, or vision care; coverage under a 60491
one-time-limited-duration policy of not longer than six months; 60492
coverage issued as a supplement to liability insurance; insurance 60493
arising out of workers' compensation or similar law; automobile 60494
medical payment insurance; or insurance under which benefits are 60495
payable with or without regard to fault and which is statutorily 60496
required to be contained in any liability insurance policy or 60497
equivalent self-insurance. 60498

(b) Coverage provided under the medicaid, ~~as defined in~~ 60499
~~section 5111.01 of the Revised Code~~ program. 60500

(B) A standardized identification card or an electronic 60501
technology issued or required to be used as provided in division 60502
(A)(1) of this section shall contain uniform prescription drug 60503
information in accordance with either division (B)(1) or (2) of 60504
this section. 60505

(1) The standardized identification card or the electronic 60506
technology shall be in a format and contain information fields 60507
approved by the national council for prescription drug programs or 60508
a successor organization, as specified in the council's or 60509
successor organization's pharmacy identification card 60510
implementation guide in effect on the first day of October most 60511
immediately preceding the issuance or required use of the 60512
standardized identification card or the electronic technology. 60513

(2) If the public employee benefit plan or person under 60514
contract with the plan to issue a standardized identification card 60515
or an electronic technology requires the information for the 60516
submission and routing of a claim, the standardized identification 60517
card or the electronic technology shall contain any of the 60518
following information: 60519

(a) The plan's name;	60520
(b) The insured's name, group number, and identification number;	60521 60522
(c) A telephone number to inquire about pharmacy-related issues;	60523 60524
(d) The issuer's international identification number, labeled as "ANSI BIN" or "RxBIN";	60525 60526
(e) The processor's control number, labeled as "RxPCN";	60527
(f) The insured's pharmacy benefits group number if different from the insured's medical group number, labeled as "RxGrp."	60528 60529
(C) If the standardized identification card or the electronic technology issued or required to be used as provided in division (A)(1) of this section is also used for submission and routing of nonpharmacy claims, the designation "Rx" is required to be included as part of the labels identified in divisions (B)(2)(d) and (e) of this section if the issuer's international identification number or the processor's control number is different for medical and pharmacy claims.	60530 60531 60532 60533 60534 60535 60536 60537
(D)(1) Except as provided in division (D)(2) of this section, if there is a change in the information contained in the standardized identification card or the electronic technology issued to an insured, the public employee benefit plan or person under contract with the plan to issue a standardized identification card or electronic technology shall issue a new card or electronic technology to the insured.	60538 60539 60540 60541 60542 60543 60544
(2) A public employee benefit plan or person under contract with the plan is not required under division (D)(1) of this section to issue a new card or electronic technology to an insured more than once during a twelve-month period.	60545 60546 60547 60548
(F) (E) Nothing in this section shall be construed as	60549

requiring a public employee benefit plan to produce more than one 60550
standardized identification card or one electronic technology for 60551
use by insureds accessing health care benefits provided under a 60552
health benefit plan. 60553

Sec. 3924.42. No health insurer shall impose requirements on 60554
the department of ~~job and family services~~ medicaid, when it has 60555
been assigned the rights of an individual who is eligible for 60556
~~medical assistance under Chapter 5111. of the Revised Code~~ 60557
medicaid and who is covered under a health care policy, contract, 60558
or plan issued by the health insurer, that are different from the 60559
requirements applicable to an agent or assignee of any other 60560
individual so covered. 60561

Sec. 3951.01. As used in sections 3951.01 to 3951.09, 60562
inclusive, of the Revised Code: 60563

(A) "Lending institution" means a lending institution, as 60564
defined in division (L) of section 175.01 of the Revised Code, 60565
that is not organized for the purpose of qualifying to do business 60566
as a public insurance adjuster in this state, as determined by the 60567
superintendent, and that has been engaged in business as a bona 60568
fide lending institution for at least five years, and any member 60569
of an affiliated group, ~~as defined by division (B)(3)(c) of in~~ 60570
section 5739.01 of the Revised Code, associated with a lending 60571
institution, which member has been a member of the affiliated 60572
group for at least five years and which member is not organized or 60573
affiliated with the lending institution for the purpose of 60574
qualifying to do business as a public insurance adjuster in this 60575
state, as determined by the superintendent. 60576

(B) "Public insurance adjuster" means any person, firm, 60577
association, partnership, or corporation who, for compensation, 60578
acts on behalf of or aids in any manner, an insurer or insured or 60579

another in negotiating for, or effecting the settlement of a claim 60580
or claims for loss or damage under any policy of insurance 60581
covering real or personal property, and any person, firm, 60582
association, partnership, or corporation who advertises, solicits 60583
business, or holds itself out to the public as an adjuster of such 60584
insurance claims, and any person who for compensation 60585
investigates, settles, adjusts, advises, or assists an insurer or 60586
insured with reference to claims for such losses, on behalf of any 60587
such public insurance adjuster. 60588

(C) "Public insurance adjuster agent" means any person who is 60589
a bona fide employee of a public insurance adjuster and who aids 60590
in the adjustment, investigation, and in securing of any contract 60591
for the adjustment of a loss. 60592

(D) "Superintendent" means the superintendent of insurance 60593
acting as director of the department of insurance. 60594

(E) Nothing contained in Chapter 3951. of the Revised Code 60595
shall apply to the following: 60596

(1) An attorney at law admitted to practice in this state who 60597
adjusts insurance losses in the course of the practice of the 60598
attorney's profession and who does not hold the attorney out by 60599
sign, advertisement, or otherwise as offering such services to the 60600
general public; 60601

(2) An officer, agent, or regular salaried employee of an 60602
insurer, or underwriter, or any attorney in fact of any reciprocal 60603
insurer of Lloyd's underwriter licensed to do business in this 60604
state who adjusts losses arising under the employer's or 60605
principal's own policies; or an underwriter by whom a policy of 60606
insurance against loss or damage or other causes has been written 60607
upon property within this state, in adjusting loss or damage under 60608
such policy, nor to an agent or broker acting as adjuster for the 60609
agent's or broker's own company; 60610

(3) An adjustment bureau or association owned and maintained 60611
by insurers to adjust or investigate losses of such insurers, or 60612
any regularly salaried employee thereof who devotes substantially 60613
all of the employee's time to the business of such bureau or 60614
association; 60615

(4) Any licensed agent or employee or officer of such agent 60616
or agency of an authorized insurer who adjusts losses for such 60617
insurer solely under policies issued through such agency; 60618

(5) Any independent adjuster representing an insurer. 60619

Sec. 3963.04. (A)(1) If an amendment to a health care 60620
contract is not a material amendment, the contracting entity shall 60621
provide the participating provider notice of the amendment at 60622
least fifteen days prior to the effective date of the amendment. 60623
The contracting entity shall provide all other notices to the 60624
participating provider pursuant to the health care contract. 60625

(2) A material amendment to a health care contract shall 60626
occur only if the contracting entity provides to the participating 60627
provider the material amendment in writing and notice of the 60628
material amendment not later than ninety days prior to the 60629
effective date of the material amendment. The notice shall be 60630
conspicuously entitled "Notice of Material Amendment to Contract." 60631

(3) If within fifteen days after receiving the material 60632
amendment and notice described in division (A)(2) of this section, 60633
the participating provider objects in writing to the material 60634
amendment, and there is no resolution of the objection, either 60635
party may terminate the health care contract upon written notice 60636
of termination provided to the other party not later than sixty 60637
days prior to the effective date of the material amendment. 60638

(4) If the participating provider does not object to the 60639
material amendment in the manner described in division (A)(3) of 60640

this section, the material amendment shall be effective as 60641
specified in the notice described in division (A)(2) of this 60642
section. 60643

(B)(1) Division (A) of this section does not apply if the 60644
delay caused by compliance with that division could result in 60645
imminent harm to an enrollee, if the material amendment of a 60646
health care contract is required by state or federal law, rule, or 60647
regulation, or if the provider affirmatively accepts the material 60648
amendment in writing and agrees to an earlier effective date than 60649
otherwise required by division (A)(2) of this section. 60650

(2) This section does not apply under any of the following 60651
circumstances: 60652

(a) The participating provider's payment or compensation is 60653
based on the current medicaid or medicare physician fee schedule, 60654
and the change in payment or compensation results solely from a 60655
change in that physician fee schedule. 60656

(b) A routine change or update of the health care contract is 60657
made in response to any addition, deletion, or revision of any 60658
service code, procedure code, or reporting code, or a pricing 60659
change is made by any third party source. 60660

For purposes of division (B)(2)(b) of this section: 60661

(i) "Service code, procedure code, or reporting code" means 60662
the current procedural terminology (CPT), current dental 60663
terminology (CDT), the healthcare common procedure coding system 60664
(HCPCS), the international classification of diseases (ICD), or 60665
the drug topics redbook average wholesale price (AWP). 60666

(ii) "Third party source" means the American medical 60667
association, American dental association, the centers for medicare 60668
and medicaid services, the national center for health statistics, 60669
the department of health and human services office of the 60670
inspector general, the Ohio department of insurance, or the Ohio 60671

department of ~~job and family services~~ medicaid. 60672

(C) Notwithstanding divisions (A) and (B) of this section, a 60673
health care contract may be amended by operation of law as 60674
required by any applicable state or federal law, rule, or 60675
regulation. Nothing in this section shall be construed to require 60676
the renegotiation of a health care contract that is in existence 60677
before ~~the effective date of this section~~ June 25, 2008, until the 60678
time that the contract is renewed or materially amended. 60679

Sec. 4104.33. There is hereby created the historical boilers 60680
licensing board consisting of seven members, three of whom shall 60681
be appointed by the governor with the advice and consent of the 60682
senate. The governor shall make initial appointments to the board 60683
within ninety days after October 24, 2002. Of the initial members 60684
appointed by the governor, one shall be for a term ending three 60685
years after October 24, 2002, one shall be for a term ending four 60686
years after October 24, 2002, and one shall be for a term ending 60687
five years after October 24, 2002. Thereafter, terms of office 60688
shall be for five years, each term ending on the same day of the 60689
same month of the year as did the term that it succeeds. Of the 60690
three members the governor appoints, one member shall be an 60691
employee of the division of boiler inspection in the department of 60692
commerce; one member shall be an independent mechanical engineer 60693
who is not involved in selling or inspecting historical boilers; 60694
and one shall be an active member of an association that 60695
represents managers of fairs or festivals. 60696

Two members of the board shall be appointed by the president 60697
of the senate and two members of the board shall be appointed by 60698
the speaker of the house of representatives. The president and 60699
speaker shall make initial appointments to the board within ninety 60700
days after October 24, 2002. Of the initial members appointed by 60701
the president, one shall be for a term ending four years after 60702

October 24, 2002 and one shall be for a term ending five years 60703
after October 24, 2002. Of the initial members appointed by the 60704
speaker, one shall be for a term ending three years after October 60705
24, 2002 and one shall be for a term ending five years after 60706
October 24, 2002. Thereafter, terms of office shall be for five 60707
years, each term ending on the same day of the same month of the 60708
year as did the term that it succeeds. Of the four members 60709
appointed by the president and speaker, each shall own a 60710
historical boiler and also have at least ten years of experience 60711
in the operation of historical boilers, and each of these four 60712
members shall reside in a different region of the state. 60713

Each member shall hold office from the date of the member's 60714
appointment until the end of the term for which the member was 60715
appointed. Members may be reappointed. Vacancies shall be filled 60716
in the manner provided for initial appointments by the director of 60717
commerce, and shall not require the advice and consent of the 60718
senate. Any member appointed to fill a vacancy occurring prior to 60719
the expiration date of the term for which the member's predecessor 60720
was appointed shall hold office as a member for the remainder of 60721
that term. A member shall continue in office subsequent to the 60722
expiration date of the member's term until the successor takes 60723
office or until a period of sixty days has elapsed, whichever 60724
occurs first. 60725

The members of the board, annually, shall elect, by majority 60726
vote, a chairperson from among their members. The board shall meet 60727
at least once annually and at other times at the call of the 60728
chairperson. Board members shall receive their actual and 60729
necessary expenses incurred in the discharge of their duties as 60730
board members. 60731

The superintendent of industrial compliance shall furnish 60732
office space, staff, and supplies to the board as the 60733
superintendent determines are necessary for the board to carry out 60734

its official duties under sections 4104.33 to 4104.37 of the Revised Code.

Sec. 4112.12. (A) There is hereby created the commission on African-American males, which shall consist of not more than twenty-five members as follows: the directors or their designees of the departments of health, development, ~~alcohol and drug addiction services~~ mental health and addiction services, and job and family services; the equal employment opportunity officer of the department of administrative services or the equal employment opportunity officer's designee; the executive director or the executive director's designee of the Ohio civil rights commission; the executive director or the executive director's designee of the division of criminal justice services in the department of public safety; the superintendent of public instruction; the chancellor or the chancellor's designee of the Ohio board of regents; two members of the house of representatives appointed by the speaker of the house of representatives each of whom shall be members of different political parties; and two members of the senate appointed by the president of the senate each of whom shall be members of different political parties. The members who are members of the general assembly shall be nonvoting members. The Ohio state university African American and African studies community extension center, in consultation with the governor, shall appoint four members from the private corporate sector, at least four members from the public sector, and two members from the nonprofit sector.

(B) Terms of office shall be for three years, except that members of the general assembly appointed to the commission shall be members only so long as they are members of the general assembly. Each term ends on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member

was appointed. Members may be reappointed. Vacancies shall be 60767
filled in the manner provided for original appointments. Any 60768
member appointed to fill a vacancy occurring prior to the 60769
expiration date of the term for which the member's predecessor was 60770
appointed shall hold office as a member for the remainder of that 60771
term. A member shall continue in office subsequent to the 60772
expiration date of the member's term until the member's successor 60773
takes office or until a period of sixty days has elapsed, 60774
whichever occurs first. 60775

The commission annually shall elect a chairperson from among 60776
its members. 60777

(C) Members of the commission and members of subcommittees 60778
appointed under division (B) of section 4112.13 of the Revised 60779
Code shall not be compensated, but shall be reimbursed for their 60780
necessary and actual expenses incurred in the performance of their 60781
official duties. 60782

(D) The Ohio state university African American and African 60783
studies community extension center, in consultation with the 60784
governor, shall appoint an executive director of the commission on 60785
African-American males, who shall be in the unclassified civil 60786
service. The executive director shall supervise the commission's 60787
activities and report to the commission and to the Ohio state 60788
university African American and African studies community 60789
extension center on the progress of those activities. The 60790
executive director shall do all things necessary for the efficient 60791
and effective implementation of the duties of the commission. 60792

The responsibilities assigned to the executive director do 60793
not relieve the members of the commission from final 60794
responsibility for the proper performance of the requirements of 60795
this division. 60796

(E) The commission on African-American males shall do all of 60797

the following: 60798

(1) Employ, promote, supervise, and remove all employees, as 60799
needed, in connection with the performance of its duties under 60800
this section; 60801

(2) Maintain its office in Columbus; 60802

(3) Acquire facilities, equipment, and supplies necessary to 60803
house the commission, its employees, and files and records under 60804
its control, and to discharge any duty imposed upon it by law. The 60805
expense of these acquisitions shall be audited and paid for in the 60806
same manner as other state expenses. 60807

(4) Establish the overall policy and management of the 60808
commission in accordance with this chapter; 60809

(5) Follow all state procurement requirements; 60810

(6) Implement the policies and plans of the Ohio state 60811
university African American and African studies community 60812
extension center as those policies and plans are formulated and 60813
adopted by the Ohio state university African American and African 60814
studies community extension center; 60815

(7) Report to the Ohio state university African American and 60816
African studies community extension center on the progress of the 60817
commission on African-American males in implementing the policies 60818
and plans of the Ohio state university African American and 60819
African studies community extension center. 60820

(F) The commission on African-American males may: 60821

(1) Hold sessions at any place within the state, except that 60822
the commission on African-American males shall meet at least 60823
quarterly; 60824

(2) Establish, change, or abolish positions, and assign and 60825
reassign duties and responsibilities of any employee of the 60826
commission on African-American males as necessary to achieve the 60827

most efficient performance of its functions. 60828

(G) The Ohio state university African American and African 60829
studies community extension center shall establish the overall 60830
policy and management of the commission on African-American males 60831
and shall direct, manage, and oversee the commission. The Ohio 60832
state university African American and African studies community 60833
extension center shall develop overall policies and plans, and the 60834
commission on African-American males shall implement those 60835
policies and plans. The commission on African-American males, 60836
through its executive director, shall keep the Ohio state 60837
university African American and African studies community 60838
extension center informed as to the activities of the commission 60839
on African-American males in such manner and at such times as the 60840
Ohio state university African American and African studies 60841
community extension center shall determine. 60842

The Ohio state university African American and African 60843
studies community extension center may prescribe duties and 60844
responsibilities of the commission on African-American males in 60845
addition to those prescribed in section 4112.13 of the Revised 60846
Code. 60847

(H) The Ohio state university African American and African 60848
studies community extension center annually shall contract for a 60849
report on the status of African Americans in this state. Issues to 60850
be evaluated in the report shall include the criminal justice 60851
system, education, employment, health care, and housing, and such 60852
other issues as the Ohio state university African American and 60853
African studies community extension center may specify. The report 60854
shall include policy recommendations relating to the issues 60855
covered in the report. 60856

Sec. 4112.31. The new African immigrants commission shall do 60857
all of the following: 60858

- (A) Gather and disseminate information and conduct hearings, conferences, investigations, and special studies on problems and programs concerning sub-Saharan African people; 60859
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- (B) Secure appropriate recognition of the accomplishments and contributions of sub-Saharan African people to this state; 60862
60863
- (C) Stimulate public awareness of the problems of sub-Saharan African people by conducting a program of public education; 60864
60865
- (D) Develop, coordinate, and assist other public and private organizations that serve sub-Saharan African people, including the conducting of training programs for community leadership and service project staff; 60866
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- (E) Advise the governor, general assembly, and state departments and agencies of the nature, magnitude, and priorities of the problems of sub-Saharan African people; 60870
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- (F) Advise the governor, general assembly, and state departments and agencies on, and assist in the development and implementation of, comprehensive and coordinated policies, programs, and procedures focusing on the special problems and needs of sub-Saharan African people, especially in the fields of education, employment, energy, health, housing, welfare, and recreation; 60873
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- (G) Propose new programs concerning sub-Saharan African people to public and private agencies and evaluate for such agencies existing programs or prospective legislation concerning sub-Saharan African people; 60880
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- (H) Review and approve grants to be made from federal, state, or private funds that are administered or subcontracted by the commission; 60884
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60886
- (I) Prepare, review, and approve an annual report; 60887
- (J) Serve as a clearinghouse to review and comment on all 60888

proposals to meet the needs of sub-Saharan African people that are 60889
submitted to it by public and private agencies; 60890

(K) Apply for and accept grants and gifts from governmental 60891
and private sources to be administered by the commission or 60892
subcontracted to local agencies; 60893

(L) Monitor and evaluate all programs subcontracted to local 60894
agencies by the commission; 60895

(M) Endeavor to assure that sub-Saharan African people have 60896
access to decision-making bodies in all state and local 60897
governmental departments and agencies; 60898

(N) Establish advisory committees on special subjects as 60899
needed to facilitate and maximize community participation in the 60900
operation of the commission; 60901

(O) Establish with state and local governments and private 60902
business and industry relationships that promote and assure equal 60903
opportunity for sub-Saharan African people in government, 60904
education, and employment. 60905

(P) Create an interagency council consisting of the following 60906
persons or their authorized representatives: one member of the 60907
senate appointed by the president of the senate; one member of the 60908
house of representatives appointed by the speaker of the house of 60909
representatives; the directors of administrative services, 60910
agriculture, education, development services, health, highway 60911
safety, job and family services, liquor control, ~~mental health~~ 60912
mental health and addiction services, ~~mental retardation~~ and 60913
developmental disabilities, natural resources, rehabilitation and 60914
correction, youth services, transportation, environmental 60915
protection, and budget and management; the chairperson of the Ohio 60916
civil rights commission, the ~~administrators~~ administrator of the 60917
bureau of workers' compensation ~~and~~, the ~~rehabilitation services~~ 60918
~~commission~~ executive director of the opportunities for Ohioans 60919

with disabilities agency, and an additional member of the 60920
governor's cabinet appointed by the governor. The new African 60921
immigrants commission, by rule, may designate other state officers 60922
or their representatives to be members of the council. The 60923
director of the commission shall be the chairperson of the 60924
council. 60925

The interagency council shall provide and coordinate the 60926
exchange of information relative to the needs of sub-Saharan 60927
African people and promote the delivery of state services to such 60928
people. The council shall meet at the call of the chairperson. 60929

Advisory committees shall be composed of persons representing 60930
community organizations and charitable institutions, public 60931
officials, and such other persons as the commission determines. 60932

Sec. 4115.034. On January 1, 1996, and the first day of 60933
January of every even-numbered year thereafter, the director of 60934
commerce shall adjust the threshold levels for which public 60935
improvement projects are subject to sections 4115.03 to 4115.16 of 60936
the Revised Code as set forth in divisions (B)(3) and (4) of 60937
section 4115.03 of the Revised Code. The director shall adjust 60938
those amounts according to the average increase or decrease for 60939
each of the two years immediately preceding the adjustment as set 60940
forth in ~~the United States department of commerce, bureau of the~~ 60941
~~census implicit price deflator for the~~ construction cost index 60942
published by the engineering news-record or, should that index 60943
cease to be published, a similar recognized industry index chosen 60944
by the director, provided that no increase or decrease for any 60945
year shall exceed three per cent of the threshold level in 60946
existence at the time of the adjustment. 60947

Sec. 4115.32. (A) Subject to section 4115.36 of the Revised 60948
Code, there is hereby created the state committee for the purchase 60949

of products and services provided by persons with severe 60950
disabilities. The committee shall be composed ex officio of the 60951
following persons, or their designees: 60952

(1) The directors of administrative services, ~~mental health~~ 60953
mental health and addiction services, developmental disabilities, 60954
transportation, natural resources, and commerce; 60955

(2) The ~~administrators~~ executive director of the 60956
~~rehabilitation services commission~~ opportunities for Ohioans with 60957
disabilities agency and the administrator of the bureau of 60958
workers' compensation; 60959

(3) The secretary of state; 60960

(4) One representative of a purchasing department of a 60961
political subdivision who is designated by the governor. 60962

The governor shall appoint two representatives of a qualified 60963
nonprofit agency for persons with severe disabilities, and a 60964
person with a severe disability to the committee. 60965

(B) Within thirty days after September 29, 1995, the governor 60966
shall appoint the representatives of a qualified nonprofit agency 60967
for persons with severe disabilities to the committee for a term 60968
ending August 31, 1996. Thereafter, terms for such representatives 60969
are for three years, each term ending on the same day of the same 60970
month of the year as did the term that it succeeds. Each committee 60971
member shall serve from the date of the member's appointment until 60972
the end of the term for which the member was appointed. Vacancies 60973
shall be filled in the same manner provided for original 60974
appointments. Any member appointed to fill a vacancy occurring 60975
prior to the expiration date of the term for which the member's 60976
predecessor was appointed shall serve as a member for the 60977
remainder of that term. A member shall serve subsequent to the 60978
expiration of the member's term and shall continue to serve until 60979
the member's successor takes office. 60980

(C) Members of the committee shall serve without compensation. Except as otherwise provided in divisions (C)(1) and (2) of this section, members shall be reimbursed for actual and necessary expenses, including travel expenses, incurred while away from their homes or regular places of business and incurred while performing services for the committee.

(1) The members listed in divisions (A)(1) to (3) of this section, or their designees, shall not be reimbursed for any expenses.

(2) No member of the committee who is entitled to receive reimbursement for the performance of services for the committee from another agency or entity shall receive reimbursement from the committee.

(D) The committee shall elect from among its members a chairperson. The committee may request from any agency of the state, political subdivision, or instrumentality of the state any information necessary to enable it to carry out the intent of sections 4115.31 to 4115.35 of the Revised Code. Upon request of the committee, the agency, subdivision, or instrumentality shall furnish the information to the chairperson of the committee.

(E) The committee shall not later than one hundred eighty days following the close of each fiscal year transmit to the governor, the general assembly, and each qualified nonprofit agency for persons with severe disabilities a report that includes the names of the committee members serving during the preceding fiscal year, the dates of committee meetings in that year, and any recommendations for changes in sections 4115.31 to 4115.35 of the Revised Code that the committee determines are necessary.

(F) The director of administrative services shall designate a subordinate to act as executive director of the committee and shall furnish other staff and clerical assistance, office space,

and supplies required by the committee. 61012

Sec. 4117.06. (A) The state employment relations board shall 61013
decide in each case the unit appropriate for the purposes of 61014
collective bargaining. The determination is final and conclusive 61015
and not appealable to the court. 61016

(B) The board shall determine the appropriateness of each 61017
bargaining unit and shall consider among other relevant factors: 61018
the desires of the employees; the community of interest; wages, 61019
hours, and other working conditions of the public employees; the 61020
effect of over-fragmentation; the efficiency of operations of the 61021
public employer; the administrative structure of the public 61022
employer; and the history of collective bargaining. 61023

(C) The board may determine a unit to be the appropriate unit 61024
in a particular case, even though some other unit might also be 61025
appropriate. 61026

(D) In addition, in determining the appropriate unit, the 61027
board shall not: 61028

(1) Decide that any unit is appropriate if the unit includes 61029
both professional and nonprofessional employees, unless a majority 61030
of the professional employees and a majority of the 61031
nonprofessional employees first vote for inclusion in the unit; 61032

(2) Include guards or correction officers at correctional or 61033
mental institutions, special police officers appointed in 61034
accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the 61035
Revised Code, psychiatric attendants employed at mental health 61036
forensic facilities, youth leaders employed at juvenile correction 61037
facilities, or any public employee employed as a guard to enforce 61038
against other employees rules to protect property of the employer 61039
or to protect the safety of persons on the employer's premises in 61040
a unit with other employees; 61041

(3) Include members of a police or fire department or members of the state highway patrol in a unit with other classifications of public employees of the department;

(4) Designate as appropriate a bargaining unit that contains more than one institution of higher education; nor shall it within any such institution of higher education designate as appropriate a unit where such designation would be inconsistent with the accreditation standards or interpretations of such standards, governing such institution of higher education or any department, school, or college thereof. For the purposes of this division, any branch or regional campus of a public institution of higher education is part of that institution of higher education.

(5) Designate as appropriate a bargaining unit that contains employees within the jurisdiction of more than one elected county office holder, unless the county-elected office holder and the board of county commissioners agree to such other designation;

(6) With respect to members of a police department, designate as appropriate a unit that includes rank and file members of the department with members who are of the rank of sergeant or above;

(7) Except as otherwise provided by division (A)(3) of section 3314.10 or division (B) of section 3326.18 of the Revised Code, designate as appropriate a bargaining unit that contains employees from multiple community schools established under Chapter 3314. or multiple science, technology, engineering, and mathematics schools established under Chapter 3326. of the Revised Code. For purposes of this division, more than one unit may be designated within a single community school or science, technology, engineering, and mathematics school.

This section shall not be deemed to prohibit multiunit bargaining.

Sec. 4117.14. (A) The procedures contained in this section 61072
govern the settlement of disputes between an exclusive 61073
representative and a public employer concerning the termination or 61074
modification of an existing collective bargaining agreement or 61075
negotiation of a successor agreement, or the negotiation of an 61076
initial collective bargaining agreement. 61077

(B)(1) In those cases where there exists a collective 61078
bargaining agreement, any public employer or exclusive 61079
representative desiring to terminate, modify, or negotiate a 61080
successor collective bargaining agreement shall: 61081

(a) Serve written notice upon the other party of the proposed 61082
termination, modification, or successor agreement. The party must 61083
serve the notice not less than sixty days prior to the expiration 61084
date of the existing agreement or, in the event the existing 61085
collective bargaining agreement does not contain an expiration 61086
date, not less than sixty days prior to the time it is proposed to 61087
make the termination or modifications or to make effective a 61088
successor agreement. 61089

(b) Offer to bargain collectively with the other party for 61090
the purpose of modifying or terminating any existing agreement or 61091
negotiating a successor agreement; 61092

(c) Notify the state employment relations board of the offer 61093
by serving upon the board a copy of the written notice to the 61094
other party and a copy of the existing collective bargaining 61095
agreement. 61096

(2) In the case of initial negotiations between a public 61097
employer and an exclusive representative, where a collective 61098
bargaining agreement has not been in effect between the parties, 61099
any party may serve notice upon the board and the other party 61100
setting forth the names and addresses of the parties and offering 61101
to meet, for a period of ninety days, with the other party for the 61102

purpose of negotiating a collective bargaining agreement. 61103

If the settlement procedures specified in divisions (B), (C), 61104
and (D) of this section govern the parties, where those procedures 61105
refer to the expiration of a collective bargaining agreement, it 61106
means the expiration of the sixty-day period to negotiate a 61107
collective bargaining agreement referred to in this subdivision, 61108
or in the case of initial negotiations, it means the ninety-day 61109
period referred to in this subdivision. 61110

(3) The parties shall continue in full force and effect all 61111
the terms and conditions of any existing collective bargaining 61112
agreement, without resort to strike or lock-out, for a period of 61113
sixty days after the party gives notice or until the expiration 61114
date of the collective bargaining agreement, whichever occurs 61115
later, or for a period of ninety days where applicable. 61116

(4) Upon receipt of the notice, the parties shall enter into 61117
collective bargaining. 61118

(C) In the event the parties are unable to reach an 61119
agreement, they may submit, at any time prior to forty-five days 61120
before the expiration date of the collective bargaining agreement, 61121
the issues in dispute to any mutually agreed upon dispute 61122
settlement procedure which supersedes the procedures contained in 61123
this section. 61124

(1) The procedures may include: 61125

(a) Conventional arbitration of all unsettled issues; 61126

(b) Arbitration confined to a choice between the last offer 61127
of each party to the agreement as a single package; 61128

(c) Arbitration confined to a choice of the last offer of 61129
each party to the agreement on each issue submitted; 61130

(d) The procedures described in division (C)(1)(a), (b), or 61131
(c) of this section and including among the choices for the 61132

arbitrator, the recommendations of the fact finder, if there are 61133
recommendations, either as a single package or on each issue 61134
submitted; 61135

(e) Settlement by a citizens' conciliation council composed 61136
of three residents within the jurisdiction of the public employer. 61137
The public employer shall select one member and the exclusive 61138
representative shall select one member. The two members selected 61139
shall select the third member who shall chair the council. If the 61140
two members cannot agree upon a third member within five days 61141
after their appointments, the board shall appoint the third 61142
member. Once appointed, the council shall make a final settlement 61143
of the issues submitted to it pursuant to division (G) of this 61144
section. 61145

(f) Any other dispute settlement procedure mutually agreed to 61146
by the parties. 61147

(2) If, fifty days before the expiration date of the 61148
collective bargaining agreement, the parties are unable to reach 61149
an agreement, any party may request the state employment relations 61150
board to intervene. The request shall set forth the names and 61151
addresses of the parties, the issues involved, and, if applicable, 61152
the expiration date of any agreement. 61153

The board shall intervene and investigate the dispute to 61154
determine whether the parties have engaged in collective 61155
bargaining. 61156

If an impasse exists or forty-five days before the expiration 61157
date of the collective bargaining agreement if one exists, the 61158
board shall appoint a mediator to assist the parties in the 61159
collective bargaining process. 61160

(3) Any time after the appointment of a mediator, either 61161
party may request the appointment of a fact-finding panel. Within 61162
fifteen days after receipt of a request for a fact-finding panel, 61163

the board shall appoint a fact-finding panel of not more than 61164
three members who have been selected by the parties in accordance 61165
with rules established by the board, from a list of qualified 61166
persons maintained by the board. 61167

(a) The fact-finding panel shall, in accordance with rules 61168
and procedures established by the board that include the 61169
regulation of costs and expenses of fact-finding, gather facts and 61170
make recommendations for the resolution of the matter. The board 61171
shall by its rules require each party to specify in writing the 61172
unresolved issues and its position on each issue to the 61173
fact-finding panel. The fact-finding panel shall make final 61174
recommendations as to all the unresolved issues. 61175

(b) The board may continue mediation, order the parties to 61176
engage in collective bargaining until the expiration date of the 61177
agreement, or both. 61178

(4) The following guidelines apply to fact-finding: 61179

(a) The fact-finding panel may establish times and place of 61180
hearings which shall be, where feasible, in the jurisdiction of 61181
the state. 61182

(b) The fact-finding panel shall conduct the hearing pursuant 61183
to rules established by the board. 61184

(c) Upon request of the fact-finding panel, the board shall 61185
issue subpoenas for hearings conducted by the panel. 61186

(d) The fact-finding panel may administer oaths. 61187

(e) The board shall prescribe guidelines for the fact-finding 61188
panel to follow in making findings. In making its recommendations, 61189
the fact-finding panel shall take into consideration the factors 61190
listed in divisions (G)(7)(a) to (f) of this section. 61191

(f) The fact-finding panel may attempt mediation at any time 61192
during the fact-finding process. From the time of appointment 61193

until the fact-finding panel makes a final recommendation, it 61194
shall not discuss the recommendations for settlement of the 61195
dispute with parties other than the direct parties to the dispute. 61196

(5) The fact-finding panel, acting by a majority of its 61197
members, shall transmit its findings of fact and recommendations 61198
on the unresolved issues to the public employer and employee 61199
organization involved and to the board no later than fourteen days 61200
after the appointment of the fact-finding panel, unless the 61201
parties mutually agree to an extension. The parties shall share 61202
the cost of the fact-finding panel in a manner agreed to by the 61203
parties. 61204

(6)(a) Not later than seven days after the findings and 61205
recommendations are sent, the legislative body, by a three-fifths 61206
vote of its total membership, and in the case of the public 61207
employee organization, the membership, by a three-fifths vote of 61208
the total membership, may reject the recommendations; if neither 61209
rejects the recommendations, the recommendations shall be deemed 61210
agreed upon as the final resolution of the issues submitted and a 61211
collective bargaining agreement shall be executed between the 61212
parties, including the fact-finding panel's recommendations, 61213
except as otherwise modified by the parties by mutual agreement. 61214
If either the legislative body or the public employee organization 61215
rejects the recommendations, the board shall publicize the 61216
findings of fact and recommendations of the fact-finding panel. 61217
The board shall adopt rules governing the procedures and methods 61218
for public employees to vote on the recommendations of the 61219
fact-finding panel. 61220

(b) As used in division (C)(6)(a) of this section, 61221
"legislative body" means the controlling board when the state or 61222
any of its agencies, authorities, commissions, boards, or other 61223
branch of public employment is party to the fact-finding process. 61224

(D) If the parties are unable to reach agreement within seven 61225

days after the publication of findings and recommendations from 61226
the fact-finding panel or the collective bargaining agreement, if 61227
one exists, has expired, then the: 61228

(1) Public employees, who are members of a police or fire 61229
department, members of the state highway patrol, deputy sheriffs, 61230
dispatchers employed by a police, fire, or sheriff's department or 61231
the state highway patrol or civilian dispatchers employed by a 61232
public employer other than a police, fire, or sheriff's department 61233
to dispatch police, fire, sheriff's department, or emergency 61234
medical or rescue personnel and units, an exclusive nurse's unit, 61235
employees of the state school for the deaf or the state school for 61236
the blind, employees of any public employee retirement system, 61237
corrections officers, guards at penal or mental institutions, 61238
special police officers appointed in accordance with sections 61239
~~5119.14~~ 5119.08 and 5123.13 of the Revised Code, psychiatric 61240
attendants employed at mental health forensic facilities, youth 61241
leaders employed at juvenile correctional facilities, or members 61242
of a law enforcement security force that is established and 61243
maintained exclusively by a board of county commissioners and 61244
whose members are employed by that board, shall submit the matter 61245
to a final offer settlement procedure pursuant to a board order 61246
issued forthwith to the parties to settle by a conciliator 61247
selected by the parties. The parties shall request from the board 61248
a list of five qualified conciliators and the parties shall select 61249
a single conciliator from the list by alternate striking of names. 61250
If the parties cannot agree upon a conciliator within five days 61251
after the board order, the board shall on the sixth day after its 61252
order appoint a conciliator from a list of qualified persons 61253
maintained by the board or shall request a list of qualified 61254
conciliators from the American arbitration association and appoint 61255
therefrom. 61256

(2) Public employees other than those listed in division 61257

(D)(1) of this section have the right to strike under Chapter 61258
4117. of the Revised Code provided that the employee organization 61259
representing the employees has given a ten-day prior written 61260
notice of an intent to strike to the public employer and to the 61261
board, and further provided that the strike is for full, 61262
consecutive work days and the beginning date of the strike is at 61263
least ten work days after the ending date of the most recent prior 61264
strike involving the same bargaining unit; however, the board, at 61265
its discretion, may attempt mediation at any time. 61266

(E) Nothing in this section shall be construed to prohibit 61267
the parties, at any time, from voluntarily agreeing to submit any 61268
or all of the issues in dispute to any other alternative dispute 61269
settlement procedure. An agreement or statutory requirement to 61270
arbitrate or to settle a dispute pursuant to a final offer 61271
settlement procedure and the award issued in accordance with the 61272
agreement or statutory requirement is enforceable in the same 61273
manner as specified in division (B) of section 4117.09 of the 61274
Revised Code. 61275

(F) Nothing in this section shall be construed to prohibit a 61276
party from seeking enforcement of a collective bargaining 61277
agreement or a conciliator's award as specified in division (B) of 61278
section 4117.09 of the Revised Code. 61279

(G) The following guidelines apply to final offer settlement 61280
proceedings under division (D)(1) of this section: 61281

(1) The parties shall submit to final offer settlement those 61282
issues that are subject to collective bargaining as provided by 61283
section 4117.08 of the Revised Code and upon which the parties 61284
have not reached agreement and other matters mutually agreed to by 61285
the public employer and the exclusive representative; except that 61286
the conciliator may attempt mediation at any time. 61287

(2) The conciliator shall hold a hearing within thirty days 61288

of the board's order to submit to a final offer settlement 61289
procedure, or as soon thereafter as is practicable. 61290

(3) The conciliator shall conduct the hearing pursuant to 61291
rules developed by the board. The conciliator shall establish the 61292
hearing time and place, but it shall be, where feasible, within 61293
the jurisdiction of the state. Not later than five calendar days 61294
before the hearing, each of the parties shall submit to the 61295
conciliator, to the opposing party, and to the board, a written 61296
report summarizing the unresolved issues, the party's final offer 61297
as to the issues, and the rationale for that position. 61298

(4) Upon the request by the conciliator, the board shall 61299
issue subpoenas for the hearing. 61300

(5) The conciliator may administer oaths. 61301

(6) The conciliator shall hear testimony from the parties and 61302
provide for a written record to be made of all statements at the 61303
hearing. The board shall submit for inclusion in the record and 61304
for consideration by the conciliator the written report and 61305
recommendation of the fact-finders. 61306

(7) After hearing, the conciliator shall resolve the dispute 61307
between the parties by selecting, on an issue-by-issue basis, from 61308
between each of the party's final settlement offers, taking into 61309
consideration the following: 61310

(a) Past collectively bargained agreements, if any, between 61311
the parties; 61312

(b) Comparison of the issues submitted to final offer 61313
settlement relative to the employees in the bargaining unit 61314
involved with those issues related to other public and private 61315
employees doing comparable work, giving consideration to factors 61316
peculiar to the area and classification involved; 61317

(c) The interests and welfare of the public, the ability of 61318

the public employer to finance and administer the issues proposed, 61319
and the effect of the adjustments on the normal standard of public 61320
service; 61321

(d) The lawful authority of the public employer; 61322

(e) The stipulations of the parties; 61323

(f) Such other factors, not confined to those listed in this 61324
section, which are normally or traditionally taken into 61325
consideration in the determination of the issues submitted to 61326
final offer settlement through voluntary collective bargaining, 61327
mediation, fact-finding, or other impasse resolution procedures in 61328
the public service or in private employment. 61329

(8) Final offer settlement awards made under Chapter 4117. of 61330
the Revised Code are subject to Chapter 2711. of the Revised Code. 61331

(9) If more than one conciliator is used, the determination 61332
must be by majority vote. 61333

(10) The conciliator shall make written findings of fact and 61334
promulgate a written opinion and order upon the issues presented 61335
to the conciliator, and upon the record made before the 61336
conciliator and shall mail or otherwise deliver a true copy 61337
thereof to the parties and the board. 61338

(11) Increases in rates of compensation and other matters 61339
with cost implications awarded by the conciliator may be effective 61340
only at the start of the fiscal year next commencing after the 61341
date of the final offer settlement award; provided that if a new 61342
fiscal year has commenced since the issuance of the board order to 61343
submit to a final offer settlement procedure, the awarded 61344
increases may be retroactive to the commencement of the new fiscal 61345
year. The parties may, at any time, amend or modify a 61346
conciliator's award or order by mutual agreement. 61347

(12) The parties shall bear equally the cost of the final 61348

offer settlement procedure. 61349

(13) Conciliators appointed pursuant to this section shall be 61350
residents of the state. 61351

(H) All final offer settlement awards and orders of the 61352
conciliator made pursuant to Chapter 4117. of the Revised Code are 61353
subject to review by the court of common pleas having jurisdiction 61354
over the public employer as provided in Chapter 2711. of the 61355
Revised Code. If the public employer is located in more than one 61356
court of common pleas district, the court of common pleas in which 61357
the principal office of the chief executive is located has 61358
jurisdiction. 61359

(I) The issuance of a final offer settlement award 61360
constitutes a binding mandate to the public employer and the 61361
exclusive representative to take whatever actions are necessary to 61362
implement the award. 61363

Sec. 4117.15. (A) Whenever a strike by members of a police or 61364
fire department, members of the state highway patrol, deputy 61365
sheriffs, dispatchers employed by a police, fire, or sheriff's 61366
department or the state highway patrol or civilian dispatchers 61367
employed by a public employer other than a police, fire, or 61368
sheriff's department to dispatch police, fire, sheriff's 61369
department, or emergency medical or rescue personnel and units, an 61370
exclusive nurse's unit, employees of the state school for the deaf 61371
or the state school for the blind, employees of any public 61372
employee retirement system, correction officers, guards at penal 61373
or mental institutions, or special police officers appointed in 61374
accordance with sections ~~5119.14~~ 5119.08 and 5123.13 of the 61375
Revised Code, psychiatric attendants employed at mental health 61376
forensic facilities, youth leaders employed at juvenile 61377
correctional facilities, or members of a law enforcement security 61378
force that is established and maintained exclusively by a board of 61379

county commissioners and whose members are employed by that board, 61380
a strike by other public employees during the pendency of the 61381
settlement procedures set forth in section 4117.14 of the Revised 61382
Code, or a strike during the term or extended term of a collective 61383
bargaining agreement occurs, the public employer may seek an 61384
injunction against the strike in the court of common pleas of the 61385
county in which the strike is located. 61386

(B) An unfair labor practice by a public employer is not a 61387
defense to the injunction proceeding noted in division (A) of this 61388
section. Allegations of unfair labor practices during the 61389
settlement procedures set forth in section 4117.14 of the Revised 61390
Code shall receive priority by the state employment relations 61391
board. 61392

(C) No public employee is entitled to pay or compensation 61393
from the public employer for the period engaged in any strike. 61394

Sec. 4121.50. Not later than July 1, 2012, the administrator 61395
of workers' compensation shall adopt rules in accordance with 61396
Chapter 119. of the Revised Code to implement a coordinated 61397
services program for claimants under this chapter or Chapter 61398
4123., 4127., or 4131. of the Revised Code who are found to have 61399
obtained prescription drugs that were reimbursed pursuant to an 61400
order of the administrator or of the industrial commission or by a 61401
self-insuring employer but were obtained at a frequency or in an 61402
amount that is not medically necessary. The program shall be 61403
implemented in a manner that is substantially similar to the 61404
coordinated services programs established for the medicaid program 61405
under ~~section 5111.085~~ sections 5164.758 and ~~5111.179~~ 5167.13 of 61406
the Revised Code. 61407

Sec. 4121.69. (A) The administrator of workers' compensation 61408
may establish compensation plans, including schedules of hourly 61409

rates, for the compensation of professional, administrative, and 61410
managerial employees who are employed to fulfill the duties placed 61411
upon the bureau of workers' compensation pursuant to sections 61412
4121.61 to 4121.69 of the Revised Code. The administrator may 61413
establish rules or policies for the administration of the 61414
respective compensation plans. 61415

This division does not apply to employees for whom the state 61416
employment relations board establishes appropriate bargaining 61417
units pursuant to section 4117.06 of the Revised Code. 61418

(B) The administrator may employ the services and resources 61419
of any public entity or private person, business, or association 61420
in fulfilling the duties placed upon the bureau of workers' 61421
compensation by sections 4121.61 to 4121.69 of the Revised Code. 61422
The ~~rehabilitation services commission~~ opportunities for Ohioans
with disabilities agency, the director of job and family services, 61423
and any other public officer, employee, or agency shall give to 61424
the bureau of workers' compensation full cooperation and, at the 61425
request of the administrator, enter into a written agreement 61426
stating the procedures and criteria for referring, accepting, and 61427
providing services to claimants in the job placement and 61428
rehabilitation efforts of the bureau of workers' compensation on 61429
behalf of a claimant when referred by the bureau of workers' 61430
compensation. 61431
61432

(C) In appropriate cases, the bureau may refer a candidate to 61433
the ~~rehabilitation services commission~~ opportunities for Ohioans
with disabilities agency for participation in a program of the 61434
~~commission~~ agency. For that purpose, the bureau of workers' 61435
compensation shall compensate the ~~commission~~ agency for the 61436
nonfederal portion of its services. 61437
61438

Sec. 4123.57. Partial disability compensation shall be paid 61439
as follows. 61440

Except as provided in this section, not earlier than 61441
twenty-six weeks after the date of termination of the latest 61442
period of payments under section 4123.56 of the Revised Code, or 61443
not earlier than twenty-six weeks after the date of the injury or 61444
contraction of an occupational disease in the absence of payments 61445
under section 4123.56 of the Revised Code, the employee may file 61446
an application with the bureau of workers' compensation for the 61447
determination of the percentage of the employee's permanent 61448
partial disability resulting from an injury or occupational 61449
disease. 61450

Whenever the application is filed, the bureau shall send a 61451
copy of the application to the employee's employer or the 61452
employer's representative and shall schedule the employee for a 61453
medical examination by the bureau medical section. The bureau 61454
shall send a copy of the report of the medical examination to the 61455
employee, the employer, and their representatives. Thereafter, the 61456
administrator of workers' compensation shall review the employee's 61457
claim file and make a tentative order as the evidence before the 61458
administrator at the time of the making of the order warrants. If 61459
the administrator determines that there is a conflict of evidence, 61460
the administrator shall send the application, along with the 61461
claimant's file, to the district hearing officer who shall set the 61462
application for a hearing. 61463

The administrator shall notify the employee, the employer, 61464
and their representatives, in writing, of the tentative order and 61465
of the parties' right to request a hearing. Unless the employee, 61466
the employer, or their representative notifies the administrator, 61467
in writing, of an objection to the tentative order within twenty 61468
days after receipt of the notice thereof, the tentative order 61469
shall go into effect and the employee shall receive the 61470
compensation provided in the order. In no event shall there be a 61471
reconsideration of a tentative order issued under this division. 61472

If the employee, the employer, or their representatives 61473
timely notify the administrator of an objection to the tentative 61474
order, the matter shall be referred to a district hearing officer 61475
who shall set the application for hearing with written notices to 61476
all interested persons. Upon referral to a district hearing 61477
officer, the employer may obtain a medical examination of the 61478
employee, pursuant to rules of the industrial commission. 61479

(A) The district hearing officer, upon the application, shall 61480
determine the percentage of the employee's permanent disability, 61481
except as is subject to division (B) of this section, based upon 61482
that condition of the employee resulting from the injury or 61483
occupational disease and causing permanent impairment evidenced by 61484
medical or clinical findings reasonably demonstrable. The employee 61485
shall receive sixty-six and two-thirds per cent of the employee's 61486
average weekly wage, but not more than a maximum of thirty-three 61487
and one-third per cent of the statewide average weekly wage as 61488
defined in division (C) of section 4123.62 of the Revised Code, 61489
per week regardless of the average weekly wage, for the number of 61490
weeks which equals the percentage of two hundred weeks. Except on 61491
application for reconsideration, review, or modification, which is 61492
filed within ten days after the date of receipt of the decision of 61493
the district hearing officer, in no instance shall the former 61494
award be modified unless it is found from medical or clinical 61495
findings that the condition of the claimant resulting from the 61496
injury has so progressed as to have increased the percentage of 61497
permanent partial disability. A staff hearing officer shall hear 61498
an application for reconsideration filed and the staff hearing 61499
officer's decision is final. An employee may file an application 61500
for a subsequent determination of the percentage of the employee's 61501
permanent disability. If such an application is filed, the bureau 61502
shall send a copy of the application to the employer or the 61503
employer's representative. No sooner than sixty days from the date 61504
of the mailing of the application to the employer or the 61505

employer's representative, the administrator shall review the 61506
application. The administrator may require a medical examination 61507
or medical review of the employee. The administrator shall issue a 61508
tentative order based upon the evidence before the administrator, 61509
provided that if the administrator requires a medical examination 61510
or medical review, the administrator shall not issue the tentative 61511
order until the completion of the examination or review. 61512

The employer may obtain a medical examination of the employee 61513
and may submit medical evidence at any stage of the process up to 61514
a hearing before the district hearing officer, pursuant to rules 61515
of the commission. The administrator shall notify the employee, 61516
the employer, and their representatives, in writing, of the nature 61517
and amount of any tentative order issued on an application 61518
requesting a subsequent determination of the percentage of an 61519
employee's permanent disability. An employee, employer, or their 61520
representatives may object to the tentative order within twenty 61521
days after the receipt of the notice thereof. If no timely 61522
objection is made, the tentative order shall go into effect. In no 61523
event shall there be a reconsideration of a tentative order issued 61524
under this division. If an objection is timely made, the 61525
application for a subsequent determination shall be referred to a 61526
district hearing officer who shall set the application for a 61527
hearing with written notice to all interested persons. No 61528
application for subsequent percentage determinations on the same 61529
claim for injury or occupational disease shall be accepted for 61530
review by the district hearing officer unless supported by 61531
substantial evidence of new and changed circumstances developing 61532
since the time of the hearing on the original or last 61533
determination. 61534

No award shall be made under this division based upon a 61535
percentage of disability which, when taken with all other 61536
percentages of permanent disability, exceeds one hundred per cent. 61537

If the percentage of the permanent disability of the employee equals or exceeds ninety per cent, compensation for permanent partial disability shall be paid for two hundred weeks.

Compensation payable under this division accrues and is payable to the employee from the date of last payment of compensation, or, in cases where no previous compensation has been paid, from the date of the injury or the date of the diagnosis of the occupational disease.

When an award under this division has been made prior to the death of an employee, all unpaid installments accrued or to accrue under the provisions of the award are payable to the surviving spouse, or if there is no surviving spouse, to the dependent children of the employee, and if there are no children surviving, then to other dependents as the administrator determines.

(B) For purposes of this division, "payable per week" means the seven-consecutive-day period in which compensation is paid in installments according to the schedule associated with the applicable injury as set forth in this division.

Compensation paid in weekly installments according to the schedule described in this division may only be commuted to one or more ~~lump sum~~ lump sum payments pursuant to the procedure set forth in section 4123.64 of the Revised Code.

In cases included in the following schedule the compensation payable per week to the employee is the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code per week and shall be paid in installments according to the following schedule:

For the loss of a first finger, commonly known as a thumb, sixty weeks.

For the loss of a second finger, commonly called index finger, thirty-five weeks.

For the loss of a third finger, thirty weeks.	61569
For the loss of a fourth finger, twenty weeks.	61570
For the loss of a fifth finger, commonly known as the little finger, fifteen weeks.	61571 61572
The loss of a second, or distal, phalange of the thumb is considered equal to the loss of one half of such thumb; the loss of more than one half of such thumb is considered equal to the loss of the whole thumb.	61573 61574 61575 61576
The loss of the third, or distal, phalange of any finger is considered equal to the loss of one-third of the finger.	61577 61578
The loss of the middle, or second, phalange of any finger is considered equal to the loss of two-thirds of the finger.	61579 61580
The loss of more than the middle and distal phalanges of any finger is considered equal to the loss of the whole finger. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.	61581 61582 61583 61584
For the loss of the metacarpal bone (bones of the palm) for the corresponding thumb, or fingers, add ten weeks to the number of weeks under this division.	61585 61586 61587
For ankylosis (total stiffness of) or contractures (due to scars or injuries) which makes any of the fingers, thumbs, or parts of either useless, the same number of weeks apply to the members or parts thereof as given for the loss thereof.	61588 61589 61590 61591
If the claimant has suffered the loss of two or more fingers by amputation or ankylosis and the nature of the claimant's employment in the course of which the claimant was working at the time of the injury or occupational disease is such that the handicap or disability resulting from the loss of fingers, or loss of use of fingers, exceeds the normal handicap or disability resulting from the loss of fingers, or loss of use of fingers, the	61592 61593 61594 61595 61596 61597 61598

administrator may take that fact into consideration and increase 61599
the award of compensation accordingly, but the award made shall 61600
not exceed the amount of compensation for loss of a hand. 61601

For the loss of a hand, one hundred seventy-five weeks. 61602

For the loss of an arm, two hundred twenty-five weeks. 61603

For the loss of a great toe, thirty weeks. 61604

For the loss of one of the toes other than the great toe, ten 61605
weeks. 61606

The loss of more than two-thirds of any toe is considered 61607
equal to the loss of the whole toe. 61608

The loss of less than two-thirds of any toe is considered no 61609
loss, except as to the great toe; the loss of the great toe up to 61610
the interphalangeal joint is co-equal to the loss of one-half of 61611
the great toe; the loss of the great toe beyond the 61612
interphalangeal joint is considered equal to the loss of the whole 61613
great toe. 61614

For the loss of a foot, one hundred fifty weeks. 61615

For the loss of a leg, two hundred weeks. 61616

For the loss of the sight of an eye, one hundred twenty-five 61617
weeks. 61618

For the permanent partial loss of sight of an eye, the 61619
portion of one hundred twenty-five weeks as the administrator in 61620
each case determines, based upon the percentage of vision actually 61621
lost as a result of the injury or occupational disease, but, in no 61622
case shall an award of compensation be made for less than 61623
twenty-five per cent loss of uncorrected vision. "Loss of 61624
uncorrected vision" means the percentage of vision actually lost 61625
as the result of the injury or occupational disease. 61626

For the permanent and total loss of hearing of one ear, 61627
twenty-five weeks; but in no case shall an award of compensation 61628

be made for less than permanent and total loss of hearing of one 61629
ear. 61630

For the permanent and total loss of hearing, one hundred 61631
twenty-five weeks; but, except pursuant to the next preceding 61632
paragraph, in no case shall an award of compensation be made for 61633
less than permanent and total loss of hearing. 61634

In case an injury or occupational disease results in serious 61635
facial or head disfigurement which either impairs or may in the 61636
future impair the opportunities to secure or retain employment, 61637
the administrator shall make an award of compensation as it deems 61638
proper and equitable, in view of the nature of the disfigurement, 61639
and not to exceed the sum of ten thousand dollars. For the purpose 61640
of making the award, it is not material whether the employee is 61641
gainfully employed in any occupation or trade at the time of the 61642
administrator's determination. 61643

When an award under this division has been made prior to the 61644
death of an employee all unpaid installments accrued or to accrue 61645
under the provisions of the award shall be payable to the 61646
surviving spouse, or if there is no surviving spouse, to the 61647
dependent children of the employee and if there are no such 61648
children, then to such dependents as the administrator determines. 61649

When an employee has sustained the loss of a member by 61650
severance, but no award has been made on account thereof prior to 61651
the employee's death, the administrator shall make an award in 61652
accordance with this division for the loss which shall be payable 61653
to the surviving spouse, or if there is no surviving spouse, to 61654
the dependent children of the employee and if there are no such 61655
children, then to such dependents as the administrator determines. 61656

(C) Compensation for partial impairment under divisions (A) 61657
and (B) of this section is in addition to the compensation paid 61658
the employee pursuant to section 4123.56 of the Revised Code. A 61659

claimant may receive compensation under divisions (A) and (B) of
this section. 61660
61661

In all cases arising under division (B) of this section, if 61662
it is determined by any one of the following: (1) the amputee 61663
clinic at University hospital, Ohio state university; (2) the 61664
~~rehabilitation services commission~~ opportunities for Ohioans with 61665
disabilities agency; (3) an amputee clinic or prescribing 61666
physician approved by the administrator or the administrator's 61667
designee, that an injured or disabled employee is in need of an 61668
artificial appliance, or in need of a repair thereof, regardless 61669
of whether the appliance or its repair will be serviceable in the 61670
vocational rehabilitation of the injured employee, and regardless 61671
of whether the employee has returned to or can ever again return 61672
to any gainful employment, the bureau shall pay the cost of the 61673
artificial appliance or its repair out of the surplus created by 61674
division (B) of section 4123.34 of the Revised Code. 61675

In those cases where a ~~rehabilitation services commission~~ an 61676
opportunities for Ohioans with disabilities agency recommendation 61677
that an injured or disabled employee is in need of an artificial 61678
appliance would conflict with their state plan, adopted pursuant 61679
to the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 61680
701, the administrator or the administrator's designee or the 61681
bureau may obtain a recommendation from an amputee clinic or 61682
prescribing physician that they determine appropriate. 61683

(D) If an employee of a state fund employer makes application 61684
for a finding and the administrator finds that the employee has 61685
contracted silicosis as defined in division (X), or coal miners' 61686
pneumoconiosis as defined in division (Y), or asbestosis as 61687
defined in division (AA) of section 4123.68 of the Revised Code, 61688
and that a change of such employee's occupation is medically 61689
advisable in order to decrease substantially further exposure to 61690
silica dust, asbestos, or coal dust and if the employee, after the 61691

finding, has changed or shall change the employee's occupation to 61692
an occupation in which the exposure to silica dust, asbestos, or 61693
coal dust is substantially decreased, the administrator shall 61694
allow to the employee an amount equal to fifty per cent of the 61695
statewide average weekly wage per week for a period of thirty 61696
weeks, commencing as of the date of the discontinuance or change, 61697
and for a period of one hundred weeks immediately following the 61698
expiration of the period of thirty weeks, the employee shall 61699
receive sixty-six and two-thirds per cent of the loss of wages 61700
resulting directly and solely from the change of occupation but 61701
not to exceed a maximum of an amount equal to fifty per cent of 61702
the statewide average weekly wage per week. No such employee is 61703
entitled to receive more than one allowance on account of 61704
discontinuance of employment or change of occupation and benefits 61705
shall cease for any period during which the employee is employed 61706
in an occupation in which the exposure to silica dust, asbestos, 61707
or coal dust is not substantially less than the exposure in the 61708
occupation in which the employee was formerly employed or for any 61709
period during which the employee may be entitled to receive 61710
compensation or benefits under section 4123.68 of the Revised Code 61711
on account of disability from silicosis, asbestosis, or coal 61712
miners' pneumoconiosis. An award for change of occupation for a 61713
coal miner who has contracted coal miners' pneumoconiosis may be 61714
granted under this division even though the coal miner continues 61715
employment with the same employer, so long as the coal miner's 61716
employment subsequent to the change is such that the coal miner's 61717
exposure to coal dust is substantially decreased and a change of 61718
occupation is certified by the claimant as permanent. The 61719
administrator may accord to the employee medical and other 61720
benefits in accordance with section 4123.66 of the Revised Code. 61721

(E) If a firefighter or police officer makes application for 61722
a finding and the administrator finds that the firefighter or 61723
police officer has contracted a cardiovascular and pulmonary 61724

disease as defined in division (W) of section 4123.68 of the Revised Code, and that a change of the firefighter's or police officer's occupation is medically advisable in order to decrease substantially further exposure to smoke, toxic gases, chemical fumes, and other toxic vapors, and if the firefighter, or police officer, after the finding, has changed or changes occupation to an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is substantially decreased, the administrator shall allow to the firefighter or police officer an amount equal to fifty per cent of the statewide average weekly wage per week for a period of thirty weeks, commencing as of the date of the discontinuance or change, and for a period of seventy-five weeks immediately following the expiration of the period of thirty weeks the administrator shall allow the firefighter or police officer sixty-six and two-thirds per cent of the loss of wages resulting directly and solely from the change of occupation but not to exceed a maximum of an amount equal to fifty per cent of the statewide average weekly wage per week. No such firefighter or police officer is entitled to receive more than one allowance on account of discontinuance of employment or change of occupation and benefits shall cease for any period during which the firefighter or police officer is employed in an occupation in which the exposure to smoke, toxic gases, chemical fumes, and other toxic vapors is not substantially less than the exposure in the occupation in which the firefighter or police officer was formerly employed or for any period during which the firefighter or police officer may be entitled to receive compensation or benefits under section 4123.68 of the Revised Code on account of disability from a cardiovascular and pulmonary disease. The administrator may accord to the firefighter or police officer medical and other benefits in accordance with section 4123.66 of the Revised Code.

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(F) An order issued under this section is appealable pursuant 61757

to section 4123.511 of the Revised Code but is not appealable to 61758
court under section 4123.512 of the Revised Code. 61759

Sec. 4131.03. (A) For the relief of persons who are entitled 61760
to receive benefits by virtue of the federal act, there is hereby 61761
established a coal-workers pneumoconiosis fund, which shall be 61762
separate from the funds established and administered pursuant to 61763
Chapter 4123. of the Revised Code. The fund shall consist of 61764
premiums and other payments thereto by subscribers who elect to 61765
subscribe to the fund to insure the payment of benefits required 61766
by the federal act. 61767

(B)~~(1)~~ The coal-workers pneumoconiosis fund shall be in the 61768
custody of the treasurer of state. The bureau of workers' 61769
compensation shall make disbursements from the fund to those 61770
persons entitled to payment therefrom and in the amounts required 61771
pursuant to sections 4131.01 to 4131.06 of the Revised Code. All 61772
investment earnings of the fund shall be credited to the fund. 61773

~~(2) Beginning July 1, 2011, and ending June 30, 2013, the 61774
director of natural resources annually may request the 61775
administrator of workers' compensation to transfer a portion of 61776
the investment earnings credited to the coal workers 61777
pneumoconiosis fund as provided in this division. If the 61778
administrator receives a request from the director, the 61779
administrator, on the first day of July, or as soon as possible 61780
after that date, shall transfer from the investment earnings 61781
credited to the coal workers pneumoconiosis fund an amount not to 61782
exceed three million dollars to the mine safety fund created in 61783
section 1561.24 of the Revised Code for the purposes specified in 61784
that section and an amount not to exceed one million five hundred 61785
thousand dollars to the coal mining administration and reclamation 61786
reserve fund created in section 1513.181 of the Revised Code for 61787
the purposes specified in that section. The administrator, with 61788~~

~~the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules governing the transfer in order to ensure the solvency of the coal workers pneumoconiosis fund. For that purpose, the rules may establish tests based on measures of net assets, liabilities, expenses, interest, dividend income, or other factors that the administrator determines appropriate that may be applied prior to a transfer.~~

(C) The administrator shall have the same powers to invest any of the surplus or reserve belonging to the coal-workers pneumoconiosis fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator determines that reinsurance of the risks of the coal-workers pneumoconiosis fund is necessary to assure solvency of the fund, the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

Sec. 4141.162. (A) The director of job and family services shall establish an income and eligibility verification system that complies with section 1137 of the "Social Security Act." The programs included in the system are all of the following:

(1) Unemployment compensation pursuant to section 3304 of the "Internal Revenue Code of 1954";

(2) The state programs funded in part under part A of Title IV of the "Social Security Act" and administered under Chapters 5107. and 5108. of the Revised Code;

(3) ~~Medicaid pursuant to Title XIX of the "Social Security Act"~~ The medicaid program; 61819
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(4) The supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.;

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(5) Any Ohio program under a plan approved under Title I, X, XIV, or XVI of the "Social Security Act."

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Wage information provided by employers to the director shall be furnished to the income and eligibility verification system. Such information shall be used by the director to determine eligibility of individuals for unemployment compensation benefits and the amount of those benefits and used by the agencies that administer the programs identified in divisions (A)(2) to (5) of this section to determine or verify eligibility for or the amount of benefits under those programs.

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The director shall fully implement the use of wage information to determine eligibility for and the amount of unemployment compensation benefits by September 30, 1988.

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Information furnished under the system shall also be made available to the appropriate state or local child support enforcement agency for the purposes of an approved plan under Title IV-D of the "Social Security Act" and to the appropriate federal agency for the purposes of Titles II and XVI of the "Social Security Act."

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(B) The director shall adopt rules as necessary under which the department of job and family services and other state agencies that the director determines must participate in order to ensure compliance with section 1137 of the "Social Security Act" exchange information with each other or authorized federal agencies about individuals who are applicants for or recipients of benefits under any of the programs enumerated in division (A) of this section. The rules shall extend to all of the following:

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(1) A requirement for standardized formats and procedures for a participating agency to request and receive information about an individual, which information shall include the individual's social security number;

(2) A requirement that all applicants for and recipients of benefits under any program enumerated in division (A) of this section be notified at the time of application, and periodically thereafter, that information available through the system may be shared with agencies that administer other benefit programs and utilized in establishing or verifying eligibility or benefit amounts under the other programs enumerated in division (A) of this section;

(3) A requirement that information is made available only to the extent necessary to assist in the valid administrative needs of the program receiving the information and is targeted for use in ways which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

(4) A requirement that information is adequately protected against unauthorized disclosures for purposes other than to establish or verify eligibility or benefit amounts under the programs enumerated in division (A) of this section;

(5) A requirement that a program providing information is reimbursed by the program using the information for the actual costs of furnishing the information and that the director be reimbursed by the participating programs for any actual costs incurred in operating the system;

(6) Requirements for any other matters necessary to ensure the effective, efficient, and timely exchange of necessary information or that the director determines must be addressed in order to ensure compliance with the requirements of section 1137 of the "Social Security Act."

(C) Each participating agency shall furnish to the income and eligibility verification system established in division (A) of this section that information, which the director, by rule, determines is necessary in order to comply with section 1137 of the "Social Security Act."

(D) Notwithstanding the information disclosure requirements of this section and section 4141.21 and division (A) of section 4141.284 of the Revised Code, the director shall administer those provisions of law so as to comply with section 1137 of the "Social Security Act."

(E) Requirements in section 4141.21 of the Revised Code with respect to confidentiality of information obtained in the administration of Chapter 4141. of the Revised Code and any sanctions imposed for improper disclosure of such information shall apply to the redisclosure of information disclosed under this section.

(F) The director of job and family services shall consult with the medicaid director and the director of administrative services regarding the implementation of this section.

Sec. 4301.10. (A) The division of liquor control shall do all of the following:

(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor;

(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this chapter and Chapter 4303. of the Revised Code. A certificate, signed by the superintendent of liquor control and to which is affixed the official seal of the division, stating that it appears

from the records of the division that no permit has been issued to 61911
the person specified in the certificate, or that a permit, if 61912
issued, has been revoked, canceled, or suspended, shall be 61913
received as prima-facie evidence of the facts recited in the 61914
certificate in any court or before any officer of this state. 61915

(3) Put into operation, manage, and control a system of state 61916
liquor stores for the sale of spirituous liquor at retail and to 61917
holders of permits authorizing the sale of spirituous liquor; 61918
however, the division shall not establish any drive-in state 61919
liquor stores; and by means of those types of stores, and any 61920
manufacturing plants, distributing and bottling plants, 61921
warehouses, and other facilities that it considers expedient, 61922
establish and maintain a state monopoly of the distribution of 61923
spirituous liquor and its sale in packages or containers; and for 61924
that purpose, manufacture, buy, import, possess, and sell 61925
spirituous liquors as provided in this chapter and Chapter 4303. 61926
of the Revised Code, and in the rules promulgated by the 61927
superintendent of liquor control pursuant to those chapters; lease 61928
or in any manner acquire the use of any land or building required 61929
for any of those purposes; purchase any equipment that is 61930
required; and borrow money to carry on its business, and issue, 61931
sign, endorse, and accept notes, checks, and bills of exchange; 61932
but all obligations of the division created under authority of 61933
this division shall be a charge only upon the moneys received by 61934
the division from the sale of spirituous liquor and its other 61935
business transactions in connection with the sale of spirituous 61936
liquor, and shall not be general obligations of the state; 61937

(4) Enforce the administrative provisions of this chapter and 61938
Chapter 4303. of the Revised Code, and the rules and orders of the 61939
liquor control commission and the superintendent relating to the 61940
manufacture, importation, transportation, distribution, and sale 61941
of beer or intoxicating liquor. The attorney general, any 61942

prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor.

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection with those stores, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the division or by any peace officer, as defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer or intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the

premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer, and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that an inspection was not conducted in a reasonable manner in accordance with this section or any rules adopted by the commission may be considered grounds for suppression of evidence. A finding by the commission that an inspection was not conducted in a reasonable manner in accordance with this section or any rules adopted by it may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the division possesses with respect to the enforcement of any of the administrative laws relating to beer or intoxicating liquor, provided that this division does not authorize the division to designate any agent or employee to serve as an enforcement agent. The employment and designation of enforcement agents shall be within the exclusive authority of the

director of public safety pursuant to sections 5502.13 to 5502.19 62006
of the Revised Code. 62007

(8) Collect the following fees: 62008

(a) A biennial fifty-dollar registration fee for each agent, 62009
solicitor, trade marketing professional, or salesperson, 62010
registered pursuant to section 4303.25 of the Revised Code, of a 62011
beer or intoxicating liquor manufacturer, supplier, broker, trade 62012
marketing company, or wholesale distributor doing business in this 62013
state; 62014

(b) A fifty-dollar product registration fee for each new beer 62015
or intoxicating liquor product sold in this state. The product 62016
registration fee also applies to products sold in this state by 62017
B-2a and S permit holders. The product registration fee shall be 62018
accompanied by a copy of the federal label and product approval 62019
for the new product. 62020

(c) An annual three-hundred-dollar supplier registration fee 62021
from each manufacturer or supplier that produces and ships into 62022
this state, or ships into this state, intoxicating liquor or beer, 62023
in addition to an initial application fee of one hundred dollars. 62024
A manufacturer that produces and ships beer or wine into this 62025
state and that holds only an S permit is exempt from the supplier 62026
registration fee. A manufacturer that produces and ships wine into 62027
this state and that holds a B-2a permit shall pay an annual 62028
seventy-six-dollar supplier registration fee. A manufacturer that 62029
produces and ships wine into this state and that does not hold 62030
either an S or a B-2a permit, but that produces less than two 62031
hundred fifty thousand gallons of wine per year and that is 62032
entitled to a tax credit under 27 C.F.R. 24.278 shall pay an 62033
annual seventy-six-dollar supplier registration fee. A B-2a or S 62034
permit holder that does not sell its wine to wholesale 62035
distributors of wine in this state and an S permit holder that 62036
does not sell its beer to wholesale distributors of beer in this 62037

state shall not be required to submit to the division territory designation forms. 62038
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Each supplier, agent, solicitor, trade marketing professional, or salesperson registration issued under this division shall authorize the person named to carry on the activity specified in the registration. Each agent, solicitor, trade marketing professional, or salesperson registration is valid for two years or for the unexpired portion of a two-year registration period. Each supplier registration is valid for one year or for the unexpired portion of a one-year registration period. Registrations shall end on their respective uniform expiration date, which shall be designated by the division, and are subject to suspension, revocation, cancellation, or fine as authorized by this chapter and Chapter 4303. of the Revised Code. 62040
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As used in this division, "trade marketing company" and "trade marketing professional" have the same meanings as in section 4301.171 of the Revised Code. 62052
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(9) Establish a system of electronic data interchange within the division and regulate the electronic transfer of information and funds among persons and governmental entities engaged in the manufacture, distribution, and retail sale of alcoholic beverages; 62055
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(10) Notify all holders of retail permits of the forms of permissible identification for purposes of division (A) of section 4301.639 of the Revised Code; 62059
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(11) Exercise all other powers expressly or by necessary implication conferred upon the division by this chapter and Chapter 4303. of the Revised Code, and all powers necessary for the exercise or discharge of any power, duty, or function expressly conferred or imposed upon the division by those chapters. 62062
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(B) The division may do all of the following: 62068

(1) Sue, but may be sued only in connection with the 62069
execution of leases of real estate and the purchases and contracts 62070
necessary for the operation of the state liquor stores that are 62071
made under this chapter and Chapter 4303. of the Revised Code; 62072

(2) Enter into leases and contracts of all descriptions and 62073
acquire and transfer title to personal property with regard to the 62074
sale, distribution, and storage of spirituous liquor within the 62075
state; 62076

(3) Terminate at will any lease entered into pursuant to 62077
division (B)(2) of this section upon first giving ninety days' 62078
notice in writing to the lessor of its intention to do so; 62079

(4) Fix the wholesale and retail prices at which the various 62080
classes, varieties, and brands of spirituous liquor shall be sold 62081
by the division. Those retail prices shall be the same at all 62082
state liquor stores, except to the extent that a price 62083
differential is required to collect a county sales tax levied 62084
pursuant to section 5739.021 of the Revised Code and for which tax 62085
the tax commissioner has authorized prepayment pursuant to section 62086
5739.05 of the Revised Code. In fixing selling prices, the 62087
division shall compute an anticipated gross profit at least 62088
sufficient to provide in each calendar year all costs and expenses 62089
of the division and also an adequate working capital reserve for 62090
the division. The gross profit shall not exceed forty per cent of 62091
the retail selling price based on costs of the division, and in 62092
addition the sum required by section 4301.12 of the Revised Code 62093
to be paid into the state treasury. An amount equal to one and 62094
one-half per cent of that gross profit shall be paid into the 62095
statewide treatment and prevention fund created by section 4301.30 62096
of the Revised Code and be appropriated by the general assembly 62097
from the fund to the department of ~~alcohol and drug addiction~~ 62098
services mental health and addiction services as provided in 62099
section 4301.30 of the Revised Code. 62100

On spirituous liquor manufactured in this state from the juice of grapes or fruits grown in this state, the division shall compute an anticipated gross profit of not to exceed ten per cent.

The wholesale prices fixed under this division shall be at a discount of not less than six per cent of the retail selling prices as determined by the division in accordance with this section.

(C) The division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.30. (A) All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township.

(B)(1) An amount equal to forty-five per cent of the fund shall be paid from the fund into the state liquor regulatory fund, which is hereby created in the state treasury. The state liquor regulatory fund shall be used to pay the operating expenses of the division of liquor control in administering and enforcing Title XLIII of the Revised Code and the operating expenses of the liquor control commission. Investment earnings of the fund shall be credited to the fund.

(2) Whenever, in the judgment of the director of budget and management, the amount of money that is in the state liquor regulatory fund is in excess of the amount that is needed to pay the operating expenses of the division in administering and enforcing Title XLIII of the Revised Code and the operating

expenses of the commission, the director shall credit the excess 62132
amount to the general revenue fund. 62133

(C) Twenty per cent of the undivided liquor permit fund shall 62134
be paid into the statewide treatment and prevention fund, which is 62135
hereby created in the state treasury. This amount shall be 62136
appropriated by the general assembly, together with an amount 62137
equal to one and one-half per cent of the gross profit of the 62138
division of liquor control derived under division (B)(4) of 62139
section 4301.10 of the Revised Code, to the department of ~~alcohol~~ 62140
~~and drug addiction services~~ mental health and addiction services. 62141
In planning for the allocation of and in allocating these amounts 62142
for the purposes of Chapter ~~3793~~. 5119. of the Revised Code, the 62143
department of ~~alcohol and drug addiction services~~ shall comply 62144
with the nondiscrimination provisions of Title VI of the Civil 62145
Rights Act of 1964, and any rules adopted under that act. 62146

(D) Thirty-five per cent of the undivided liquor permit fund 62147
shall be distributed by the superintendent of liquor control at 62148
quarterly calendar periods as follows: 62149

(1) To each municipal corporation, the aggregate amount shown 62150
by the statements to have been collected from permits in the 62151
municipal corporation, for the use of the general fund of the 62152
municipal corporation; 62153

(2) To each township, the aggregate amount shown by the 62154
statements to have been collected from permits in its territory, 62155
outside the limits of any municipal corporation located in the 62156
township, for the use of the general fund of the township, or for 62157
fire protection purposes, including buildings and equipment in the 62158
township or in an established fire district within the township, 62159
to the extent that the funds are derived from liquor permits 62160
within the territory comprising such fire district. 62161

(E) For the purpose of the distribution required by this 62162

section, E, H, and D permits covering boats or vessels are deemed 62163
to have been issued in the municipal corporation or township 62164
wherein the owner or operator of the vehicle, boat, vessel, or 62165
dining car equipment to which the permit relates has the owner's 62166
or operator's principal office or place of business within the 62167
state. 62168

(F) If the liquor control commission determines that the 62169
police or other officers of any municipal corporation or township 62170
entitled to share in distributions under this section are refusing 62171
or culpably neglecting to enforce this chapter and Chapter 4303. 62172
of the Revised Code, or the penal laws of this state relating to 62173
the manufacture, importation, transportation, distribution, and 62174
sale of beer and intoxicating liquors, or if the prosecuting 62175
officer of a municipal corporation or a municipal court fails to 62176
comply with the request of the commission authorized by division 62177
(A)(4) of section 4301.10 of the Revised Code, the commission, by 62178
certified mail, may notify the chief executive officer of the 62179
municipal corporation or the board of township trustees of the 62180
township of the failure and require the immediate cooperation of 62181
the responsible officers of the municipal corporation or township 62182
with the division of liquor control in the enforcement of those 62183
chapters and penal laws. Within thirty days after the notice is 62184
served, the commission shall determine whether the requirement has 62185
been complied with. If the commission determines that the 62186
requirement has not been complied with, it may issue an order to 62187
the superintendent to withhold the distributive share of the 62188
municipal corporation or township until further order of the 62189
commission. This action of the commission is reviewable within 62190
thirty days thereafter in the court of common pleas of Franklin 62191
county. 62192

(G) All fees collected by the division of liquor control from 62193
the issuance or renewal of B-2a and S permits, and paid by B-2a 62194

and S permit holders who do not also hold A-2 permits, shall be 62195
deposited in the state treasury to the credit of the state liquor 62196
regulatory fund. Once during each fiscal year, an amount equal to 62197
fifty per cent of the fees collected shall be paid from the state 62198
liquor regulatory fund into the general revenue fund. 62199

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 62200
the Revised Code: 62201

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 62202
fluid ounces. 62203

(2) "Sale" or "sell" includes exchange, barter, gift, 62204
distribution, and, except with respect to A-4 permit holders, 62205
offer for sale. 62206

(B) For the purposes of providing revenues for the support of 62207
the state and encouraging the grape industries in the state, a tax 62208
is hereby levied on the sale or distribution of wine in Ohio, 62209
except for known sacramental purposes, at the rate of thirty cents 62210
per wine gallon for wine containing not less than four per cent of 62211
alcohol by volume and not more than fourteen per cent of alcohol 62212
by volume, ninety-eight cents per wine gallon for wine containing 62213
more than fourteen per cent but not more than twenty-one per cent 62214
of alcohol by volume, one dollar and eight cents per wine gallon 62215
for vermouth, and one dollar and forty-eight cents per wine gallon 62216
for sparkling and carbonated wine and champagne, the tax to be 62217
paid by the holders of A-2 and B-5 permits or by any other person 62218
selling or distributing wine upon which no tax has been paid. From 62219
the tax paid under this section on wine, vermouth, and sparkling 62220
and carbonated wine and champagne, the treasurer of state shall 62221
credit to the Ohio grape industries fund created under section 62222
924.54 of the Revised Code a sum equal to one cent per gallon for 62223
each gallon upon which the tax is paid. 62224

(C) For the purpose of providing revenues for the support of 62225

the state, there is hereby levied a tax on prepared and bottled 62226
highballs, cocktails, cordials, and other mixed beverages at the 62227
rate of one dollar and twenty cents per wine gallon to be paid by 62228
holders of A-4 permits or by any other person selling or 62229
distributing those products upon which no tax has been paid. Only 62230
one sale of the same article shall be used in computing the amount 62231
of tax due. The tax on mixed beverages to be paid by holders of 62232
A-4 permits under this section shall not attach until the 62233
ownership of the mixed beverage is transferred for valuable 62234
consideration to a wholesaler or retailer, and no payment of the 62235
tax shall be required prior to that time. 62236

(D) During the period of July 1, ~~2011~~ 2013, through June 30, 62237
~~2013~~ 2015, from the tax paid under this section on wine, vermouth, 62238
and sparkling and carbonated wine and champagne, the treasurer of 62239
state shall credit to the Ohio grape industries fund created under 62240
section 924.54 of the Revised Code a sum equal to two cents per 62241
gallon upon which the tax is paid. The amount credited under this 62242
division is in addition to the amount credited to the Ohio grape 62243
industries fund under division (B) of this section. 62244

(E) For the purpose of providing revenues for the support of 62245
the state, there is hereby levied a tax on cider at the rate of 62246
twenty-four cents per wine gallon to be paid by the holders of A-2 62247
and B-5 permits or by any other person selling or distributing 62248
cider upon which no tax has been paid. Only one sale of the same 62249
article shall be used in computing the amount of the tax due. 62250

Sec. 4305.131. (A) If any permit holder fails to pay the 62251
taxes levied by section 4301.42, 4301.43, 4301.432, or 4305.01 of 62252
the Revised Code in the manner prescribed by section 4303.33 of 62253
the Revised Code, or by section 4301.421 or 4301.424 of the 62254
Revised Code in the manner prescribed in section 4301.422 of the 62255
Revised Code, and by the rules of the tax commissioner, the 62256

commissioner may make an assessment against the permit holder 62257
based upon any information in the commissioner's possession. 62258

No assessment shall be made against any permit holder for any 62259
taxes imposed by section 4301.42, 4301.421, 4301.424, 4301.43, 62260
4301.432, or 4305.01 of the Revised Code more than three years 62261
after the last day of the calendar month in which the sale was 62262
made or more than three years after the return for that period is 62263
filed, whichever is later. This section does not bar an assessment 62264
against any permit holder or registrant as provided in section 62265
4303.331 of the Revised Code who fails to file a return as 62266
required by section 4301.422 or 4303.33 of the Revised Code, or 62267
who files a fraudulent return. 62268

A penalty of up to thirty per cent may be added to the amount 62269
of every assessment made under this section. The commissioner may 62270
adopt rules providing for the imposition and remission of 62271
penalties added to assessments made under this section. 62272

The commissioner shall give the party assessed written notice 62273
of the assessment in the manner provided in section 5703.37 of the 62274
Revised Code. With the notice, the commissioner shall provide 62275
instructions on how to petition for reassessment and request a 62276
hearing on the petition. 62277

(B) Unless the party assessed files with the tax commissioner 62278
within sixty days after service of the notice of assessment, 62279
either personally or by certified mail, a written petition for 62280
reassessment, signed by the party assessed or that party's 62281
authorized agent having knowledge of the facts, the assessment 62282
becomes final and the amount of the assessment is due and payable 62283
from the party assessed to the treasurer of state. The petition 62284
shall indicate the objections of the party assessed, but 62285
additional objections may be raised in writing if received by the 62286
commissioner prior to the date shown on the final determination. 62287
If the petition has been properly filed, the commissioner shall 62288

proceed under section 5703.60 of the Revised Code. 62289

(C) After an assessment becomes final, if any portion of the 62290
assessment remains unpaid, including accrued interest, a certified 62291
copy of the tax commissioner's entry making the assessment final 62292
may be filed in the office of the clerk of the court of common 62293
pleas in the county in which the permit holder's place of business 62294
is located or the county in which the party assessed resides. If 62295
the party assessed maintains no place of business in this state 62296
and is not a resident of this state, the certified copy of the 62297
entry may be filed in the office of the clerk of the court of 62298
common pleas of Franklin county. 62299

Immediately upon the filing of the entry, the clerk shall 62300
enter a judgment for the state against the party assessed in the 62301
amount shown on the entry. The judgment may be filed by the clerk 62302
in a loose-leaf book entitled "special judgments for state beer 62303
and liquor sales taxes," and shall have the same effect as other 62304
judgments. Execution shall issue upon the judgment upon the 62305
request of the commissioner, and all laws applicable to sales on 62306
execution shall apply to sales made under the judgment, except as 62307
otherwise provided in this chapter and Chapters 4301. and 4307. of 62308
the Revised Code. 62309

~~The portion of~~ If the assessment is not paid in its entirety 62310
within sixty days after the day the assessment was issued, the 62311
portion of the assessment consisting of tax due shall bear 62312
interest at the rate per annum prescribed by section 5703.47 of 62313
the Revised Code from the day the commissioner issues the 62314
assessment until it is paid or until it is certified to the 62315
attorney general for collection under section 131.02 of the 62316
Revised Code, whichever comes first. If the unpaid portion of the 62317
assessment is certified to the attorney general for collection, 62318
the entire unpaid portion of the assessment shall bear interest at 62319
the rate per annum prescribed by section 5703.47 of the Revised 62320

Code from the date of certification until the date it is paid in 62321
its entirety. Interest shall be paid in the same manner as the tax 62322
and may be collected by the issuance of an assessment under this 62323
section. 62324

(D) All money collected under this section shall be 62325
considered as revenue arising from the taxes imposed by sections 62326
4301.42, 4301.421, 4301.424, 4301.43, 4301.432, and 4305.01 of the 62327
Revised Code. 62328

Sec. 4503.06. (A) The owner of each manufactured or mobile 62329
home that has acquired situs in this state shall pay either a real 62330
property tax pursuant to Title LVII of the Revised Code or a 62331
manufactured home tax pursuant to division (C) of this section. 62332

(B) The owner of a manufactured or mobile home shall pay real 62333
property taxes if either of the following applies: 62334

(1) The manufactured or mobile home acquired situs in the 62335
state or ownership in the home was transferred on or after January 62336
1, 2000, and all of the following apply: 62337

(a) The home is affixed to a permanent foundation as defined 62338
in division (C)(5) of section 3781.06 of the Revised Code. 62339

(b) The home is located on land that is owned by the owner of 62340
the home. 62341

(c) The certificate of title has been inactivated by the 62342
clerk of the court of common pleas that issued it, pursuant to 62343
division (H) of section 4505.11 of the Revised Code. 62344

(2) The manufactured or mobile home acquired situs in the 62345
state or ownership in the home was transferred before January 1, 62346
2000, and all of the following apply: 62347

(a) The home is affixed to a permanent foundation as defined 62348
in division (C)(5) of section 3781.06 of the Revised Code. 62349

(b) The home is located on land that is owned by the owner of the home. 62350
62351

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid. 62352
62353
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(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate. 62357
62358
62359
62360

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section. 62361
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(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following thirty-first day of December. The state shall have the first lien on any manufactured or mobile home on the list for the amount of taxes, penalties, and interest charged against the owner of the home under this section. The lien of the state for the tax for a year shall attach on the first day of January to a home that has acquired situs on that date. The lien for a home that has not acquired situs on the first day of January, but that acquires situs during the year, shall attach on the next first day of January. The lien shall continue until the tax, including any penalty or interest, is paid. 62368
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(3)(a) The situs of a manufactured or mobile home located in 62380

this state on the first day of January is the local taxing district in which the home is located on that date. 62381
62382

(b) The situs of a manufactured or mobile home not located in this state on the first day of January, but located in this state subsequent to that date, is the local taxing district in which the home is located thirty days after it is acquired or first enters this state. 62383
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62385
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(4) The tax is collected by and paid to the county treasurer of the county containing the taxing district in which the home has its situs. 62388
62389
62390

(D) The manufactured home tax shall be computed and assessed by the county auditor of the county containing the taxing district in which the home has its situs as follows: 62391
62392
62393

(1) On a home that acquired situs in this state prior to January 1, 2000: 62394
62395

(a) By multiplying the assessable value of the home by the tax rate of the taxing district in which the home has its situs, and deducting from the product thus obtained any reduction authorized under section 4503.065 of the Revised Code. The tax levied under this formula shall not be less than thirty-six dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division. 62396
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(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation: 62405
62406

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule: 62407
62408
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62410

For the first calendar year			62411
in which the			62412
home is owned by the			62413
current owner	x	80%	62414
2nd calendar year	x	75%	62415
3rd "	x	70%	62416
4th "	x	65%	62417
5th "	x	60%	62418
6th "	x	55%	62419
7th "	x	50%	62420
8th "	x	45%	62421
9th "	x	40%	62422
10th and each year thereafter	x	35%	62423

The first calendar year means any period between the first 62424
day of January and the thirty-first day of December of the first 62425
year. 62426

(ii) If the cost to the owner, or market value at the time of 62427
purchase, whichever is greater, of the home does not include the 62428
furnishings and equipment, such cost or market value shall be 62429
multiplied according to the following schedule: 62430

For the first calendar year			62431
in which the			62432
home is owned by the			62433
current owner	x	95%	62434
2nd calendar year	x	90%	62435
3rd "	x	85%	62436
4th "	x	80%	62437
5th "	x	75%	62438
6th "	x	70%	62439
7th "	x	65%	62440
8th "	x	60%	62441
9th "	x	55%	62442

10th and each year thereafter x 50% 62443

The first calendar year means any period between the first 62444
day of January and the thirty-first day of December of the first 62445
year. 62446

(2) On a home in which ownership was transferred or that 62447
first acquired situs in this state on or after January 1, 2000: 62448

(a) By multiplying the assessable value of the home by the 62449
effective tax rate, as defined in section 323.08 of the Revised 62450
Code, for residential real property of the taxing district in 62451
which the home has its situs, and deducting from the product thus 62452
obtained the reductions required or authorized under section 62453
319.302, division (B) of section 323.152, or section 4503.065 of 62454
the Revised Code. 62455

(b) The assessable value of the home shall be thirty-five per 62456
cent of its true value as determined under division (L) of this 62457
section. 62458

(3) On or before the fifteenth day of January each year, the 62459
county auditor shall record the assessable value and the amount of 62460
tax on the manufactured or mobile home on the tax list and deliver 62461
a duplicate of the list to the county treasurer. In the case of an 62462
emergency as defined in section 323.17 of the Revised Code, the 62463
tax commissioner, by journal entry, may extend the times for 62464
delivery of the duplicate for an additional fifteen days upon 62465
receiving a written application from the county auditor regarding 62466
an extension for the delivery of the duplicate, or from the county 62467
treasurer regarding an extension of the time for the billing and 62468
collection of taxes. The application shall contain a statement 62469
describing the emergency that will cause the unavoidable delay and 62470
must be received by the tax commissioner on or before the last day 62471
of the month preceding the day delivery of the duplicate is 62472
otherwise required. When an extension is granted for delivery of 62473
the duplicate, the time period for payment of taxes shall be 62474

extended for a like period of time. When a delay in the closing of a tax collection period becomes unavoidable, the tax commissioner, upon application by the county auditor and county treasurer, may order the time for payment of taxes to be extended if the tax commissioner determines that penalties have accrued or would otherwise accrue for reasons beyond the control of the taxpayers of the county. The order shall prescribe the final extended date for payment of taxes for that collection period.

(4) After January 1, 1999, the owner of a manufactured or mobile home taxed pursuant to division (D)(1) of this section may elect to have the home taxed pursuant to division (D)(2) of this section by filing a written request with the county auditor of the taxing district in which the home is located on or before the first day of December of any year. Upon the filing of the request, the county auditor shall determine whether all taxes levied under division (D)(1) of this section have been paid, and if those taxes have been paid, the county auditor shall tax the manufactured or mobile home pursuant to division (D)(2) of this section commencing in the next tax year.

(5) A manufactured or mobile home that acquired situs in this state prior to January 1, 2000, shall be taxed pursuant to division (D)(2) of this section if no manufactured home tax had been paid for the home and the home was not exempted from taxation pursuant to division (E) of this section for the year for which the taxes were not paid.

(6)(a) Immediately upon receipt of any manufactured home tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in division (F) of this section, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on that duplicate with taxes, or to an agent designated by such person, the tax bill

prescribed by the tax commissioner under division (D)(7) of this section. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by that person a second tax bill showing the amount due at the time of the second tax collection. The second half tax bill shall be mailed or delivered at least twenty days prior to the close of the second half tax collection period. A change in the mailing address of any tax bill shall be made in writing to the county treasurer. Failure to receive a bill required by this section does not excuse failure or delay to pay any taxes shown on the bill or, except as provided in division (B)(1) of section 5715.39 of the Revised Code, avoid any penalty, interest, or charge for such delay.

(b) After delivery of the copy of the delinquent manufactured home tax list under division (H) of this section, the county treasurer may prepare and mail to each person in whose name a home is listed an additional tax bill showing the total amount of delinquent taxes charged against the home as shown on the list. The tax bill shall include a notice that the interest charge prescribed by division (G) of this section has begun to accrue.

(7) Each tax bill prepared and mailed or delivered under division (D)(6) of this section shall be in the form and contain the information required by the tax commissioner. The commissioner may prescribe different forms for each county and may authorize the county auditor to make up tax bills and tax receipts to be used by the county treasurer. The tax bill shall not contain or be mailed or delivered with any information or material that is not required by this section or that is not authorized by section 321.45 of the Revised Code or by the tax commissioner. In addition to the information required by the commissioner, each tax bill shall contain the following information:

(a) The taxes levied and the taxes charged and payable

against the manufactured or mobile home; 62539

(b) The following notice: "Notice: If the taxes are not paid 62540
within sixty days after the county auditor delivers the delinquent 62541
manufactured home tax list to the county treasurer, you and your 62542
home may be subject to collection proceedings for tax 62543
delinquency." Failure to provide such notice has no effect upon 62544
the validity of any tax judgment to which a home may be subjected. 62545

(c) In the case of manufactured or mobile homes taxed under 62546
division (D)(2) of this section, the following additional 62547
information: 62548

(i) The effective tax rate. The words "effective tax rate" 62549
shall appear in boldface type. 62550

(ii) The following notice: "Notice: If the taxes charged 62551
against this home have been reduced by the 2-1/2 per cent tax 62552
reduction for residences occupied by the owner but the home is not 62553
a residence occupied by the owner, the owner must notify the 62554
county auditor's office not later than March 31 of the year for 62555
which the taxes are due. Failure to do so may result in the owner 62556
being convicted of a fourth degree misdemeanor, which is 62557
punishable by imprisonment up to 30 days, a fine up to \$250, or 62558
both, and in the owner having to repay the amount by which the 62559
taxes were erroneously or illegally reduced, plus any interest 62560
that may apply. 62561

If the taxes charged against this home have not been reduced 62562
by the 2-1/2 per cent tax reduction and the home is a residence 62563
occupied by the owner, the home may qualify for the tax reduction. 62564
To obtain an application for the tax reduction or further 62565
information, the owner may contact the county auditor's office at 62566
..... (insert the address and telephone number of the county 62567
auditor's office)." 62568

(E)(1) A manufactured or mobile home is not subject to this 62569

section when any of the following applies: 62570

(a) It is taxable as personal property pursuant to section 62571
5709.01 of the Revised Code. Any manufactured or mobile home that 62572
is used as a residence shall be subject to this section and shall 62573
not be taxable as personal property pursuant to section 5709.01 of 62574
the Revised Code. 62575

(b) It bears a license plate issued by any state other than 62576
this state unless the home is in this state in excess of an 62577
accumulative period of thirty days in any calendar year. 62578

(c) The annual tax has been paid on the home in this state 62579
for the current year. 62580

(d) The tax commissioner has determined, pursuant to section 62581
5715.27 of the Revised Code, that the property is exempt from 62582
taxation, or would be exempt from taxation under Chapter 5709. of 62583
the Revised Code if it were classified as real property. 62584

(2) A travel trailer or park trailer, as these terms are 62585
defined in section 4501.01 of the Revised Code, is not subject to 62586
this section if it is unused or unoccupied and stored at the 62587
owner's normal place of residence or at a recognized storage 62588
facility. 62589

(3) A travel trailer or park trailer, as these terms are 62590
defined in section 4501.01 of the Revised Code, is subject to this 62591
section and shall be taxed as a manufactured or mobile home if it 62592
has a situs longer than thirty days in one location and is 62593
connected to existing utilities, unless either of the following 62594
applies: 62595

(a) The situs is in a state facility or a camping or park 62596
area as defined in division (C), (Q), (S), or (V) of section 62597
3729.01 of the Revised Code. 62598

(b) The situs is in a camping or park area that is a tract of 62599

land that has been limited to recreational use by deed or zoning 62600
restrictions and subdivided for sale of five or more individual 62601
lots for the express or implied purpose of occupancy by either 62602
self-contained recreational vehicles as defined in division (T) of 62603
section 3729.01 of the Revised Code or by dependent recreational 62604
vehicles as defined in division (D) of section 3729.01 of the 62605
Revised Code. 62606

(F) Except as provided in division (D)(3) of this section, 62607
the manufactured home tax is due and payable as follows: 62608

(1) When a manufactured or mobile home has a situs in this 62609
state, as provided in this section, on the first day of January, 62610
one-half of the amount of the tax is due and payable on or before 62611
the first day of March and the balance is due and payable on or 62612
before the thirty-first day of July. At the option of the owner of 62613
the home, the tax for the entire year may be paid in full on the 62614
first day of March. 62615

(2) When a manufactured or mobile home first acquires a situs 62616
in this state after the first day of January, no tax is due and 62617
payable for that year. 62618

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) 62619
of this section, if one-half of the current taxes charged under 62620
this section against a manufactured or mobile home, together with 62621
the full amount of any delinquent taxes, are not paid on or before 62622
the first day of March in that year, or on or before the last day 62623
for such payment as extended pursuant to section 4503.063 of the 62624
Revised Code, a penalty of ten per cent shall be charged against 62625
the unpaid balance of such half of the current taxes. If the total 62626
amount of all such taxes is not paid on or before the thirty-first 62627
day of July, next thereafter, or on or before the last day for 62628
payment as extended pursuant to section 4503.063 of the Revised 62629
Code, a like penalty shall be charged on the balance of the total 62630
amount of the unpaid current taxes. 62631

(b) After a valid delinquent tax contract that includes 62632
unpaid current taxes from a first-half collection period described 62633
in division (F) of this section has been entered into under 62634
section 323.31 of the Revised Code, no ten per cent penalty shall 62635
be charged against such taxes after the second-half collection 62636
period while the delinquent tax contract remains in effect. On the 62637
day a delinquent tax contract becomes void, the ten per cent 62638
penalty shall be charged against such taxes and shall equal the 62639
amount of penalty that would have been charged against unpaid 62640
current taxes outstanding on the date on which the second-half 62641
penalty would have been charged thereon under division (G)(1)(a) 62642
of this section if the contract had not been in effect. 62643

(2)(a) On the first day of the month following the last day 62644
the second installment of taxes may be paid without penalty 62645
beginning in 2000, interest shall be charged against and computed 62646
on all delinquent taxes other than the current taxes that became 62647
delinquent taxes at the close of the last day such second 62648
installment could be paid without penalty. The charge shall be for 62649
interest that accrued during the period that began on the 62650
preceding first day of December and ended on the last day of the 62651
month that included the last date such second installment could be 62652
paid without penalty. The interest shall be computed at the rate 62653
per annum prescribed by section 5703.47 of the Revised Code and 62654
shall be entered as a separate item on the delinquent manufactured 62655
home tax list compiled under division (H) of this section. 62656

(b) On the first day of December beginning in 2000, the 62657
interest shall be charged against and computed on all delinquent 62658
taxes. The charge shall be for interest that accrued during the 62659
period that began on the first day of the month following the last 62660
date prescribed for the payment of the second installment of taxes 62661
in the current year and ended on the immediately preceding last 62662
day of November. The interest shall be computed at the rate per 62663

annum prescribed by section 5703.47 of the Revised Code and shall 62664
be entered as a separate item on the delinquent manufactured home 62665
tax list. 62666

(c) After a valid undertaking has been entered into for the 62667
payment of any delinquent taxes, no interest shall be charged 62668
against such delinquent taxes while the undertaking remains in 62669
effect in compliance with section 323.31 of the Revised Code. If a 62670
valid undertaking becomes void, interest shall be charged against 62671
the delinquent taxes for the periods that interest was not 62672
permitted to be charged while the undertaking was in effect. The 62673
interest shall be charged on the day the undertaking becomes void 62674
and shall equal the amount of interest that would have been 62675
charged against the unpaid delinquent taxes outstanding on the 62676
dates on which interest would have been charged thereon under 62677
divisions (G)(1) and (2) of this section had the undertaking not 62678
been in effect. 62679

(3) If the full amount of the taxes due at either of the 62680
times prescribed by division (F) of this section is paid within 62681
ten days after such time, the county treasurer shall waive the 62682
collection of and the county auditor shall remit one-half of the 62683
penalty provided for in this division for failure to make that 62684
payment by the prescribed time. 62685

(4) The treasurer shall compile and deliver to the county 62686
auditor a list of all tax payments the treasurer has received as 62687
provided in division (G)(3) of this section. The list shall 62688
include any information required by the auditor for the remission 62689
of the penalties waived by the treasurer. The taxes so collected 62690
shall be included in the settlement next succeeding the settlement 62691
then in process. 62692

(H)(1) The county auditor shall compile annually a 62693
"delinquent manufactured home tax list" consisting of homes the 62694
county treasurer's records indicate have taxes that were not paid 62695

within the time prescribed by divisions (D)(3) and (F) of this section, have taxes that remain unpaid from prior years, or have unpaid tax penalties or interest that have been assessed.

(2) Within thirty days after the settlement under division (H)(2) of section 321.24 of the Revised Code, the county auditor shall deliver a copy of the delinquent manufactured home tax list to the county treasurer. The auditor shall update and publish the delinquent manufactured home tax list annually in the same manner as delinquent real property tax lists are published. The county auditor may apportion the cost of publishing the list among taxing districts in proportion to the amount of delinquent manufactured home taxes so published that each taxing district is entitled to receive upon collection of those taxes, or the county auditor may charge the owner of a home on the list a flat fee established under section 319.54 of the Revised Code for the cost of publishing the list and, if the fee is not paid, may place the fee upon the delinquent manufactured home tax list as a lien on the listed home, to be collected as other manufactured home taxes.

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for

the county treasurer to allege in the treasurer's bill of 62728
particulars or petition that the taxes stand chargeable on the 62729
books of the county treasurer against such person, that they are 62730
due and unpaid, and that such person is indebted in the amount of 62731
taxes appearing to be due the county. The treasurer need not set 62732
forth any other matter relating thereto. If it is found on the 62733
trial of the action that the person is indebted to the state, 62734
judgment shall be rendered in favor of the county treasurer 62735
prosecuting the action. The judgment debtor is not entitled to the 62736
benefit of any law for stay of execution or exemption of property 62737
from levy or sale on execution in the enforcement of the judgment. 62738

Upon the filing of an entry of confirmation of sale or an 62739
order of forfeiture in a proceeding brought under this division, 62740
title to the manufactured or mobile home shall be in the 62741
purchaser. The clerk of courts shall issue a certificate of title 62742
to the purchaser upon presentation of proof of filing of the entry 62743
of confirmation or order and, in the case of a forfeiture, 62744
presentation of the county auditor's certificate of sale. 62745

(I) The total amount of taxes collected shall be distributed 62746
in the following manner: four per cent shall be allowed as 62747
compensation to the county auditor for the county auditor's 62748
service in assessing the taxes; two per cent shall be allowed as 62749
compensation to the county treasurer for the services the county 62750
treasurer renders as a result of the tax levied by this section. 62751
Such amounts shall be paid into the county treasury, to the credit 62752
of the county general revenue fund, on the warrant of the county 62753
auditor. Fees to be paid to the credit of the real estate 62754
assessment fund shall be collected pursuant to division (C) of 62755
section 319.54 of the Revised Code and paid into the county 62756
treasury, on the warrant of the county auditor. The balance of the 62757
taxes collected shall be distributed among the taxing subdivisions 62758
of the county in which the taxes are collected and paid in the 62759

same ratio as those taxes were collected for the benefit of the 62760
taxing subdivision. The taxes levied and revenues collected under 62761
this section shall be in lieu of any general property tax and any 62762
tax levied with respect to the privilege of using or occupying a 62763
manufactured or mobile home in this state except as provided in 62764
sections 4503.04 and 5741.02 of the Revised Code. 62765

(J) An agreement to purchase or a bill of sale for a 62766
manufactured home shall show whether or not the furnishings and 62767
equipment are included in the purchase price. 62768

(K) If the county treasurer and the county prosecuting 62769
attorney agree that an item charged on the delinquent manufactured 62770
home tax list is uncollectible, they shall certify that 62771
determination and the reasons to the county board of revision. If 62772
the board determines the amount is uncollectible, it shall certify 62773
its determination to the county auditor, who shall strike the item 62774
from the list. 62775

(L)(1) The county auditor shall appraise at its true value 62776
any manufactured or mobile home in which ownership is transferred 62777
or which first acquires situs in this state on or after January 1, 62778
2000, and any manufactured or mobile home the owner of which has 62779
elected, under division (D)(4) of this section, to have the home 62780
taxed under division (D)(2) of this section. The true value shall 62781
include the value of the home, any additions, and any fixtures, 62782
but not any furnishings in the home. In determining the true value 62783
of a manufactured or mobile home, the auditor shall consider all 62784
facts and circumstances relating to the value of the home, 62785
including its age, its capacity to function as a residence, any 62786
obsolete characteristics, and other factors that may tend to prove 62787
its true value. 62788

(2)(a) If a manufactured or mobile home has been the subject 62789
of an arm's length sale between a willing seller and a willing 62790
buyer within a reasonable length of time prior to the 62791

determination of true value, the county auditor shall consider the 62792
sale price of the home to be the true value for taxation purposes. 62793

(b) The sale price in an arm's length transaction between a 62794
willing seller and a willing buyer shall not be considered the 62795
true value of the home if either of the following occurred after 62796
the sale: 62797

(i) The home has lost value due to a casualty. 62798

(ii) An addition or fixture has been added to the home. 62799

(3) The county auditor shall have each home viewed and 62800
~~appraised at least once in each six year period in the same~~ each 62801
year in which real property in the county is appraised pursuant to 62802
Chapter 5713. of the Revised Code, and shall update the appraised 62803
values ~~in the third calendar~~ each year following in which the 62804
~~appraisal~~ appraised value of real property in the county is 62805
updated pursuant to section 5715.24 of the Revised Code. The 62806
person viewing or appraising a home may enter the home to 62807
determine by actual view any additions or fixtures that have been 62808
added since the last appraisal. In conducting the appraisals and 62809
establishing the true value, the auditor shall follow the 62810
procedures set forth for appraising real property in sections 62811
5713.01 and 5713.03 of the Revised Code. 62812

(4) The county auditor shall place the true value of each 62813
home on the manufactured home tax list upon completion of an 62814
appraisal. 62815

(5)(a) If the county auditor changes the true value of a 62816
home, the auditor shall notify the owner of the home in writing, 62817
delivered by mail or in person. The notice shall be given at least 62818
thirty days prior to the issuance of any tax bill that reflects 62819
the change. Failure to receive the notice does not invalidate any 62820
proceeding under this section. 62821

(b) Any owner of a home or any other person or party listed 62822

in division (A)(1) of section 5715.19 of the Revised Code may file 62823
a complaint against the true value of the home as appraised under 62824
this section. The complaint shall be filed with the county auditor 62825
on or before the thirty-first day of March of the current tax year 62826
or the date of closing of the collection for the first half of 62827
manufactured home taxes for the current tax year, whichever is 62828
later. The auditor shall present to the county board of revision 62829
all complaints filed with the auditor under this section. The 62830
board shall hear and investigate the complaint and may take action 62831
on it as provided under sections 5715.11 to 5715.19 of the Revised 62832
Code. 62833

(c) If the county board of revision determines, pursuant to a 62834
complaint against the valuation of a manufactured or mobile home 62835
filed under this section, that the amount of taxes, assessments, 62836
or other charges paid was in excess of the amount due based on the 62837
valuation as finally determined, then the overpayment shall be 62838
refunded in the manner prescribed in section 5715.22 of the 62839
Revised Code. 62840

(d) Payment of all or part of a tax under this section for 62841
any year for which a complaint is pending before the county board 62842
of revision does not abate the complaint or in any way affect the 62843
hearing and determination thereof. 62844

(M) If the county auditor determines that any tax or other 62845
charge or any part thereof has been erroneously charged as a 62846
result of a clerical error as defined in section 319.35 of the 62847
Revised Code, the county auditor shall call the attention of the 62848
county board of revision to the erroneous charges. If the board 62849
finds that the taxes or other charges have been erroneously 62850
charged or collected, it shall certify the finding to the auditor. 62851
Upon receipt of the certification, the auditor shall remove the 62852
erroneous charges on the manufactured home tax list or delinquent 62853
manufactured home tax list in the same manner as is prescribed in 62854

section 319.35 of the Revised Code for erroneous charges against 62855
real property, and refund any erroneous charges that have been 62856
collected, with interest, in the same manner as is prescribed in 62857
section 319.36 of the Revised Code for erroneous charges against 62858
real property. 62859

(N) As used in this section and section 4503.061 of the 62860
Revised Code: 62861

(1) "Manufactured home taxes" includes taxes, penalties, and 62862
interest charged under division (C) or (G) of this section and any 62863
penalties charged under division (G) or (H)(5) of section 4503.061 62864
of the Revised Code. 62865

(2) "Current taxes" means all manufactured home taxes charged 62866
against a manufactured or mobile home that have not appeared on 62867
the manufactured home tax list for any prior year. Current taxes 62868
become delinquent taxes if they remain unpaid after the last day 62869
prescribed for payment of the second installment of current taxes 62870
without penalty, whether or not they have been certified 62871
delinquent. 62872

(3) "Delinquent taxes" means: 62873

(a) Any manufactured home taxes that were charged against a 62874
manufactured or mobile home for a prior year, including any 62875
penalties or interest charged for a prior year and the costs of 62876
publication under division (H)(2) of this section, and that remain 62877
unpaid; 62878

(b) Any current manufactured home taxes charged against a 62879
manufactured or mobile home that remain unpaid after the last day 62880
prescribed for payment of the second installment of current taxes 62881
without penalty, whether or not they have been certified 62882
delinquent, including any penalties or interest and the costs of 62883
publication under division (H)(2) of this section. 62884

Sec. 4503.44. (A) As used in this section and in section 4511.69 of the Revised Code:

(1) "Person with a disability that limits or impairs the ability to walk" means any person who, as determined by a health care provider, meets any of the following criteria:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(c) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty millimeters of mercury on room air at rest;

(d) Uses portable oxygen;

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association;

(f) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;

(g) Is blind.

(2) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for use by ~~handicapped~~ persons with disabilities. This definition does not apply to division (J) of this section.

(3) "Health care provider" means a physician, physician assistant, advanced practice registered nurse, or chiropractor as defined in this section. 62915
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(4) "Physician" means a person licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code. 62918
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(5) "Chiropractor" means a person licensed to practice chiropractic under Chapter 4734. of the Revised Code. 62921
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(6) "Advanced practice registered nurse" means a certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code. 62923
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(7) "Physician assistant" means a person who holds a certificate to practice as a physician assistant issued under Chapter 4730. of the Revised Code. 62928
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(B) Any organization or person with a disability that limits or impairs the ability to walk may apply to the registrar of motor vehicles for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the registrar, in the registrar's discretion, determines that good and justifiable cause exists to approve the request for the additional placard. When a motor vehicle has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone 62931
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other than such a person, the owner or lessee may apply to the registrar or a deputy registrar for registration under this section. The application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk shall be accompanied by a signed statement from the applicant's health care provider certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for more than six consecutive months. The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk. The application for a removable windshield placard made by an organization shall be accompanied by such documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk by the organization as the registrar may require by rule and shall be completed in accordance with procedures that the registrar may require by rule. The application for registration of a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk but is owned by someone other than such a person shall be accompanied by such documentary evidence of vehicle alterations as the registrar may require by rule.

(C) When an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have a disability that limits or impairs the ability to walk but owns a motor vehicle that has been altered for the purpose of

providing it with special equipment for a person with a disability 62979
that limits or impairs the ability to walk first submits an 62980
application for registration of a motor vehicle under this section 62981
and every fifth year thereafter, the organization or person shall 62982
submit a signed statement from the applicant's health care 62983
provider, a completed application, and any required documentary 62984
evidence of vehicle alterations as provided in division (B) of 62985
this section, and also a power of attorney from the owner of the 62986
motor vehicle if the applicant leases the vehicle. Upon submission 62987
of these items, the registrar or deputy registrar shall issue to 62988
the applicant appropriate vehicle registration and a set of 62989
license plates and validation stickers, or validation stickers 62990
alone when required by section 4503.191 of the Revised Code. In 62991
addition to the letters and numbers ordinarily inscribed thereon, 62992
the license plates shall be imprinted with the international 62993
symbol of access. The license plates and validation stickers shall 62994
be issued upon payment of the regular license fee as prescribed 62995
under section 4503.04 of the Revised Code and any motor vehicle 62996
tax levied under Chapter 4504. of the Revised Code, and the 62997
payment of a service fee equal to the amount specified in division 62998
(D) or (G) of section 4503.10 of the Revised Code. 62999

(D)(1) Upon receipt of a completed and signed application for 63000
a removable windshield placard, a prescription as described in 63001
division (B) of this section, documentary evidence of regular 63002
transport of persons with disabilities that limit or impair the 63003
ability to walk, if required, and payment of a service fee equal 63004
to the amount specified in division (D) or (G) of section 4503.10 63005
of the Revised Code, the registrar or deputy registrar shall issue 63006
to the applicant a removable windshield placard, which shall bear 63007
the date of expiration on both sides of the placard and shall be 63008
valid until expired, revoked, or surrendered. Every removable 63009
windshield placard expires as described in division (D)(2) of this 63010
section, but in no case shall a removable windshield placard be 63011

valid for a period of less than sixty days. Removable windshield placards shall be renewable upon application as provided in division (B) of this section, and a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code shall be charged for the renewal of a removable windshield placard. The registrar shall provide the application form and shall determine the information to be included thereon. The registrar also shall determine the form and size of the removable windshield placard, the material of which it is to be made, and any other information to be included thereon, and shall adopt rules relating to the issuance, expiration, revocation, surrender, and proper display of such placards. Any placard issued after October 14, 1999, shall be manufactured in a manner that allows the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(2) At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the registrar or deputy registrar shall enter into the records of the bureau of motor vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than thirty days prior to that date and all removable windshield placard renewal dates, the bureau shall send a renewal notice to that person at the person's last known address as shown in the records of the bureau, informing the person that the person's removable windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting to the registrar or a deputy registrar another prescription, as described in division (B) of this section, and by complying with the renewal provisions prescribed in division (D)(1) of this section. If such a prescription is not received by the registrar or a deputy registrar by that date, the placard issued to that

person expires and no longer is valid, and this fact shall be 63045
recorded in the records of the bureau. 63046

(3) At least once every year, on a date determined by the 63047
registrar, the bureau shall examine the records of the office of 63048
vital statistics, located within the department of health, that 63049
pertain to deceased persons, and also the bureau's records of all 63050
persons who have been issued removable windshield placards and 63051
temporary removable windshield placards. If the records of the 63052
office of vital statistics indicate that a person to whom a 63053
removable windshield placard or temporary removable windshield 63054
placard has been issued is deceased, the bureau shall cancel that 63055
placard, and note the cancellation in its records. 63056

The office of vital statistics shall make available to the 63057
bureau all information necessary to enable the bureau to comply 63058
with division (D)(3) of this section. 63059

(4) Nothing in this section shall be construed to require a 63060
person or organization to apply for a removable windshield placard 63061
or special license plates if the parking card or special license 63062
plates issued to the person or organization under prior law have 63063
not expired or been surrendered or revoked. 63064

(E)(1)(a) Any person with a disability that limits or impairs 63065
the ability to walk may apply to the registrar or a deputy 63066
registrar for a temporary removable windshield placard. The 63067
application for a temporary removable windshield placard shall be 63068
accompanied by a prescription from the applicant's health care 63069
provider prescribing such a placard for the applicant, provided 63070
that the applicant meets at least one of the criteria contained in 63071
division (A)(1) of this section and that the disability is 63072
expected to continue for six consecutive months or less. The 63073
health care provider shall state on the prescription the length of 63074
time the health care provider expects the applicant to have the 63075
disability that limits or impairs the applicant's ability to walk, 63076

which cannot exceed six months from the date of the prescription. 63077
Upon receipt of an application for a temporary removable 63078
windshield placard, presentation of the prescription from the 63079
applicant's health care provider, and payment of a service fee 63080
equal to the amount specified in division (D) or (G) of section 63081
4503.10 of the Revised Code, the registrar or deputy registrar 63082
shall issue to the applicant a temporary removable windshield 63083
placard. 63084

(b) Any active-duty member of the armed forces of the United 63085
States, including the reserve components of the armed forces and 63086
the national guard, who has an illness or injury that limits or 63087
impairs the ability to walk may apply to the registrar or a deputy 63088
registrar for a temporary removable windshield placard. With the 63089
application, the person shall present evidence of the person's 63090
active-duty status and the illness or injury. Evidence of the 63091
illness or injury may include a current department of defense 63092
convalescent leave statement, any department of defense document 63093
indicating that the person currently has an ill or injured 63094
casualty status or has limited duties, or a prescription from any 63095
health care provider prescribing the placard for the applicant. 63096
Upon receipt of the application and the necessary evidence, the 63097
registrar or deputy registrar shall issue the applicant the 63098
temporary removable windshield placard without the payment of any 63099
service fee. 63100

(2) The temporary removable windshield placard shall be of 63101
the same size and form as the removable windshield placard, shall 63102
be printed in white on a red-colored background, and shall bear 63103
the word "temporary" in letters of such size as the registrar 63104
shall prescribe. A temporary removable windshield placard also 63105
shall bear the date of expiration on the front and back of the 63106
placard, and shall be valid until expired, surrendered, or 63107
revoked, but in no case shall such a placard be valid for a period 63108

of less than sixty days. The registrar shall provide the 63109
application form and shall determine the information to be 63110
included on it, provided that the registrar shall not require a 63111
health care provider's prescription or certification for a person 63112
applying under division (E)(1)(b) of this section. The registrar 63113
also shall determine the material of which the temporary removable 63114
windshield placard is to be made and any other information to be 63115
included on the placard and shall adopt rules relating to the 63116
issuance, expiration, surrender, revocation, and proper display of 63117
those placards. Any temporary removable windshield placard issued 63118
after October 14, 1999, shall be manufactured in a manner that 63119
allows for the expiration date of the placard to be indicated on 63120
it through the punching, drilling, boring, or creation by any 63121
other means of holes in the placard. 63122

(F) If an applicant for a removable windshield placard is a 63123
veteran of the armed forces of the United States whose disability, 63124
as defined in division (A)(1) of this section, is 63125
service-connected, the registrar or deputy registrar, upon receipt 63126
of the application, presentation of a signed statement from the 63127
applicant's health care provider certifying the applicant's 63128
disability, and presentation of such documentary evidence from the 63129
department of veterans affairs that the disability of the 63130
applicant meets at least one of the criteria identified in 63131
division (A)(1) of this section and is service-connected as the 63132
registrar may require by rule, but without the payment of any 63133
service fee, shall issue the applicant a removable windshield 63134
placard that is valid until expired, surrendered, or revoked. 63135

(G) Upon a conviction of a violation of division (I), (J), or 63136
(K) of this section, the court shall report the conviction, and 63137
send the placard or parking card, if available, to the registrar, 63138
who thereupon shall revoke the privilege of using the placard or 63139
parking card and send notice in writing to the placardholder or 63140

cardholder at that holder's last known address as shown in the 63141
records of the bureau, and the placardholder or cardholder shall 63142
return the placard or card if not previously surrendered to the 63143
court, to the registrar within ten days following mailing of the 63144
notice. 63145

Whenever a person to whom a removable windshield placard or 63146
parking card has been issued moves to another state, the person 63147
shall surrender the placard or card to the registrar; and whenever 63148
an organization to which a placard or card has been issued changes 63149
its place of operation to another state, the organization shall 63150
surrender the placard or card to the registrar. 63151

(H) Subject to division (F) of section 4511.69 of the Revised 63152
Code, the operator of a motor vehicle displaying a removable 63153
windshield placard, temporary removable windshield placard, 63154
parking card, or the special license plates authorized by this 63155
section is entitled to park the motor vehicle in any special 63156
parking location reserved for persons with disabilities that limit 63157
or impair the ability to walk, also known as handicapped parking 63158
spaces or disability parking spaces. 63159

(I) No person or organization that is not eligible under 63160
division (B) or (E) of this section shall willfully and falsely 63161
represent that the person or organization is so eligible. 63162

No person or organization shall display license plates issued 63163
under this section unless the license plates have been issued for 63164
the vehicle on which they are displayed and are valid. 63165

(J) No person or organization to which a removable windshield 63166
placard or temporary removable windshield placard is issued shall 63167
do either of the following: 63168

(1) Display or permit the display of the placard on any motor 63169
vehicle when having reasonable cause to believe the motor vehicle 63170
is being used in connection with an activity that does not include 63171

providing transportation for persons with disabilities that limit 63172
or impair the ability to walk; 63173

(2) Refuse to return or surrender the placard, when required. 63174

(K)(1) No person or organization to which a parking card is 63175
issued shall do either of the following: 63176

(a) Display or permit the display of the parking card on any 63177
motor vehicle when having reasonable cause to believe the motor 63178
vehicle is being used in connection with an activity that does not 63179
include providing transportation for a ~~handicapped~~ person with a 63180
disability; 63181

(b) Refuse to return or surrender the parking card, when 63182
required. 63183

(2) As used in division (K) of this section: 63184

(a) "~~Handicapped person~~ Person with a disability" means any 63185
person who has lost the use of one or both legs or one or both 63186
arms, who is blind, deaf, or so severely ~~handicapped~~ disabled as 63187
to be unable to move about without the aid of crutches or a 63188
wheelchair, or whose mobility is restricted by a permanent 63189
cardiovascular, pulmonary, or other ~~handicapping~~ disabling 63190
condition. 63191

(b) "Organization" means any private organization or 63192
corporation, or any governmental board, agency, department, 63193
division, or office, that, as part of its business or program, 63194
transports ~~handicapped~~ persons with disabilities on a regular 63195
basis in a motor vehicle that has not been altered for the 63196
purposes of providing it with special equipment for use by 63197
~~handicapped~~ persons with disabilities. 63198

(L) If a removable windshield placard, temporary removable 63199
windshield placard, or parking card is lost, destroyed, or 63200
mutilated, the placardholder or cardholder may obtain a duplicate 63201

by doing both of the following: 63202

(1) Furnishing suitable proof of the loss, destruction, or 63203
mutilation to the registrar; 63204

(2) Paying a service fee equal to the amount specified in 63205
division (D) or (G) of section 4503.10 of the Revised Code. 63206

Any placardholder or cardholder who loses a placard or card 63207
and, after obtaining a duplicate, finds the original, immediately 63208
shall surrender the original placard or card to the registrar. 63209

(M) The registrar shall pay all fees received under this 63210
section for the issuance of removable windshield placards or 63211
temporary removable windshield placards or duplicate removable 63212
windshield placards or cards into the state treasury to the credit 63213
of the state bureau of motor vehicles fund created in section 63214
4501.25 of the Revised Code. 63215

(N) In addition to the fees collected under this section, the 63216
registrar or deputy registrar shall ask each person applying for a 63217
removable windshield placard or temporary removable windshield 63218
placard or duplicate removable windshield placard or license plate 63219
issued under this section, whether the person wishes to make a 63220
two-dollar voluntary contribution to support rehabilitation 63221
employment services. The registrar shall transmit the 63222
contributions received under this division to the treasurer of 63223
state for deposit into the rehabilitation employment fund, which 63224
is hereby created in the state treasury. A deputy registrar shall 63225
transmit the contributions received under this division to the 63226
registrar in the time and manner prescribed by the registrar. The 63227
contributions in the fund shall be used by the ~~rehabilitation~~ 63228
~~services commission~~ opportunities for Ohioans with disabilities 63229
agency to purchase services related to vocational evaluation, work 63230
adjustment, personal adjustment, job placement, job coaching, and 63231
community-based assessment from accredited community 63232

rehabilitation program facilities. 63233

(O) For purposes of enforcing this section, every peace 63234
officer is deemed to be an agent of the registrar. Any peace 63235
officer or any authorized employee of the bureau of motor vehicles 63236
who, in the performance of duties authorized by law, becomes aware 63237
of a person whose placard or parking card has been revoked 63238
pursuant to this section, may confiscate that placard or parking 63239
card and return it to the registrar. The registrar shall prescribe 63240
any forms used by law enforcement agencies in administering this 63241
section. 63242

No peace officer, law enforcement agency employing a peace 63243
officer, or political subdivision or governmental agency employing 63244
a peace officer, and no employee of the bureau is liable in a 63245
civil action for damages or loss to persons arising out of the 63246
performance of any duty required or authorized by this section. As 63247
used in this division, "peace officer" has the same meaning as in 63248
division (B) of section 2935.01 of the Revised Code. 63249

(P) All applications for registration of motor vehicles, 63250
removable windshield placards, and temporary removable windshield 63251
placards issued under this section, all renewal notices for such 63252
items, and all other publications issued by the bureau that relate 63253
to this section shall set forth the criminal penalties that may be 63254
imposed upon a person who violates any provision relating to 63255
special license plates issued under this section, the parking of 63256
vehicles displaying such license plates, and the issuance, 63257
procurement, use, and display of removable windshield placards and 63258
temporary removable windshield placards issued under this section. 63259

(Q) Whoever violates this section is guilty of a misdemeanor 63260
of the fourth degree. 63261

Sec. 4510.038. (A) Any person whose driver's or commercial 63262
driver's license or permit is suspended or who is granted limited 63263

driving privileges under section 4510.037, under division (H) of 63264
section 4511.19, or under section 4510.07 of the Revised Code for 63265
a violation of a municipal ordinance that is substantially 63266
equivalent to division (B) of section 4511.19 of the Revised Code 63267
is not eligible to retain the license, or to have the driving 63268
privileges reinstated, until each of the following has occurred: 63269

(1) The person successfully completes a course of remedial 63270
driving instruction approved by the director of public safety. A 63271
minimum of twenty-five per cent of the number of hours of 63272
instruction included in the course shall be devoted to instruction 63273
on driver attitude. 63274

The course also shall devote a number of hours to instruction 63275
in the area of alcohol and drugs and the operation of vehicles. 63276
The instruction shall include, but not be limited to, a review of 63277
the laws governing the operation of a vehicle while under the 63278
influence of alcohol, drugs, or a combination of them, the dangers 63279
of operating a vehicle while under the influence of alcohol, 63280
drugs, or a combination of them, and other information relating to 63281
the operation of vehicles and the consumption of alcoholic 63282
beverages and use of drugs. The director, in consultation with the 63283
director of ~~alcohol and drug addiction services~~ mental health and 63284
addiction services, shall prescribe the content of the 63285
instruction. The number of hours devoted to the area of alcohol 63286
and drugs and the operation of vehicles shall comprise a minimum 63287
of twenty-five per cent of the number of hours of instruction 63288
included in the course. 63289

(2) The person is examined in the manner provided for in 63290
section 4507.20 of the Revised Code, and found by the registrar of 63291
motor vehicles to be qualified to operate a motor vehicle; 63292

(3) The person gives and maintains proof of financial 63293
responsibility, in accordance with section 4509.45 of the Revised 63294
Code. 63295

(B)(1) Except as provided in division (B)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing or the internet.

Sec. 4510.45. (A)(1) A manufacturer of ignition interlock devices that desires for its devices to be certified under section 4510.43 of the Revised Code and then to be included on the list of certified devices that the department of public safety compiles and makes available to courts pursuant to that section first shall obtain a license from the department under this section. The department, in accordance with Chapter 119. of the Revised Code, shall adopt any rules that are necessary to implement this licensing requirement.

(2) A manufacturer shall apply to the department for the license and shall include all information the department may require by rule. Each application, including an application for license renewal, shall be accompanied by an application fee of one hundred dollars, which the department shall deposit into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code.

(3) Upon receipt of a completed application, if the department finds that a manufacturer has complied with all application requirements, the department shall issue a license to the manufacturer. A manufacturer that has been issued a license

under this section is eligible immediately to have the models of 63327
ignition interlock devices it produces certified under section 63328
4510.43 of the Revised Code and then included on the list of 63329
certified devices that the department compiles and makes available 63330
to courts pursuant to that section. 63331

(4)(a) A license issued under this section shall expire 63332
annually on a date selected by the department. The department 63333
shall reject the license application of a manufacturer if any of 63334
the following apply: 63335

(i) The application is not accompanied by the application 63336
fee. 63337

(ii) The department finds that the manufacturer has not 63338
complied with all application requirements. 63339

(iii) The license application is a renewal application and 63340
the manufacturer failed to file the annual report or failed to pay 63341
the fee as required by division (B) of this section. 63342

(b) A manufacturer whose license application is rejected by 63343
the department may appeal the decision to the director of public 63344
safety. The director or the director's designee shall hold a 63345
hearing on the matter not more than thirty days from the date of 63346
the manufacturer's appeal. If the director or the director's 63347
designee upholds the denial of the manufacturer's application for 63348
a license, the manufacturer may appeal the decision to the 63349
Franklin county court of common pleas. If the director or the 63350
director's designee reverses the denial of the manufacturer's 63351
application for a license, the director or the director's designee 63352
shall issue a written order directing that the department issue a 63353
license to the manufacturer. 63354

(B) Every manufacturer of ignition interlock devices that is 63355
issued a license under this section shall file an annual report 63356
with the department on a form the department prescribes on or 63357

before a date the department prescribes. The annual report shall 63358
state the amount of net profit the manufacturer earned during a 63359
twelve-month period specified by the department that is 63360
attributable to the sales of that manufacturer's certified 63361
ignition interlock devices to purchasers in this state. Each 63362
manufacturer shall pay a fee equal to five per cent of the amount 63363
of the net profit described in this division. 63364

The department may permit annual reports to be filed via 63365
electronic means. 63366

(C) The department shall deposit all fees it receives from 63367
manufacturers under this section into the state treasury to the 63368
credit of the indigent drivers alcohol treatment fund created by 63369
section 4511.191 of the Revised Code. All money so deposited into 63370
that fund that is paid by the department of ~~alcohol and drug~~ 63371
~~addiction services~~ mental health and addiction services to county 63372
indigent drivers alcohol treatment funds, county juvenile indigent 63373
drivers alcohol treatment funds, and municipal indigent drivers 63374
alcohol treatment funds shall be used only as described in 63375
division (H)(3) of section 4511.191 of the Revised Code. 63376

(D)(1) The director may make an assessment, based on any 63377
information in the director's possession, against any manufacturer 63378
that fails to file an annual report or pay the fee required by 63379
division (B) of this section. The director, in accordance with 63380
Chapter 119. of the Revised Code, shall adopt rules governing 63381
assessments and assessment procedures and related provisions. In 63382
adopting these rules, the director shall incorporate the 63383
provisions of section 5751.09 of the Revised Code to the greatest 63384
extent possible, except that the director is not required to 63385
incorporate any provisions of that section that by their nature 63386
are not applicable, appropriate, or necessary to assessments made 63387
by the director under this section. 63388

(2) A manufacturer may appeal the final determination of the 63389

director regarding an assessment made by the director under this 63390
section. The director, in accordance with Chapter 119. of the 63391
Revised Code, shall adopt rules governing such appeals. In 63392
adopting these rules, the director shall incorporate the 63393
provisions of section 5717.02 of the Revised Code to the greatest 63394
extent possible, except that the director is not required to 63395
incorporate any provisions of that section that by their nature 63396
are not applicable, appropriate, or necessary to appeals of 63397
assessments made by the director under this section. 63398

(E) The director, in accordance with Chapter 119. of the 63399
Revised Code, shall adopt a penalty schedule setting forth the 63400
monetary penalties to be imposed upon a manufacturer that is 63401
issued a license under this section and fails to file an annual 63402
report or pay the fee required by division (B) of this section in 63403
a timely manner. The penalty amounts shall not exceed the maximum 63404
penalty amounts established in section 5751.06 of the Revised Code 63405
for similar or equivalent facts or circumstances. 63406

(F)(1) No manufacturer of ignition interlock devices that is 63407
required by division (B) of this section to file an annual report 63408
with the department or to pay a fee shall fail to do so as 63409
required by that division. 63410

(2) No manufacturer of ignition interlock devices that is 63411
required by division (B) of this section to file an annual report 63412
with the department shall file a report that contains incorrect or 63413
erroneous information. 63414

(G) Whoever violates division (F)(2) of this section is 63415
guilty of a misdemeanor of the first degree. The department shall 63416
remove from the list of certified devices described in division 63417
(A)(1) of this section the ignition interlock devices manufactured 63418
by a manufacturer that violates division (F)(1) or (2) of this 63419
section. 63420

Sec. 4511.19. (A)(1) No person shall operate any vehicle, 63421
streetcar, or trackless trolley within this state, if, at the time 63422
of the operation, any of the following apply: 63423

(a) The person is under the influence of alcohol, a drug of 63424
abuse, or a combination of them. 63425

(b) The person has a concentration of eight-hundredths of one 63426
per cent or more but less than seventeen-hundredths of one per 63427
cent by weight per unit volume of alcohol in the person's whole 63428
blood. 63429

(c) The person has a concentration of ninety-six-thousandths 63430
of one per cent or more but less than two hundred four-thousandths 63431
of one per cent by weight per unit volume of alcohol in the 63432
person's blood serum or plasma. 63433

(d) The person has a concentration of eight-hundredths of one 63434
gram or more but less than seventeen-hundredths of one gram by 63435
weight of alcohol per two hundred ten liters of the person's 63436
breath. 63437

(e) The person has a concentration of eleven-hundredths of 63438
one gram or more but less than two hundred 63439
thirty-eight-thousandths of one gram by weight of alcohol per one 63440
hundred milliliters of the person's urine. 63441

(f) The person has a concentration of seventeen-hundredths of 63442
one per cent or more by weight per unit volume of alcohol in the 63443
person's whole blood. 63444

(g) The person has a concentration of two hundred 63445
four-thousandths of one per cent or more by weight per unit volume 63446
of alcohol in the person's blood serum or plasma. 63447

(h) The person has a concentration of seventeen-hundredths of 63448
one gram or more by weight of alcohol per two hundred ten liters 63449
of the person's breath. 63450

(i) The person has a concentration of two hundred 63451
thirty-eight-thousandths of one gram or more by weight of alcohol 63452
per one hundred milliliters of the person's urine. 63453

(j) Except as provided in division (K) of this section, the 63454
person has a concentration of any of the following controlled 63455
substances or metabolites of a controlled substance in the 63456
person's whole blood, blood serum or plasma, or urine that equals 63457
or exceeds any of the following: 63458

(i) The person has a concentration of amphetamine in the 63459
person's urine of at least five hundred nanograms of amphetamine 63460
per milliliter of the person's urine or has a concentration of 63461
amphetamine in the person's whole blood or blood serum or plasma 63462
of at least one hundred nanograms of amphetamine per milliliter of 63463
the person's whole blood or blood serum or plasma. 63464

(ii) The person has a concentration of cocaine in the 63465
person's urine of at least one hundred fifty nanograms of cocaine 63466
per milliliter of the person's urine or has a concentration of 63467
cocaine in the person's whole blood or blood serum or plasma of at 63468
least fifty nanograms of cocaine per milliliter of the person's 63469
whole blood or blood serum or plasma. 63470

(iii) The person has a concentration of cocaine metabolite in 63471
the person's urine of at least one hundred fifty nanograms of 63472
cocaine metabolite per milliliter of the person's urine or has a 63473
concentration of cocaine metabolite in the person's whole blood or 63474
blood serum or plasma of at least fifty nanograms of cocaine 63475
metabolite per milliliter of the person's whole blood or blood 63476
serum or plasma. 63477

(iv) The person has a concentration of heroin in the person's 63478
urine of at least two thousand nanograms of heroin per milliliter 63479
of the person's urine or has a concentration of heroin in the 63480
person's whole blood or blood serum or plasma of at least fifty 63481

nanograms of heroin per milliliter of the person's whole blood or 63482
blood serum or plasma. 63483

(v) The person has a concentration of heroin metabolite 63484
(6-monoacetyl morphine) in the person's urine of at least ten 63485
nanograms of heroin metabolite (6-monoacetyl morphine) per 63486
milliliter of the person's urine or has a concentration of heroin 63487
metabolite (6-monoacetyl morphine) in the person's whole blood or 63488
blood serum or plasma of at least ten nanograms of heroin 63489
metabolite (6-monoacetyl morphine) per milliliter of the person's 63490
whole blood or blood serum or plasma. 63491

(vi) The person has a concentration of L.S.D. in the person's 63492
urine of at least twenty-five nanograms of L.S.D. per milliliter 63493
of the person's urine or a concentration of L.S.D. in the person's 63494
whole blood or blood serum or plasma of at least ten nanograms of 63495
L.S.D. per milliliter of the person's whole blood or blood serum 63496
or plasma. 63497

(vii) The person has a concentration of marihuana in the 63498
person's urine of at least ten nanograms of marihuana per 63499
milliliter of the person's urine or has a concentration of 63500
marihuana in the person's whole blood or blood serum or plasma of 63501
at least two nanograms of marihuana per milliliter of the person's 63502
whole blood or blood serum or plasma. 63503

(viii) Either of the following applies: 63504

(I) The person is under the influence of alcohol, a drug of 63505
abuse, or a combination of them, and, as measured by gas 63506
chromatography mass spectrometry, the person has a concentration 63507
of marihuana metabolite in the person's urine of at least fifteen 63508
nanograms of marihuana metabolite per milliliter of the person's 63509
urine or has a concentration of marihuana metabolite in the 63510
person's whole blood or blood serum or plasma of at least five 63511
nanograms of marihuana metabolite per milliliter of the person's 63512

whole blood or blood serum or plasma. 63513

(II) As measured by gas chromatography mass spectrometry, the 63514
person has a concentration of marihuana metabolite in the person's 63515
urine of at least thirty-five nanograms of marihuana metabolite 63516
per milliliter of the person's urine or has a concentration of 63517
marihuana metabolite in the person's whole blood or blood serum or 63518
plasma of at least fifty nanograms of marihuana metabolite per 63519
milliliter of the person's whole blood or blood serum or plasma. 63520

(ix) The person has a concentration of methamphetamine in the 63521
person's urine of at least five hundred nanograms of 63522
methamphetamine per milliliter of the person's urine or has a 63523
concentration of methamphetamine in the person's whole blood or 63524
blood serum or plasma of at least one hundred nanograms of 63525
methamphetamine per milliliter of the person's whole blood or 63526
blood serum or plasma. 63527

(x) The person has a concentration of phencyclidine in the 63528
person's urine of at least twenty-five nanograms of phencyclidine 63529
per milliliter of the person's urine or has a concentration of 63530
phencyclidine in the person's whole blood or blood serum or plasma 63531
of at least ten nanograms of phencyclidine per milliliter of the 63532
person's whole blood or blood serum or plasma. 63533

(xi) The state board of pharmacy has adopted a rule pursuant 63534
to section 4729.041 of the Revised Code that specifies the amount 63535
of salvia divinorum and the amount of salvinorin A that constitute 63536
concentrations of salvia divinorum and salvinorin A in a person's 63537
urine, in a person's whole blood, or in a person's blood serum or 63538
plasma at or above which the person is impaired for purposes of 63539
operating any vehicle, streetcar, or trackless trolley within this 63540
state, the rule is in effect, and the person has a concentration 63541
of salvia divinorum or salvinorin A of at least that amount so 63542
specified by rule in the person's urine, in the person's whole 63543
blood, or in the person's blood serum or plasma. 63544

(2) No person who, within twenty years of the conduct described in division (A)(2)(a) of this section, previously has been convicted of or pleaded guilty to a violation of this division, a violation of division (A)(1) or (B) of this section, or any other equivalent offense shall do both of the following:

(a) Operate any vehicle, streetcar, or trackless trolley within this state while under the influence of alcohol, a drug of abuse, or a combination of them;

(b) Subsequent to being arrested for operating the vehicle, streetcar, or trackless trolley as described in division (A)(2)(a) of this section, being asked by a law enforcement officer to submit to a chemical test or tests under section 4511.191 of the Revised Code, and being advised by the officer in accordance with section 4511.192 of the Revised Code of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(B) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one

gram by weight of alcohol per one hundred milliliters of the 63576
person's urine. 63577

(C) In any proceeding arising out of one incident, a person 63578
may be charged with a violation of division (A)(1)(a) or (A)(2) 63579
and a violation of division (B)(1), (2), or (3) of this section, 63580
but the person may not be convicted of more than one violation of 63581
these divisions. 63582

(D)(1)(a) In any criminal prosecution or juvenile court 63583
proceeding for a violation of division (A)(1)(a) of this section 63584
or for an equivalent offense that is vehicle-related, the result 63585
of any test of any blood or urine withdrawn and analyzed at any 63586
health care provider, as defined in section 2317.02 of the Revised 63587
Code, may be admitted with expert testimony to be considered with 63588
any other relevant and competent evidence in determining the guilt 63589
or innocence of the defendant. 63590

(b) In any criminal prosecution or juvenile court proceeding 63591
for a violation of division (A) or (B) of this section or for an 63592
equivalent offense that is vehicle-related, the court may admit 63593
evidence on the concentration of alcohol, drugs of abuse, 63594
controlled substances, metabolites of a controlled substance, or a 63595
combination of them in the defendant's whole blood, blood serum or 63596
plasma, breath, urine, or other bodily substance at the time of 63597
the alleged violation as shown by chemical analysis of the 63598
substance withdrawn within three hours of the time of the alleged 63599
violation. The three-hour time limit specified in this division 63600
regarding the admission of evidence does not extend or affect the 63601
two-hour time limit specified in division (A) of section 4511.192 63602
of the Revised Code as the maximum period of time during which a 63603
person may consent to a chemical test or tests as described in 63604
that section. The court may admit evidence on the concentration of 63605
alcohol, drugs of abuse, or a combination of them as described in 63606
this division when a person submits to a blood, breath, urine, or 63607

other bodily substance test at the request of a law enforcement 63608
officer under section 4511.191 of the Revised Code or a blood or 63609
urine sample is obtained pursuant to a search warrant. Only a 63610
physician, a registered nurse, an emergency medical 63611
technician-intermediate, an emergency medical 63612
technician-paramedic, or a qualified technician, chemist, or 63613
phlebotomist shall withdraw a blood sample for the purpose of 63614
determining the alcohol, drug, controlled substance, metabolite of 63615
a controlled substance, or combination content of the whole blood, 63616
blood serum, or blood plasma. This limitation does not apply to 63617
the taking of breath or urine specimens. A person authorized to 63618
withdraw blood under this division may refuse to withdraw blood 63619
under this division, if in that person's opinion, the physical 63620
welfare of the person would be endangered by the withdrawing of 63621
blood. 63622

The bodily substance withdrawn under division (D)(1)(b) of 63623
this section shall be analyzed in accordance with methods approved 63624
by the director of health by an individual possessing a valid 63625
permit issued by the director pursuant to section 3701.143 of the 63626
Revised Code. 63627

(c) As used in division (D)(1)(b) of this section, "emergency 63628
medical technician-intermediate" and "emergency medical 63629
technician-paramedic" have the same meanings as in section 4765.01 63630
of the Revised Code. 63631

(2) In a criminal prosecution or juvenile court proceeding 63632
for a violation of division (A) of this section or for an 63633
equivalent offense that is vehicle-related, if there was at the 63634
time the bodily substance was withdrawn a concentration of less 63635
than the applicable concentration of alcohol specified in 63636
divisions (A)(1)(b), (c), (d), and (e) of this section or less 63637
than the applicable concentration of a listed controlled substance 63638
or a listed metabolite of a controlled substance specified for a 63639

violation of division (A)(1)(j) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (B) of this section or for an equivalent offense that is substantially equivalent to that division.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.

If the chemical test was obtained pursuant to division (D)(1)(b) of this section, the person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of section 4511.191 of the Revised Code, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of section 4511.191 of the Revised Code, the form to be read to the person to be tested, as required under section 4511.192 of the Revised Code, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4)(a) As used in divisions (D)(4)(b) and (c) of this section, "national highway traffic safety administration" means the national highway traffic safety administration established as

an administration of the United States department of 63672
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 63673

(b) In any criminal prosecution or juvenile court proceeding 63674
for a violation of division (A) or (B) of this section, of a 63675
municipal ordinance relating to operating a vehicle while under 63676
the influence of alcohol, a drug of abuse, or alcohol and a drug 63677
of abuse, or of a municipal ordinance relating to operating a 63678
vehicle with a prohibited concentration of alcohol, a controlled 63679
substance, or a metabolite of a controlled substance in the whole 63680
blood, blood serum or plasma, breath, or urine, if a law 63681
enforcement officer has administered a field sobriety test to the 63682
operator of the vehicle involved in the violation and if it is 63683
shown by clear and convincing evidence that the officer 63684
administered the test in substantial compliance with the testing 63685
standards for any reliable, credible, and generally accepted field 63686
sobriety tests that were in effect at the time the tests were 63687
administered, including, but not limited to, any testing standards 63688
then in effect that were set by the national highway traffic 63689
safety administration, all of the following apply: 63690

(i) The officer may testify concerning the results of the 63691
field sobriety test so administered. 63692

(ii) The prosecution may introduce the results of the field 63693
sobriety test so administered as evidence in any proceedings in 63694
the criminal prosecution or juvenile court proceeding. 63695

(iii) If testimony is presented or evidence is introduced 63696
under division (D)(4)(b)(i) or (ii) of this section and if the 63697
testimony or evidence is admissible under the Rules of Evidence, 63698
the court shall admit the testimony or evidence and the trier of 63699
fact shall give it whatever weight the trier of fact considers to 63700
be appropriate. 63701

(c) Division (D)(4)(b) of this section does not limit or 63702

preclude a court, in its determination of whether the arrest of a 63703
person was supported by probable cause or its determination of any 63704
other matter in a criminal prosecution or juvenile court 63705
proceeding of a type described in that division, from considering 63706
evidence or testimony that is not otherwise disallowed by division 63707
(D)(4)(b) of this section. 63708

(E)(1) Subject to division (E)(3) of this section, in any 63709
criminal prosecution or juvenile court proceeding for a violation 63710
of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) 63711
or (B)(1), (2), (3), or (4) of this section or for an equivalent 63712
offense that is substantially equivalent to any of those 63713
divisions, a laboratory report from any laboratory personnel 63714
issued a permit by the department of health authorizing an 63715
analysis as described in this division that contains an analysis 63716
of the whole blood, blood serum or plasma, breath, urine, or other 63717
bodily substance tested and that contains all of the information 63718
specified in this division shall be admitted as prima-facie 63719
evidence of the information and statements that the report 63720
contains. The laboratory report shall contain all of the 63721
following: 63722

(a) The signature, under oath, of any person who performed 63723
the analysis; 63724

(b) Any findings as to the identity and quantity of alcohol, 63725
a drug of abuse, a controlled substance, a metabolite of a 63726
controlled substance, or a combination of them that was found; 63727

(c) A copy of a notarized statement by the laboratory 63728
director or a designee of the director that contains the name of 63729
each certified analyst or test performer involved with the report, 63730
the analyst's or test performer's employment relationship with the 63731
laboratory that issued the report, and a notation that performing 63732
an analysis of the type involved is part of the analyst's or test 63733
performer's regular duties; 63734

(d) An outline of the analyst's or test performer's 63735
education, training, and experience in performing the type of 63736
analysis involved and a certification that the laboratory 63737
satisfies appropriate quality control standards in general and, in 63738
this particular analysis, under rules of the department of health. 63739

(2) Notwithstanding any other provision of law regarding the 63740
admission of evidence, a report of the type described in division 63741
(E)(1) of this section is not admissible against the defendant to 63742
whom it pertains in any proceeding, other than a preliminary 63743
hearing or a grand jury proceeding, unless the prosecutor has 63744
served a copy of the report on the defendant's attorney or, if the 63745
defendant has no attorney, on the defendant. 63746

(3) A report of the type described in division (E)(1) of this 63747
section shall not be prima-facie evidence of the contents, 63748
identity, or amount of any substance if, within seven days after 63749
the defendant to whom the report pertains or the defendant's 63750
attorney receives a copy of the report, the defendant or the 63751
defendant's attorney demands the testimony of the person who 63752
signed the report. The judge in the case may extend the seven-day 63753
time limit in the interest of justice. 63754

(F) Except as otherwise provided in this division, any 63755
physician, registered nurse, emergency medical 63756
technician-intermediate, emergency medical technician-paramedic, 63757
or qualified technician, chemist, or phlebotomist who withdraws 63758
blood from a person pursuant to this section or section 4511.191 63759
or 4511.192 of the Revised Code, and any hospital, first-aid 63760
station, or clinic at which blood is withdrawn from a person 63761
pursuant to this section or section 4511.191 or 4511.192 of the 63762
Revised Code, is immune from criminal liability and civil 63763
liability based upon a claim of assault and battery or any other 63764
claim that is not a claim of malpractice, for any act performed in 63765
withdrawing blood from the person. The immunity provided in this 63766

division also extends to an emergency medical service organization 63767
that employs an emergency medical technician-intermediate or 63768
emergency medical technician-paramedic who withdraws blood under 63769
this section. The immunity provided in this division is not 63770
available to a person who withdraws blood if the person engages in 63771
willful or wanton misconduct. 63772

As used in this division, "emergency medical 63773
technician-intermediate" and "emergency medical 63774
technician-paramedic" have the same meanings as in section 4765.01 63775
of the Revised Code. 63776

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 63777
to (i) or (A)(2) of this section is guilty of operating a vehicle 63778
under the influence of alcohol, a drug of abuse, or a combination 63779
of them. Whoever violates division (A)(1)(j) of this section is 63780
guilty of operating a vehicle while under the influence of a 63781
listed controlled substance or a listed metabolite of a controlled 63782
substance. The court shall sentence the offender for either 63783
offense under Chapter 2929. of the Revised Code, except as 63784
otherwise authorized or required by divisions (G)(1)(a) to (e) of 63785
this section: 63786

(a) Except as otherwise provided in division (G)(1)(b), (c), 63787
(d), or (e) of this section, the offender is guilty of a 63788
misdemeanor of the first degree, and the court shall sentence the 63789
offender to all of the following: 63790

(i) If the sentence is being imposed for a violation of 63791
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63792
mandatory jail term of three consecutive days. As used in this 63793
division, three consecutive days means seventy-two consecutive 63794
hours. The court may sentence an offender to both an intervention 63795
program and a jail term. The court may impose a jail term in 63796
addition to the three-day mandatory jail term or intervention 63797
program. However, in no case shall the cumulative jail term 63798

imposed for the offense exceed six months. 63799

The court may suspend the execution of the three-day jail 63800
term under this division if the court, in lieu of that suspended 63801
term, places the offender under a community control sanction 63802
pursuant to section 2929.25 of the Revised Code and requires the 63803
offender to attend, for three consecutive days, a drivers' 63804
intervention program certified under section ~~3793.10~~ 5119.38 of 63805
the Revised Code. The court also may suspend the execution of any 63806
part of the three-day jail term under this division if it places 63807
the offender under a community control sanction pursuant to 63808
section 2929.25 of the Revised Code for part of the three days, 63809
requires the offender to attend for the suspended part of the term 63810
a drivers' intervention program so certified, and sentences the 63811
offender to a jail term equal to the remainder of the three 63812
consecutive days that the offender does not spend attending the 63813
program. The court may require the offender, as a condition of 63814
community control and in addition to the required attendance at a 63815
drivers' intervention program, to attend and satisfactorily 63816
complete any treatment or education programs that comply with the 63817
minimum standards adopted pursuant to Chapter ~~3793.~~ 5119. of the 63818
Revised Code by the director of ~~alcohol and drug addiction~~ 63819
~~services~~ mental health and addiction services that the operators 63820
of the drivers' intervention program determine that the offender 63821
should attend and to report periodically to the court on the 63822
offender's progress in the programs. The court also may impose on 63823
the offender any other conditions of community control that it 63824
considers necessary. 63825

(ii) If the sentence is being imposed for a violation of 63826
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63827
section, except as otherwise provided in this division, a 63828
mandatory jail term of at least three consecutive days and a 63829
requirement that the offender attend, for three consecutive days, 63830

a drivers' intervention program that is certified pursuant to 63831
section ~~3793.10~~ 5119.38 of the Revised Code. As used in this 63832
division, three consecutive days means seventy-two consecutive 63833
hours. If the court determines that the offender is not conducive 63834
to treatment in a drivers' intervention program, if the offender 63835
refuses to attend a drivers' intervention program, or if the jail 63836
at which the offender is to serve the jail term imposed can 63837
provide a driver's intervention program, the court shall sentence 63838
the offender to a mandatory jail term of at least six consecutive 63839
days. 63840

The court may require the offender, under a community control 63841
sanction imposed under section 2929.25 of the Revised Code, to 63842
attend and satisfactorily complete any treatment or education 63843
programs that comply with the minimum standards adopted pursuant 63844
to Chapter ~~3793.~~ 5119. of the Revised Code by the director of 63845
~~alcohol and drug addiction services~~ mental health and addiction
services, in addition to the required attendance at drivers' 63846
intervention program, that the operators of the drivers' 63847
intervention program determine that the offender should attend and 63848
to report periodically to the court on the offender's progress in 63849
the programs. The court also may impose any other conditions of 63850
community control on the offender that it considers necessary. 63851
63852

(iii) In all cases, a fine of not less than three hundred 63853
seventy-five and not more than one thousand seventy-five dollars; 63854

(iv) In all cases, a class five license suspension of the 63855
offender's driver's or commercial driver's license or permit or 63856
nonresident operating privilege from the range specified in 63857
division (A)(5) of section 4510.02 of the Revised Code. The court 63858
may grant limited driving privileges relative to the suspension 63859
under sections 4510.021 and 4510.13 of the Revised Code. 63860

(b) Except as otherwise provided in division (G)(1)(e) of 63861
this section, an offender who, within six years of the offense, 63862

previously has been convicted of or pleaded guilty to one 63863
violation of division (A) or (B) of this section or one other 63864
equivalent offense is guilty of a misdemeanor of the first degree. 63865
The court shall sentence the offender to all of the following: 63866

(i) If the sentence is being imposed for a violation of 63867
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63868
mandatory jail term of ten consecutive days. The court shall 63869
impose the ten-day mandatory jail term under this division unless, 63870
subject to division (G)(3) of this section, it instead imposes a 63871
sentence under that division consisting of both a jail term and a 63872
term of house arrest with electronic monitoring, with continuous 63873
alcohol monitoring, or with both electronic monitoring and 63874
continuous alcohol monitoring. The court may impose a jail term in 63875
addition to the ten-day mandatory jail term. The cumulative jail 63876
term imposed for the offense shall not exceed six months. 63877

In addition to the jail term or the term of house arrest with 63878
electronic monitoring or continuous alcohol monitoring or both 63879
types of monitoring and jail term, the court shall require the 63880
offender to be assessed by ~~an alcohol and drug treatment program a~~ 63881
community addiction services provider that is authorized by 63882
section ~~3793.02~~ 5119.21 of the Revised Code, subject to division 63883
(I) of this section, and shall order the offender to follow the 63884
treatment recommendations of the ~~program~~ services provider. The 63885
purpose of the assessment is to determine the degree of the 63886
offender's alcohol usage and to determine whether or not treatment 63887
is warranted. Upon the request of the court, the ~~program~~ services 63888
provider shall submit the results of the assessment to the court, 63889
including all treatment recommendations and clinical diagnoses 63890
related to alcohol use. 63891

(ii) If the sentence is being imposed for a violation of 63892
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63893
section, except as otherwise provided in this division, a 63894

mandatory jail term of twenty consecutive days. The court shall 63895
impose the twenty-day mandatory jail term under this division 63896
unless, subject to division (G)(3) of this section, it instead 63897
imposes a sentence under that division consisting of both a jail 63898
term and a term of house arrest with electronic monitoring, with 63899
continuous alcohol monitoring, or with both electronic monitoring 63900
and continuous alcohol monitoring. The court may impose a jail 63901
term in addition to the twenty-day mandatory jail term. The 63902
cumulative jail term imposed for the offense shall not exceed six 63903
months. 63904

In addition to the jail term or the term of house arrest with 63905
electronic monitoring or continuous alcohol monitoring or both 63906
types of monitoring and jail term, the court shall require the 63907
offender to be assessed by ~~an alcohol and drug treatment program a~~ 63908
community addiction service provider that is authorized by section 63909
~~3793.02~~ 5119.21 of the Revised Code, subject to division (I) of 63910
this section, and shall order the offender to follow the treatment 63911
recommendations of the ~~program~~ services provider. The purpose of 63912
the assessment is to determine the degree of the offender's 63913
alcohol usage and to determine whether or not treatment is 63914
warranted. Upon the request of the court, the ~~program~~ services 63915
provider shall submit the results of the assessment to the court, 63916
including all treatment recommendations and clinical diagnoses 63917
related to alcohol use. 63918

(iii) In all cases, notwithstanding the fines set forth in 63919
Chapter 2929. of the Revised Code, a fine of not less than five 63920
hundred twenty-five and not more than one thousand six hundred 63921
twenty-five dollars; 63922

(iv) In all cases, a class four license suspension of the 63923
offender's driver's license, commercial driver's license, 63924
temporary instruction permit, probationary license, or nonresident 63925
operating privilege from the range specified in division (A)(4) of 63926

section 4510.02 of the Revised Code. The court may grant limited 63927
driving privileges relative to the suspension under sections 63928
4510.021 and 4510.13 of the Revised Code. 63929

(v) In all cases, if the vehicle is registered in the 63930
offender's name, immobilization of the vehicle involved in the 63931
offense for ninety days in accordance with section 4503.233 of the 63932
Revised Code and impoundment of the license plates of that vehicle 63933
for ninety days. 63934

(c) Except as otherwise provided in division (G)(1)(e) of 63935
this section, an offender who, within six years of the offense, 63936
previously has been convicted of or pleaded guilty to two 63937
violations of division (A) or (B) of this section or other 63938
equivalent offenses is guilty of a misdemeanor. The court shall 63939
sentence the offender to all of the following: 63940

(i) If the sentence is being imposed for a violation of 63941
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 63942
mandatory jail term of thirty consecutive days. The court shall 63943
impose the thirty-day mandatory jail term under this division 63944
unless, subject to division (G)(3) of this section, it instead 63945
imposes a sentence under that division consisting of both a jail 63946
term and a term of house arrest with electronic monitoring, with 63947
continuous alcohol monitoring, or with both electronic monitoring 63948
and continuous alcohol monitoring. The court may impose a jail 63949
term in addition to the thirty-day mandatory jail term. 63950
Notwithstanding the jail terms set forth in sections 2929.21 to 63951
2929.28 of the Revised Code, the additional jail term shall not 63952
exceed one year, and the cumulative jail term imposed for the 63953
offense shall not exceed one year. 63954

(ii) If the sentence is being imposed for a violation of 63955
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 63956
section, a mandatory jail term of sixty consecutive days. The 63957
court shall impose the sixty-day mandatory jail term under this 63958

division unless, subject to division (G)(3) of this section, it 63959
instead imposes a sentence under that division consisting of both 63960
a jail term and a term of house arrest with electronic monitoring, 63961
with continuous alcohol monitoring, or with both electronic 63962
monitoring and continuous alcohol monitoring. The court may impose 63963
a jail term in addition to the sixty-day mandatory jail term. 63964
Notwithstanding the jail terms set forth in sections 2929.21 to 63965
2929.28 of the Revised Code, the additional jail term shall not 63966
exceed one year, and the cumulative jail term imposed for the 63967
offense shall not exceed one year. 63968

(iii) In all cases, notwithstanding the fines set forth in 63969
Chapter 2929. of the Revised Code, a fine of not less than eight 63970
hundred fifty and not more than two thousand seven hundred fifty 63971
dollars; 63972

(iv) In all cases, a class three license suspension of the 63973
offender's driver's license, commercial driver's license, 63974
temporary instruction permit, probationary license, or nonresident 63975
operating privilege from the range specified in division (A)(3) of 63976
section 4510.02 of the Revised Code. The court may grant limited 63977
driving privileges relative to the suspension under sections 63978
4510.021 and 4510.13 of the Revised Code. 63979

(v) In all cases, if the vehicle is registered in the 63980
offender's name, criminal forfeiture of the vehicle involved in 63981
the offense in accordance with section 4503.234 of the Revised 63982
Code. Division (G)(6) of this section applies regarding any 63983
vehicle that is subject to an order of criminal forfeiture under 63984
this division. 63985

(vi) In all cases, the court shall order the offender to 63986
participate ~~in an alcohol and drug~~ with a community addiction 63987
~~program~~ services provider authorized by section ~~3793.02~~ 5119.21 of 63988
the Revised Code, subject to division (I) of this section, and 63989
shall order the offender to follow the treatment recommendations 63990

of the ~~program~~ services provider. The operator of the ~~program~~ 63991
services provider shall determine and assess the degree of the 63992
offender's alcohol dependency and shall make recommendations for 63993
treatment. Upon the request of the court, the ~~program~~ services 63994
provider shall submit the results of the assessment to the court, 63995
including all treatment recommendations and clinical diagnoses 63996
related to alcohol use. 63997

(d) Except as otherwise provided in division (G)(1)(e) of 63998
this section, an offender who, within six years of the offense, 63999
previously has been convicted of or pleaded guilty to three or 64000
four violations of division (A) or (B) of this section or other 64001
equivalent offenses or an offender who, within twenty years of the 64002
offense, previously has been convicted of or pleaded guilty to 64003
five or more violations of that nature is guilty of a felony of 64004
the fourth degree. The court shall sentence the offender to all of 64005
the following: 64006

(i) If the sentence is being imposed for a violation of 64007
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 64008
mandatory prison term of one, two, three, four, or five years as 64009
required by and in accordance with division (G)(2) of section 64010
2929.13 of the Revised Code if the offender also is convicted of 64011
or also pleads guilty to a specification of the type described in 64012
section 2941.1413 of the Revised Code or, in the discretion of the 64013
court, either a mandatory term of local incarceration of sixty 64014
consecutive days in accordance with division (G)(1) of section 64015
2929.13 of the Revised Code or a mandatory prison term of sixty 64016
consecutive days in accordance with division (G)(2) of that 64017
section if the offender is not convicted of and does not plead 64018
guilty to a specification of that type. If the court imposes a 64019
mandatory term of local incarceration, it may impose a jail term 64020
in addition to the sixty-day mandatory term, the cumulative total 64021
of the mandatory term and the jail term for the offense shall not 64022

exceed one year, and, except as provided in division (A)(1) of 64023
section 2929.13 of the Revised Code, no prison term is authorized 64024
for the offense. If the court imposes a mandatory prison term, 64025
notwithstanding division (A)(4) of section 2929.14 of the Revised 64026
Code, it also may sentence the offender to a definite prison term 64027
that shall be not less than six months and not more than thirty 64028
months and the prison terms shall be imposed as described in 64029
division (G)(2) of section 2929.13 of the Revised Code. If the 64030
court imposes a mandatory prison term or mandatory prison term and 64031
additional prison term, in addition to the term or terms so 64032
imposed, the court also may sentence the offender to a community 64033
control sanction for the offense, but the offender shall serve all 64034
of the prison terms so imposed prior to serving the community 64035
control sanction. 64036

(ii) If the sentence is being imposed for a violation of 64037
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 64038
section, a mandatory prison term of one, two, three, four, or five 64039
years as required by and in accordance with division (G)(2) of 64040
section 2929.13 of the Revised Code if the offender also is 64041
convicted of or also pleads guilty to a specification of the type 64042
described in section 2941.1413 of the Revised Code or, in the 64043
discretion of the court, either a mandatory term of local 64044
incarceration of one hundred twenty consecutive days in accordance 64045
with division (G)(1) of section 2929.13 of the Revised Code or a 64046
mandatory prison term of one hundred twenty consecutive days in 64047
accordance with division (G)(2) of that section if the offender is 64048
not convicted of and does not plead guilty to a specification of 64049
that type. If the court imposes a mandatory term of local 64050
incarceration, it may impose a jail term in addition to the one 64051
hundred twenty-day mandatory term, the cumulative total of the 64052
mandatory term and the jail term for the offense shall not exceed 64053
one year, and, except as provided in division (A)(1) of section 64054
2929.13 of the Revised Code, no prison term is authorized for the 64055

offense. If the court imposes a mandatory prison term, 64056
notwithstanding division (A)(4) of section 2929.14 of the Revised 64057
Code, it also may sentence the offender to a definite prison term 64058
that shall be not less than six months and not more than thirty 64059
months and the prison terms shall be imposed as described in 64060
division (G)(2) of section 2929.13 of the Revised Code. If the 64061
court imposes a mandatory prison term or mandatory prison term and 64062
additional prison term, in addition to the term or terms so 64063
imposed, the court also may sentence the offender to a community 64064
control sanction for the offense, but the offender shall serve all 64065
of the prison terms so imposed prior to serving the community 64066
control sanction. 64067

(iii) In all cases, notwithstanding section 2929.18 of the 64068
Revised Code, a fine of not less than one thousand three hundred 64069
fifty nor more than ten thousand five hundred dollars; 64070

(iv) In all cases, a class two license suspension of the 64071
offender's driver's license, commercial driver's license, 64072
temporary instruction permit, probationary license, or nonresident 64073
operating privilege from the range specified in division (A)(2) of 64074
section 4510.02 of the Revised Code. The court may grant limited 64075
driving privileges relative to the suspension under sections 64076
4510.021 and 4510.13 of the Revised Code. 64077

(v) In all cases, if the vehicle is registered in the 64078
offender's name, criminal forfeiture of the vehicle involved in 64079
the offense in accordance with section 4503.234 of the Revised 64080
Code. Division (G)(6) of this section applies regarding any 64081
vehicle that is subject to an order of criminal forfeiture under 64082
this division. 64083

(vi) In all cases, the court shall order the offender to 64084
participate ~~in an alcohol and drug~~ with a community addiction 64085
~~program~~ services provider authorized by section ~~3793.02~~ 5119.21 of 64086
the Revised Code, subject to division (I) of this section, and 64087

shall order the offender to follow the treatment recommendations 64088
of the ~~program services provider~~. The operator of the ~~program~~ 64089
services provider shall determine and assess the degree of the 64090
offender's alcohol dependency and shall make recommendations for 64091
treatment. Upon the request of the court, the ~~program services~~ 64092
provider shall submit the results of the assessment to the court, 64093
including all treatment recommendations and clinical diagnoses 64094
related to alcohol use. 64095

(vii) In all cases, if the court sentences the offender to a 64096
mandatory term of local incarceration, in addition to the 64097
mandatory term, the court, pursuant to section 2929.17 of the 64098
Revised Code, may impose a term of house arrest with electronic 64099
monitoring. The term shall not commence until after the offender 64100
has served the mandatory term of local incarceration. 64101

(e) An offender who previously has been convicted of or 64102
pleaded guilty to a violation of division (A) of this section that 64103
was a felony, regardless of when the violation and the conviction 64104
or guilty plea occurred, is guilty of a felony of the third 64105
degree. The court shall sentence the offender to all of the 64106
following: 64107

(i) If the offender is being sentenced for a violation of 64108
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 64109
mandatory prison term of one, two, three, four, or five years as 64110
required by and in accordance with division (G)(2) of section 64111
2929.13 of the Revised Code if the offender also is convicted of 64112
or also pleads guilty to a specification of the type described in 64113
section 2941.1413 of the Revised Code or a mandatory prison term 64114
of sixty consecutive days in accordance with division (G)(2) of 64115
section 2929.13 of the Revised Code if the offender is not 64116
convicted of and does not plead guilty to a specification of that 64117
type. The court may impose a prison term in addition to the 64118
mandatory prison term. The cumulative total of a sixty-day 64119

mandatory prison term and the additional prison term for the 64120
offense shall not exceed five years. In addition to the mandatory 64121
prison term or mandatory prison term and additional prison term 64122
the court imposes, the court also may sentence the offender to a 64123
community control sanction for the offense, but the offender shall 64124
serve all of the prison terms so imposed prior to serving the 64125
community control sanction. 64126

(ii) If the sentence is being imposed for a violation of 64127
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 64128
section, a mandatory prison term of one, two, three, four, or five 64129
years as required by and in accordance with division (G)(2) of 64130
section 2929.13 of the Revised Code if the offender also is 64131
convicted of or also pleads guilty to a specification of the type 64132
described in section 2941.1413 of the Revised Code or a mandatory 64133
prison term of one hundred twenty consecutive days in accordance 64134
with division (G)(2) of section 2929.13 of the Revised Code if the 64135
offender is not convicted of and does not plead guilty to a 64136
specification of that type. The court may impose a prison term in 64137
addition to the mandatory prison term. The cumulative total of a 64138
one hundred twenty-day mandatory prison term and the additional 64139
prison term for the offense shall not exceed five years. In 64140
addition to the mandatory prison term or mandatory prison term and 64141
additional prison term the court imposes, the court also may 64142
sentence the offender to a community control sanction for the 64143
offense, but the offender shall serve all of the prison terms so 64144
imposed prior to serving the community control sanction. 64145

(iii) In all cases, notwithstanding section 2929.18 of the 64146
Revised Code, a fine of not less than one thousand three hundred 64147
fifty nor more than ten thousand five hundred dollars; 64148

(iv) In all cases, a class two license suspension of the 64149
offender's driver's license, commercial driver's license, 64150
temporary instruction permit, probationary license, or nonresident 64151

operating privilege from the range specified in division (A)(2) of 64152
section 4510.02 of the Revised Code. The court may grant limited 64153
driving privileges relative to the suspension under sections 64154
4510.021 and 4510.13 of the Revised Code. 64155

(v) In all cases, if the vehicle is registered in the 64156
offender's name, criminal forfeiture of the vehicle involved in 64157
the offense in accordance with section 4503.234 of the Revised 64158
Code. Division (G)(6) of this section applies regarding any 64159
vehicle that is subject to an order of criminal forfeiture under 64160
this division. 64161

(vi) In all cases, the court shall order the offender to 64162
participate ~~in an alcohol and drug~~ with a community addiction 64163
~~program services provider~~ authorized by section ~~3793.02~~ 5119.21 of 64164
the Revised Code, subject to division (I) of this section, and 64165
shall order the offender to follow the treatment recommendations 64166
of the ~~program services provider~~. The operator of the ~~program~~ 64167
services provider shall determine and assess the degree of the 64168
offender's alcohol dependency and shall make recommendations for 64169
treatment. Upon the request of the court, the ~~program services~~ 64170
provider shall submit the results of the assessment to the court, 64171
including all treatment recommendations and clinical diagnoses 64172
related to alcohol use. 64173

(2) An offender who is convicted of or pleads guilty to a 64174
violation of division (A) of this section and who subsequently 64175
seeks reinstatement of the driver's or occupational driver's 64176
license or permit or nonresident operating privilege suspended 64177
under this section as a result of the conviction or guilty plea 64178
shall pay a reinstatement fee as provided in division (F)(2) of 64179
section 4511.191 of the Revised Code. 64180

(3) If an offender is sentenced to a jail term under division 64181
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 64182
if, within sixty days of sentencing of the offender, the court 64183

issues a written finding on the record that, due to the 64184
unavailability of space at the jail where the offender is required 64185
to serve the term, the offender will not be able to begin serving 64186
that term within the sixty-day period following the date of 64187
sentencing, the court may impose an alternative sentence under 64188
this division that includes a term of house arrest with electronic 64189
monitoring, with continuous alcohol monitoring, or with both 64190
electronic monitoring and continuous alcohol monitoring. 64191

As an alternative to a mandatory jail term of ten consecutive 64192
days required by division (G)(1)(b)(i) of this section, the court, 64193
under this division, may sentence the offender to five consecutive 64194
days in jail and not less than eighteen consecutive days of house 64195
arrest with electronic monitoring, with continuous alcohol 64196
monitoring, or with both electronic monitoring and continuous 64197
alcohol monitoring. The cumulative total of the five consecutive 64198
days in jail and the period of house arrest with electronic 64199
monitoring, continuous alcohol monitoring, or both types of 64200
monitoring shall not exceed six months. The five consecutive days 64201
in jail do not have to be served prior to or consecutively to the 64202
period of house arrest. 64203

As an alternative to the mandatory jail term of twenty 64204
consecutive days required by division (G)(1)(b)(ii) of this 64205
section, the court, under this division, may sentence the offender 64206
to ten consecutive days in jail and not less than thirty-six 64207
consecutive days of house arrest with electronic monitoring, with 64208
continuous alcohol monitoring, or with both electronic monitoring 64209
and continuous alcohol monitoring. The cumulative total of the ten 64210
consecutive days in jail and the period of house arrest with 64211
electronic monitoring, continuous alcohol monitoring, or both 64212
types of monitoring shall not exceed six months. The ten 64213
consecutive days in jail do not have to be served prior to or 64214
consecutively to the period of house arrest. 64215

As an alternative to a mandatory jail term of thirty consecutive days required by division (G)(1)(c)(i) of this section, the court, under this division, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by division (G)(1)(c)(ii) of this section, the court, under this division, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (G) of this section and if section 4510.13 of the Revised Code permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven

subject to the privileges restricted license plates that are 64248
issued under section 4503.231 of the Revised Code, except as 64249
provided in division (B) of that section, the court shall impose 64250
that condition as one of the conditions of the limited driving 64251
privileges granted to the offender, except as provided in division 64252
(B) of section 4503.231 of the Revised Code. 64253

(5) Fines imposed under this section for a violation of 64254
division (A) of this section shall be distributed as follows: 64255

(a) Twenty-five dollars of the fine imposed under division 64256
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 64257
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 64258
fine imposed under division (G)(1)(c)(iii), and two hundred ten 64259
dollars of the fine imposed under division (G)(1)(d)(iii) or 64260
(e)(iii) of this section shall be paid to an enforcement and 64261
education fund established by the legislative authority of the law 64262
enforcement agency in this state that primarily was responsible 64263
for the arrest of the offender, as determined by the court that 64264
imposes the fine. The agency shall use this share to pay only 64265
those costs it incurs in enforcing this section or a municipal OVI 64266
ordinance and in informing the public of the laws governing the 64267
operation of a vehicle while under the influence of alcohol, the 64268
dangers of the operation of a vehicle under the influence of 64269
alcohol, and other information relating to the operation of a 64270
vehicle under the influence of alcohol and the consumption of 64271
alcoholic beverages. 64272

(b) Fifty dollars of the fine imposed under division 64273
(G)(1)(a)(iii) of this section shall be paid to the political 64274
subdivision that pays the cost of housing the offender during the 64275
offender's term of incarceration. If the offender is being 64276
sentenced for a violation of division (A)(1)(a), (b), (c), (d), 64277
(e), or (j) of this section and was confined as a result of the 64278
offense prior to being sentenced for the offense but is not 64279

sentenced to a term of incarceration, the fifty dollars shall be 64280
paid to the political subdivision that paid the cost of housing 64281
the offender during that period of confinement. The political 64282
subdivision shall use the share under this division to pay or 64283
reimburse incarceration or treatment costs it incurs in housing or 64284
providing drug and alcohol treatment to persons who violate this 64285
section or a municipal OVI ordinance, costs of any immobilizing or 64286
disabling device used on the offender's vehicle, and costs of 64287
electronic house arrest equipment needed for persons who violate 64288
this section. 64289

(c) Twenty-five dollars of the fine imposed under division 64290
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 64291
division (G)(1)(b)(iii) of this section shall be deposited into 64292
the county or municipal indigent drivers' alcohol treatment fund 64293
under the control of that court, as created by the county or 64294
municipal corporation under division (F) of section 4511.191 of 64295
the Revised Code. 64296

(d) One hundred fifteen dollars of the fine imposed under 64297
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 64298
fine imposed under division (G)(1)(c)(iii), and four hundred forty 64299
dollars of the fine imposed under division (G)(1)(d)(iii) or 64300
(e)(iii) of this section shall be paid to the political 64301
subdivision that pays the cost of housing the offender during the 64302
offender's term of incarceration. The political subdivision shall 64303
use this share to pay or reimburse incarceration or treatment 64304
costs it incurs in housing or providing drug and alcohol treatment 64305
to persons who violate this section or a municipal OVI ordinance, 64306
costs for any immobilizing or disabling device used on the 64307
offender's vehicle, and costs of electronic house arrest equipment 64308
needed for persons who violate this section. 64309

(e) Fifty dollars of the fine imposed under divisions 64310
(G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), 64311

and (G)(1)(e)(iii) of this section shall be deposited into the 64312
special projects fund of the court in which the offender was 64313
convicted and that is established under division (E)(1) of section 64314
2303.201, division (B)(1) of section 1901.26, or division (B)(1) 64315
of section 1907.24 of the Revised Code, to be used exclusively to 64316
cover the cost of immobilizing or disabling devices, including 64317
certified ignition interlock devices, and remote alcohol 64318
monitoring devices for indigent offenders who are required by a 64319
judge to use either of these devices. If the court in which the 64320
offender was convicted does not have a special projects fund that 64321
is established under division (E)(1) of section 2303.201, division 64322
(B)(1) of section 1901.26, or division (B)(1) of section 1907.24 64323
of the Revised Code, the fifty dollars shall be deposited into the 64324
indigent drivers interlock and alcohol monitoring fund under 64325
division (I) of section 4511.191 of the Revised Code. 64326

(f) Seventy-five dollars of the fine imposed under division 64327
(G)(1)(a)(iii), one hundred twenty-five dollars of the fine 64328
imposed under division (G)(1)(b)(iii), two hundred fifty dollars 64329
of the fine imposed under division (G)(1)(c)(iii), and five 64330
hundred dollars of the fine imposed under division (G)(1)(d)(iii) 64331
or (e)(iii) of this section shall be transmitted to the treasurer 64332
of state for deposit into the indigent defense support fund 64333
established under section 120.08 of the Revised Code. 64334

(g) The balance of the fine imposed under division 64335
(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this 64336
section shall be disbursed as otherwise provided by law. 64337

(6) If title to a motor vehicle that is subject to an order 64338
of criminal forfeiture under division (G)(1)(c), (d), or (e) of 64339
this section is assigned or transferred and division (B)(2) or (3) 64340
of section 4503.234 of the Revised Code applies, in addition to or 64341
independent of any other penalty established by law, the court may 64342
fine the offender the value of the vehicle as determined by 64343

publications of the national automobile dealers association. The 64344
proceeds of any fine so imposed shall be distributed in accordance 64345
with division (C)(2) of that section. 64346

(7) In all cases in which an offender is sentenced under 64347
division (G) of this section, the offender shall provide the court 64348
with proof of financial responsibility as defined in section 64349
4509.01 of the Revised Code. If the offender fails to provide that 64350
proof of financial responsibility, the court, in addition to any 64351
other penalties provided by law, may order restitution pursuant to 64352
section 2929.18 or 2929.28 of the Revised Code in an amount not 64353
exceeding five thousand dollars for any economic loss arising from 64354
an accident or collision that was the direct and proximate result 64355
of the offender's operation of the vehicle before, during, or 64356
after committing the offense for which the offender is sentenced 64357
under division (G) of this section. 64358

(8) As used in division (G) of this section, "electronic 64359
monitoring," "mandatory prison term," and "mandatory term of local 64360
incarceration" have the same meanings as in section 2929.01 of the 64361
Revised Code. 64362

(H) Whoever violates division (B) of this section is guilty 64363
of operating a vehicle after underage alcohol consumption and 64364
shall be punished as follows: 64365

(1) Except as otherwise provided in division (H)(2) of this 64366
section, the offender is guilty of a misdemeanor of the fourth 64367
degree. In addition to any other sanction imposed for the offense, 64368
the court shall impose a class six suspension of the offender's 64369
driver's license, commercial driver's license, temporary 64370
instruction permit, probationary license, or nonresident operating 64371
privilege from the range specified in division (A)(6) of section 64372
4510.02 of the Revised Code. 64373

(2) If, within one year of the offense, the offender 64374

previously has been convicted of or pleaded guilty to one or more 64375
violations of division (A) or (B) of this section or other 64376
equivalent offenses, the offender is guilty of a misdemeanor of 64377
the third degree. In addition to any other sanction imposed for 64378
the offense, the court shall impose a class four suspension of the 64379
offender's driver's license, commercial driver's license, 64380
temporary instruction permit, probationary license, or nonresident 64381
operating privilege from the range specified in division (A)(4) of 64382
section 4510.02 of the Revised Code. 64383

(3) If the offender also is convicted of or also pleads 64384
guilty to a specification of the type described in section 64385
2941.1416 of the Revised Code and if the court imposes a jail term 64386
for the violation of division (B) of this section, the court shall 64387
impose upon the offender an additional definite jail term pursuant 64388
to division (E) of section 2929.24 of the Revised Code. 64389

(4) The offender shall provide the court with proof of 64390
financial responsibility as defined in section 4509.01 of the 64391
Revised Code. If the offender fails to provide that proof of 64392
financial responsibility, then, in addition to any other penalties 64393
provided by law, the court may order restitution pursuant to 64394
section 2929.28 of the Revised Code in an amount not exceeding 64395
five thousand dollars for any economic loss arising from an 64396
accident or collision that was the direct and proximate result of 64397
the offender's operation of the vehicle before, during, or after 64398
committing the violation of division (B) of this section. 64399

(I)(1) No court shall sentence an offender to an alcohol 64400
treatment program under this section unless the treatment program 64401
complies with the minimum standards for alcohol treatment programs 64402
adopted under Chapter ~~3793~~. 5119. of the Revised Code by the 64403
director of ~~alcohol and drug addiction services~~ mental health and 64404
addiction services. 64405

(2) An offender who stays in a drivers' intervention program 64406

or in an alcohol treatment program under an order issued under 64407
this section shall pay the cost of the stay in the program. 64408
However, if the court determines that an offender who stays in an 64409
alcohol treatment program under an order issued under this section 64410
is unable to pay the cost of the stay in the program, the court 64411
may order that the cost be paid from the court's indigent drivers' 64412
alcohol treatment fund. 64413

(J) If a person whose driver's or commercial driver's license 64414
or permit or nonresident operating privilege is suspended under 64415
this section files an appeal regarding any aspect of the person's 64416
trial or sentence, the appeal itself does not stay the operation 64417
of the suspension. 64418

(K) Division (A)(1)(j) of this section does not apply to a 64419
person who operates a vehicle, streetcar, or trackless trolley 64420
while the person has a concentration of a listed controlled 64421
substance or a listed metabolite of a controlled substance in the 64422
person's whole blood, blood serum or plasma, or urine that equals 64423
or exceeds the amount specified in that division, if both of the 64424
following apply: 64425

(1) The person obtained the controlled substance pursuant to 64426
a prescription issued by a licensed health professional authorized 64427
to prescribe drugs. 64428

(2) The person injected, ingested, or inhaled the controlled 64429
substance in accordance with the health professional's directions. 64430

(L) The prohibited concentrations of a controlled substance 64431
or a metabolite of a controlled substance listed in division 64432
(A)(1)(j) of this section also apply in a prosecution of a 64433
violation of division (D) of section 2923.16 of the Revised Code 64434
in the same manner as if the offender is being prosecuted for a 64435
prohibited concentration of alcohol. 64436

(M) All terms defined in section 4510.01 of the Revised Code 64437

apply to this section. If the meaning of a term defined in section 64438
4510.01 of the Revised Code conflicts with the meaning of the same 64439
term as defined in section 4501.01 or 4511.01 of the Revised Code, 64440
the term as defined in section 4510.01 of the Revised Code applies 64441
to this section. 64442

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, 64443
as adopted by the supreme court under authority of section 2937.46 64444
of the Revised Code, do not apply to felony violations of this 64445
section. Subject to division (N)(2) of this section, the Rules of 64446
Criminal Procedure apply to felony violations of this section. 64447

(2) If, on or after January 1, 2004, the supreme court 64448
modifies the Ohio Traffic Rules to provide procedures to govern 64449
felony violations of this section, the modified rules shall apply 64450
to felony violations of this section. 64451

Sec. 4511.191. (A)(1) As used in this section: 64452

(a) "Physical control" has the same meaning as in section 64453
4511.194 of the Revised Code. 64454

(b) "Alcohol monitoring device" means any device that 64455
provides for continuous alcohol monitoring, any ignition interlock 64456
device, any immobilizing or disabling device other than an 64457
ignition interlock device that is constantly available to monitor 64458
the concentration of alcohol in a person's system, or any other 64459
device that provides for the automatic testing and periodic 64460
reporting of alcohol consumption by a person and that a court 64461
orders a person to use as a sanction imposed as a result of the 64462
person's conviction of or plea of guilty to an offense. 64463

(2) Any person who operates a vehicle, streetcar, or 64464
trackless trolley upon a highway or any public or private property 64465
used by the public for vehicular travel or parking within this 64466
state or who is in physical control of a vehicle, streetcar, or 64467

trackless trolley shall be deemed to have given consent to a 64468
chemical test or tests of the person's whole blood, blood serum or 64469
plasma, breath, or urine to determine the alcohol, drug of abuse, 64470
controlled substance, metabolite of a controlled substance, or 64471
combination content of the person's whole blood, blood serum or 64472
plasma, breath, or urine if arrested for a violation of division 64473
(A) or (B) of section 4511.19 of the Revised Code, section 64474
4511.194 of the Revised Code or a substantially equivalent 64475
municipal ordinance, or a municipal OVI ordinance. 64476

(3) The chemical test or tests under division (A)(2) of this 64477
section shall be administered at the request of a law enforcement 64478
officer having reasonable grounds to believe the person was 64479
operating or in physical control of a vehicle, streetcar, or 64480
trackless trolley in violation of a division, section, or 64481
ordinance identified in division (A)(2) of this section. The law 64482
enforcement agency by which the officer is employed shall 64483
designate which of the tests shall be administered. 64484

(4) Any person who is dead or unconscious, or who otherwise 64485
is in a condition rendering the person incapable of refusal, shall 64486
be deemed to have consented as provided in division (A)(2) of this 64487
section, and the test or tests may be administered, subject to 64488
sections 313.12 to 313.16 of the Revised Code. 64489

(5)(a) If a law enforcement officer arrests a person for a 64490
violation of division (A) or (B) of section 4511.19 of the Revised 64491
Code, section 4511.194 of the Revised Code or a substantially 64492
equivalent municipal ordinance, or a municipal OVI ordinance and 64493
if the person if convicted would be required to be sentenced under 64494
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 64495
Code, the law enforcement officer shall request the person to 64496
submit, and the person shall submit, to a chemical test or tests 64497
of the person's whole blood, blood serum or plasma, breath, or 64498
urine for the purpose of determining the alcohol, drug of abuse, 64499

controlled substance, metabolite of a controlled substance, or 64500
combination content of the person's whole blood, blood serum or 64501
plasma, breath, or urine. A law enforcement officer who makes a 64502
request pursuant to this division that a person submit to a 64503
chemical test or tests is not required to advise the person of the 64504
consequences of submitting to, or refusing to submit to, the test 64505
or tests and is not required to give the person the form described 64506
in division (B) of section 4511.192 of the Revised Code, but the 64507
officer shall advise the person at the time of the arrest that if 64508
the person refuses to take a chemical test the officer may employ 64509
whatever reasonable means are necessary to ensure that the person 64510
submits to a chemical test of the person's wholeblood or blood 64511
serum or plasma. The officer shall also advise the person at the 64512
time of the arrest that the person may have an independent 64513
chemical test taken at the person's own expense. Divisions (A)(3) 64514
and (4) of this section apply to the administration of a chemical 64515
test or tests pursuant to this division. 64516

(b) If a person refuses to submit to a chemical test upon a 64517
request made pursuant to division (A)(5)(a) of this section, the 64518
law enforcement officer who made the request may employ whatever 64519
reasonable means are necessary to ensure that the person submits 64520
to a chemical test of the person's whole blood or blood serum or 64521
plasma. A law enforcement officer who acts pursuant to this 64522
division to ensure that a person submits to a chemical test of the 64523
person's whole blood or blood serum or plasma is immune from 64524
criminal and civil liability based upon a claim for assault and 64525
battery or any other claim for the acts, unless the officer so 64526
acted with malicious purpose, in bad faith, or in a wanton or 64527
reckless manner. 64528

(B)(1) Upon receipt of the sworn report of a law enforcement 64529
officer who arrested a person for a violation of division (A) or 64530
(B) of section 4511.19 of the Revised Code, section 4511.194 of 64531

the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar of motor vehicles and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to

consent to a chemical test and also had been convicted of or 64564
pleaded guilty to one violation of division (A) or (B) of section 64565
4511.19 of the Revised Code or other equivalent offenses, which 64566
violation or offense arose from an incident other than the 64567
incident that led to the refusal, the suspension shall be a class 64568
A suspension imposed for the period of time specified in division 64569
(B)(1) of section 4510.02 of the Revised Code. 64570

(d) If the arrested person, within six years of the date on 64571
which the person refused the request to consent to the chemical 64572
test, had refused three or more previous requests to consent to a 64573
chemical test, had been convicted of or pleaded guilty to three or 64574
more violations of division (A) or (B) of section 4511.19 of the 64575
Revised Code or other equivalent offenses, or had refused a number 64576
of previous requests to consent to a chemical test and also had 64577
been convicted of or pleaded guilty to a number of violations of 64578
division (A) or (B) of section 4511.19 of the Revised Code or 64579
other equivalent offenses that cumulatively total three or more 64580
such refusals, convictions, and guilty pleas, the suspension shall 64581
be for five years. 64582

(2) The registrar shall terminate a suspension of the 64583
driver's or commercial driver's license or permit of a resident or 64584
of the operating privilege of a nonresident, or a denial of a 64585
driver's or commercial driver's license or permit, imposed 64586
pursuant to division (B)(1) of this section upon receipt of notice 64587
that the person has entered a plea of guilty to, or that the 64588
person has been convicted after entering a plea of no contest to, 64589
operating a vehicle in violation of section 4511.19 of the Revised 64590
Code or in violation of a municipal OVI ordinance, if the offense 64591
for which the conviction is had or the plea is entered arose from 64592
the same incident that led to the suspension or denial. 64593

The registrar shall credit against any judicial suspension of 64594
a person's driver's or commercial driver's license or permit or 64595

nonresident operating privilege imposed pursuant to section 64596
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 64597
Revised Code for a violation of a municipal OVI ordinance, any 64598
time during which the person serves a related suspension imposed 64599
pursuant to division (B)(1) of this section. 64600

(C)(1) Upon receipt of the sworn report of the law 64601
enforcement officer who arrested a person for a violation of 64602
division (A) or (B) of section 4511.19 of the Revised Code or a 64603
municipal OVI ordinance that was completed and sent to the 64604
registrar and a court pursuant to section 4511.192 of the Revised 64605
Code in regard to a person whose test results indicate that the 64606
person's whole blood, blood serum or plasma, breath, or urine 64607
contained at least the concentration of alcohol specified in 64608
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 64609
Revised Code or at least the concentration of a listed controlled 64610
substance or a listed metabolite of a controlled substance 64611
specified in division (A)(1)(j) of section 4511.19 of the Revised 64612
Code, the registrar shall enter into the registrar's records the 64613
fact that the person's driver's or commercial driver's license or 64614
permit or nonresident operating privilege was suspended by the 64615
arresting officer under this division and section 4511.192 of the 64616
Revised Code and the period of the suspension, as determined under 64617
divisions (C)(1)(a) to (d) of this section. The suspension shall 64618
be subject to appeal as provided in section 4511.197 of the 64619
Revised Code. The suspension described in this division does not 64620
apply to, and shall not be imposed upon, a person arrested for a 64621
violation of section 4511.194 of the Revised Code or a 64622
substantially equivalent municipal ordinance who submits to a 64623
designated chemical test. The suspension shall be for whichever of 64624
the following periods applies: 64625

(a) Except when division (C)(1)(b), (c), or (d) of this 64626
section applies and specifies a different period, the suspension 64627

shall be a class E suspension imposed for the period of time 64628
specified in division (B)(5) of section 4510.02 of the Revised 64629
Code. 64630

(b) The suspension shall be a class C suspension for the 64631
period of time specified in division (B)(3) of section 4510.02 of 64632
the Revised Code if the person has been convicted of or pleaded 64633
guilty to, within six years of the date the test was conducted, 64634
one violation of division (A) or (B) of section 4511.19 of the 64635
Revised Code or one other equivalent offense. 64636

(c) If, within six years of the date the test was conducted, 64637
the person has been convicted of or pleaded guilty to two 64638
violations of a statute or ordinance described in division 64639
(C)(1)(b) of this section, the suspension shall be a class B 64640
suspension imposed for the period of time specified in division 64641
(B)(2) of section 4510.02 of the Revised Code. 64642

(d) If, within six years of the date the test was conducted, 64643
the person has been convicted of or pleaded guilty to more than 64644
two violations of a statute or ordinance described in division 64645
(C)(1)(b) of this section, the suspension shall be a class A 64646
suspension imposed for the period of time specified in division 64647
(B)(1) of section 4510.02 of the Revised Code. 64648

(2) The registrar shall terminate a suspension of the 64649
driver's or commercial driver's license or permit of a resident or 64650
of the operating privilege of a nonresident, or a denial of a 64651
driver's or commercial driver's license or permit, imposed 64652
pursuant to division (C)(1) of this section upon receipt of notice 64653
that the person has entered a plea of guilty to, or that the 64654
person has been convicted after entering a plea of no contest to, 64655
operating a vehicle in violation of section 4511.19 of the Revised 64656
Code or in violation of a municipal OVI ordinance, if the offense 64657
for which the conviction is had or the plea is entered arose from 64658
the same incident that led to the suspension or denial. 64659

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures

of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. Money credited to the fund under this section shall be used for purposes identified ~~in the~~

~~comprehensive statewide alcohol and drug addiction services plan~~ 64724
~~developed under section 3793.04 5119.22 of the Revised Code.~~ 64725

(b) Seventy-five dollars shall be credited to the reparations 64726
fund created by section 2743.191 of the Revised Code. 64727

(c) Thirty-seven dollars and fifty cents shall be credited to 64728
the indigent drivers alcohol treatment fund, which is hereby 64729
established in the state treasury. Except as otherwise provided in 64730
division (F)(2)(c) of this section, moneys in the fund shall be 64731
distributed by the department of ~~alcohol and drug addiction~~ 64732
~~services~~ mental health and addiction services to the county 64733
indigent drivers alcohol treatment funds, the county juvenile 64734
indigent drivers alcohol treatment funds, and the municipal 64735
indigent drivers alcohol treatment funds that are required to be 64736
established by counties and municipal corporations pursuant to 64737
division (H) of this section, and shall be used only to pay the 64738
cost of an alcohol and drug addiction treatment program attended 64739
by an offender or juvenile traffic offender who is ordered to 64740
attend an alcohol and drug addiction treatment program by a 64741
county, juvenile, or municipal court judge and who is determined 64742
by the county, juvenile, or municipal court judge not to have the 64743
means to pay for the person's attendance at the program or to pay 64744
the costs specified in division (H)(4) of this section in 64745
accordance with that division. In addition, a county, juvenile, or 64746
municipal court judge may use moneys in the county indigent 64747
drivers alcohol treatment fund, county juvenile indigent drivers 64748
alcohol treatment fund, or municipal indigent drivers alcohol 64749
treatment fund to pay for the cost of the continued use of an 64750
alcohol monitoring device as described in divisions (H)(3) and (4) 64751
of this section. Moneys in the fund that are not distributed to a 64752
county indigent drivers alcohol treatment fund, a county juvenile 64753
indigent drivers alcohol treatment fund, or a municipal indigent 64754
drivers alcohol treatment fund under division (H) of this section 64755

because the director of ~~alcohol and drug addiction services~~ mental health and addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of ~~alcohol and drug addiction services~~ mental health and addiction services.

(d) Seventy-five dollars shall be credited to the ~~Ohio rehabilitation services commission~~ opportunities for Ohioans with disabilities agency established by section ~~3304.12~~ 3304.15 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the ~~commission~~ agency to rehabilitate ~~people~~ persons with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established

in the state treasury. Moneys in the fund shall be distributed by 64787
the department of public safety to the county indigent drivers 64788
interlock and alcohol monitoring funds, the county juvenile 64789
indigent drivers interlock and alcohol monitoring funds, and the 64790
municipal indigent drivers interlock and alcohol monitoring funds 64791
that are required to be established by counties and municipal 64792
corporations pursuant to this section, and shall be used only to 64793
pay the cost of an immobilizing or disabling device, including a 64794
certified ignition interlock device, or an alcohol monitoring 64795
device used by an offender or juvenile offender who is ordered to 64796
use the device by a county, juvenile, or municipal court judge and 64797
who is determined by the county, juvenile, or municipal court 64798
judge not to have the means to pay for the person's use of the 64799
device. 64800

(3) If a person's driver's or commercial driver's license or 64801
permit is suspended under this section, under section 4511.196 or 64802
division (G) of section 4511.19 of the Revised Code, under section 64803
4510.07 of the Revised Code for a violation of a municipal OVI 64804
ordinance or under any combination of the suspensions described in 64805
division (F)(3) of this section, and if the suspensions arise from 64806
a single incident or a single set of facts and circumstances, the 64807
person is liable for payment of, and shall be required to pay to 64808
the registrar or an eligible deputy registrar, only one 64809
reinstatement fee of four hundred seventy-five dollars. The 64810
reinstatement fee shall be distributed by the bureau in accordance 64811
with division (F)(2) of this section. 64812

(4) The attorney general shall use amounts in the drug abuse 64813
resistance education programs fund to award grants to law 64814
enforcement agencies to establish and implement drug abuse 64815
resistance education programs in public schools. Grants awarded to 64816
a law enforcement agency under this section shall be used by the 64817
agency to pay for not more than fifty per cent of the amount of 64818

the salaries of law enforcement officers who conduct drug abuse 64819
resistance education programs in public schools. The attorney 64820
general shall not use more than six per cent of the amounts the 64821
attorney general's office receives under division (F)(2)(e) of 64822
this section to pay the costs it incurs in administering the grant 64823
program established by division (F)(2)(e) of this section and in 64824
providing training and materials relating to drug abuse resistance 64825
education programs. 64826

The attorney general shall report to the governor and the 64827
general assembly each fiscal year on the progress made in 64828
establishing and implementing drug abuse resistance education 64829
programs. These reports shall include an evaluation of the 64830
effectiveness of these programs. 64831

(5) In addition to the reinstatement fee under this section, 64832
if the person pays the reinstatement fee to a deputy registrar, 64833
the deputy registrar shall collect a service fee of ten dollars to 64834
compensate the deputy registrar for services performed under this 64835
section. The deputy registrar shall retain eight dollars of the 64836
service fee and shall transmit the reinstatement fee, plus two 64837
dollars of the service fee, to the registrar in the manner the 64838
registrar shall determine. 64839

(G) Suspension of a commercial driver's license under 64840
division (B) or (C) of this section shall be concurrent with any 64841
period of disqualification under section 3123.611 or 4506.16 of 64842
the Revised Code or any period of suspension under section 3123.58 64843
of the Revised Code. No person who is disqualified for life from 64844
holding a commercial driver's license under section 4506.16 of the 64845
Revised Code shall be issued a driver's license under Chapter 64846
4507. of the Revised Code during the period for which the 64847
commercial driver's license was suspended under division (B) or 64848
(C) of this section. No person whose commercial driver's license 64849
is suspended under division (B) or (C) of this section shall be 64850

issued a driver's license under Chapter 4507. of the Revised Code 64851
during the period of the suspension. 64852

(H)(1) Each county shall establish an indigent drivers 64853
alcohol treatment fund, each county shall establish a juvenile 64854
indigent drivers alcohol treatment fund, and each municipal 64855
corporation in which there is a municipal court shall establish an 64856
indigent drivers alcohol treatment fund. All revenue that the 64857
general assembly appropriates to the indigent drivers alcohol 64858
treatment fund for transfer to a county indigent drivers alcohol 64859
treatment fund, a county juvenile indigent drivers alcohol 64860
treatment fund, or a municipal indigent drivers alcohol treatment 64861
fund, all portions of fees that are paid under division (F) of 64862
this section and that are credited under that division to the 64863
indigent drivers alcohol treatment fund in the state treasury for 64864
a county indigent drivers alcohol treatment fund, a county 64865
juvenile indigent drivers alcohol treatment fund, or a municipal 64866
indigent drivers alcohol treatment fund, all portions of 64867
additional costs imposed under section 2949.094 of the Revised 64868
Code that are specified for deposit into a county, county 64869
juvenile, or municipal indigent drivers alcohol treatment fund by 64870
that section, and all portions of fines that are specified for 64871
deposit into a county or municipal indigent drivers alcohol 64872
treatment fund by section 4511.193 of the Revised Code shall be 64873
deposited into that county indigent drivers alcohol treatment 64874
fund, county juvenile indigent drivers alcohol treatment fund, or 64875
municipal indigent drivers alcohol treatment fund. The portions of 64876
the fees paid under division (F) of this section that are to be so 64877
deposited shall be determined in accordance with division (H)(2) 64878
of this section. Additionally, all portions of fines that are paid 64879
for a violation of section 4511.19 of the Revised Code or of any 64880
prohibition contained in Chapter 4510. of the Revised Code, and 64881
that are required under section 4511.19 or any provision of 64882
Chapter 4510. of the Revised Code to be deposited into a county 64883

indigent drivers alcohol treatment fund or municipal indigent 64884
drivers alcohol treatment fund shall be deposited into the 64885
appropriate fund in accordance with the applicable division of the 64886
section or provision. 64887

(2) That portion of the license reinstatement fee that is 64888
paid under division (F) of this section and that is credited under 64889
that division to the indigent drivers alcohol treatment fund shall 64890
be deposited into a county indigent drivers alcohol treatment 64891
fund, a county juvenile indigent drivers alcohol treatment fund, 64892
or a municipal indigent drivers alcohol treatment fund as follows: 64893

(a) Regarding a suspension imposed under this section, that 64894
portion of the fee shall be deposited as follows: 64895

(i) If the fee is paid by a person who was charged in a 64896
county court with the violation that resulted in the suspension or 64897
in the imposition of the court costs, the portion shall be 64898
deposited into the county indigent drivers alcohol treatment fund 64899
under the control of that court; 64900

(ii) If the fee is paid by a person who was charged in a 64901
juvenile court with the violation that resulted in the suspension 64902
or in the imposition of the court costs, the portion shall be 64903
deposited into the county juvenile indigent drivers alcohol 64904
treatment fund established in the county served by the court; 64905

(iii) If the fee is paid by a person who was charged in a 64906
municipal court with the violation that resulted in the suspension 64907
or in the imposition of the court costs, the portion shall be 64908
deposited into the municipal indigent drivers alcohol treatment 64909
fund under the control of that court. 64910

(b) Regarding a suspension imposed under section 4511.19 of 64911
the Revised Code or under section 4510.07 of the Revised Code for 64912
a violation of a municipal OVI ordinance, that portion of the fee 64913
shall be deposited as follows: 64914

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile

traffic offender, and when a suitable program is located and space 64947
is available at the program, the offender or juvenile traffic 64948
offender shall attend the program designated by the board. A 64949
reasonable amount not to exceed five per cent of the amounts 64950
credited to and deposited into the county indigent drivers alcohol 64951
treatment fund, the county juvenile indigent drivers alcohol 64952
treatment fund, or the municipal indigent drivers alcohol 64953
treatment fund serving every court whose program is administered 64954
by that board shall be paid to the board to cover the costs it 64955
incurs in administering those indigent drivers alcohol treatment 64956
programs. 64957

In addition, upon exhaustion of moneys in the indigent 64958
drivers interlock and alcohol monitoring fund for the use of an 64959
alcohol monitoring device, a county, juvenile, or municipal court 64960
judge may use moneys in the county indigent drivers alcohol 64961
treatment fund, county juvenile indigent drivers alcohol treatment 64962
fund, or municipal indigent drivers alcohol treatment fund in the 64963
following manners: 64964

(a) If the source of the moneys was an appropriation of the 64965
general assembly, a portion of a fee that was paid under division 64966
(F) of this section, a portion of a fine that was specified for 64967
deposit into the fund by section 4511.193 of the Revised Code, or 64968
a portion of a fine that was paid for a violation of section 64969
4511.19 of the Revised Code or of a provision contained in Chapter 64970
4510. of the Revised Code that was required to be deposited into 64971
the fund, to pay for the continued use of an alcohol monitoring 64972
device by an offender or juvenile traffic offender, in conjunction 64973
with a treatment program approved by the department of ~~alcohol and~~ 64974
~~drug addiction services~~ mental health and addiction services, when 64975
such use is determined clinically necessary by the treatment 64976
program and when the court determines that the offender or 64977
juvenile traffic offender is unable to pay all or part of the 64978

daily monitoring or cost of the device; 64979

(b) If the source of the moneys was a portion of an 64980
additional court cost imposed under section 2949.094 of the 64981
Revised Code, to pay for the continued use of an alcohol 64982
monitoring device by an offender or juvenile traffic offender when 64983
the court determines that the offender or juvenile traffic 64984
offender is unable to pay all or part of the daily monitoring or 64985
cost of the device. The moneys may be used for a device as 64986
described in this division if the use of the device is in 64987
conjunction with a treatment program approved by the department of 64988
~~alcohol and drug addiction services~~ mental health and addiction 64989
services, when the use of the device is determined clinically 64990
necessary by the treatment program, but the use of a device is not 64991
required to be in conjunction with a treatment program approved by 64992
the department in order for the moneys to be used for the device 64993
as described in this division. 64994

(4) If a county, juvenile, or municipal court determines, in 64995
consultation with the alcohol and drug addiction services board or 64996
the board of alcohol, drug addiction, and mental health services 64997
established pursuant to section 340.02 or 340.021 of the Revised 64998
Code and serving the alcohol, drug addiction, and mental health 64999
district in which the court is located, that the funds in the 65000
county indigent drivers alcohol treatment fund, the county 65001
juvenile indigent drivers alcohol treatment fund, or the municipal 65002
indigent drivers alcohol treatment fund under the control of the 65003
court are more than sufficient to satisfy the purpose for which 65004
the fund was established, as specified in divisions (H)(1) to (3) 65005
of this section, the court may declare a surplus in the fund. If 65006
the court declares a surplus in the fund, the court may expend the 65007
amount of the surplus in the fund for: 65008

(a) Alcohol and drug abuse assessment and treatment of 65009
persons who are charged in the court with committing a criminal 65010

offense or with being a delinquent child or juvenile traffic 65011
offender and in relation to whom both of the following apply: 65012

(i) The court determines that substance abuse was a 65013
contributing factor leading to the criminal or delinquent activity 65014
or the juvenile traffic offense with which the person is charged. 65015

(ii) The court determines that the person is unable to pay 65016
the cost of the alcohol and drug abuse assessment and treatment 65017
for which the surplus money will be used. 65018

(b) All or part of the cost of purchasing alcohol monitoring 65019
devices to be used in conjunction with division (H)(3) of this 65020
section, upon exhaustion of moneys in the indigent drivers 65021
interlock and alcohol monitoring fund for the use of an alcohol 65022
monitoring device. 65023

(5) For the purpose of determining as described in division 65024
(F)(2)(c) of this section whether an offender does not have the 65025
means to pay for the offender's attendance at an alcohol and drug 65026
addiction treatment program or whether an alleged offender or 65027
delinquent child is unable to pay the costs specified in division 65028
(H)(4) of this section, the court shall use the indigent client 65029
eligibility guidelines and the standards of indigency established 65030
by the state public defender to make the determination. 65031

(6) The court shall identify and refer any ~~alcohol and drug~~ 65032
community addiction program services provider that is not 65033
certified under section ~~3793.06~~ 5119.36 of the Revised Code and 65034
that is interested in receiving amounts from the surplus in the 65035
fund declared under division (H)(4) of this section to the 65036
department of ~~alcohol and drug addiction services~~ mental health 65037
and addiction services in order for the ~~program services provider~~ 65038
to become a certified ~~alcohol and drug~~ community addiction program 65039
services provider. The department shall keep a record of applicant 65040
referrals received pursuant to this division and shall submit a 65041

report on the referrals each year to the general assembly. If a 65042
~~program services provider~~ interested in becoming certified makes 65043
an application to become certified pursuant to section ~~3793.06~~ 65044
5119.36 of the Revised Code, the ~~program services provider~~ is 65045
eligible to receive surplus funds as long as the application is 65046
pending with the department. The department of ~~alcohol and drug~~ 65047
~~addiction services~~ mental health and addiction services must offer 65048
technical assistance to the applicant. If the interested ~~program~~ 65049
services provider withdraws the certification application, the 65050
department must notify the court, and the court shall not provide 65051
the interested ~~program services provider~~ with any further surplus 65052
funds. 65053

(7)(a) Each alcohol and drug addiction services board and 65054
board of alcohol, drug addiction, and mental health services 65055
established pursuant to section 340.02 or 340.021 of the Revised 65056
Code shall submit to the department of ~~alcohol and drug addiction~~ 65057
~~services~~ mental health and addiction services an annual report for 65058
each indigent drivers alcohol treatment fund in that board's area. 65059

(b) The report, which shall be submitted not later than sixty 65060
days after the end of the state fiscal year, shall provide the 65061
total payment that was made from the fund, including the number of 65062
indigent consumers that received treatment services and the number 65063
of indigent consumers that received an alcohol monitoring device. 65064
The report shall identify the treatment program and expenditure 65065
for an alcohol monitoring device for which that payment was made. 65066
The report shall include the fiscal year balance of each indigent 65067
drivers alcohol treatment fund located in that board's area. In 65068
the event that a surplus is declared in the fund pursuant to 65069
division (H)(4) of this section, the report also shall provide the 65070
total payment that was made from the surplus moneys and identify 65071
the treatment program and expenditure for an alcohol monitoring 65072
device for which that payment was made. ~~The department may require~~ 65073

~~additional information necessary to complete the comprehensive 65074
statewide alcohol and drug addiction services plan as required by 65075
section 3793.04 of the Revised Code. 65076~~

(c) If a board is unable to obtain adequate information to 65077
develop the report to submit to the department for a particular 65078
indigent drivers alcohol treatment fund, the board shall submit a 65079
report detailing the effort made in obtaining the information. 65080

(I)(1) Each county shall establish an indigent drivers 65081
interlock and alcohol monitoring fund and a juvenile indigent 65082
drivers interlock and alcohol treatment fund, and each municipal 65083
corporation in which there is a municipal court shall establish an 65084
indigent drivers interlock and alcohol monitoring fund. All 65085
revenue that the general assembly appropriates to the indigent 65086
drivers interlock and alcohol monitoring fund for transfer to a 65087
county indigent drivers interlock and alcohol monitoring fund, a 65088
county juvenile indigent drivers interlock and alcohol monitoring 65089
fund, or a municipal indigent drivers interlock and alcohol 65090
monitoring fund, all portions of license reinstatement fees that 65091
are paid under division (F)(2) of this section and that are 65092
credited under that division to the indigent drivers interlock and 65093
alcohol monitoring fund in the state treasury, and all portions of 65094
fines that are paid under division (G) of section 4511.19 of the 65095
Revised Code and that are credited by division (G)(5)(e) of that 65096
section to the indigent drivers interlock and alcohol monitoring 65097
fund in the state treasury shall be deposited in the appropriate 65098
fund in accordance with division (I)(2) of this section. 65099

(2) That portion of the license reinstatement fee that is 65100
paid under division (F) of this section and that portion of the 65101
fine paid under division (G) of section 4511.19 of the Revised 65102
Code and that is credited under either division to the indigent 65103
drivers interlock and alcohol monitoring fund shall be deposited 65104
into a county indigent drivers interlock and alcohol monitoring 65105

fund, a county juvenile indigent drivers interlock and alcohol 65106
monitoring fund, or a municipal indigent drivers interlock and 65107
alcohol monitoring fund as follows: 65108

(a) If the fee or fine is paid by a person who was charged in 65109
a county court with the violation that resulted in the suspension 65110
or fine, the portion shall be deposited into the county indigent 65111
drivers interlock and alcohol monitoring fund under the control of 65112
that court. 65113

(b) If the fee or fine is paid by a person who was charged in 65114
a juvenile court with the violation that resulted in the 65115
suspension or fine, the portion shall be deposited into the county 65116
juvenile indigent drivers interlock and alcohol monitoring fund 65117
established in the county served by the court. 65118

(c) If the fee or fine is paid by a person who was charged in 65119
a municipal court with the violation that resulted in the 65120
suspension, the portion shall be deposited into the municipal 65121
indigent drivers interlock and alcohol monitoring fund under the 65122
control of that court. 65123

Sec. 4701.03. (A) The accountancy board annually shall elect 65124
a president, secretary, and treasurer from its members. The board 65125
may adopt and amend rules for the orderly conduct of its affairs 65126
and for the administration of this chapter. The board may adopt 65127
and amend rules defining the practice of public accounting, rules 65128
of professional conduct appropriate to establish and maintain a 65129
high standard of integrity and dignity in registrants and 65130
certificate holders under this chapter, and rules regulating the 65131
sole proprietorship, partnership, limited liability company, 65132
professional association, corporation-for-profit, or other legal 65133
entity practice of public accounting. A majority of the board 65134
shall constitute a quorum for the transaction of business. 65135

(B) The board shall keep and hold open for public inspection 65136

all records of its proceedings. 65137

(C) The board may employ any clerks that are necessary to 65138
assist it in the performance of its duties and the keeping of its 65139
records. If the board employs an executive director, the board 65140
shall pay the executive director ~~shall be paid~~ in accordance with 65141
~~pay range 18 of schedule E 1 of section 124.152 of the Revised~~ 65142
~~Code, or, if the director was employed and being paid on June 28,~~ 65143
~~2003, in accordance with step 7 in pay range 18 of schedule E 1 of~~ 65144
~~former section 124.152 of the Revised Code and continued to be so~~ 65145
~~paid on June 29, 2003, the executive director shall be paid in~~ 65146
~~accordance with pay range 18 of salary schedule E 1 for step seven~~ 65147
~~only of section 124.152 of the Revised Code.~~ 65148

Sec. 4707.073. (A) No corporation, limited liability company, 65149
general or limited partnership, or unincorporated association 65150
shall act or hold itself out as an auctioneer without a valid 65151
auctioneer's license issued under this section. This section does 65152
not apply to a person who is issued a license under section 65153
4707.071 of the Revised Code. 65154

(B) The department of agriculture may grant an auctioneer's 65155
license to a corporation, limited liability company, general or 65156
limited partnership, or unincorporated association that is 65157
determined to be qualified by the department. Every applicant for 65158
a license under this section shall furnish to the department, on 65159
forms provided by the department, satisfactory proof that the 65160
applicant: 65161

(1) Is in good standing with the secretary of state if the 65162
applicant is a corporation; 65163

(2) Is of trustworthy character; 65164

(3) Has provided proof of financial responsibility as 65165
required in section 4707.11 of the Revised Code; 65166

(4) Is registered with the secretary of state or a local authority, as applicable, to do business in this state; 65167
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(5) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code. 65169
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(C) An application submitted under this section shall list the names of all of the owners, directors, partners, or members of the applicant, as applicable, and shall indicate those that have an auctioneer's license issued under section 4707.07 of the Revised Code. 65172
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~~(D)(1)~~ The department shall not issue a license under this section unless one of the following applies, as applicable: 65177
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~~(a)(1)~~ If the applicant is a limited liability company or a general or limited partnership, not less than fifty per cent of the members or general partners have a current license issued under section 4707.07 of the Revised Code. 65179
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~~(b)(2)~~ If the applicant is a corporation, not less than fifty per cent of the directors and the president or chief executive have a current license issued under section 4707.07 of the Revised Code. 65183
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~~(e)(3)~~ If the applicant is an unincorporated association, not less than fifty per cent of the members have a current license issued under section 4707.07 of the Revised Code. 65187
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Failure of a corporation, limited liability company, partnership, or unincorporated association to maintain the applicable requirements of this division after the issuance of a license under this section may be sufficient cause for the revocation of the license under section 4707.15 of the Revised Code. 65190
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~~(2) Not later than two years after the effective date of this~~ 65196

~~section, a corporation, partnership, or unincorporated association 65197
that was issued a license under section 4707.07 of the Revised 65198
Code on or before the effective date of this section shall comply 65199
with the requirements established in division (D)(1) of this 65200
section. If such a corporation, partnership, or unincorporated 65201
association fails to comply with those requirements, the license 65202
of the corporation, partnership, or unincorporated association 65203
immediately shall terminate. 65204~~

(E) Upon the issuance of a license under this section, a 65205
corporation, limited liability company, partnership, or 65206
unincorporated association shall designate an individual from 65207
among its directors, partners, or members who is licensed under 65208
section 4707.07 of the Revised Code as its agent for purposes of 65209
communication with the department. If that individual ceases to be 65210
the agent, the corporation, limited liability company, 65211
partnership, or unincorporated association shall notify the 65212
department not later than ten days after the day on which the 65213
individual ceases to be the agent. Upon notification to the 65214
department, the license of the corporation, limited liability 65215
company, partnership, or unincorporated association, as 65216
applicable, immediately shall terminate. If the corporation, 65217
limited liability company, partnership, or unincorporated 65218
association notifies the department of the designation of a new 65219
agent in accordance with the requirements of this division and 65220
pays a fee in the amount of ten dollars, the department shall 65221
issue the corporation, limited liability company, partnership, or 65222
unincorporated association a new license. 65223

(F) This section does not preclude a corporation, limited 65224
liability company, partnership, or unincorporated association from 65225
selling real property at auction, provided that the requirements 65226
of this section and section 4707.021 and Chapter 4735. of the 65227
Revised Code are satisfied. 65228

(G) A person licensed as a real estate broker under Chapter 4735. of the Revised Code shall not be required to obtain a license under this section if the person complies with sections 4707.021 and 4707.22 of the Revised Code.

Sec. 4707.10. (A) The fee for each apprentice auctioneer's or auction firm license issued by the department of agriculture is one hundred dollars, and the annual renewal fee for any such license is one hundred dollars. All licenses expire annually on the last day of June of each year and shall be renewed according to the standard renewal procedures of Chapter 4745. of the Revised Code, or the procedures of this section. Any licensee under this chapter who wishes to renew the licensee's license, but fails to do so before the first day of July shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless before the first day of September of the year of expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.

(B)(1) Each person to whom the department issues an auctioneer's license or special auctioneer's license shall pay a licensure fee. Those licenses are biennial and expire in accordance with the schedule established in division (B)(2) of this section. If such a license is issued during the first year of a biennium, the licensee shall pay a fee in the amount of two hundred dollars. If the license is issued during the second year of a biennium, the licensee shall pay a fee in the amount of one hundred dollars. With respect to an auctioneer's license, the fees apply regardless of whether the license is issued to an individual under section 4707.07 of the Revised Code or to a corporation, limited liability company, partnership, or association under section 4707.073 of the Revised Code.

All auctioneer's licenses and special auctioneer's licenses 65260
expire on the last day of June of the biennium. The licenses shall 65261
be renewed in accordance with the standard renewal procedures of 65262
Chapter 4745. of the Revised Code or the procedures in this 65263
section and upon the licensee's payment to the department of a 65264
renewal fee of two hundred dollars. A licensee who wishes to renew 65265
the licensee's license, but who fails to do so before the first 65266
day of July following the license's expiration, shall reapply for 65267
licensure in the same manner and pursuant to the same requirements 65268
as for the initial licensure unless before the first day of 65269
September following the expiration, the former licensee pays to 65270
the department, in addition to the regular renewal fee, a late 65271
renewal penalty of one hundred dollars. 65272

(2) The biennial expiration of an auctioneer's license or 65273
special auctioneer's license shall occur in accordance with the 65274
following schedule: 65275

(a) The license shall expire in odd-numbered years if the 65276
business name or last name, as applicable, of the licensee begins 65277
with the letters "A" through "J" or with the letters "X" through 65278
"Z." 65279

(b) The license shall expire in even-numbered years if the 65280
business name or last name, as applicable, of the licensee begins 65281
with the letters "K" through "W." 65282

(C) Any person who fails to renew the person's license before 65283
the first day of July is prohibited from engaging in any activity 65284
specified or comprehended in section 4707.01 of the Revised Code 65285
until such time as the person's license is renewed or a new 65286
license is issued. Renewal of a license between the first day of 65287
July and the first day of September does not relieve any person 65288
from complying with this division. The department may refuse to 65289
renew the license of or issue a new license to any person who 65290
violates this division. 65291

(D) The department shall prepare and deliver to each licensee 65292
a permanent license certificate and an identification card, the 65293
appropriate portion of which shall be carried on the person of the 65294
licensee at all times when engaged in any type of auction 65295
activity, and part of which shall be posted with the permanent 65296
certificate in a conspicuous location at the licensee's place of 65297
business. 65298

(E) Notice in writing shall be given to the department by 65299
each auctioneer or apprentice auctioneer licensee of any change of 65300
principal business location or any change or addition to the name 65301
or names under which business is conducted, whereupon the 65302
department shall issue a new license for the unexpired period. Any 65303
change of business location or change or addition of names without 65304
notification to the department shall automatically cancel any 65305
license previously issued. For each new ~~auctioneer~~ auctioneer's or 65306
apprentice ~~auctioneer~~ auctioneer's license issued upon the 65307
occasion of a change in business location or a change in or an 65308
addition of names under which business is conducted, the 65309
department may collect a fee of ten dollars for each change in 65310
location, or name or each added name unless the notification of 65311
the change occurs concurrently with the renewal application or 65312
unless otherwise provided in section 4707.07 of the Revised Code. 65313

Sec. 4715.36. As used in this section and sections 4715.361 65314
to 4715.374 of the Revised Code: 65315

(A) "Accredited dental hygiene school" means a dental hygiene 65316
school accredited by the American dental association commission on 65317
dental accreditation or a dental hygiene school whose educational 65318
standards are recognized by the American dental association 65319
commission on dental accreditation and approved by the state 65320
dental board. 65321

(B) "Authorizing dentist" means a dentist who authorizes a 65322

dental hygienist to perform dental hygiene services under section 65323
4715.365 of the Revised Code. 65324

(C) "Clinical evaluation" means a diagnosis and treatment 65325
plan formulated for an individual patient by a dentist. 65326

(D) "Dentist" means an individual licensed under this chapter 65327
to practice dentistry. 65328

(E) "Dental hygienist" means an individual licensed under 65329
this chapter to practice as a dental hygienist. 65330

(F) "Dental hygiene services" means the prophylactic, 65331
preventive, and other procedures that dentists are authorized by 65332
this chapter and rules of the state dental board to assign to 65333
dental hygienists, except for procedures while a patient is 65334
anesthetized, definitive root planing, definitive subgingival 65335
curettage, the administration of local anesthesia, and the 65336
procedures specified in rules adopted by the board as described in 65337
division (C)(4) of section 4715.22 of the Revised Code. 65338

(G) "Facility" means any of the following: 65339

(1) A health care facility, as defined in section 4715.22 of 65340
the Revised Code; 65341

(2) A state correctional institution, as defined in section 65342
2967.01 of the Revised Code; 65343

(3) A comprehensive child development program that receives 65344
funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 65345
42 U.S.C. 9831, as amended, and is licensed as a child day-care 65346
center; 65347

(4) A residential facility licensed under section 5123.19 of 65348
the Revised Code; 65349

(5) A public school, as defined in section 3701.93 of the 65350
Revised Code, located in an area designated as a dental health 65351
resource shortage area pursuant to section 3702.87 of the Revised 65352

Code;	65353
(6) A nonpublic school, as defined in section 3701.93 of the Revised Code, located in an area designated as a dental health resource shortage area pursuant to section 3702.87 of the Revised Code;	65354 65355 65356 65357
(7) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	65358 65359 65360
(8) A shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code;	65361 65362
(9) A facility operated by the department of youth services under Chapter 5139. of the Revised Code;	65363 65364
(10) A shelter for runaways, as defined in section 5119.64 of the Revised Code;	65365 65366
(11) A foster home, as defined in section 5103.02 of the Revised Code;	65367 65368
(12) <u>(11)</u> A nonprofit clinic, as defined in section 3715.87 of the Revised Code;	65369 65370
(13) <u>(12)</u> The residence of one or more individuals receiving services provided by a home health agency, as defined in section 5101.61 of the Revised Code;	65371 65372 65373
(14) <u>(13)</u> A dispensary;	65374
(15) <u>(14)</u> A health care facility, such as a clinic or hospital, of the United States department of veterans affairs;	65375 65376
(16) <u>(15)</u> The residence of one or more individuals enrolled in a home and community-based services medicaid waiver component, as defined in section 5111.851 <u>5166.01</u> of the Revised Code;	65377 65378 65379
(17) <u>(16)</u> A facility operated by the board of health of a city or general health district or the authority having the duties of a	65380 65381

board of health under section 3709.05 of the Revised Code; 65382

~~(18)~~(17) A women, infants, and children clinic; 65383

~~(19)~~(18) A mobile dental unit located at any location listed 65384
in divisions (G)(1) to ~~(18)~~(17) of this section; 65385

~~(20)~~(19) Any other location, as specified by the state dental 65386
board in rules adopted under section 4715.372 of the Revised Code, 65387
that is in an area designated as a dental health resource shortage 65388
area pursuant to section 3702.87 of the Revised Code and provides 65389
health care services to individuals who are medicaid recipients ~~of~~ 65390
~~medical assistance under the medicaid program established pursuant~~ 65391
~~to Chapter 5111. of the Revised Code~~ and to indigent and uninsured 65392
persons, as defined in section 2305.234 of the Revised Code. 65393

Sec. 4715.372. (A) The state dental board shall adopt rules 65394
in accordance with Chapter 119. of the Revised Code as necessary 65395
to implement the oral health access supervision program, including 65396
rules that do all of the following: 65397

(1) For the purpose of division (G)~~(20)~~(19) of section 65398
4715.36 of the Revised Code, designate additional facilities at 65399
which a dental hygienist may be authorized to perform dental 65400
hygiene services under the oral health access supervision program; 65401

(2) For the purpose of section 4715.362 of the Revised Code, 65402
prescribe the application form and requirements for obtaining an 65403
oral health access supervision permit; 65404

(3) For the purpose of section 4715.363 of the Revised Code, 65405
prescribe the application form for a permit to practice as a 65406
dental hygienist under the oral health access supervision of a 65407
dentist; 65408

(4) For the purpose of division (B)(3) of section 4715.363 of 65409
the Revised Code and subject to division (B) of this section, 65410
establish standards for the course in the practice of dental 65411

hygiene under oral health access supervision; 65412

(5) For the purpose of section 4715.369 of the Revised Code, 65413
prescribe the form for renewal of an oral health access 65414
supervision permit; 65415

(6) For the purpose of section 4715.37 of the Revised Code, 65416
prescribe the form for renewal of a permit to practice as a dental 65417
hygienist under the oral health access supervision of a dentist. 65418

(B) The course in the practice of dental hygiene under oral 65419
health access supervision for which the board establishes 65420
standards under division (A)(4) of this section shall meet all of 65421
the following requirements: 65422

(1) Be eight hours in length; 65423

(2) Include, at a minimum, instruction in both of the 65424
following: 65425

(a) The treatment of geriatric patients, medically 65426
compromised patients, developmentally disabled patients, and 65427
pediatric patients; 65428

(b) Recordkeeping practices. 65429

(3) Be developed and offered by an institution accredited by 65430
the American dental association commission on dental accreditation 65431
or a program provided by a sponsor of continuing education 65432
approved by the board; 65433

(4) Include content that is separate and independent from the 65434
course content required for the completion of dental hygiene 65435
education from an accredited dental hygiene school. 65436

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of 65437
the Revised Code: 65438

(1) "Affiliate" means a business entity that is owned by, 65439
operated by, controlled by, or under common control with another 65440

business entity. 65441

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or

installed in any real property, regardless of whether it is so 65472
attached or installed; timeshare estates or licenses; and extended 65473
service contracts. 65474

(5) "Purchaser" means a person that is solicited to become or 65475
does become financially obligated as a result of a telephone 65476
solicitation. 65477

(6) "Salesperson" means an individual who is employed, 65478
appointed, or authorized by a telephone solicitor to make 65479
telephone solicitations but does not mean any of the following: 65480

(a) An individual who comes within one of the exemptions in 65481
division (B) of this section; 65482

(b) An individual employed, appointed, or authorized by a 65483
person who comes within one of the exemptions in division (B) of 65484
this section; 65485

(c) An individual under a written contract with a person who 65486
comes within one of the exemptions in division (B) of this 65487
section, if liability for all transactions with purchasers is 65488
assumed by the person so exempted. 65489

(7) "Telephone solicitation" means a communication to a 65490
person that meets both of the following criteria: 65491

(a) The communication is initiated by or on behalf of a 65492
telephone solicitor or by a salesperson. 65493

(b) The communication either represents a price or the 65494
quality or availability of goods or services or is used to induce 65495
the person to purchase goods or services, including, but not 65496
limited to, inducement through the offering of a gift, award, or 65497
prize. 65498

(8) "Telephone solicitor" means a person that engages in 65499
telephone solicitation directly or through one or more 65500
salespersons either from a location in this state, or from a 65501

location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or

associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5)(a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B)(5)(a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6)(a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is registered or is exempt from registration under 15 U.S.C.A. 781(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;

(iii) The class of securities is a reported security as

defined in 17 C.F.R. 240.11Aa3-1(a)(4). 65563

(b) An issuer, or its subsidiary, that formerly had a class 65564
of securities that met the criteria set forth in division 65565
(B)(6)(a) of this section if the issuer, or its subsidiary, has a 65566
net worth in excess of one hundred million dollars, files or its 65567
parent files with the securities and exchange commission an S.E.C. 65568
form 10-K, and has continued in substantially the same business 65569
since it had a class of securities that met the criteria in 65570
division (B)(6)(a) of this section. As used in division (B)(6)(b) 65571
of this section, "issuer" and "subsidiary" include the successor 65572
to an issuer or subsidiary. 65573

(7) A person soliciting a transaction regulated by the 65574
commodity futures trading commission, if the person is registered 65575
or temporarily registered for that activity with the commission 65576
under 7 U.S.C.A. 1 et. seq. and the registration or temporary 65577
registration has not expired or been suspended or revoked; 65578

(8) A person soliciting the sale of any book, record, audio 65579
tape, compact disc, or video, if the person allows the purchaser 65580
to review the merchandise for at least seven days and provides a 65581
full refund within thirty days to a purchaser who returns the 65582
merchandise or if the person solicits the sale on behalf of a 65583
membership club operating in compliance with regulations adopted 65584
by the federal trade commission in 16 C.F.R. 425; 65585

(9) A supervised financial institution or its subsidiary. As 65586
used in division (B)(9) of this section, "supervised financial 65587
institution" means a bank, trust company, savings and loan 65588
association, savings bank, credit union, industrial loan company, 65589
consumer finance lender, commercial finance lender, or institution 65590
described in section 2(c)(2)(F) of the "Bank Holding Company Act 65591
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 65592
official or agency of the United States, this state, or any other 65593
state of the United States; or a licensee or registrant under 65594

sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 65595
1321.83 of the Revised Code. 65596

(10)(a) An insurance company, association, or other 65597
organization that is licensed or authorized to conduct business in 65598
this state by the superintendent of insurance pursuant to Title 65599
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 65600
when soliciting within the scope of its license or authorization. 65601

(b) A licensed insurance broker, agent, or solicitor when 65602
soliciting within the scope of the person's license. As used in 65603
division (B)(10)(b) of this section, "licensed insurance broker, 65604
agent, or solicitor" means any person licensed as an insurance 65605
broker, agent, or solicitor by the superintendent of insurance 65606
pursuant to Title XXXIX of the Revised Code. 65607

(11) A person soliciting the sale of services provided by a 65608
cable television system operating under authority of a 65609
governmental franchise or permit; 65610

(12) A person soliciting a business-to-business sale under 65611
which any of the following conditions are met: 65612

(a) The telephone solicitor has been operating continuously 65613
for at least three years under the same business name under which 65614
it solicits purchasers, and at least fifty-one per cent of its 65615
gross dollar volume of sales consists of repeat sales to existing 65616
customers to whom it has made sales under the same business name. 65617

(b) The purchaser business intends to resell the goods 65618
purchased. 65619

(c) The purchaser business intends to use the goods or 65620
services purchased in a recycling, reuse, manufacturing, or 65621
remanufacturing process. 65622

(d) The telephone solicitor is a publisher of a periodical or 65623
of magazines distributed as controlled circulation publications as 65624

defined in ~~division (CC)~~ of section 5739.01 of the Revised Code 65625
and is soliciting sales of advertising, subscriptions, reprints, 65626
lists, information databases, conference participation or 65627
sponsorships, trade shows or media products related to the 65628
periodical or magazine, or other publishing services provided by 65629
the controlled circulation publication. 65630

(13) A person that, not less often than once each year, 65631
publishes and delivers to potential purchasers a catalog that 65632
complies with both of the following: 65633

(a) It includes all of the following: 65634

(i) The business address of the seller; 65635

(ii) A written description or illustration of each good or 65636
service offered for sale; 65637

(iii) A clear and conspicuous disclosure of the sale price of 65638
each good or service; shipping, handling, and other charges; and 65639
return policy. 65640

(b) One of the following applies: 65641

(i) The catalog includes at least twenty-four pages of 65642
written material and illustrations, is distributed in more than 65643
one state, and has an annual postage-paid mail circulation of not 65644
less than two hundred fifty thousand households; 65645

(ii) The catalog includes at least ten pages of written 65646
material or an equivalent amount of material in electronic form on 65647
the internet or an on-line computer service, the person does not 65648
solicit customers by telephone but solely receives telephone calls 65649
made in response to the catalog, and during the calls the person 65650
takes orders but does not engage in further solicitation of the 65651
purchaser. As used in division (B)(13)(b)(ii) of this section, 65652
"further solicitation" does not include providing the purchaser 65653
with information about, or attempting to sell, any other item in 65654

the catalog that prompted the purchaser's call or in a 65655
substantially similar catalog issued by the seller. 65656

(14) A political subdivision or instrumentality of the United 65657
States, this state, or any state of the United States; 65658

(15) A college or university or any other public or private 65659
institution of higher education in this state; 65660

(16) A public utility as defined in section 4905.02 of the 65661
Revised Code or a retail natural gas supplier as defined in 65662
section 4929.01 of the Revised Code, if the utility or supplier is 65663
subject to regulation by the public utilities commission, or the 65664
affiliate of the utility or supplier; 65665

(17) A person that solicits sales through a television 65666
program or advertisement that is presented in the same market area 65667
no fewer than twenty days per month or offers for sale no fewer 65668
than ten distinct items of goods or services; and offers to the 65669
purchaser an unconditional right to return any good or service 65670
purchased within a period of at least seven days and to receive a 65671
full refund within thirty days after the purchaser returns the 65672
good or cancels the service; 65673

(18)(a) A person that, for at least one year, has been 65674
operating a retail business under the same name as that used in 65675
connection with telephone solicitation and both of the following 65676
occur on a continuing basis: 65677

(i) The person either displays goods and offers them for 65678
retail sale at the person's business premises or offers services 65679
for sale and provides them at the person's business premises. 65680

(ii) At least fifty-one per cent of the person's gross dollar 65681
volume of retail sales involves purchases of goods or services at 65682
the person's business premises. 65683

(b) An affiliate of a person that meets the requirements in 65684

division (B)(18)(a) of this section if the affiliate meets all of 65685
the following requirements: 65686

(i) The affiliate has operated a retail business for a period 65687
of less than one year; 65688

(ii) The affiliate either displays goods and offers them for 65689
retail sale at the affiliate's business premises or offers 65690
services for sale and provides them at the affiliate's business 65691
premises; 65692

(iii) At least fifty-one per cent of the affiliate's gross 65693
dollar volume of retail sales involves purchases of goods or 65694
services at the affiliate's business premises. 65695

(c) A person that, for a period of less than one year, has 65696
been operating a retail business in this state under the same name 65697
as that used in connection with telephone solicitation, as long as 65698
all of the following requirements are met: 65699

(i) The person either displays goods and offers them for 65700
retail sale at the person's business premises or offers services 65701
for sale and provides them at the person's business premises; 65702

(ii) The goods or services that are the subject of telephone 65703
solicitation are sold at the person's business premises, and at 65704
least sixty-five per cent of the person's gross dollar volume of 65705
retail sales involves purchases of goods or services at the 65706
person's business premises; 65707

(iii) The person conducts all telephone solicitation 65708
activities according to sections 310.3, 310.4, and 310.5 of the 65709
telemarketing sales rule adopted by the federal trade commission 65710
in 16 C.F.R. part 310. 65711

(19) A person who performs telephone solicitation sales 65712
services on behalf of other persons and to whom one of the 65713
following applies: 65714

(a) The person has operated under the same ownership, 65715
control, and business name for at least five years, and the person 65716
receives at least seventy-five per cent of its gross revenues from 65717
written telephone solicitation contracts with persons who come 65718
within one of the exemptions in division (B) of this section. 65719

(b) The person is an affiliate of one or more exempt persons 65720
and makes telephone solicitations on behalf of only the exempt 65721
persons of which it is an affiliate. 65722

(c) The person makes telephone solicitations on behalf of 65723
only exempt persons, the person and each exempt person on whose 65724
behalf telephone solicitations are made have entered into a 65725
written contract that specifies the manner in which the telephone 65726
solicitations are to be conducted and that at a minimum requires 65727
compliance with the telemarketing sales rule adopted by the 65728
federal trade commission in 16 C.F.R. part 310, and the person 65729
conducts the telephone solicitations in the manner specified in 65730
the written contract. 65731

(d) The person performs telephone solicitation for religious 65732
or political purposes, a charitable organization, a fund-raising 65733
council, or a professional solicitor in compliance with the 65734
registration and reporting requirements of Chapter 1716. of the 65735
Revised Code; and meets all of the following requirements: 65736

(i) The person has operated under the same ownership, 65737
control, and business name for at least five years, and the person 65738
receives at least fifty-one per cent of its gross revenues from 65739
written telephone solicitation contracts with persons who come 65740
within the exemption in division (B)(2) of this section; 65741

(ii) The person does not conduct a prize promotion or offer 65742
the sale of an investment opportunity; 65743

(iii) The person conducts all telephone solicitation 65744
activities according to sections 310.3, 310.4, and 310.5 of the 65745

telemarketing sales rules adopted by the federal trade commission 65746
in 16 C.F.R. part 310. 65747

(20) A person that is a licensed real estate salesperson or 65748
broker under Chapter 4735. of the Revised Code when soliciting 65749
within the scope of the person's license; 65750

(21)(a) Either of the following: 65751

(i) A publisher that solicits the sale of the publisher's 65752
periodical or magazine of general, paid circulation, or a person 65753
that solicits a sale of that nature on behalf of a publisher under 65754
a written agreement directly between the publisher and the person. 65755

(ii) A publisher that solicits the sale of the publisher's 65756
periodical or magazine of general, paid circulation, or a person 65757
that solicits a sale of that nature as authorized by a publisher 65758
under a written agreement directly with a publisher's 65759
clearinghouse provided the person is a resident of Ohio for more 65760
than three years and initiates all telephone solicitations from 65761
Ohio and the person conducts the solicitation and sale in 65762
compliance with 16 C.F.R. part 310, as adopted by the federal 65763
trade commission. 65764

(b) As used in division (B)(21) of this section, "periodical 65765
or magazine of general, paid circulation" excludes a periodical or 65766
magazine circulated only as part of a membership package or given 65767
as a free gift or prize from the publisher or person. 65768

(22) A person that solicits the sale of food, as defined in 65769
section 3715.01 of the Revised Code, or the sale of products of 65770
horticulture, as defined in section 5739.01 of the Revised Code, 65771
if the person does not intend the solicitation to result in, or 65772
the solicitation actually does not result in, a sale that costs 65773
the purchaser an amount greater than five hundred dollars. 65774

(23) A funeral director licensed pursuant to Chapter 4717. of 65775
the Revised Code when soliciting within the scope of that license, 65776

if both of the following apply: 65777

(a) The solicitation and sale are conducted in compliance 65778
with 16 C.F.R. part 453, as adopted by the federal trade 65779
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 65780
the Revised Code; 65781

(b) The person provides to the purchaser of any preneed 65782
funeral contract a notice that clearly and conspicuously sets 65783
forth the cancellation rights specified in division (G) of section 65784
1107.33 of the Revised Code, and retains a copy of the notice 65785
signed by the purchaser. 65786

(24) A person, or affiliate thereof, licensed to sell or 65787
issue Ohio instruments designated as travelers checks pursuant to 65788
sections 1315.01 to 1315.18 of the Revised Code. 65789

(25) A person that solicits sales from its previous 65790
purchasers and meets all of the following requirements: 65791

(a) The solicitation is made under the same business name 65792
that was previously used to sell goods or services to the 65793
purchaser; 65794

(b) The person has, for a period of not less than three 65795
years, operated a business under the same business name as that 65796
used in connection with telephone solicitation; 65797

(c) The person does not conduct a prize promotion or offer 65798
the sale of an investment opportunity; 65799

(d) The person conducts all telephone solicitation activities 65800
according to sections 310.3, 310.4, and 310.5 of the telemarketing 65801
sales rules adopted by the federal trade commission in 16 C.F.R. 65802
part 310; 65803

(e) Neither the person nor any of its principals has been 65804
convicted of, pleaded guilty to, or has entered a plea of no 65805
contest for a felony or a theft offense as defined in sections 65806

2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States;

(f) Neither the person nor any of its principals has had entered against them an injunction or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt practices, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice.

(26) An institution defined as a home health agency in section 3701.881 of the Revised Code, that conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310, and engages in telephone solicitation only within the scope of the institution's certification, accreditation, contract with the department of aging, or status as a home health agency; and that meets one of the following requirements:

(a) The institution is certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620, 42 U.S.C. 301, as amended;

(b) The institution is accredited by either the joint commission on accreditation of health care organizations or the community health accreditation program;

(c) The institution is providing ~~passport~~ PASSPORT services under the direction of the ~~Ohio~~ department of aging under ~~section 173.40~~ sections 173.52 to 173.523 of the Revised Code;

(d) An affiliate of an institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section

when offering for sale substantially the same goods and services 65838
as those that are offered by the institution that meets the 65839
requirements of division (B)(26)(a), (b), or (c) of this section. 65840

(27) A person licensed by the department of health pursuant 65841
to section 3712.04 or 3712.041 of the Revised Code to provide a 65842
hospice care program or pediatric respite care program when 65843
conducting telephone solicitations within the scope of the 65844
person's license and according to sections 310.3, 310.4, and 310.5 65845
of the telemarketing sales rules adopted by the federal trade 65846
commission in 16 C.F.R. part 310. 65847

Sec. 4723.17. (A) The board of nursing may authorize a 65848
licensed practical nurse to administer to an adult intravenous 65849
therapy authorized by an individual who is authorized to practice 65850
in this state and is acting within the course of the individual's 65851
professional practice, if the licensed practical nurse has a 65852
current, valid license issued under this chapter that includes 65853
authorization to administer medications and one of the following 65854
is the case: 65855

(1) The nurse has successfully completed, within a practical 65856
nurse prelicensure education program approved by the board or by 65857
another jurisdiction's agency that regulates the practice of 65858
nursing, a course of study that prepares the nurse to safely 65859
perform the intravenous therapy procedures the board may authorize 65860
under this section. To meet this requirement, the course of study 65861
must include all of the following: 65862

(a) Both didactic and clinical components; 65863

(b) Curriculum requirements established in rules the board of 65864
nursing shall adopt in accordance with Chapter 119. of the Revised 65865
Code; 65866

(c) Standards that require the nurse to perform a successful 65867

demonstration of the intravenous procedures, including all skills 65868
needed to perform them safely. 65869

(2) The nurse has successfully completed a minimum of forty 65870
hours of training that includes all of the following: 65871

(a) The curriculum established by rules adopted by the board 65872
and in effect on January 1, 1999; 65873

(b) Training in the anatomy and physiology of the 65874
cardiovascular system, signs and symptoms of local and systemic 65875
complications in the administration of fluids and antibiotic 65876
additives, and guidelines for management of these complications; 65877

(c) Any other training or instruction the board considers 65878
appropriate. 65879

(d) A testing component that requires the nurse to perform a 65880
successful demonstration of the intravenous procedures, including 65881
all skills needed to perform them safely. 65882

(B) Except as provided in section 4723.171 of the Revised 65883
Code, a licensed practical nurse may perform intravenous therapy 65884
only if authorized by the board pursuant to division (A) of this 65885
section and only if it is performed in accordance with this 65886
section. 65887

A licensed practical nurse authorized by the board to perform 65888
intravenous therapy may perform an intravenous therapy procedure 65889
only at the direction of one of the following: 65890

(1) A licensed physician, dentist, optometrist, or podiatrist 65891
who, except as provided in division (C)(2) of this section, is 65892
present and readily available at the facility where the 65893
intravenous therapy procedure is performed; 65894

(2) A registered nurse in accordance with division (C) of 65895
this section. 65896

(C)(1) Except as provided in division (C)(2) of this section 65897

and section 4723.171 of the Revised Code, when a licensed 65898
practical nurse authorized by the board to perform intravenous 65899
therapy performs an intravenous therapy procedure at the direction 65900
of a registered nurse, the registered nurse or another registered 65901
nurse shall be readily available at the site where the intravenous 65902
therapy is performed, and before the licensed practical nurse 65903
initiates the intravenous therapy, the registered nurse shall 65904
personally perform an on-site assessment of the individual who is 65905
to receive the intravenous therapy. 65906

(2) When a licensed practical nurse authorized by the board 65907
to perform intravenous therapy performs an intravenous therapy 65908
procedure in a home as defined in section 3721.10 of the Revised 65909
Code, or in an intermediate care facility for ~~the mentally~~ 65910
~~retarded~~ individuals with intellectual disabilities as defined in 65911
section ~~5111.20~~ 5124.01 of the Revised Code, at the direction of a 65912
registered nurse or licensed physician, dentist, optometrist, or 65913
podiatrist, a registered nurse shall be on the premises of the 65914
home or facility or accessible by some form of telecommunication. 65915

(D) No licensed practical nurse shall perform any of the 65916
following intravenous therapy procedures: 65917

(1) Initiating or maintaining any of the following: 65918

(a) Blood or blood components; 65919

(b) Solutions for total parenteral nutrition; 65920

(c) Any cancer therapeutic medication including, but not 65921
limited to, cancer chemotherapy or an anti-neoplastic agent; 65922

(d) Solutions administered through any central venous line or 65923
arterial line or any other line that does not terminate in a 65924
peripheral vein, except that a licensed practical nurse authorized 65925
by the board to perform intravenous therapy may maintain the 65926
solutions specified in division (D)(6)(a) of this section that are 65927
being administered through a central venous line or peripherally 65928

inserted central catheter;	65929
(e) Any investigational or experimental medication.	65930
(2) Initiating intravenous therapy in any vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;	65931 65932 65933 65934 65935
(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;	65936 65937
(4) Initiating or discontinuing a peripherally inserted central catheter;	65938 65939
(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;	65940 65941 65942 65943
(6) Administering medication via the intravenous route, including all of the following activities:	65944 65945
(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do either of the following:	65946 65947 65948 65949
(i) Initiate an intravenous infusion containing one or more of the following elements: dextrose 5%; normal saline; lactated ringers; sodium chloride .45%; sodium chloride 0.2%; sterile water.	65950 65951 65952 65953
(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a) of this section that contain vitamins or electrolytes, if a registered nurse initiated the infusion of that same intravenous solution.	65954 65955 65956 65957
(b) Initiating or maintaining an intravenous piggyback	65958

infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate or maintain an intravenous piggyback infusion containing an antibiotic additive;

(c) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized by the board to perform intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not limited to, bolus or push.

(7) Aspirating any intravenous line to maintain patency;

(8) Changing tubing on any line including, but not limited to, an arterial line or a central venous line, except that a licensed practical nurse authorized by the board to perform intravenous therapy may change tubing on an intravenous line that terminates in a peripheral vein;

(9) Programming or setting any function of a patient controlled infusion pump.

(E) Notwithstanding division (D) of this section, at the direction of a physician or a registered nurse, a licensed practical nurse authorized by the board to perform intravenous therapy may perform the following activities for the purpose of performing dialysis:

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;

(2) The administration of a heparin dose intravenously;

(3) The administration of a heparin dose peripherally via a fistula needle;

(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis.

(F) No person shall employ or direct a licensed practical

nurse to perform an intravenous therapy procedure without first 65989
verifying that the licensed practical nurse is authorized by the 65990
board to perform intravenous therapy. 65991

(G) The board shall issue an intravenous therapy card to the 65992
licensed practical nurses authorized pursuant to division (A) of 65993
this section to perform intravenous therapy. A fee for issuing the 65994
card shall not be charged under section 4723.08 of the Revised 65995
Code if the licensed practical nurse receives the card by meeting 65996
the requirements of division (A)(1) of this section. The board 65997
shall maintain a registry of the names of licensed practical 65998
nurses who hold intravenous therapy cards. 65999

Sec. 4723.18. (A) The board of nursing shall authorize a 66000
licensed practical nurse to administer to an adult intravenous 66001
therapy if the nurse supplies evidence satisfactory to the board 66002
that all of the following are the case: 66003

(1) The nurse holds a current, valid license issued under 66004
this chapter to practice nursing as a licensed practical nurse. 66005

(2) The nurse has been authorized under section 4723.18 of 66006
the Revised Code to administer medications. 66007

(3) The nurse successfully completed a course of study in the 66008
safe performance of intravenous therapy approved by the board 66009
pursuant to section 4723.19 of the Revised Code or by an agency in 66010
another jurisdiction that regulates the practice of nursing and 66011
has requirements for intravenous therapy course approval that are 66012
substantially similar to the requirements in division (B) of 66013
section 4723.19 of the Revised Code, as determined by the board. 66014

(4) The nurse has successfully completed a minimum of forty 66015
hours of training that includes all of the following: 66016

(a) The curriculum established by rules adopted by the board; 66017

(b) Training in the anatomy and physiology of the 66018

cardiovascular system, signs and symptoms of local and systemic 66019
complications in the administration of fluids and antibiotic 66020
additives, and guidelines for management of these complications; 66021

(c) Any other training or instruction the board considers 66022
appropriate; 66023

(d) A testing component that requires the nurse to perform a 66024
successful demonstration of the intravenous procedures, including 66025
all skills needed to perform them safely. 66026

(B) Except as provided in section 4723.181 of the Revised 66027
Code and subject to the restrictions in division (D) of this 66028
section, a licensed practical nurse may perform intravenous 66029
therapy on an adult patient only if authorized by the board 66030
pursuant to division (A) of this section and only at the direction 66031
of one of the following: 66032

(1) A licensed physician, dentist, optometrist, or podiatrist 66033
who, except as provided in division (C)(2) of this section, is 66034
present and readily available at the facility where the 66035
intravenous therapy procedure is performed; 66036

(2) A registered nurse in accordance with division (C) of 66037
this section. 66038

(C)(1) Except as provided in division (C)(2) of this section 66039
and section 4723.181 of the Revised Code, when a licensed 66040
practical nurse authorized by the board to perform intravenous 66041
therapy performs an intravenous therapy procedure at the direction 66042
of a registered nurse, the registered nurse or another registered 66043
nurse shall be readily available at the site where the intravenous 66044
therapy is performed, and before the licensed practical nurse 66045
initiates the intravenous therapy, the registered nurse shall 66046
personally perform an on-site assessment of the adult patient who 66047
is to receive the intravenous therapy. 66048

(2) When a licensed practical nurse authorized by the board 66049

to perform intravenous therapy performs an intravenous therapy 66050
procedure in a home as defined in section 3721.10 of the Revised 66051
Code, or in an intermediate care facility for ~~the mentally~~ 66052
~~retarded~~ individuals with intellectual disabilities as defined in 66053
section ~~5111.20~~ 5124.01 of the Revised Code, at the direction of a 66054
registered nurse or licensed physician, dentist, optometrist, or 66055
podiatrist, a registered nurse shall be on the premises of the 66056
home or facility or accessible by some form of telecommunication. 66057

(D) No licensed practical nurse shall perform any of the 66058
following intravenous therapy procedures: 66059

(1) Initiating or maintaining any of the following: 66060

(a) Blood or blood components; 66061

(b) Solutions for total parenteral nutrition; 66062

(c) Any cancer therapeutic medication including, but not 66063
limited to, cancer chemotherapy or an anti-neoplastic agent; 66064

(d) Solutions administered through any central venous line or 66065
arterial line or any other line that does not terminate in a 66066
peripheral vein, except that a licensed practical nurse authorized 66067
by the board to perform intravenous therapy may maintain the 66068
solutions specified in division (D)(6)(a) of this section that are 66069
being administered through a central venous line or peripherally 66070
inserted central catheter; 66071

(e) Any investigational or experimental medication. 66072

(2) Initiating intravenous therapy in any vein, except that a 66073
licensed practical nurse authorized by the board to perform 66074
intravenous therapy may initiate intravenous therapy in accordance 66075
with this section in a vein of the hand, forearm, or antecubital 66076
fossa; 66077

(3) Discontinuing a central venous, arterial, or any other 66078
line that does not terminate in a peripheral vein; 66079

(4) Initiating or discontinuing a peripherally inserted central catheter;	66080 66081
(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;	66082 66083 66084 66085
(6) Administering medication via the intravenous route, including all of the following activities:	66086 66087
(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do any of the following:	66088 66089 66090 66091
(i) Initiate an intravenous infusion containing one or more of the following elements: dextrose 5%, normal saline, lactated ringers, sodium chloride .45%, sodium chloride 0.2%, sterile water;	66092 66093 66094 66095
(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a)(i) of this section that contain vitamins or electrolytes, if a registered nurse initiated the infusion of that same intravenous solution;	66096 66097 66098 66099
(iii) Initiate or maintain an intravenous infusion containing an antibiotic additive.	66100 66101
(b) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized by the board to perform intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not limited to, bolus or push.	66102 66103 66104 66105 66106
(7) Changing tubing on any line including, but not limited to, an arterial line or a central venous line, except that a licensed practical nurse authorized by the board to perform	66107 66108 66109

intravenous therapy may change tubing on an intravenous line that 66110
terminates in a peripheral vein; 66111

(8) Programming or setting any function of a patient 66112
controlled infusion pump. 66113

(E) Notwithstanding divisions (A) and (D) of this section, at 66114
the direction of a physician or a registered nurse, a licensed 66115
practical nurse authorized by the board to perform intravenous 66116
therapy may perform the following activities for the purpose of 66117
performing dialysis: 66118

(1) The routine administration and regulation of saline 66119
solution for the purpose of maintaining an established fluid plan; 66120

(2) The administration of a heparin dose intravenously; 66121

(3) The administration of a heparin dose peripherally via a 66122
fistula needle; 66123

(4) The loading and activation of a constant infusion pump; 66124

(5) The intermittent injection of a dose of medication that 66125
is administered via the hemodialysis blood circuit and through the 66126
patient's venous access. 66127

(F) No person shall employ or direct a licensed practical 66128
nurse to perform an intravenous therapy procedure without first 66129
verifying that the licensed practical nurse is authorized by the 66130
board to perform intravenous therapy. 66131

Sec. 4723.35. (A) As used in this section, "chemical 66132
dependency" means either of the following: 66133

(1) The chronic and habitual use of alcoholic beverages to 66134
the extent that the user no longer can control the use of alcohol 66135
or endangers the user's health, safety, or welfare or that of 66136
others; 66137

(2) The use of a controlled substance as defined in section 66138

3719.01 of the Revised Code, a harmful intoxicant as defined in 66139
section 2925.01 of the Revised Code, or a dangerous drug as 66140
defined in section 4729.01 of the Revised Code, to the extent that 66141
the user becomes physically or psychologically dependent on the 66142
substance, intoxicant, or drug or endangers the user's health, 66143
safety, or welfare or that of others. 66144

(B) The board of nursing may abstain from taking disciplinary 66145
action under section 4723.28 or 4723.86 of the Revised Code 66146
against an individual with a chemical dependency if it finds that 66147
the individual can be treated effectively and there is no 66148
impairment of the individual's ability to practice according to 66149
acceptable and prevailing standards of safe care. The board shall 66150
establish a chemical dependency monitoring program to monitor the 66151
registered nurses, licensed practical nurses, dialysis 66152
technicians, and certified community health workers against whom 66153
the board has abstained from taking action. The board shall 66154
develop the program, select the program's name, and designate a 66155
coordinator to administer the program. 66156

(C) Determinations regarding an individual's eligibility for 66157
admission to, continued participation in, and successful 66158
completion of the monitoring program shall be made by the board's 66159
supervising member for disciplinary matters in accordance with 66160
rules adopted under division (D) of this section. 66161

(D) The board shall adopt rules in accordance with Chapter 66162
119. of the Revised Code that establish the following: 66163

(1) Eligibility requirements for admission to and continued 66164
participation in the monitoring program; 66165

(2) Terms and conditions that must be met to participate in 66166
and successfully complete the program; 66167

(3) Procedures for keeping confidential records regarding 66168
participants; 66169

(4) Any other requirements or procedures necessary to 66170
establish and administer the program. 66171

(E)(1) As a condition of being admitted to the monitoring 66172
program, an individual shall surrender to the program coordinator 66173
the license or certificate that the individual holds. While the 66174
surrender is in effect, the individual is prohibited from engaging 66175
in the practice of nursing, engaging in the provision of dialysis 66176
care, or engaging in the provision of services that were being 66177
provided as a certified community health worker. 66178

If the board's supervising member for disciplinary matters 66179
determines that a participant is capable of resuming practice 66180
according to acceptable and prevailing standards of safe care, the 66181
program coordinator shall return the participant's license or 66182
certificate. If the participant violates the terms and conditions 66183
of resumed practice, the coordinator shall require the participant 66184
to surrender the license or certificate as a condition of 66185
continued participation in the program. The coordinator may 66186
require the surrender only on the approval of the board's 66187
supervising member for disciplinary matters. 66188

The surrender of a license or certificate on admission to the 66189
monitoring program or while participating in the program does not 66190
constitute an action by the board under section 4723.28 or 4723.86 66191
of the Revised Code. The participant may rescind the surrender at 66192
any time and the board may proceed by taking action under section 66193
4723.28 or 4723.86 of the Revised Code. 66194

(2) If the program coordinator determines that a participant 66195
is significantly out of compliance with the terms and conditions 66196
for participation, the coordinator shall notify the board's 66197
supervising member for disciplinary matters and the supervising 66198
member shall determine whether to temporarily suspend the 66199
participant's license or certificate. The board shall notify the 66200
participant of the suspension by certified mail sent to the 66201

participant's last known address and shall refer the matter to the board for formal action under section 4723.28 or 4723.86 of the Revised Code.

(F) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all program records in the board's office, and for each participant, shall retain the records for a period of two years following the participant's date of successful completion of the program.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the board to receive and release information necessary to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the board to receive and release information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the board's supervising member for disciplinary matters to determine eligibility for admission or continued participation in the monitoring program includes, but is not limited to, information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals, and treatment providers. No entity with knowledge that the information has been provided to the monitoring program shall divulge that knowledge to any other person.

(3) Except as provided in division (F)(4) of this section, all records pertaining to an individual's application for or participation in the monitoring program, including medical records, treatment records, and mental health records, shall be confidential. The records are not public records for the purposes of section 149.43 of the Revised Code and are not subject to

discovery by subpoena or admissible as evidence in any judicial proceeding. 66234
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(4) The board may disclose information regarding a participant's progress in the program to any person or government entity that the participant authorizes in writing to be given the information. In disclosing information under this division, the board shall not include any information that is protected under section ~~3793.13~~ 5119.27 of the Revised Code or any federal statute or regulation that provides for the confidentiality of medical, mental health, or substance abuse records. 66236
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(G) In the absence of fraud or bad faith, the board as a whole, its individual members, and its employees and representatives are not liable for damages in any civil action as a result of disclosing information in accordance with division (F)(4) of this section. In the absence of fraud or bad faith, any person reporting to the program with regard to an individual's chemical dependence, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report. 66244
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Sec. 4723.481. This section establishes standards and conditions regarding the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe drugs and therapeutic devices under a certificate to prescribe issued under section 4723.481 of the Revised Code. 66253
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(A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code. 66258
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(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse 66263
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practitioner shall not exceed the prescriptive authority of the 66265
collaborating physician or podiatrist, including the collaborating 66266
physician's authority to treat chronic pain with controlled 66267
substances and products containing tramadol as described in 66268
section 4731.052 of the Revised Code. 66269

(C)(1) Except as provided in division (C)(2) or (3) of this 66270
section, a clinical nurse specialist, certified nurse-midwife, or 66271
certified nurse practitioner may prescribe to a patient a schedule 66272
II controlled substance only if all of the following are the case: 66273

(a) The patient has a terminal condition, as defined in 66274
section 2133.01 of the Revised Code. 66275

(b) The collaborating physician of the clinical nurse 66276
specialist, certified nurse-midwife, or certified nurse 66277
practitioner initially prescribed the substance for the patient. 66278

(c) The prescription is for an amount that does not exceed 66279
the amount necessary for the patient's use in a single, 66280
twenty-four-hour period. 66281

(2) The restrictions on prescriptive authority in division 66282
(C)(1) of this section do not apply if a clinical nurse 66283
specialist, certified nurse-midwife, or certified nurse 66284
practitioner issues the prescription to the patient from any of 66285
the following locations: 66286

(a) A hospital registered under section 3701.07 of the 66287
Revised Code; 66288

(b) An entity owned or controlled, in whole or in part, by a 66289
hospital or by an entity that owns or controls, in whole or in 66290
part, one or more hospitals; 66291

(c) A health care facility operated by the department of 66292
~~mental health~~ mental health and addiction services or the 66293
department of developmental disabilities; 66294

(d) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;	66295 66296 66297
(e) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;	66298 66299 66300
(f) A hospice care program, as defined in section 3712.01 of the Revised Code;	66301 66302
(g) A community mental health agency <u>services provider</u> , as defined in section 5122.01 of the Revised Code;	66303 66304
(h) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;	66305 66306
(i) A freestanding birthing center, as defined in section 3702.51 of the Revised Code;	66307 66308
(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	66309 66310
(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	66311 66312
(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	66313 66314 66315 66316
(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.	66317 66318 66319 66320 66321 66322 66323 66324

(3) A clinical nurse specialist, certified nurse-midwife, or 66325
certified nurse practitioner shall not issue to a patient a 66326
prescription for a schedule II controlled substance from a 66327
convenience care clinic even if the clinic is owned or operated by 66328
an entity specified in division (C)(2) of this section. 66329

(D) A pharmacist who acts in good faith reliance on a 66330
prescription issued by a clinical nurse specialist, certified 66331
nurse-midwife, or certified nurse practitioner under division 66332
(C)(2) of this section is not liable for or subject to any of the 66333
following for relying on the prescription: damages in any civil 66334
action, prosecution in any criminal proceeding, or professional 66335
disciplinary action by the state board of pharmacy under Chapter 66336
4729. of the Revised Code. 66337

(E) A clinical nurse specialist, certified nurse-midwife, or 66338
certified nurse practitioner may personally furnish to a patient a 66339
sample of any drug or therapeutic device included in the types of 66340
drugs and devices listed on the formulary, except that all of the 66341
following conditions apply: 66342

(1) The amount of the sample furnished shall not exceed a 66343
seventy-two-hour supply, except when the minimum available 66344
quantity of the sample is packaged in an amount that is greater 66345
than a seventy-two-hour supply, in which case the packaged amount 66346
may be furnished. 66347

(2) No charge may be imposed for the sample or for furnishing 66348
it. 66349

(3) Samples of controlled substances may not be personally 66350
furnished. 66351

(F) A clinical nurse specialist, certified nurse-midwife, or 66352
certified nurse practitioner may personally furnish to a patient a 66353
complete or partial supply of a drug or therapeutic device 66354
included in the types of drugs and devices listed on the 66355

formulary, except that all of the following conditions apply: 66356

(1) The clinical nurse specialist, certified nurse-midwife, 66357
or certified nurse practitioner shall personally furnish only 66358
antibiotics, antifungals, scabicides, contraceptives, prenatal 66359
vitamins, antihypertensives, drugs and devices used in the 66360
treatment of diabetes, drugs and devices used in the treatment of 66361
asthma, and drugs used in the treatment of dyslipidemia. 66362

(2) The clinical nurse specialist, certified nurse-midwife, 66363
or certified nurse practitioner shall not furnish the drugs and 66364
devices in locations other than a health department operated by 66365
the board of health of a city or general health district or the 66366
authority having the duties of a board of health under section 66367
3709.05 of the Revised Code, a federally funded comprehensive 66368
primary care clinic, or a nonprofit health care clinic or program. 66369

(3) The clinical nurse specialist, certified nurse-midwife, 66370
or certified nurse practitioner shall comply with all safety 66371
standards for personally furnishing supplies of drugs and devices, 66372
as established in rules adopted under section 4723.50 of the 66373
Revised Code. 66374

Sec. 4729.69. (A) The state board of pharmacy, in 66375
collaboration with the director of ~~alcohol and drug addiction~~ 66376
~~services~~ mental health and addiction services and attorney 66377
general, shall establish and administer a drug take-back program 66378
under which drugs are collected from the community for the purpose 66379
of destruction or disposal of the drugs. 66380

(B) The program shall be established and administered in such 66381
a manner that it does both of the following: 66382

(1) Complies with any state or federal laws regarding the 66383
collection, destruction, or disposal of drugs; 66384

(2) Maintains the confidentiality of individuals who submit 66385

or otherwise provide drugs under the program. 66386

(C) In consultation with the director of ~~alcohol and drug~~ 66387
~~addiction services~~ mental health and addiction services and 66388
attorney general, the board shall adopt rules governing the 66389
program. The rules shall be adopted in accordance with Chapter 66390
119. of the Revised Code. In adopting the rules, the board shall 66391
specify all of the following: 66392

(1) The entities that may participate; 66393

(2) Guidelines and responsibilities for accepting drugs by 66394
participating entities; 66395

(3) Drugs that may be collected; 66396

(4) Record-keeping requirements; 66397

(5) Proper methods to destroy unused drugs; 66398

(6) Privacy protocols and security standards; 66399

(7) Drug transportation procedures; 66400

(8) The schedule, duration, and frequency of the collections 66401
of drugs, except that the first collection shall occur not later 66402
than one year after ~~the effective date of this section~~ May 20, 66403
2011; 66404

(9) Any other standards and procedures the board considers 66405
necessary for purposes of governing the program. 66406

(D) In accordance with state and federal law, the board may 66407
adopt rules to allow an entity participating in the program to 66408
return any unused drugs to the pharmacy that originally dispensed 66409
the drug. The rules shall include procedures to be followed to 66410
maintain the confidentiality of the person for whom the drug was 66411
dispensed. 66412

(E) Rules adopted under this section may not do any of the 66413
following: 66414

(1) Require any entity to establish, fund, or operate a drug take-back program;	66415 66416
(2) Establish any new licensing requirement or fee to participate in the program;	66417 66418
(3) Require any entity to compile data on drugs collected.	66419
(F) The board may compile data on the amount and type of drugs collected under the program. For purposes of this division, the board may cooperate with a public or private entity in obtaining assistance in the compilation of data. An entity providing the assistance shall not be reimbursed under the program for any costs incurred in providing the assistance.	66420 66421 66422 66423 66424 66425
(G) If the board compiles data under division (F) of this section, the board shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. The report, to the extent possible, shall include the following information:	66426 66427 66428 66429 66430
(1) Total weight of drugs collected, both with and without packaging;	66431 66432
(2) The weight of controlled substances;	66433
(3) The amount of all of the following as a per cent of total drugs collected:	66434 66435
(a) Controlled substances;	66436
(b) Brand name drugs;	66437
(c) Generic drugs;	66438
(d) Prescription drugs;	66439
(e) Non-prescription drugs.	66440
(4) The amount of vitamins, herbal supplements, and personal care products collected;	66441 66442
(5) If provided by the person who submitted or otherwise	66443

donated drugs to the program, the reasons why the drugs were 66444
returned or unused. 66445

(H) No entity is required to participate in a drug take-back 66446
program established under this section, and no entity shall be 66447
subject to civil liability or professional disciplinary action for 66448
declining to participate. 66449

(I) The board may accept grants, gifts, or donations for 66450
purposes of the program. Money received under this division shall 66451
be deposited into the drug take-back program fund established 66452
under section 109.90 of the Revised Code. 66453

Sec. 4729.80. (A) If the state board of pharmacy establishes 66454
and maintains a drug database pursuant to section 4729.75 of the 66455
Revised Code, the board is authorized or required to provide 66456
information from the database in accordance with the following: 66457

(1) On receipt of a request from a designated representative 66458
of a government entity responsible for the licensure, regulation, 66459
or discipline of health care professionals with authority to 66460
prescribe, administer, or dispense drugs, the board may provide to 66461
the representative information from the database relating to the 66462
professional who is the subject of an active investigation being 66463
conducted by the government entity. 66464

(2) On receipt of a request from a federal officer, or a 66465
state or local officer of this or any other state, whose duties 66466
include enforcing laws relating to drugs, the board shall provide 66467
to the officer information from the database relating to the 66468
person who is the subject of an active investigation of a drug 66469
abuse offense, as defined in section 2925.01 of the Revised Code, 66470
being conducted by the officer's employing government entity. 66471

(3) Pursuant to a subpoena issued by a grand jury, the board 66472
shall provide to the grand jury information from the database 66473

relating to the person who is the subject of an investigation 66474
being conducted by the grand jury. 66475

(4) Pursuant to a subpoena, search warrant, or court order in 66476
connection with the investigation or prosecution of a possible or 66477
alleged criminal offense, the board shall provide information from 66478
the database as necessary to comply with the subpoena, search 66479
warrant, or court order. 66480

(5) On receipt of a request from a prescriber or the 66481
prescriber's delegate approved by the board, the board may provide 66482
to the prescriber information from the database relating to a 66483
patient who is either of the following, if the prescriber 66484
certifies in a form specified by the board that it is for the 66485
purpose of providing medical treatment to the patient who is the 66486
subject of the request; 66487

(a) A current patient of the prescriber; 66488

(b) A potential patient of the prescriber based on a referral 66489
of the patient to the prescriber. 66490

(6) On receipt of a request from a pharmacist or the 66491
pharmacist's delegate approved by the board, the board may provide 66492
to the pharmacist information from the database relating to a 66493
current patient of the pharmacist, if the pharmacist certifies in 66494
a form specified by the board that it is for the purpose of the 66495
pharmacist's practice of pharmacy involving the patient who is the 66496
subject of the request. 66497

(7) On receipt of a request from an individual seeking the 66498
individual's own database information in accordance with the 66499
procedure established in rules adopted under section 4729.84 of 66500
the Revised Code, the board may provide to the individual the 66501
individual's own database information. 66502

(8) On receipt of a request from the medical director of a 66503
managed care organization that has entered into a data security 66504

agreement with the board required by section ~~5111.1710~~ 5167.14 of 66505
the Revised Code, the board ~~may~~ shall provide to the medical 66506
director information from the database relating to a medicaid 66507
recipient enrolled in the managed care organization, including 66508
information in the database related to prescriptions for the 66509
recipient that were not covered or reimbursed under a program 66510
administered by the department of medicaid. 66511

(9) On receipt of a request from the medicaid director ~~of job~~ 66512
~~and family services~~, the board ~~may~~ shall provide to the director 66513
information from the database relating to a recipient of a program 66514
administered by the department of ~~job and family services~~ 66515
medicaid, including information in the database related to 66516
prescriptions for the recipient that were not covered or paid by a 66517
program administered by the department. 66518

(10) On receipt of a request from the administrator of 66519
workers' compensation, the board may provide to the administrator 66520
information from the database relating to a claimant under Chapter 66521
4121., 4123., 4127., or 4131. of the Revised Code. 66522

(11) On receipt of a request from a requestor described in 66523
division (A)(1), (2), (5), or (6) of this section who is from or 66524
participating with another state's prescription monitoring 66525
program, the board may provide to the requestor information from 66526
the database, but only if there is a written agreement under which 66527
the information is to be used and disseminated according to the 66528
laws of this state. 66529

(B) The state board of pharmacy shall maintain a record of 66530
each individual or entity that requests information from the 66531
database pursuant to this section. In accordance with rules 66532
adopted under section 4729.84 of the Revised Code, the board may 66533
use the records to document and report statistics and law 66534
enforcement outcomes. 66535

The board may provide records of an individual's requests for database information to the following:

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information;

(2) A federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs and who is involved in an active investigation being conducted by the officer's employing government entity of the individual who submitted the requests for database information.

(C) Information contained in the database and any information obtained from it is not a public record. Information contained in the records of requests for information from the database is not a public record. Information that does not identify a person may be released in summary, statistical, or aggregate form.

(D) A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

Sec. 4729.81. If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board shall review the information in the drug database. If the board determines from the review that a violation of law may have occurred, it shall notify the appropriate law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health professionals authorized to prescribe drugs and supply information

required by the agency or entity for an investigation of the 66567
violation of law that may have occurred. The board also shall 66568
notify the medicaid director if the board determines that the 66569
violation may have been committed by a provider of services under 66570
a program administered by the department of medicaid. 66571

Sec. 4731.151. (A) Naprapaths who received a certificate to 66572
practice from the board prior to March 2, 1992, may continue to 66573
practice naprapathy, as defined in rules adopted by the board. 66574
Such naprapaths shall practice in accordance with rules adopted by 66575
the board. 66576

(B)(1) As used in this division: 66577

(a) "Mechanotherapy" means all of the following: 66578

(i) Examining patients by verbal inquiry; 66579

(ii) Examination of the musculoskeletal system by hand; 66580

(iii) Visual inspection and observation; 66581

(iv) Diagnosing a patient's condition only as to whether the 66582
patient has a disorder of the musculoskeletal system; 66583

(v) In the treatment of patients, employing the techniques of 66584
advised or supervised exercise; electrical neuromuscular 66585
stimulation; massage or manipulation; or air, water, heat, cold, 66586
sound, or infrared ray therapy only to those disorders of the 66587
musculoskeletal system that are amenable to treatment by such 66588
techniques and that are identifiable by examination performed in 66589
accordance with division (B)(1)(a)(i) of this section and 66590
diagnosable in accordance with division (B)(1)(a)(ii) of this 66591
section. 66592

(b) "Educational requirements" means the completion of a 66593
course of study appropriate for certification to practice 66594
mechanotherapy on or before November 3, 1985, as determined by 66595
rules adopted under this chapter. 66596

(2) Mechanotherapists who received a certificate to practice 66597
from the board prior to March 2, 1992, may continue to practice 66598
mechanotherapy, as defined in rules adopted by the board. Such 66599
mechanotherapists shall practice in accordance with rules adopted 66600
by the board. 66601

A person authorized by this division to practice as a 66602
mechanotherapist may examine, diagnose, and assume responsibility 66603
for the care of patients with due regard for first aid and the 66604
hygienic and nutritional care of the patients. Roentgen rays shall 66605
be used by a mechanotherapist only for diagnostic purposes. 66606

(3) A person who holds a certificate to practice 66607
mechanotherapy and completed educational requirements in 66608
mechanotherapy on or before November 3, 1985, is entitled to use 66609
the title "doctor of mechanotherapy" and is a "physician" who 66610
performs "medical services" for the purposes of Chapters 4121. and 66611
4123. of the Revised Code and the medicaid program established 66612
~~under section 5111.01 of the Revised Code~~, and shall receive 66613
payment or reimbursement as provided under those chapters and that 66614
~~section~~ program. 66615

Sec. 4731.71. The auditor of state may implement procedures 66616
to detect violations of section 4731.66 or 4731.69 of the Revised 66617
Code within governmental health care programs administered by the 66618
state. The auditor of state shall report any violation of either 66619
section to the state medical board and shall certify to the 66620
attorney general in accordance with section 131.02 of the Revised 66621
Code the amount of any refund owed to a state-administered 66622
governmental health care program under section 4731.69 of the 66623
Revised Code as a result of a violation. If a refund is owed to 66624
the medicaid program ~~established under Chapter 5111. of the~~ 66625
~~Revised Code~~, the auditor of state also shall report the amount to 66626
the department of ~~job and family services~~ medicaid. 66627

The state medical board also may implement procedures to 66628
detect violations of section 4731.66 or 4731.69 of the Revised 66629
Code. 66630

Sec. 4734.41. (A) As used in this section: 66631

(1) "Chemical dependency" means either of the following: 66632

(a) The chronic and habitual use of alcoholic beverages to 66633
the extent that the user no longer can control the use of alcohol 66634
or endangers the user's health, safety, or welfare or that of 66635
others; 66636

(b) The use of a controlled substance as defined in section 66637
3719.01 of the Revised Code, a harmful intoxicant as defined in 66638
section 2925.01 of the Revised Code, or a dangerous drug as 66639
defined in section 4729.01 of the Revised Code, to the extent that 66640
the user becomes physically or psychologically dependent on the 66641
substance, intoxicant, or drug or endangers the user's health, 66642
safety, or welfare or that of others. 66643

(2) "Mental illness" means a recognized psychiatric or 66644
psychological condition, disorder, or syndrome that has been 66645
diagnosed by a psychiatrist, psychologist, professional clinical 66646
counselor, or independent social worker as a condition, disorder, 66647
or syndrome that may pose a danger to the person diagnosed or 66648
others or may prevent the person from practicing the person's 66649
profession according to acceptable and prevailing standards of 66650
care. 66651

(B) The state chiropractic board shall establish a chemical 66652
dependency and mental illness monitoring program. The program 66653
shall be made available to any individual under the board's 66654
jurisdiction who has a chemical dependency or mental illness and 66655
meets the board's eligibility requirements for admission to and 66656
continued participation in the program. The board shall develop 66657

the program and may designate a coordinator to administer it or 66658
enter into a contract for the program to be administered by 66659
another entity through a coordinator. The board shall adopt rules 66660
in accordance with Chapter 119. of the Revised Code that establish 66661
standards and procedure for operating the program. 66662

(C) Except as provided in division (D) of this section, all 66663
records of an individual's participation in the monitoring 66664
program, including medical records, chemical dependency records, 66665
and mental health records, shall be confidential, are not public 66666
records for the purposes of section 149.43 of the Revised Code, 66667
and are not subject to discovery by subpoena or ~~admissible~~ 66668
admissible as evidence in any judicial proceeding. The program 66669
coordinator shall maintain all records as directed by the board. 66670

(D) The monitoring program's coordinator may disclose records 66671
or information regarding an individual's progress and status of 66672
participation in the program to the disciplinary section of the 66673
board and to any person or government entity that the program 66674
participant authorizes in writing to be given the records or 66675
information. 66676

In disclosing records or information under this division, the 66677
coordinator shall not include any record or information that is 66678
protected under section ~~3793.13~~ 5119.27 of the Revised Code or any 66679
federal statute or regulation that provides for the 66680
confidentiality of mental health or substance abuse records. 66681

(E) In the absence of fraud or bad faith, the monitoring 66682
program's coordinator, the board and the board's employees and 66683
representatives are not liable for damages in any civil action as 66684
a result of disclosing records or information in accordance with 66685
division (D) of this section. In the absence of fraud or bad 66686
faith, any person reporting to the program an individual's 66687
chemical dependency or mental illness, or the progress or lack of 66688
progress of that individual with regard to treatment, is not 66689

liable for damages in any civil action as a result of the report. 66690

(F) The board may abstain from taking formal disciplinary 66691
action under section 4734.31 of the Revised Code against an 66692
individual because of the individual's chemical dependency or 66693
mental illness, if the individual meets the eligibility 66694
requirements for admission into the monitoring program and all of 66695
the following occur: 66696

(1) The individual enters into a monitoring agreement with 66697
the coordinator of the program; 66698

(2) The individual complies with the terms and conditions for 66699
continued participation in the program, as specified in the 66700
monitoring agreement; 66701

(3) The individual successfully completes the terms and 66702
conditions of the monitoring agreement, including the condition 66703
that the individual attain the ability to practice in accordance 66704
with acceptable and prevailing standards of care applicable to the 66705
practice of chiropractic. 66706

Sec. 4751.01. As used in sections 4751.01 to ~~4751.11~~ 4751.13 66707
of the Revised Code: 66708

(A) "Long-term services and supports settings" means any 66709
institutional or community-based setting in which medical, health, 66710
psycho-social, habilitative, rehabilitative, or personal care 66711
services are provided to individuals on a post-acute care basis. 66712

(B) "Nursing home administrator" means any individual 66713
responsible for planning, organizing, directing, and managing the 66714
operation of a nursing home, or who in fact performs such 66715
function, whether or not such functions and duties are shared by 66716
one or more other persons. 66717

~~(B)~~(C) "Nursing home" means a nursing home as defined by or 66718
under the authority of section 3721.01 of the Revised Code, or a 66719

nursing home operated by a governmental agency. 66720

~~(C)~~(D) "Temporary license" means a license for a period not 66721
to exceed one hundred eighty days issued pursuant to division (B) 66722
of section 4751.06 of the Revised Code. 66723

~~(D)~~(E) "Valid license" means a license which is current and 66724
in good standing. 66725

Sec. 4751.02. (A) No person shall operate a nursing home 66726
unless it is under the supervision of an administrator whose 66727
principal occupation is nursing home administration or hospital 66728
administration and who holds a valid nursing home administrator's 66729
license and registration, or a temporary license, issued pursuant 66730
to Chapter 4751. of the Revised Code. 66731

(B) No person other than a licensed and registered nursing 66732
home administrator or person holding a temporary license as 66733
required by Chapter 4751. of the Revised Code shall practice or 66734
offer to practice nursing home administration in this state. All 66735
nursing home administrators and temporary licensees shall comply 66736
with Chapter 4751. of the Revised Code and the regulations adopted 66737
thereunder. 66738

(C) Every operator of a nursing home shall report to the 66739
board of ~~examiners~~ executives of ~~nursing home administrators~~ 66740
long-term services and supports the name and license number of 66741
each nursing home administrator for said home within ten days 66742
after the operator engages a nursing home administrator, and 66743
within ten days after a nursing home administrator is no longer 66744
engaged as such by such operator for said home. 66745

(D) Each individual who holds a nursing home administrator 66746
license or temporary license shall report ~~his~~ the individual's 66747
residence mailing address and the name and address of each place 66748
of employment to the board within ten days after any change. 66749

~~Sec. 4751.03. (A) There is hereby established in the department of health aging a board of examiners executives of nursing home administrators long-term services and supports, which board shall be composed of ~~nine~~ the following eleven members, ~~eight of whom shall be representative of the professions and institutions concerned with care and treatment of chronically ill or infirm aged patients, and one of whom shall be a public member at least sixty years of age, provided that less than a majority of the board members shall be representative of a single profession or institutional category, and provided further that a person appointed as a noninstitutional member shall neither have nor acquire any direct financial interest in a nursing home. For purposes of this section, nursing home administrators are considered representatives of institutions.~~~~

~~Four members shall be nursing home administrators, owners of nursing homes or an officer of a corporation owning a nursing home. The director of health or his designated representative shall be a member. All:~~

(1) Four members who are nursing administrators, owners of nursing homes, or officers of corporations owning nursing homes, and who shall have an understanding of person-centered care, and experience with a range of long-term services and supports settings;

(2) Three members who work in long-term services and supports settings that are not nursing homes, and who shall have an understanding of person-centered care, and experience with a range of long-term services and supports settings;

(3) One member who is a member of the academic community;

(4) One member who is a consumer of services offered in a long-term services and supports setting;

(5) One member who is a representative of the department of health, designated by the director of health, who is involved in the nursing home survey and certification process; 66780
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(6) One member who is a representative of the office of the state long-term care ombudsperson, designated by the state long-term care ombudsperson. 66783
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All members of the board shall be citizens of the United States and residents of this state. No member of the board who is appointed under divisions (A)(3) to (6) of this section may have or acquire any direct financial interest in a nursing home or long-term services and supports settings. 66786
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(B) The term of office for each appointed member of the board shall be for three years, commencing on the twenty-eighth day of May and ending on the twenty-seventh day of May. Each member shall serve from the date of ~~his~~ appointment until the end of the term for which ~~he was~~ appointed. No member shall serve more than two consecutive full terms. 66791
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(C) Appointments to the board shall be made by the governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. 66797
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(D) The governor may remove any member of the board for misconduct, incapacity, incompetence, or neglect of duty after the member so charged has been served with a written statement of charges and has been given an opportunity to be heard. 66805
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(E) Each member of the board, except the member designated by the director of health ~~or his~~ and the member designated 66809
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~~representative by the ombudsperson,~~ shall be paid in accordance 66811
with section 124.15 of the Revised Code and each member shall be 66812
reimbursed for ~~his~~ the member's actual and necessary expenses 66813
incurred in the discharge of such duties. 66814

(F) The board shall elect annually from its membership a 66815
~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson. 66816

(G) The board shall hold and conduct meetings quarterly and 66817
at such other times as its business requires. A majority of the 66818
board shall constitute a quorum. The affirmative vote of a 66819
majority of the members of the board is necessary for the board to 66820
act. 66821

(H) The board shall appoint a secretary who has no financial 66822
interest in a ~~nursing home~~ long-term services and supports 66823
setting, and may employ and prescribe the powers and duties of 66824
such employees and consultants as are necessary to carry out this 66825
chapter and the rules adopted under it. ~~Administrative, technical,~~ 66826
~~or other services shall be performed, insofar as practicable, by~~ 66827
~~personnel of the department of health.~~ 66828

Sec. 4751.04. (A) The board of ~~examiners~~ executives of 66829
~~nursing home administrators~~ long-term services and supports shall: 66830

(1) Develop, adopt, impose, and enforce regulations 66831
prescribing standards which must be met by individuals in order to 66832
receive a license as a nursing home administrator, which standards 66833
shall be designed to ensure that nursing home administrators are 66834
of good character and are otherwise suitable, and who, by training 66835
and experience, are qualified to serve as nursing home 66836
administrators; 66837

(2) Develop and apply appropriate techniques, including 66838
examinations and investigations, for determining whether an 66839
individual meets such standards; 66840

(3) Issue licenses and registrations to individuals 66841
determined, after application of such techniques, to meet such 66842
standards, and revoke or suspend licenses or registrations 66843
previously issued by the board in any case where the individual 66844
holding such license or registration is determined to have failed 66845
substantially to conform to the requirements of such standards; 66846

(4) Develop, adopt, impose, and enforce regulations and 66847
procedures designed to ensure that individuals holding a temporary 66848
license, or licensed as nursing home administrators will, during 66849
any period that they serve as such, comply with Chapter 4751. of 66850
the Revised Code and the regulations adopted thereunder; 66851

(5) Receive, investigate, and take appropriate action with 66852
respect to any charge or complaint filed with the board to the 66853
effect that any individual licensed as a nursing home 66854
administrator has failed to comply with Chapter 4751. of the 66855
Revised Code and the regulations adopted thereunder; 66856

(6) Take such other actions as may be necessary to enable the 66857
state to meet the requirements set forth in the "Social Security 66858
Amendments of 1967," 81 Stat. 908 (1968), 42 U.S.C. 1396 g; 66859

(7) Pay all license and registration fees collected under 66860
Chapter 4751. of the Revised Code into the ~~general operations~~ 66861
board of executives of long-term services and support fund created 66862
by section ~~3701.83~~ 4751.14 of the Revised Code to be used in 66863
administering and enforcing this chapter and the rules adopted 66864
under it; 66865

(8) Administer, or contract with a government or private 66866
entity to administer, examinations for licensure as a nursing home 66867
administrator. If the board contracts with a government or private 66868
entity to administer the examinations, the contract may authorize 66869
the entity to collect and keep, as all or part of the entity's 66870
compensation under the contract, any fee an applicant for 66871

licensure pays to take an examination. The entity is not required 66872
to deposit the fee into the state treasury; 66873

(9) Enter into a contract with the department of aging as 66874
required under section 4751.042 of the Revised Code; 66875

(10) Create opportunities for the education, training, and 66876
credentialing of nursing home administrators and others in 66877
leadership positions who practice in long-term services and 66878
supports settings or who direct the practices of others in those 66879
settings. In carrying out this function, the board shall do the 66880
following: 66881

(a) Identify core competencies and areas of knowledge that 66882
are appropriate for nursing home administrators and others working 66883
within the long-term services and supports settings system, with 66884
an emphasis on all of the following: 66885

(i) Leadership; 66886

(ii) Person-centered care; 66887

(iii) Principles of management within both the business and 66888
regulatory environments; 66889

(iv) An understanding of all post-acute settings, including 66890
transitions from acute settings and between post-acute settings. 66891

(b) Assist in the development of a strong, competitive market 66892
in Ohio for training, continuing education, and degree programs in 66893
long-term services and supports settings administration. 66894

(B) In the administration and enforcement of Chapter 4751. of 66895
the Revised Code, and the regulations adopted thereunder, the 66896
board is subject to Chapter 119. of the Revised Code and sections 66897
4743.01 and 4743.02 of the Revised Code except that a notice of 66898
appeal of an order of the board adopting, amending, or rescinding 66899
a rule or regulation does not operate as a stay of the effective 66900
date of such order as provided in section 119.11 of the Revised 66901

Code. The court, at its discretion, may grant a stay of any 66902
regulation in its application against the person filing the notice 66903
of appeal. 66904

Sec. 4751.041. Except when the board of ~~examiners~~ executives 66905
of ~~nursing home administrators~~ long-term services and supports 66906
considers it necessary, the board shall not disclose test 66907
materials, examinations, or evaluation tools used in an 66908
examination for licensure as a nursing home administrator that the 66909
board administers under section 4751.04 of the Revised Code or 66910
contracts under that section with a private or government entity 66911
to administer. 66912

Sec. 4751.042. (A) The board of executives of long-term 66913
services and supports shall enter into a written agreement with 66914
the department of aging for the department to serve as the board's 66915
fiscal agent. The fiscal agent shall be responsible for all the 66916
board's fiscal matters and financial transactions, as specified in 66917
the agreement. The written agreement shall specify the fees that 66918
the board shall pay to the fiscal agent for services performed 66919
under the agreement, and such fees shall be in proportion to the 66920
services performed for the board. 66921

(1) The agreement shall require the fiscal agent to provide 66922
the following services: 66923

(a) Preparation and processing of payroll and other personnel 66924
documents that the board approves; 66925

(b) Maintenance of ledgers of accounts and reports of account 66926
balances, and monitoring of budgets and allotment plans in 66927
consultation with the board; 66928

(c) Performance of other routine support services, specified 66929
in the agreement, that the fiscal agent considers appropriate to 66930
achieve efficiency. 66931

(2) The agreement may require the fiscal agent to provide the following services: 66932
66933

(a) Any shared services between the board and the fiscal agent; 66934
66935

(b) Any other services agreed to by the board and the department, including administrative or technical services. 66936
66937

(B) The board, in conjunction and consultation with the fiscal agent, has the following authority and responsibility relative to fiscal matters: 66938
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66940

(1) Sole authority to expend funds from the board's accounts for programs and any other necessary expenses the board may incur; 66941
66942

(2) Responsibility to cooperate with and inform the fiscal agent fully of all financial transactions. 66943
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(C) The board shall follow all state procurement, fiscal, human resources, information technology, statutory, and administrative rule requirements. 66945
66946
66947

(D) In its role as fiscal agent for the board, the department shall serve as a contractor of the board, and does not assume responsibility for the debts or fiscal obligations of the board. 66948
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66950

Sec. 4751.05. (A) The board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports, or a government or private entity under contract with the board to administer examinations for licensure as a nursing home administrator, shall admit to an examination any candidate who: 66951
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(1) Pays the application fee of fifty dollars; 66956

(2) Submits evidence of good moral character and suitability; 66957

(3) Is at least eighteen years of age; 66958

(4) Has completed educational requirements and work experience satisfactory to the board; 66959
66960

(5) Submits an application on forms prescribed by the board;	66961
(6) Pays the examination fee charged by the board or government or private entity.	66962 66963
(B) Nothing in Chapter 4751. of the Revised Code or the rules adopted thereunder shall be construed to require an applicant for licensure or a temporary license, who is employed by an institution for the care and treatment of the sick to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided by the institution if the institution is all of the following:	66964 66965 66966 66967 66968 66969 66970 66971
(1) Operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs;	66972 66973 66974
(2) Accredited by a national accrediting organization;	66975
(3) Exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended;	66976 66977 66978
(4) Providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.	66979 66980 66981 66982
(C) If a person fails three times to attain a passing grade on the examination, said person, before the person may again be admitted to examination, shall meet such additional education or experience requirements, or both, as may be prescribed by the board.	66983 66984 66985 66986 66987
Sec. 4751.06. (A) An applicant for licensure as a nursing home administrator who has successfully completed the requirements of section 4751.05 of the Revised Code, passed the examination	66988 66989 66990

administered by the board of ~~examiners~~ executives of ~~nursing home~~ 66991
~~administrators~~ long-term services and supports or a government or 66992
private entity under contract with the board, and paid to the 66993
board an original license fee of two hundred fifty dollars shall 66994
be issued a license on a form provided by the board. Such license 66995
shall certify that the applicant has met the licensure 66996
requirements of Chapter 4751. of the Revised Code and is entitled 66997
to practice as a licensed nursing home administrator. 66998

(B) A temporary license for a period not to exceed one 66999
hundred eighty days may be issued to an individual temporarily 67000
filling the position of a nursing home administrator vacated by 67001
reason of death, illness, or other unexpected cause, pursuant to 67002
regulations adopted by the board. 67003

(C) The fee for a temporary license is one hundred dollars. 67004
Said fee must accompany the application for the temporary license. 67005

(D) Any license or temporary license issued by the board 67006
pursuant to this section shall be under the hand of the 67007
chairperson and the secretary of the board. 67008

(E) A duplicate of the original certificate of registration 67009
or license may be secured to replace one that has been lost or 67010
destroyed by submitting to the board a notarized statement 67011
explaining the conditions of the loss, mutilation, or destruction 67012
of the certificate or license and by paying a fee of twenty-five 67013
dollars. 67014

(F) A duplicate certificate of registration and license may 67015
be issued in the event of a legal change of name by submitting to 67016
the board a certified copy of the court order or marriage license 67017
establishing the change of name, by returning at the same time the 67018
original license and certificate of registration, and by paying a 67019
fee of twenty-five dollars. 67020

Sec. 4751.07. (A) Every individual who holds a valid license 67021
as a nursing home administrator issued under division (A) of 67022
section 4751.06 of the Revised Code, shall immediately upon 67023
issuance thereof be registered with the board of ~~examiners~~ 67024
executives of nursing home administrators long-term services and 67025
supports and be issued a certificate of registration. Such 67026
individual shall annually apply to the board for a new certificate 67027
of registration on forms provided for such purpose prior to the 67028
expiration of the certificate of registration and shall at the 67029
same time submit satisfactory evidence to the board of having 67030
attended such continuing education programs or courses of study as 67031
may be prescribed in rules adopted by the board. 67032

(B) Upon making an application for a new certificate of 67033
registration such individual shall pay the annual registration fee 67034
of three hundred dollars. 67035

(C) Upon receipt of such application for registration and the 67036
registration fee required by divisions (A) and (B) of this 67037
section, the board shall issue a certificate of registration to 67038
such nursing home administrator. 67039

(D) The license of a nursing home administrator who fails to 67040
comply with this section shall automatically lapse. 67041

(E) A nursing home administrator who has been licensed and 67042
registered in this state who determines to temporarily abandon the 67043
practice of nursing home administration shall notify the board in 67044
writing immediately; provided, that such individual may thereafter 67045
register to resume the practice of nursing home administration 67046
within the state upon complying with the requirements of this 67047
section regarding annual registration. 67048

(F) Only an individual who has qualified as a licensed and 67049
registered nursing home administrator under Chapter 4751. of the 67050
Revised Code and the rules adopted thereunder, and who holds a 67051

valid current registration certificate pursuant to this section, 67052
may use the title "nursing home administrator," or the 67053
abbreviation "N.H.A." after the individual's name. No other person 67054
shall use such title or such abbreviation or any other words, 67055
letters, sign, card, or device tending to indicate or to imply 67056
that the person is a licensed and registered nursing home 67057
administrator. 67058

(G) Every person holding a valid license entitling the person 67059
to practice nursing home administration in this state shall 67060
display said license in the nursing home which is the person's 67061
principal place of employment, and while engaged in the practice 67062
of nursing home administration shall have at hand the current 67063
registration certificate. 67064

(H) Every person holding a valid temporary license shall have 67065
such license at hand while engaged in the practice of nursing home 67066
administration. 67067

Sec. 4751.08. The board of ~~examiners~~ executives of ~~nursing~~ 67068
~~home administrators~~ long-term services and supports, in its 67069
discretion, and otherwise subject to Chapter 4751. of the Revised 67070
Code and the rules adopted by the board thereunder prescribing the 67071
qualifications for a nursing home administrator license, may 67072
license a nursing home administrator without examination if ~~he~~ the 67073
nursing home administrator has a valid license issued by the 67074
proper authorities of any other state, upon payment of a fee of 67075
one hundred fifty dollars, and upon submission of evidence 67076
satisfactory to the board both: 67077

(A) That such other state maintained a system and standard of 67078
qualifications and examinations for a nursing home administrator 67079
license which were substantially equivalent to those required in 67080
this state at the time such other license was issued by such other 67081
state; 67082

(B) That such other state gives similar recognition to 67083
nursing home administrators licensed in this state. 67084

Sec. 4751.10. The license or registration, or both, or the 67085
temporary license of any person practicing or offering to practice 67086
nursing home administration, shall be revoked or suspended by the 67087
board of ~~examiners~~ executives of ~~nursing home administrators~~ 67088
long-term services and supports if such licensee or temporary 67089
licensee: 67090

(A) Is unfit or incompetent by reason of negligence, habits, 67091
or other causes; 67092

(B) Has willfully or repeatedly violated any of the 67093
provisions of Chapter 4751. of the Revised Code or the regulations 67094
adopted thereunder; or willfully or repeatedly acted in a manner 67095
inconsistent with the health and safety of the patients of the 67096
nursing home in which ~~he~~ the licensee or temporary licensee is the 67097
administrator; 67098

(C) Is guilty of fraud or deceit in the practice of nursing 67099
home administration or in ~~his~~ the licensee's or temporary 67100
licensee's admission to such practice; 67101

(D) Has been convicted in a court of competent jurisdiction, 67102
either within or without this state, of a felony. 67103

Proceedings under this section shall be instituted by the 67104
board or shall be begun by filing with the board charges in 67105
writing and under oath. 67106

Sec. 4751.11. (A) The board of ~~examiners~~ executives of 67107
~~nursing home administrators~~ long-term services and supports may, 67108
in its discretion, reissue a license or registration, or both, to 67109
any person whose license or registration, or both, has been 67110
revoked. 67111

(B) Application for the reissuance of a license or registration, or both, shall not be made prior to one year after revocation and shall be made in such manner as the board may direct. 67112
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(C) If a person convicted of a felony is subsequently pardoned by the governor of the state where such conviction was had or by the president of the United States, or receives a final release granted by the adult parole authority of this state or its equivalent agency of another state, the board may, in its discretion, on application of such person and on the submission of evidence satisfactory to the board restore to such person the nursing home administrator's license or registration, or both. 67116
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Sec. 4751.12. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license issued pursuant to this chapter. 67124
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Sec. 4751.13. The board of ~~examiners~~ executives of ~~nursing home administrators~~ long-term services and supports shall comply with section 4776.20 of the Revised Code. 67130
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Sec. 4751.14. There is hereby created in the state treasury the board of executives of long-term services and supports fund. The fund shall consist of license and registration fees collected under this chapter. Money in the fund shall be used by the board of executives of long-term services and supports to administer and enforce this chapter and the rules adopted under it. Investment earnings of the fund shall be credited to the fund. 67133
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Sec. 4755.481. (A) If a physical therapist evaluates and 67140

treats a patient without the prescription of, or the referral of 67141
the patient by, a person described in division (G)(1) of section 67142
4755.48 of the Revised Code, all of the following apply: 67143

(1) The physical therapist shall, upon consent of the 67144
patient, inform the relevant person described in division (G)(1) 67145
of section 4755.48 of the Revised Code of the evaluation not later 67146
than five business days after the evaluation is made. 67147

(2) If the physical therapist determines, based on reasonable 67148
evidence, that no substantial progress has been made with respect 67149
to that patient during the thirty-day period immediately following 67150
the date of the patient's initial visit with the physical 67151
therapist, the physical therapist shall consult with or refer the 67152
patient to a person described in division (G)(1) of section 67153
4755.48 of the Revised Code, unless either of the following 67154
applies: 67155

(a) The evaluation, treatment, or services are being provided 67156
for fitness, wellness, or prevention purposes. 67157

(b) The patient previously was diagnosed with chronic, 67158
neuromuscular, or developmental conditions and the evaluation, 67159
treatment, or services are being provided for problems or symptoms 67160
associated with one or more of those previously diagnosed 67161
conditions. 67162

(3) If the physical therapist determines that orthotic 67163
devices are necessary to treat the patient, the physical therapist 67164
shall be limited to the application of the following orthotic 67165
devices: 67166

(a) Upper extremity adaptive equipment used to facilitate the 67167
activities of daily living; 67168

(b) Finger splints; 67169

(c) Wrist splints; 67170

(d) Prefabricated elastic or fabric abdominal supports with 67171
or without metal or plastic reinforcing stays and other 67172
prefabricated soft goods requiring minimal fitting; 67173

(e) Nontherapeutic accommodative inlays; 67174

(f) Shoes that are not manufactured or modified for a 67175
particular individual; 67176

(g) Prefabricated foot care products; 67177

(h) Custom foot orthotics; 67178

(i) Durable medical equipment. 67179

(4) If, at any time, the physical therapist has reason to 67180
believe that the patient has symptoms or conditions that require 67181
treatment or services beyond the scope of practice of a physical 67182
therapist, the physical therapist shall refer the patient to a 67183
licensed health care practitioner acting within the practitioner's 67184
scope of practice. 67185

(B) Nothing in sections 4755.40 to 4755.56 of the Revised 67186
Code shall be construed to require reimbursement under any health 67187
insuring corporation policy, contract, or agreement, any sickness 67188
and accident insurance policy, the ~~medical assistance~~ medicaid 67189
program ~~as defined in section 5111.01 of the Revised Code~~, or the 67190
health partnership program or qualified health plans established 67191
pursuant to sections 4121.44 to 4121.442 of the Revised Code, for 67192
any physical therapy service rendered without the prescription of, 67193
or the referral of the patient by, a person described in division 67194
(G)(1) of section 4755.48 of the Revised Code. 67195

(C) For purposes of this section, "business day" means any 67196
calendar day that is not a Saturday, Sunday, or legal holiday. 67197
"Legal holiday" has the same meaning as in section 1.14 of the 67198
Revised Code. 67199

Sec. 4758.10. (A) There is hereby created the chemical 67200

dependency professionals board. 67201

(B) The governor shall appoint all of the following voting 67202
members of the board with the advice and consent of the senate: 67203

(1) Four individuals who hold a valid independent chemical 67204
dependency counselor-clinical supervisor license or independent 67205
chemical dependency counselor license issued under this chapter, 67206
including at least two of whom have received at least a master's 67207
degree in a field related to chemical dependency counseling from 67208
an accredited educational institution; 67209

(2) Two individuals who hold a valid chemical dependency 67210
counselor III license issued under this chapter; 67211

(3) One individual who holds a valid chemical dependency 67212
counselor II license issued under this chapter; 67213

(4) Two individuals who hold a valid prevention specialist II 67214
certificate or prevention specialist I certificate issued under 67215
this chapter; 67216

(5) One individual who is authorized under Chapter 4731. of 67217
the Revised Code to practice medicine and surgery or osteopathic 67218
medicine and surgery and has experience practicing in a field 67219
related to chemical dependency counseling; 67220

(6) Two individuals who represent the public and have not 67221
practiced chemical dependency counseling or alcohol and other drug 67222
prevention services and have not been involved in the delivery of 67223
chemical dependency counseling services or alcohol and other drug 67224
prevention services. At least one of these individuals shall be at 67225
least sixty years of age. During their terms, the public members 67226
shall not practice chemical dependency counseling or alcohol and 67227
other drug prevention services or be involved in the delivery of 67228
chemical dependency counseling services or alcohol and other drug 67229
prevention services. 67230

(C) Not later than ninety days after December 23, 2002, the director of ~~alcohol and drug addiction services~~ mental health and addiction services shall appoint an individual who represents the department of ~~alcohol and drug addiction services~~ mental health and addiction services to serve as an ex officio member of the chemical dependency professionals board.

(D) Not more than one-half of the voting members of the board may be of the same gender or members of the same political party. At least two voting members of the board shall be of African, Native American, Hispanic, or Asian descent.

Sec. 4758.11. Of the initial appointees to the chemical dependency professionals board appointed by the governor under division (B) of section 4758.10 of the Revised Code, four shall be appointed for terms ending one year after ~~the effective date of this section~~ December 23, 2002, four shall be appointed for terms ending two years after ~~the effective date of this section~~ December 23, 2002, and four shall be appointed for terms ending three years after ~~the effective date of this section~~ December 23, 2002. After the initial appointments, terms of office shall be three years, each term ending on the same day of the same month of the year as the term it succeeds.

A voting member of the board shall hold office from the date of appointment until the end of the term for which the member was appointed. A voting member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A voting member shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Voting members may be reappointed, except that an individual who has held office for two consecutive full

terms shall not be reappointed sooner than one year after the 67262
expiration of the second full term. 67263

The ex officio member of the board appointed by the director 67264
of ~~alcohol and drug addiction services~~ mental health and addiction 67265
services under division (C) of section 4758.10 of the Revised Code 67266
shall serve at the pleasure of the director. 67267

Sec. 4761.01. As used in this chapter: 67268

(A) "Respiratory care" means rendering or offering to render 67269
to individuals, groups, organizations, or the public any service 67270
involving the evaluation of cardiopulmonary function, the 67271
treatment of cardiopulmonary impairment, the assessment of 67272
treatment effectiveness, and the care of patients with 67273
deficiencies and abnormalities associated with the cardiopulmonary 67274
system. The practice of respiratory care includes: 67275

(1) Obtaining, analyzing, testing, measuring, and monitoring 67276
blood and gas samples in the determination of cardiopulmonary 67277
parameters and related physiologic data, including flows, 67278
pressures, and volumes, and the use of equipment employed for this 67279
purpose; 67280

(2) Administering, monitoring, recording the results of, and 67281
instructing in the use of medical gases, aerosols, and 67282
bronchopulmonary hygiene techniques, including drainage, 67283
aspiration, and sampling, and applying, maintaining, and 67284
instructing in the use of artificial airways, ventilators, and 67285
other life support equipment employed in the treatment of 67286
cardiopulmonary impairment and provided in collaboration with 67287
other licensed health care professionals responsible for providing 67288
care; 67289

(3) Performing cardiopulmonary resuscitation and respiratory 67290
rehabilitation techniques; 67291

(4) Administering medications for the testing or treatment of cardiopulmonary impairment. 67292
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(B) "Respiratory care professional" means a person who is licensed under this chapter to practice the full range of respiratory care services as defined in division (A) of this section. 67294
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(C) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 67298
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(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse. 67301
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(E) "Hospital" means a facility that meets the operating standards of section 3727.02 of the Revised Code. 67304
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(F) "Nursing facility" has the same meaning as in section ~~5111.20~~ 5165.01 of the Revised Code. 67306
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Sec. 4905.31. Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., 4927., 4928., and 4929. of the Revised Code do not prohibit a public utility from filing a schedule or establishing or entering into any reasonable arrangement with another public utility or with one or more of its customers, consumers, or employees, and do not prohibit a mercantile customer of an electric distribution utility as those terms are defined in section 4928.01 of the Revised Code or a group of those customers from establishing a reasonable arrangement with that utility or another public utility electric light company, providing for any of the following: 67308
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(A) The division or distribution of its surplus profits; 67319

(B) A sliding scale of charges, including variations in rates based upon stipulated variations in cost as provided in the 67320
67321

schedule or arrangement. 67322

(C) A minimum charge for service to be rendered unless such 67323
minimum charge is made or prohibited by the terms of the 67324
franchise, grant, or ordinance under which such public utility is 67325
operated; 67326

(D) A classification of service based upon the quantity used, 67327
the time when used, the purpose for which used, the duration of 67328
use, and any other reasonable consideration; 67329

(E)(1) Any other financial device that may be practicable or 67330
advantageous to the parties interested. In the case of a schedule 67331
or arrangement concerning a public utility electric light company, 67332
such other financial device may include a any of the following: 67333

(a) A device to recover costs incurred in conjunction with 67334
any economic development and job retention program of the utility 67335
from customers within its certified territory, including recovery 67336
of revenue foregone as a result of any such program; ~~any~~ 67337

(b) Any development and implementation of peak demand 67338
reduction and energy efficiency programs under section 4928.66 of 67339
the Revised Code; ~~any~~ 67340

(c) Any acquisition and deployment of advanced metering, 67341
including the costs of any meters prematurely retired as a result 67342
of the advanced metering implementation; ~~and compliance~~ 67343

(d) Compliance with any government mandate. 67344

(2) During the period beginning on the effective date of this 67345
amendment and ending on January 1, 2018, the commission may 67346
approve any application for, or modification or extension of, a 67347
schedule or arrangement that provides for a device described in 67348
division (E)(1)(a) of this section that recovers costs from retail 67349
electric service customers in this state. The schedule or 67350
arrangement may continue in effect after that ending date for any 67351

period approved by the commission. 67352

No such schedule or arrangement is lawful unless it is filed 67353
with and approved by the commission pursuant to an application 67354
that is submitted by the public utility or the mercantile customer 67355
or group of mercantile customers of an electric distribution 67356
utility and is posted on the commission's docketing information 67357
system and is accessible through the internet. 67358

Every such public utility is required to conform its 67359
schedules of rates, tolls, and charges to such arrangement, 67360
sliding scale, classification, or other device, and where variable 67361
rates are provided for in any such schedule or arrangement, the 67362
cost data or factors upon which such rates are based and fixed 67363
shall be filed with the commission in such form and at such times 67364
as the commission directs. 67365

Every such schedule or reasonable arrangement shall be under 67366
the supervision and regulation of the commission, and is subject 67367
to change, alteration, or modification by the commission. 67368

Sec. 5101.01. (A) As used in the Revised Code, the 67369
"department of public welfare" and the "department of human 67370
services" mean the department of job and family services and the 67371
"director of public welfare" and the "director of human services" 67372
mean the director of job and family services. ~~Whenever~~ Except as 67373
provided in section 5160.011 of the Revised Code, whenever the 67374
department or director of public welfare or the department or 67375
director of human services is referred to or designated in any 67376
statute, rule, contract, grant, or other document, the reference 67377
or designation shall be deemed to refer to the department or 67378
director of job and family services, as the case may be. 67379

(B) As used in this chapter: 67380

(1) References to a county department of job and family 67381

services include a joint county department of job and family 67382
services established under section 329.40 of the Revised Code. 67383

(2) References to a board of county commissioners include the 67384
board of directors of a joint county department of job and family 67385
services established under section 329.40 of the Revised Code. 67386

~~Sec. 5101.11. This section does not apply to contracts 67387
entered into under section 5111.90 or 5111.91 of the Revised Code. 67388~~

(A) As used in this section: 67389

(1) "Entity" includes an agency, board, commission, or 67390
department of the state or a political subdivision of the state; a 67391
private, nonprofit entity; a school district; a private school; or 67392
a public or private institution of higher education. 67393

(2) "Federal financial participation" means the federal 67394
government's share of expenditures made by an entity in 67395
implementing a program administered by the department of job and 67396
family services. 67397

(B) At the request of any public entity having authority to 67398
implement a program administered by the department of job and 67399
family services or any private entity under contract with a public 67400
entity to implement a program administered by the department, the 67401
department may seek to obtain federal financial participation for 67402
costs incurred by the entity. Federal financial participation may 67403
be sought from programs operated pursuant to Title IV-A, of the 67404
"Social Security Act," 42 U.S.C. 601 et seq.; Title IV-E, and 67405
~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 67406
~~U.S.C. 301, as amended 670 et seq.;~~ the Food and Nutrition Act of 67407
2008 (7 U.S.C. 2011 et seq.); and any other statute or regulation 67408
under which federal financial participation may be available, 67409
except that federal financial participation may be sought only for 67410
expenditures made with funds for which federal financial 67411

participation is available under federal law. 67412

(C) All funds collected by the department ~~of job and family~~ 67413
~~services~~ pursuant to division (B) of this section shall be 67414
distributed to the entities that incurred the costs, except for 67415
any amounts retained by the department pursuant to division (D)(3) 67416
of this section. 67417

(D) In distributing federal financial participation pursuant 67418
to this section, the department may either enter into an agreement 67419
with the entity that is to receive the funds or distribute the 67420
funds in accordance with rules adopted under division (F) of this 67421
section. If the department decides to enter into an agreement to 67422
distribute the funds, the agreement may include terms that do any 67423
of the following: 67424

(1) Provide for the whole or partial reimbursement of any 67425
cost incurred by the entity in implementing the program; 67426

(2) In the event that federal financial participation is 67427
disallowed or otherwise unavailable for any expenditure, require 67428
the department ~~of job and family services~~ or the entity, whichever 67429
party caused the disallowance or unavailability of federal 67430
financial participation, to assume responsibility for the 67431
expenditures; 67432

(3) Permit the department to retain not more than five per 67433
cent of the amount of the federal financial participation to be 67434
distributed to the entity; 67435

(4) Require the public entity to certify the availability of 67436
sufficient unencumbered funds to match the federal financial 67437
participation it receives under this section; 67438

(5) Establish the length of the agreement, which may be for a 67439
fixed or a continuing period of time; 67440

(6) Establish any other requirements determined by the 67441

department to be necessary for the efficient administration of the 67442
agreement. 67443

(E) An entity that receives federal financial participation 67444
pursuant to this section for a program aiding children and their 67445
families shall establish a process for collaborative planning with 67446
the department ~~of job and family services~~ for the use of the funds 67447
to improve and expand the program. 67448

(F) The director of job and family services shall adopt rules 67449
as necessary to implement this section, including rules for the 67450
distribution of federal financial participation pursuant to this 67451
section. The rules shall be adopted in accordance with Chapter 67452
119. of the Revised Code. The director may adopt or amend any 67453
statewide plan required by the federal government for a program 67454
administered by the department, as necessary to implement this 67455
section. 67456

(G) Federal financial participation received pursuant to this 67457
section shall not be included in any calculation made under 67458
section 5101.16 or 5101.161 of the Revised Code. 67459

Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 67460
of the Revised Code, "Title IV-E" means Title IV-E of the "Social 67461
Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended. 67462

(B) The department of job and family services shall act as 67463
the single state agency to administer federal payments for foster 67464
care and adoption assistance made pursuant to Title IV-E. The 67465
director of job and family services shall adopt rules to implement 67466
this authority. Rules governing financial and administrative 67467
requirements applicable to public children services agencies and 67468
government entities that provide Title IV-E reimbursable placement 67469
services to children shall be adopted in accordance with section 67470
111.15 of the Revised Code, as if they were internal management 67471
rules. Rules governing requirements applicable to private child 67472

placing agencies and private noncustodial agencies and rules 67473
establishing eligibility, program participation, and other 67474
requirements concerning Title IV-E shall be adopted in accordance 67475
with Chapter 119. of the Revised Code. A public children services 67476
agency to which the department distributes Title IV-E funds shall 67477
administer the funds in accordance with those rules. 67478

(C)(1) The county, on behalf of each child eligible for 67479
foster care maintenance payments under Title IV-E, shall make 67480
payments to cover the cost of providing all of the following: 67481

(a) The child's food, clothing, shelter, daily supervision, 67482
and school supplies; 67483

(b) The child's personal incidentals; 67484

(c) Reasonable travel to the child's home for visitation. 67485

(2) In addition to payments made under division (C)(1) of 67486
this section, the county may, on behalf of each child eligible for 67487
foster care maintenance payments under Title IV-E, make payments 67488
to cover the cost of providing the following: 67489

(a) Liability insurance with respect to the child; 67490

(b) If the county is participating in the demonstration 67491
project established under division (A) of section 5101.142 of the 67492
Revised Code, services provided under the project. 67493

(3) With respect to a child who is in a child-care 67494
institution, including any type of group home designed for the 67495
care of children or any privately operated program consisting of 67496
two or more certified foster homes operated by a common 67497
administrative unit, the foster care maintenance payments made by 67498
the county on behalf of the child shall include the reasonable 67499
cost of the administration and operation of the institution, group 67500
home, or program, as necessary to provide the items described in 67501
divisions (C)(1) and (2) of this section. 67502

(D) To the extent that either foster care maintenance 67503
payments under division (C) of this section or Title IV-E adoption 67504
assistance payments for maintenance costs require the expenditure 67505
of county funds, the board of county commissioners shall report 67506
the nature and amount of each expenditure of county funds to the 67507
department. 67508

(E) The department shall distribute to public children 67509
services agencies that incur and report expenditures of the type 67510
described in division (D) of this section federal financial 67511
participation received for administrative and training costs 67512
incurred in the operation of foster care maintenance and adoption 67513
assistance programs. The department may withhold not more than 67514
three per cent of the federal financial participation received. 67515
The funds withheld may be used only to fund the following: 67516

(1) The Ohio child welfare training program established under 67517
section 5103.30 of the Revised Code; 67518

(2) The university partnership program for college and 67519
university students majoring in social work who have committed to 67520
work for a public children services agency upon graduation; 67521

(3) Efforts supporting organizational excellence, including 67522
voluntary activities to be accredited by a nationally recognized 67523
accreditation organization. 67524

The funds withheld shall be in addition to any administration 67525
and training cost for which the department is reimbursed through 67526
its own cost allocation plan. 67527

(F) All federal financial participation funds received by a 67528
county pursuant to this section shall be deposited into the 67529
county's children services fund created pursuant to section 67530
5101.144 of the Revised Code. 67531

(G) The department shall periodically publish and distribute 67532
the maximum amounts that the department will reimburse public 67533

children services agencies for making payments on behalf of 67534
children eligible for foster care maintenance payments. 67535

(H) The department, by and through its director, is hereby 67536
authorized to develop, participate in the development of, 67537
negotiate, and enter into one or more interstate compacts on 67538
behalf of this state with agencies of any other states, for the 67539
provision of ~~medical assistance and other~~ social services to 67540
children in relation to whom all of the following apply: 67541

(1) They have special needs. 67542

(2) This state or another state that is a party to the 67543
interstate compact is providing adoption assistance on their 67544
behalf. 67545

(3) They move into this state from another state or move out 67546
of this state to another state. 67547

Sec. 5101.16. (A) As used in this section and sections 67548
5101.161 and 5101.162 of the Revised Code: 67549

(1) "Disability financial assistance" means the financial 67550
assistance program established under Chapter 5115. of the Revised 67551
Code. 67552

(2) "Supplemental nutrition assistance program" means the 67553
program administered by the department of job and family services 67554
pursuant to section 5101.54 of the Revised Code. 67555

(3) ~~"Medicaid" means the medical assistance program 67556
established by Chapter 5111. of the Revised Code, excluding 67557
transportation services provided under that chapter. 67558~~

~~(4)~~ "Ohio works first" means the program established by 67559
Chapter 5107. of the Revised Code. 67560

~~(5)~~(4) "Prevention, retention, and contingency" means the 67561
program established by Chapter 5108. of the Revised Code. 67562

(6) (5) "Public assistance expenditures" means expenditures	67563
for all of the following:	67564
(a) Ohio works first;	67565
(b) County administration of Ohio works first;	67566
(c) Prevention, retention, and contingency;	67567
(d) County administration of prevention, retention, and	67568
contingency;	67569
(e) Disability financial assistance;	67570
(f) County administration of disability financial assistance;	67571
(g) County administration of the supplemental nutrition	67572
assistance program;	67573
(h) County administration of medicaid, <u>excluding</u>	67574
<u>administrative expenditures for transportation services covered by</u>	67575
<u>the medicaid program.</u>	67576
(7) "Title IV-A program" has the same meaning as in section	67577
5101.80 of the Revised Code.	67578
(B) Each board of county commissioners shall pay the county	67579
share of public assistance expenditures in accordance with section	67580
5101.161 of the Revised Code. Except as provided in division (C)	67581
of this section, a county's share of public assistance	67582
expenditures is the sum of all of the following for state fiscal	67583
year 1998 and each state fiscal year thereafter:	67584
(1) The amount that is twenty-five per cent of the county's	67585
total expenditures for disability financial assistance and county	67586
administration of that program during the state fiscal year ending	67587
in the previous calendar year that the department of job and	67588
family services determines are allowable.	67589
(2) The amount that is ten per cent, or other percentage	67590
determined under division (D) of this section, of the county's	67591

total expenditures for county administration of the supplemental 67592
nutrition assistance program and medicaid (excluding 67593
administrative expenditures for transportation services covered by 67594
the medicaid program) during the state fiscal year ending in the 67595
previous calendar year that the department determines are 67596
allowable, less the amount of federal reimbursement credited to 67597
the county under division (E) of this section for the state fiscal 67598
year ending in the previous calendar year; 67599

(3) A percentage of the actual amount of the county share of 67600
program and administrative expenditures during federal fiscal year 67601
1994 for assistance and services, other than child care, provided 67602
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 67603
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 67604
enactment of the "Personal Responsibility and Work Opportunity 67605
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 67606
and family services shall determine the actual amount of the 67607
county share from expenditure reports submitted to the United 67608
States department of health and human services. The percentage 67609
shall be the percentage established in rules adopted under 67610
division (F) of this section. 67611

(C)(1) If a county's share of public assistance expenditures 67612
determined under division (B) of this section for a state fiscal 67613
year exceeds one hundred five per cent of the county's share for 67614
those expenditures for the immediately preceding state fiscal 67615
year, the department of job and family services shall reduce the 67616
county's share for expenditures under divisions (B)(1) and (2) of 67617
this section so that the total of the county's share for 67618
expenditures under division (B) of this section equals one hundred 67619
five per cent of the county's share of those expenditures for the 67620
immediately preceding state fiscal year. 67621

(2) A county's share of public assistance expenditures 67622
determined under division (B) of this section may be increased 67623

pursuant to section 5101.163 of the Revised Code and a sanction 67624
under section 5101.24 of the Revised Code. An increase made 67625
pursuant to section 5101.163 of the Revised Code may cause the 67626
county's share to exceed the limit established by division (C)(1) 67627
of this section. 67628

(D)(1) If the per capita tax duplicate of a county is less 67629
than the per capita tax duplicate of the state as a whole and 67630
division (D)(2) of this section does not apply to the county, the 67631
percentage to be used for the purpose of division (B)(2) of this 67632
section is the product of ten multiplied by a fraction of which 67633
the numerator is the per capita tax duplicate of the county and 67634
the denominator is the per capita tax duplicate of the state as a 67635
whole. The department of job and family services shall compute the 67636
per capita tax duplicate for the state and for each county by 67637
dividing the tax duplicate for the most recent available year by 67638
the current estimate of population prepared by the ~~department of~~ 67639
development services agency. 67640

(2) If the percentage of families in a county with an annual 67641
income of less than three thousand dollars is greater than the 67642
percentage of such families in the state and division (D)(1) of 67643
this section does not apply to the county, the percentage to be 67644
used for the purpose of division (B)(2) of this section is the 67645
product of ten multiplied by a fraction of which the numerator is 67646
the percentage of families in the state with an annual income of 67647
less than three thousand dollars a year and the denominator is the 67648
percentage of such families in the county. The department of job 67649
and family services shall compute the percentage of families with 67650
an annual income of less than three thousand dollars for the state 67651
and for each county by multiplying the most recent estimate of 67652
such families published by the ~~department of~~ development services 67653
agency, by a fraction, the numerator of which is the estimate of 67654
average annual personal income published by the bureau of economic 67655

analysis of the United States department of commerce for the year 67656
on which the census estimate is based and the denominator of which 67657
is the most recent such estimate published by the bureau. 67658

(3) If the per capita tax duplicate of a county is less than 67659
the per capita tax duplicate of the state as a whole and the 67660
percentage of families in the county with an annual income of less 67661
than three thousand dollars is greater than the percentage of such 67662
families in the state, the percentage to be used for the purpose 67663
of division (B)(2) of this section shall be determined as follows: 67664

(a) Multiply ten by the fraction determined under division 67665
(D)(1) of this section; 67666

(b) Multiply the product determined under division (D)(3)(a) 67667
of this section by the fraction determined under division (D)(2) 67668
of this section. 67669

(4) The department of job and family services shall 67670
determine, for each county, the percentage to be used for the 67671
purpose of division (B)(2) of this section not later than the 67672
first day of July of the year preceding the state fiscal year for 67673
which the percentage is used. 67674

(E) The department of job and family services shall credit to 67675
a county the amount of federal reimbursement the department 67676
receives from the United States departments of agriculture and 67677
health and human services for the county's expenditures for 67678
administration of the supplemental nutrition assistance program 67679
and medicaid (excluding administrative expenditures for 67680
transportation services covered by the medicaid program) that the 67681
department determines are allowable administrative expenditures. 67682

(F)(1) The director of job and family services shall adopt 67683
rules in accordance with section 111.15 of the Revised Code to 67684
establish all of the following: 67685

(a) The method the department is to use to change a county's 67686

share of public assistance expenditures determined under division 67687
(B) of this section as provided in division (C) of this section; 67688

(b) The allocation methodology and formula the department 67689
will use to determine the amount of funds to credit to a county 67690
under this section; 67691

(c) The method the department will use to change the payment 67692
of the county share of public assistance expenditures from a 67693
calendar-year basis to a state fiscal year basis; 67694

(d) The percentage to be used for the purpose of division 67695
(B)(3) of this section, which shall, except as provided in section 67696
5101.163 of the Revised Code, meet both of the following 67697
requirements: 67698

(i) The percentage shall not be less than seventy-five per 67699
cent nor more than eighty-two per cent; 67700

(ii) The percentage shall not exceed the percentage that the 67701
state's qualified state expenditures is of the state's historic 67702
state expenditures as those terms are defined in 42 U.S.C. 67703
609(a)(7). 67704

(e) Other procedures and requirements necessary to implement 67705
this section. 67706

(2) The director of job and family services may amend the 67707
rule adopted under division (F)(1)(d) of this section to modify 67708
the percentage on determination that the amount the general 67709
assembly appropriates for Title IV-A programs makes the 67710
modification necessary. The rule shall be adopted and amended as 67711
if an internal management rule and in consultation with the 67712
director of budget and management. 67713

Sec. 5101.162. Subject to available federal funds and 67714
appropriations made by the general assembly, the department of job 67715
and family services may, at its sole discretion, use available 67716

federal funds to reimburse county expenditures for county 67717
administration of the supplemental nutrition assistance program or 67718
medicaid (excluding administrative expenditures for transportation 67719
services covered by the medicaid program) even though the county 67720
expenditures meet or exceed the maximum allowable reimbursement 67721
amount established by rules adopted under section 5101.161 of the 67722
Revised Code. The director of job and family services may adopt 67723
internal management rules in accordance with section 111.15 of the 67724
Revised Code to implement this section. 67725

Sec. 5101.18. ~~(A)~~ When the director of job and family 67726
services adopts rules under section 5107.05 regarding income 67727
requirements for the Ohio works first program and under section 67728
5115.03 of the Revised Code regarding income and resource 67729
requirements for the disability financial assistance program, the 67730
director shall determine what payments shall be regarded or 67731
disregarded. In making this determination, the director shall 67732
consider: 67733

~~(1)~~(A) The source of the payment; 67734

~~(2)~~(B) The amount of the payment; 67735

~~(3)~~(C) The purpose for which the payment was made; 67736

~~(4)~~(D) Whether regarding the payment as income would be in 67737
the public interest; 67738

~~(5)~~(E) Whether treating the payment as income would be 67739
detrimental to any of the programs administered in whole or in 67740
part by the department of job and family services and whether such 67741
determination would jeopardize the receipt of any federal grant or 67742
payment by the state or any receipt of aid under Chapter 5107. of 67743
the Revised Code. 67744

~~(B) Any recipient of aid under Title XVI of the "Social 67745~~
~~Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 67746~~

~~whose money payment is discontinued as the result of a general 67747
increase in old age, survivors, and disability insurance benefits 67748
under such act, shall remain a recipient for the purpose of 67749
receiving medical assistance through the medical assistance 67750
program established under section 5111.01 of the Revised Code. 67751~~

Sec. 5101.181. (A) As used in this section and section 67752
5101.182 of the Revised Code: 67753

~~(1) "Public, "public assistance" means any or all of the 67754
following: 67755~~

~~(a)(1) Ohio works first; 67756~~

~~(b)(2) Prevention, retention, and contingency; 67757~~

~~(c)(3) Disability financial assistance; 67758~~

~~(d)(4) General assistance provided prior to July 17, 1995, 67759
under former Chapter 5113. of the Revised Code. 67760~~

~~(2) "Medical assistance" means medical assistance provided 67761
pursuant to, or under programs established by, section 5101.49, 67762
sections 5101.50 to 5101.529, Chapter 5111., or any other 67763
provision of the Revised Code. 67764~~

(B) As part of the procedure for the determination of 67765
overpayment to a recipient of public assistance under Chapter 67766
5107., 5108., or 5115. of the Revised Code, the director of job 67767
and family services may furnish quarterly the name and social 67768
security number of each individual who receives public assistance 67769
to the director of administrative services, the administrator of 67770
the bureau of workers' compensation, and each of the state's 67771
retirement boards. Within fourteen days after receiving the name 67772
and social security number of an individual who receives public 67773
assistance, the director of administrative services, 67774
administrator, or board shall inform the auditor of state as to 67775
whether such individual is receiving wages or benefits, the amount 67776

of any wages or benefits being received, the social security 67777
number, and the address of the individual. The director of 67778
administrative services, administrator, boards, and any agent or 67779
employee of those officials and boards shall comply with the rules 67780
of the director of job and family services restricting the 67781
disclosure of information regarding recipients of public 67782
assistance. Any person who violates this provision shall 67783
thereafter be disqualified from acting as an agent or employee or 67784
in any other capacity under appointment or employment of any state 67785
board, commission, or agency. 67786

(C) The auditor of state may enter into a reciprocal 67787
agreement with the director of job and family services or 67788
comparable officer of any other state for the exchange of names, 67789
current or most recent addresses, or social security numbers of 67790
persons receiving public assistance under Title IV-A of the 67791
"Social Security Act," ~~49 Stat. 620 (1935), 42 U.S.C. 301, as~~ 67792
~~amended 601 et seq.~~ 67793

(D) The auditor of state shall retain, for not less than two 67794
years, at least one copy of all information received under this 67795
section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 67796
5101.182, and 5505.04 of the Revised Code. 67797

~~(E) On the request of the director of job and family 67798
services, the auditor of state may conduct an audit of an 67799
individual who receives medical assistance. If the auditor decides 67800
to conduct an audit, the auditor shall enter into an interagency 67801
agreement with the department of job and family services that 67802
specifies that the auditor agrees to comply with section 5101.271 67803
of the Revised Code with respect to any information the auditor 67804
receives pursuant to the audit. 67805~~

~~(F)~~ The auditor shall review the information described in 67806
division (D) of this section to determine whether overpayments 67807
were made to recipients of public assistance under Chapters 5107., 67808

5108., and 5115. of the Revised Code. The auditor of state shall 67809
initiate action leading to prosecution, where warranted, of 67810
recipients who received overpayments by forwarding the name of 67811
each recipient who received overpayment, together with other 67812
pertinent information, to the director of job and family services, 67813
the attorney general, and the county director of job and family 67814
services and county prosecutor of the county through which public 67815
assistance was received. 67816

~~(G)~~(F) The auditor of state and the attorney general or their 67817
designees may examine any records, whether in computer or printed 67818
format, in the possession of the director of job and family 67819
services or any county director of job and family services. They 67820
shall provide safeguards which restrict access to such records to 67821
purposes directly connected with an audit or investigation, 67822
prosecution, or criminal or civil proceeding conducted in 67823
connection with the administration of the programs and shall 67824
comply with ~~sections~~ section 5101.27 ~~and 5101.271~~ of the Revised 67825
Code and ~~adopts~~ rules ~~of~~ adopted by the director of job and family 67826
services restricting the disclosure of information regarding 67827
recipients of public assistance ~~or medical assistance~~. Any person 67828
who violates this provision shall thereafter be disqualified from 67829
acting as an agent or employee or in any other capacity under 67830
appointment or employment of any state board, commission, or 67831
agency. 67832

~~(H)~~(G) Costs incurred by the auditor of state in carrying out 67833
the auditor of state's duties under this section shall be borne by 67834
the auditor of state. 67835

Sec. 5101.183. (A) ~~Except as provided in section 5111.12 of~~ 67836
~~the Revised Code, the~~ The director of job and family services, in 67837
accordance with section 111.15 of the Revised Code, may adopt 67838
rules under which county family services agencies shall take 67839

action to recover the cost of the following benefits and services 67840
available under programs administered by the department of job and 67841
family services: 67842

(1) Benefits or services provided to any of the following: 67843

(a) Persons who were not eligible for the benefits or 67844
services but who secured the benefits or services through fraud or 67845
misrepresentation; 67846

(b) Persons who were eligible for the benefits or services 67847
but who intentionally diverted the benefits or services to other 67848
persons who were not eligible for the benefits or services. 67849

(2) Any benefits or services provided by a county family 67850
services agency for which recovery is required or permitted by 67851
federal law for the federal programs administered by the agency. 67852

(B) A county family services agency may bring a civil action 67853
against a recipient of benefits or services to recover any costs 67854
described in division (A) of this section. 67855

(C) A county family services agency shall retain any money it 67856
recovers under division (A) of this section and shall use the 67857
money to meet a family services duty, except that, if federal law 67858
requires the department of job and family services to return any 67859
portion of the money so recovered to the federal government, the 67860
county family services agency shall pay that portion to the 67861
department of job and family services. 67862

Sec. 5101.184. (A) The director of job and family services 67863
shall work with the tax commissioner to collect overpayments of 67864
assistance under Chapter 5107., ~~5111.~~ or 5115., former Chapter 67865
5113., or section 5101.54 of the Revised Code from refunds of 67866
state income taxes for taxable year 1992 and thereafter that are 67867
payable to the recipients of such overpayments. 67868

Any overpayment of assistance, whether obtained by fraud or 67869

misrepresentation, as the result of an error by the recipient or 67870
by the agency making the payment, or in any other manner, may be 67871
collected under this section. Any reduction under section 5747.12 67872
or 5747.121 of the Revised Code to an income tax refund shall be 67873
made before a reduction under this section. No reduction shall be 67874
made under this section if the amount of the refund is less than 67875
twenty-five dollars after any reduction under section 5747.12 of 67876
the Revised Code. A reduction under this section shall be made 67877
before any part of the refund is contributed under section 67878
5747.113 of the Revised Code, or is credited under section 5747.12 67879
of the Revised Code against tax due in any subsequent year. 67880

The director and the tax commissioner, by rules adopted in 67881
accordance with Chapter 119. of the Revised Code, shall establish 67882
procedures to implement this division. The procedures shall 67883
provide for notice to a recipient of assistance and an opportunity 67884
for the recipient to be heard before the recipient's income tax 67885
refund is reduced. 67886

(B) The director of job and family services may enter into 67887
agreements with the federal government to collect overpayments of 67888
assistance from refunds of federal income taxes that are payable 67889
to recipients of the overpayments. 67890

Sec. 5101.26. As used in this section and in sections 5101.27 67891
to 5101.30 of the Revised Code: 67892

(A) "County agency" means a county department of job and 67893
family services or a public children services agency. 67894

(B) "Fugitive felon" means an individual who is fleeing to 67895
avoid prosecution, or custody or confinement after conviction, 67896
under the laws of the place from which the individual is fleeing, 67897
for a crime or an attempt to commit a crime that is a felony under 67898
the laws of the place from which the individual is fleeing or, in 67899
the case of New Jersey, a high misdemeanor, regardless of whether 67900

the individual has departed from the individual's usual place of residence. 67901
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(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency. 67903
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(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency. 67909
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~~(E) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other provision of the Revised Code.~~ 67917
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~~(F) "Medical assistance recipient" means an applicant for or recipient or former recipient of medical assistance.~~ 67921
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~~(G)~~ "Public assistance" means financial assistance or social services that are ~~not medical assistance~~ provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code. "Public assistance" does not mean medical assistance provided under a medical assistance program, as defined in section 5160.01 of the Revised Code. 67923
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~~(H)~~(F) "Public assistance recipient" means an applicant for 67931

or recipient or former recipient of public assistance. 67932

Sec. 5101.272. (A) For the purposes of ~~sections~~ section 67933
5101.27 ~~and 5101.271~~ of the Revised Code, an authorization shall 67934
be made on a form that uses language understandable to the average 67935
person and contains all of the following: 67936

(1) A description of the information to be used or disclosed 67937
that identifies the information in a specific and meaningful 67938
fashion; 67939

(2) The name or other specific identification of the person 67940
or class of persons authorized to make the requested use or 67941
disclosure; 67942

(3) The name or other specific identification of the person 67943
or governmental entity to which the information may be released; 67944

(4) A description of each purpose of the requested use or 67945
disclosure of the information; 67946

(5) The date on which the authorization expires or an event 67947
related either to the individual who is the subject of the request 67948
or to the purposes of the requested use or disclosure, the 67949
occurrence of which will cause the authorization to expire; 67950

(6) A statement that the information used or disclosed 67951
pursuant to the authorization may be disclosed by the recipient of 67952
the information and may no longer be protected from disclosure; 67953

(7) The signature of the individual or the individual's 67954
authorized representative and the date on which the authorization 67955
was signed; 67956

(8) If signed by an authorized representative, a description 67957
of the representative's authority to act for the individual; 67958

(9) A statement of the individual or authorized 67959
representative's right to prospectively revoke the written 67960

authorization in writing, along with one of the following: 67961

(a) A description of how the individual or authorized 67962
representative may revoke the authorization; 67963

(b) If the department of job and family services' privacy 67964
notice contains a description of how the individual or authorized 67965
representative may revoke the authorization, a reference to that 67966
privacy notice. 67967

(10) A statement that treatment, payment, enrollment, or 67968
eligibility for public assistance ~~or medical assistance~~ cannot be 67969
conditioned on signing the authorization unless the authorization 67970
is necessary for determining eligibility for the public assistance 67971
~~or medical assistance~~ program. 67972

~~(B) An authorization for the release of information regarding 67973
a medical assistance recipient to the recipient's attorney under 67974
division (C)(3) of section 5101.271 of the Revised Code may 67975
include a provision specifically authorizing the release of the 67976
recipient's electronic health records, if any, in accordance with 67977
rules the director of job and family services adopts under section 67978
5101.30 of the Revised Code. 67979~~

~~(C) When an individual requests information pursuant to 67980
section 5101.27 ~~or 5101.271~~ of the Revised Code regarding the 67981
individual's receipt of public assistance ~~or medical assistance~~ 67982
and does not wish to provide a statement of purpose, the statement 67983
"at request of the individual" is a sufficient description for 67984
purposes of division (A)(4) of this section. 67985~~

Sec. 5101.273. The department of job and family services 67986
shall enter into any necessary agreements with the United States 67987
department of health and human services and neighboring states to 67988
join and participate as an active member in the public assistance 67989
reporting information system. The department may disclose 67990

information regarding a public assistance recipient ~~or medical~~ 67991
~~assistance recipient~~ to the extent necessary to participate as an 67992
active member in the public assistance reporting information 67993
system. 67994

Sec. 5101.30. (A) The director of job and family services 67995
shall adopt rules in accordance with Chapter 119. of the Revised 67996
Code implementing sections 5101.26 to 5101.30 of the Revised Code 67997
and governing the custody, use, disclosure, and preservation of 67998
the information generated or received by the department of job and 67999
family services, county agencies, other state and county entities, 68000
contractors, grantees, private entities, or officials 68001
participating in the administration of public assistance ~~or~~ 68002
~~medical assistance~~ programs. The rules shall comply with 68003
applicable federal statutes and regulations. 68004

(1) The rules shall specify conditions and procedures for the 68005
release of information which may include, among other conditions 68006
and procedures, both of the following: 68007

(a) Permitting providers of services or assistance under 68008
public assistance programs limited access to information that is 68009
essential for the providers to render services or assistance or to 68010
bill for services or assistance rendered. The department of aging, 68011
when investigating a complaint under section 173.20 of the Revised 68012
Code, shall be granted any limited access permitted in the rules 68013
pursuant to division (A)(1) of this section. 68014

(b) Permitting a contractor, grantee, or other state or 68015
county entity limited access to information that is essential for 68016
the contractor, grantee, or entity to perform administrative or 68017
other duties on behalf of the department or county agency. A 68018
contractor, grantee, or entity given access to information 68019
pursuant to division (A)(2) of this section is bound by the 68020
director's rules, and disclosure of the information by the 68021

contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5101.27 of the Revised Code.

(2) The rules may define who is an "authorized representative" for purposes of sections 5101.27, ~~5101.271~~, and 5101.272 of the Revised Code.

(B) Whenever names, addresses, or other information relating to public assistance recipients is held by any agency other than the department or a county agency, that other agency shall adopt rules consistent with sections 5101.26 to 5101.30 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5101.34. (A) There is hereby created in the department of job and family services the Ohio commission on fatherhood. The commission shall consist of the following members:

(1)(a) Four members of the house of representatives appointed by the speaker of the house, not more than two of whom are members of the same political party. Two of the members must be from legislative districts that include a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(b) Two members of the senate appointed by the president of the senate, each from a different political party. One of the members must be from a legislative district that includes a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(2) The governor, or the governor's designee;

(3) One representative of the judicial branch of government appointed by the chief justice of the supreme court;

(4) The directors of health, job and family services,

rehabilitation and correction, ~~alcohol and drug addiction services~~ 68052
mental health and addiction services, and youth services and the 68053
superintendent of public instruction, or their designees; 68054

(5) One representative of the Ohio family and children first 68055
cabinet council created under section 121.37 of the Revised Code 68056
appointed by the chairperson of the council; 68057

(6) Five representatives of the general public appointed by 68058
the governor. These members shall have extensive experience in 68059
issues related to fatherhood. 68060

(B) The appointing authorities of the Ohio commission on 68061
fatherhood shall make initial appointments to the commission 68062
within thirty days after September 29, 1999. Of the initial 68063
appointments to the commission made pursuant to divisions (A)(3), 68064
(5), and (6) of this section, three of the members shall serve a 68065
term of one year and four shall serve a term of two years. Members 68066
so appointed subsequently shall serve two-year terms. A member 68067
appointed pursuant to division (A)(1) of this section shall serve 68068
on the commission until the end of the general assembly from which 68069
the member was appointed or until the member ceases to serve in 68070
the chamber of the general assembly in which the member serves at 68071
the time of appointment, whichever occurs first. The governor or 68072
the governor's designee shall serve on the commission until the 68073
governor ceases to be governor. The directors and superintendent 68074
or their designees shall serve on the commission until they cease, 68075
or the director or superintendent a designee represents ceases, to 68076
be director or superintendent. Each member shall serve on the 68077
commission from the date of appointment until the end of the term 68078
for which the member was appointed. Members may be reappointed. 68079

Vacancies shall be filled in the manner provided for original 68080
appointments. Any member appointed to fill a vacancy occurring 68081
prior to the expiration date of the term for which the member's 68082
predecessor was appointed shall serve on the commission for the 68083

remainder of that term. A member shall continue to serve on the 68084
commission subsequent to the expiration date of the member's term 68085
until the member's successor is appointed or until a period of 68086
sixty days has elapsed, whichever occurs first. Members shall 68087
serve without compensation but shall be reimbursed for necessary 68088
expenses. 68089

Sec. 5101.35. (A) As used in this section: 68090

(1)(a) "Agency" means the following entities that administer 68091
a family services program: 68092

~~(a)(i)~~ The department of job and family services; 68093

~~(b)(ii)~~ A county department of job and family services; 68094

~~(c)(iii)~~ A public children services agency; 68095

~~(d)(iv)~~ A private or government entity administering, in 68096
whole or in part, a family services program for or on behalf of 68097
the department of job and family services or a county department 68098
of job and family services or public children services agency. 68099

(b) If the department of medicaid contracts with the 68100
department of job and family services to hear appeals authorized 68101
by section 5160.31 of the Revised Code regarding medical 68102
assistance programs, "agency" includes the department of medicaid. 68103

(2) "Appellant" means an applicant, participant, former 68104
participant, recipient, or former recipient of a family services 68105
program who is entitled by federal or state law to a hearing 68106
regarding a decision or order of the agency that administers the 68107
program. 68108

(3)(a) "Family services program" means ~~assistance provided 68109
under a~~ all of the following: 68110

(i) A Title IV-A program as defined in section 5101.80 of the 68111
Revised Code ~~or~~ 68112

(ii) Programs that provide assistance under Chapter 5104.7 68113
5111.7, or 5115. ~~or~~ of the Revised Code; 68114

(iii) Programs that provide assistance under section 5119.69, 68115
5101.141, 5101.46, 5101.461, 5101.54, 5119.41, 5153.163, or 68116
5153.165 of the Revised Code; 68117

(iv) Title XX social services provided under section 5101.46 68118
of the Revised Code, other than assistance such services provided 68119
under section 5101.46 of the Revised Code by the department of 68120
mental health mental health and addiction services, the department 68121
of developmental disabilities, a board of alcohol, drug addiction, 68122
and mental health services, or a county board of developmental 68123
disabilities. 68124

(b) If the department of medicaid contracts with the 68125
department of job and family services to hear appeals authorized 68126
by section 5160.31 of the Revised Code regarding medical 68127
assistance programs, "family services program" includes medical 68128
assistance programs. 68129

(4) "Medical assistance program" has the same meaning as in 68130
section 5160.01 of the Revised Code. 68131

(B) Except as provided by divisions (G) and (H) of this 68132
section, an appellant who appeals under federal or state law a 68133
decision or order of an agency administering a family services 68134
program shall, at the appellant's request, be granted a state 68135
hearing by the department of job and family services. This state 68136
hearing shall be conducted in accordance with rules adopted under 68137
this section. The state hearing shall be recorded, but neither the 68138
recording nor a transcript of the recording shall be part of the 68139
official record of the proceeding. A Except as provided in section 68140
5160.31 of the Revised Code, a state hearing decision is binding 68141
upon the agency and department, unless it is reversed or modified 68142
on appeal to the director of job and family services or a court of 68143

common pleas. 68144

(C) Except as provided by division (G) of this section, an 68145
appellant who disagrees with a state hearing decision may make an 68146
administrative appeal to the director of job and family services 68147
in accordance with rules adopted under this section. This 68148
administrative appeal does not require a hearing, but the director 68149
or the director's designee shall review the state hearing decision 68150
and previous administrative action and may affirm, modify, remand, 68151
or reverse the state hearing decision. An administrative appeal 68152
decision is the final decision of the department and, except as 68153
provided in section 5160.31 of the Revised Code, is binding upon 68154
the department and agency, unless it is reversed or modified on 68155
appeal to the court of common pleas. 68156

(D) An agency shall comply with a decision issued pursuant to 68157
division (B) or (C) of this section within the time limits 68158
established by rules adopted under this section. If a county 68159
department of job and family services or a public children 68160
services agency fails to comply within these time limits, the 68161
department may take action pursuant to section 5101.24 of the 68162
Revised Code. If another agency, other than the department of 68163
medicaid, fails to comply within the time limits, the department 68164
may force compliance by withholding funds due the agency or 68165
imposing another sanction established by rules adopted under this 68166
section. 68167

(E) An appellant who disagrees with an administrative appeal 68168
decision of the director of job and family services or the 68169
director's designee issued under division (C) of this section may 68170
appeal from the decision to the court of common pleas pursuant to 68171
section 119.12 of the Revised Code. The appeal shall be governed 68172
by section 119.12 of the Revised Code except that: 68173

(1) The person may appeal to the court of common pleas of the 68174
county in which the person resides, or to the court of common 68175

pleas of Franklin county if the person does not reside in this state. 68176
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(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal. 68178
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(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court. 68181
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(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued. 68190
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(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following: 68198
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(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held. 68201
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(2) Administrative appeals under division (C) of this section;	68207 68208
(3) Time limits for complying with a decision issued under division (B) or (C) of this section;	68209 68210
(4) Sanctions that may be applied against an agency under division (D) of this section.	68211 68212
(G) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.	68213 68214 68215 68216 68217 68218 68219 68220 68221 68222
(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.	68223 68224 68225 68226 68227 68228 68229 68230 68231 68232 68233
A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.	68234 68235 68236
(I) The requirements of Chapter 119. of the Revised Code	68237

apply to a state hearing or administrative appeal under this 68238
section only to the extent, if any, specifically provided by rules 68239
adopted under this section. 68240

Sec. 5101.36. Any application for public assistance gives a 68241
right of subrogation to the department of job and family services 68242
for any workers' compensation benefits payable to a person who is 68243
subject to a support order, as defined in section 3119.01 of the 68244
Revised Code, on behalf of the applicant, to the extent of any 68245
public assistance payments made on the applicant's behalf. If the 68246
director of job and family services, in consultation with a child 68247
support enforcement agency and the administrator of the bureau of 68248
workers' compensation, determines that a person responsible for 68249
support payments to a recipient of public assistance is receiving 68250
workers' compensation, the director shall notify the administrator 68251
of the amount of the benefit to be paid to the department of job 68252
and family services. 68253

For purposes of this section, "public assistance" means 68254
~~medical assistance provided through the medical assistance program~~ 68255
~~established under section 5111.01 of the Revised Code;~~ Ohio works 68256
first provided under Chapter 5107. of the Revised Code; 68257
prevention, retention, and contingency benefits and services 68258
provided under Chapter 5108. of the Revised Code; or disability 68259
financial assistance provided under Chapter 5115. of the Revised 68260
Code. 68261

Sec. 5101.46. (A) As used in this section: 68262

(1) "Title XX" means Title XX of the "Social Security Act," 68263
88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 68264

(2) "Respective local agency" means, with respect to the 68265
department of job and family services, a county department of job 68266
and family services; with respect to the department of ~~mental~~ 68267

~~health~~ mental health and addiction services, a board of alcohol, 68268
drug addiction, and mental health services; and with respect to 68269
the department of developmental disabilities, a county board of 68270
developmental disabilities. 68271

(3) "Federal poverty guidelines" means the poverty guidelines 68272
as revised annually by the United States department of health and 68273
human services in accordance with section 673(2) of the "Omnibus 68274
Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 68275
9902, as amended, for a family size equal to the size of the 68276
family of the person whose income is being determined. 68277

(B) The departments of job and family services, mental 68278
health, and developmental disabilities, with their respective 68279
local agencies, shall administer the provision of social services 68280
funded through grants made under Title XX. The social services 68281
furnished with Title XX funds shall be directed at the following 68282
goals: 68283

(1) Achieving or maintaining economic self-support to 68284
prevent, reduce, or eliminate dependency; 68285

(2) Achieving or maintaining self-sufficiency, including 68286
reduction or prevention of dependency; 68287

(3) Preventing or remedying neglect, abuse, or exploitation 68288
of children and adults unable to protect their own interests, or 68289
preserving, rehabilitating, or reuniting families; 68290

(4) Preventing or reducing inappropriate institutional care 68291
by providing for community-based care, home-based care, or other 68292
forms of less intensive care; 68293

(5) Securing referral or admission for institutional care 68294
when other forms of care are not appropriate, or providing 68295
services to individuals in institutions. 68296

(C)(1) All federal funds received under Title XX shall be 68297

appropriated as follows: 68298

(a) Seventy-two and one-half per cent to the department of 68299
job and family services; 68300

(b) Twelve and ninety-three one-hundredths per cent to the 68301
department of ~~mental health~~ mental health and addiction services; 68302

(c) Fourteen and fifty-seven one-hundredths per cent to the 68303
department of developmental disabilities. 68304

(2) Each of the state departments shall, subject to the 68305
approval of the controlling board, develop a formula for the 68306
distribution of the Title XX funds appropriated to the department 68307
to its respective local agencies. The formula developed by each 68308
state department shall take into account all of the following for 68309
each of its respective local agencies: 68310

(a) The total population of the area that is served by the 68311
respective local agency; 68312

(b) The percentage of the population in the area served that 68313
falls below the federal poverty guidelines; 68314

(c) The respective local agency's history of and ability to 68315
utilize Title XX funds. 68316

(3) Each of the state departments shall expend for state 68317
administrative costs not more than three per cent of the Title XX 68318
funds appropriated to the department. 68319

Each state department shall establish for each of its 68320
respective local agencies the maximum percentage of the Title XX 68321
funds distributed to the respective local agency that the 68322
respective local agency may expend for local administrative costs. 68323
The percentage shall be established by rule and shall comply with 68324
federal law governing the use of Title XX funds. The rules shall 68325
be adopted in accordance with section 111.15 of the Revised Code 68326
as if they were internal management rules. 68327

(4) The department of job and family services shall expend 68328
for the training of the following not more than two per cent of 68329
the Title XX funds appropriated to the department: 68330

(a) Employees of county departments of job and family 68331
services; 68332

(b) Providers of services under contract with the state 68333
departments' respective local agencies; 68334

(c) Employees of a public children services agency directly 68335
engaged in providing Title XX services. 68336

(D) The department of job and family services shall prepare 68337
an annual comprehensive Title XX social services plan on the 68338
intended use of Title XX funds. The department shall develop a 68339
method for obtaining public comment during the development of the 68340
plan and following its completion. 68341

For each federal fiscal year, the department of job and 68342
family services shall prepare a report on the actual use of Title 68343
XX funds. The department shall make the annual report available 68344
for public inspection. 68345

The departments of ~~mental health~~ mental health and addiction 68346
services and developmental disabilities shall prepare and submit 68347
to the department of job and family services the portions of each 68348
annual plan and report that apply to services for mental health 68349
and mental retardation and developmental disabilities. Each 68350
respective local agency of the three state departments shall 68351
submit information as necessary for the preparation of annual 68352
plans and reports. 68353

(E) Each county department of job and family services shall 68354
adopt a county profile for the administration and provision of 68355
Title XX social services in the county. In developing its county 68356
profile, the county department shall take into consideration the 68357
comments and recommendations received from the public by the 68358

county family services planning committee pursuant to section 68359
329.06 of the Revised Code. As part of its preparation of the 68360
county profile, the county department may prepare a local needs 68361
report analyzing the need for Title XX social services. 68362

The county department shall submit the county profile to the 68363
board of county commissioners for its review. Once the county 68364
profile has been approved by the board, the county department 68365
shall file a copy of the county profile with the department of job 68366
and family services. The department shall approve the county 68367
profile if the department determines the profile provides for the 68368
Title XX social services to meet the goals specified in division 68369
(B) of this section. 68370

(F) Any of the three state departments and their respective 68371
local agencies may require that an entity under contract to 68372
provide social services with Title XX funds submit to an audit on 68373
the basis of alleged misuse or improper accounting of funds. If an 68374
audit is required, the social services provider shall reimburse 68375
the state department or respective local agency for the cost it 68376
incurred in conducting the audit or having the audit conducted. 68377

If an audit demonstrates that a social services provider is 68378
responsible for one or more adverse findings, the provider shall 68379
reimburse the appropriate state department or its respective local 68380
agency the amount of the adverse findings. The amount shall not be 68381
reimbursed with Title XX funds received under this section. The 68382
three state departments and their respective local agencies may 68383
terminate or refuse to enter into a Title XX contract with a 68384
social services provider if there are adverse findings in an audit 68385
that are the responsibility of the provider. 68386

(G) Except with respect to the matters for which each of the 68387
state departments must adopt rules under division (C)(3) of this 68388
section, the department of job and family services may adopt any 68389
rules it considers necessary to implement and carry out the 68390

purposes of this section. Rules governing financial and 68391
operational matters of the department or matters between the 68392
department and county departments of job and family services shall 68393
be adopted as internal management rules in accordance with section 68394
111.15 of the Revised Code. Rules governing eligibility for 68395
services, program participation, and other matters pertaining to 68396
applicants and participants shall be adopted in accordance with 68397
Chapter 119. of the Revised Code. 68398

Sec. 5101.47. (A) Except as provided in divisions (B) and (C) 68399
of this section, the department of job and family services may 68400
accept applications, determine eligibility, redetermine 68401
eligibility, and perform related administrative activities for one 68402
or more of the following: 68403

~~(1) The medicaid program established by Chapter 5111. of the 68404
Revised Code;~~ 68405

~~(2) The children's health insurance program parts I, II, and 68406
III provided for under sections 5101.50 to 5101.529 of the Revised 68407
Code;~~ 68408

~~(3) Publicly funded child care provided under Chapter 5104. 68409
of the Revised Code;~~ 68410

~~(4)~~(2) The supplemental nutrition assistance program 68411
administered by the department pursuant to section 5101.54 of the 68412
Revised Code; 68413

~~(5)~~(3) Other programs administered by the department that the 68414
director of job and family services determines are supportive of 68415
children, adults, or families; 68416

~~(6)~~(4) Other programs administered by the department 68417
regarding which the director determines administrative cost 68418
savings and efficiency may be achieved through the department 68419
accepting applications, determining eligibility, redetermining 68420

eligibility, or performing related administrative activities. 68421

~~(B) To the extent permitted by federal law, the department 68422
may enter into agreements with one or more other state agencies, 68423
local government entities, or political subdivisions to accept 68424
applications, determine eligibility, redetermine eligibility, and 68425
perform related administrative activities on behalf of the 68426
department with respect to the medicaid program and the children's 68427
health insurance program. 68428~~

~~(C)~~ If federal law requires a face-to-face interview to 68429
complete an eligibility determination for a program specified in 68430
or pursuant to division (A) of this section, the face-to-face 68431
interview shall not be conducted by the department of job and 68432
family services. 68433

~~(D)~~(C) Subject to division ~~(C)~~(B) of this section, if the 68434
department elects to accept applications, determine eligibility, 68435
redetermine eligibility, and perform related administrative 68436
activities for a program specified in or pursuant to division (A) 68437
of this section, both of the following apply: 68438

(1) An individual seeking services under the program may 68439
apply for the program to the department or to the entity that 68440
state law governing the program authorizes to accept applications 68441
for the program. 68442

(2) The department is subject to federal statutes and 68443
regulations and state statutes and rules that require, permit, or 68444
prohibit an action regarding accepting applications, determining 68445
or redetermining eligibility, and performing related 68446
administrative activities for the program. 68447

~~(E)~~(D) The director may adopt rules as necessary to implement 68448
this section. 68449

Sec. 5101.49. The department of job and family services shall 68450

administer funds received under the "Refugee Act of 1980," 94 68451
Stat. 102, 8 U.S.C.A. 1521, as amended. In administering the 68452
funds, the department may establish a refugee cash assistance 68453
program and a state legalization impact assistance program. The 68454
director of job and family services may adopt rules in accordance 68455
with section 111.15 of the Revised Code and issue appropriate 68456
orders as necessary for administration of these funds and 68457
programs. 68458

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the 68459
Revised Code: 68460

(A) "Abuse" means the infliction upon an adult by self or 68461
others of injury, unreasonable confinement, intimidation, or cruel 68462
punishment with resulting physical harm, pain, or mental anguish. 68463

(B) "Adult" means any person sixty years of age or older 68464
within this state who is handicapped by the infirmities of aging 68465
or who has a physical or mental impairment which prevents the 68466
person from providing for the person's own care or protection, and 68467
who resides in an independent living arrangement. An "independent 68468
living arrangement" is a domicile of a person's own choosing, 68469
including, but not limited to, a private home, apartment, trailer, 68470
or rooming house. An "independent living arrangement" includes a 68471
residential facility licensed under section ~~5119.22~~ 5119.34 of the 68472
Revised Code that provides accommodations, supervision, and 68473
personal care services for three to sixteen unrelated adults, but 68474
does not include other institutions or facilities licensed by the 68475
state or facilities in which a person resides as a result of 68476
voluntary, civil, or criminal commitment. 68477

(C) "Caretaker" means the person assuming the responsibility 68478
for the care of an adult on a voluntary basis, by contract, 68479
through receipt of payment for care, as a result of a family 68480
relationship, or by order of a court of competent jurisdiction. 68481

(D) "Court" means the probate court in the county where an adult resides. 68482
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(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person. 68484
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(F) "Emergency services" means protective services furnished to an adult in an emergency. 68487
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(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain. 68489
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(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result. 68492
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(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support. 68496
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(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. 68505
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(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. 68509
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(L) "Peace officer" means a peace officer as defined in 68513
section 2935.01 of the Revised Code. 68514

(M) "Physical harm" means bodily pain, injury, impairment, or 68515
disease suffered by an adult. 68516

(N) "Protective services" means services provided by the 68517
county department of job and family services or its designated 68518
agency to an adult who has been determined by evaluation to 68519
require such services for the prevention, correction, or 68520
discontinuance of an act of as well as conditions resulting from 68521
abuse, neglect, or exploitation. Protective services may include, 68522
but are not limited to, case work services, medical care, mental 68523
health services, legal services, fiscal management, home health 68524
care, homemaker services, housing-related services, guardianship 68525
services, and placement services as well as the provision of such 68526
commodities as food, clothing, and shelter. 68527

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, 68528
and Friday, except when such day is a holiday as defined in 68529
section 1.14 of the Revised Code. 68530

Sec. 5101.61. (A) As used in this section: 68531

(1) "Senior service provider" means any person who provides 68532
care or services to a person who is an adult as defined in 68533
division (B) of section 5101.60 of the Revised Code. 68534

(2) "Ambulatory health facility" means a nonprofit, public or 68535
proprietary freestanding organization or a unit of such an agency 68536
or organization that: 68537

(a) Provides preventive, diagnostic, therapeutic, 68538
rehabilitative, or palliative items or services furnished to an 68539
outpatient or ambulatory patient, by or under the direction of a 68540
physician or dentist in a facility which is not a part of a 68541
hospital, but which is organized and operated to provide medical 68542

care to outpatients; 68543

(b) Has health and medical care policies which are developed 68544
with the advice of, and with the provision of review of such 68545
policies, an advisory committee of professional personnel, 68546
including one or more physicians, one or more dentists, if dental 68547
care is provided, and one or more registered nurses; 68548

(c) Has a medical director, a dental director, if dental care 68549
is provided, and a nursing director responsible for the execution 68550
of such policies, and has physicians, dentists, nursing, and 68551
ancillary staff appropriate to the scope of services provided; 68552

(d) Requires that the health care and medical care of every 68553
patient be under the supervision of a physician, provides for 68554
medical care in a case of emergency, has in effect a written 68555
agreement with one or more hospitals and other centers or clinics, 68556
and has an established patient referral system to other resources, 68557
and a utilization review plan and program; 68558

(e) Maintains clinical records on all patients; 68559

(f) Provides nursing services and other therapeutic services 68560
in accordance with programs and policies, with such services 68561
supervised by a registered professional nurse, and has a 68562
registered professional nurse on duty at all times of clinical 68563
operations; 68564

(g) Provides approved methods and procedures for the 68565
dispensing and administration of drugs and biologicals; 68566

(h) Has established an accounting and record keeping system 68567
to determine reasonable and allowable costs; 68568

(i) "Ambulatory health facilities" also includes an 68569
alcoholism treatment facility approved by the joint commission on 68570
accreditation of healthcare organizations as an alcoholism 68571
treatment facility or certified by the department of ~~alcohol~~ and 68572

~~drug addiction services~~ mental health and addiction services, and 68573
such facility shall comply with other provisions of this division 68574
not inconsistent with such accreditation or certification. 68575

(3) "Community mental health facility" means a facility which 68576
provides community mental health services and is included in the 68577
comprehensive mental health plan for the alcohol, drug addiction, 68578
and mental health service district in which it is located. 68579

(4) "Community mental health service" means services, other 68580
than inpatient services, provided by a community mental health 68581
facility. 68582

(5) "Home health agency" means an institution or a distinct 68583
part of an institution operated in this state which: 68584

(a) Is primarily engaged in providing home health services; 68585

(b) Has home health policies which are established by a group 68586
of professional personnel, including one or more duly licensed 68587
doctors of medicine or osteopathy and one or more registered 68588
professional nurses, to govern the home health services it 68589
provides and which includes a requirement that every patient must 68590
be under the care of a duly licensed doctor of medicine or 68591
osteopathy; 68592

(c) Is under the supervision of a duly licensed doctor of 68593
medicine or doctor of osteopathy or a registered professional 68594
nurse who is responsible for the execution of such home health 68595
policies; 68596

(d) Maintains comprehensive records on all patients; 68597

(e) Is operated by the state, a political subdivision, or an 68598
agency of either, or is operated not for profit in this state and 68599
is licensed or registered, if required, pursuant to law by the 68600
appropriate department of the state, county, or municipality in 68601
which it furnishes services; or is operated for profit in this 68602

state, meets all the requirements specified in divisions (A)(5)(a) 68603
to (d) of this section, and is certified under Title XVIII of the 68604
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 68605
amended. 68606

(6) "Home health service" means the following items and 68607
services, provided, except as provided in division (A)(6)(g) of 68608
this section, on a visiting basis in a place of residence used as 68609
the patient's home: 68610

(a) Nursing care provided by or under the supervision of a 68611
registered professional nurse; 68612

(b) Physical, occupational, or speech therapy ordered by the 68613
patient's attending physician; 68614

(c) Medical social services performed by or under the 68615
supervision of a qualified medical or psychiatric social worker 68616
and under the direction of the patient's attending physician; 68617

(d) Personal health care of the patient performed by aides in 68618
accordance with the orders of a doctor of medicine or osteopathy 68619
and under the supervision of a registered professional nurse; 68620

(e) Medical supplies and the use of medical appliances; 68621

(f) Medical services of interns and residents-in-training 68622
under an approved teaching program of a nonprofit hospital and 68623
under the direction and supervision of the patient's attending 68624
physician; 68625

(g) Any of the foregoing items and services which: 68626

(i) Are provided on an outpatient basis under arrangements 68627
made by the home health agency at a hospital or skilled nursing 68628
facility; 68629

(ii) Involve the use of equipment of such a nature that the 68630
items and services cannot readily be made available to the patient 68631
in the patient's place of residence, or which are furnished at the 68632

hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of a residential facility licensed under ~~section 5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, member of the clergy, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known; 68664
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(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult; 68667
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(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited. 68669
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(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose. 68671
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(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section. 68681
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(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult. 68687
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Sec. 5103.02. As used in sections 5103.03 to 5103.17 of the Revised Code:

(A) "Association" or "institution" includes any incorporated or unincorporated organization, society, association, or agency, public or private, that receives or cares for children for two or more consecutive weeks; any individual, including the operator of a foster home, who, for hire, gain, or reward, receives or cares for children for two or more consecutive weeks, unless the individual is related to them by blood or marriage; and any individual not in the regular employ of a court, or of an institution or association certified in accordance with section 5103.03 of the Revised Code, who in any manner becomes a party to the placing of children in foster homes, unless the individual is related to such children by blood or marriage, or is the appointed guardian of such children; provided, that any organization, society, association, school, agency, child guidance center, detention or rehabilitation facility, or children's clinic licensed, regulated, approved, operated under the direction of, or otherwise certified by the department of education, a local board of education, the department of youth services, the department of ~~mental health~~ mental health and addiction services, or the department of developmental disabilities, or any individual who provides care for only a single-family group, placed there by their parents or other relative having custody, shall not be considered as being within the purview of these sections.

(B) "Family foster home" means a foster home that is not a specialized foster home.

(C) "Foster caregiver" means a person holding a valid foster home certificate issued under section 5103.03 of the Revised Code.

(D) "Foster home" means a private residence in which children are received apart from their parents, guardian, or legal

custodian, by an individual reimbursed for providing the children 68726
nonsecure care, supervision, or training twenty-four hours a day. 68727
"Foster home" does not include care provided for a child in the 68728
home of a person other than the child's parent, guardian, or legal 68729
custodian while the parent, guardian, or legal custodian is 68730
temporarily away. Family foster homes and specialized foster homes 68731
are types of foster homes. 68732

(E) "Medically fragile foster home" means a foster home that 68733
provides specialized medical services designed to meet the needs 68734
of children with intensive health care needs who meet all of the 68735
following criteria: 68736

(1) Under rules adopted by the ~~department of job and family~~ 68737
~~services~~ medicaid director governing ~~payment under Chapter 5111.~~ 68738
~~of the Revised Code~~ medicaid payments for long-term care services, 68739
the children require a skilled level of care. 68740

(2) The children require the services of a doctor of medicine 68741
or osteopathic medicine at least once a week due to the 68742
instability of their medical conditions. 68743

(3) The children require the services of a registered nurse 68744
on a daily basis. 68745

(4) The children are at risk of institutionalization in a 68746
hospital, skilled nursing facility, or intermediate care facility 68747
for ~~the mentally retarded~~ individuals with intellectual 68748
disabilities. 68749

(F) "Recommending agency" means a public children services 68750
agency, private child placing agency, or private noncustodial 68751
agency that recommends that the department of job and family 68752
services take any of the following actions under section 5103.03 68753
of the Revised Code regarding a foster home: 68754

(1) Issue a certificate; 68755

(2) Deny a certificate;	68756
(3) Renew a certificate;	68757
(4) Deny renewal of a certificate;	68758
(5) Revoke a certificate.	68759
(G) "Specialized foster home" means a medically fragile foster home or a treatment foster home.	68760 68761
(H) "Treatment foster home" means a foster home that incorporates special rehabilitative services designed to treat the specific needs of the children received in the foster home and that receives and cares for children who are emotionally or behaviorally disturbed, chemically dependent, mentally retarded, developmentally disabled, or who otherwise have exceptional needs.	68762 68763 68764 68765 68766 68767
Sec. 5103.0323. (A) As used in this section, "government auditing standards" means the government auditing standards published by the comptroller general of the United States general accounting office <u>"American institute of certified public accountants auditing standards" and "AICPA auditing standards"</u> mean the auditing standards published by the American institute of certified public accountants.	68768 68769 68770 68771 68772 68773 68774
(B) The first time that a private child placing agency or private noncustodial agency seeks renewal of a certificate issued under section 5103.03 of the Revised Code, it shall provide the department of job and family services, as a condition of renewal, evidence of an independent <u>financial statement</u> audit of its first year of certification, unless the auditor of state has audited the agency during that year and the audit sets forth that no money has been illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by government performed by a licensed public accounting firm following applicable AICPA auditing standards for the most	68775 68776 68777 68778 68779 68780 68781 68782 68783 68784 68785

~~recent fiscal year. Thereafter, when an agency seeks renewal of its certificate, it shall provide the department evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable AICPA auditing standards for the two most recent previous fiscal years it is possible for an independent audit to have been conducted, ~~unless the auditor of state has audited the agency during those years and the audit sets forth that no money has been illegally expended, converted, misappropriated, or is unaccounted for or sets forth findings that are inconsequential, as defined by government auditing standards.~~~~

(C) For an agency to be eligible for renewal, the independent audits must demonstrate that the agency operated in a fiscally accountable manner ~~in accordance with state laws and rules and any agreement between the agency and a public children services agency.~~

~~All audits required by this section shall be conducted in accordance with generally accepted government auditing standards as determined by the department of job and family services.~~

(D) The director of job and family services may adopt rules as necessary to implement this section. The director shall adopt the rules in accordance with section 111.15 of the Revised Code.

Sec. 5103.13. (A) As used in this section and section 5103.131 of the Revised Code:

(1)(a) "Children's crisis care facility" means a facility that has as its primary purpose the provision of residential and other care to either or both of the following:

(i) One or more preteens voluntarily placed in the facility by the preteen's parent or other caretaker who is facing a crisis that causes the parent or other caretaker to seek temporary care

for the preteen and referral for support services; 68816

(ii) One or more preteens placed in the facility by a public 68817
children services agency or private child placing agency that has 68818
legal custody or permanent custody of the preteen and determines 68819
that an emergency situation exists necessitating the preteen's 68820
placement in the facility rather than an institution certified 68821
under section 5103.03 of the Revised Code or elsewhere. 68822

(b) "Children's crisis care facility" does not include either 68823
of the following: 68824

(i) Any organization, society, association, school, agency, 68825
child guidance center, detention or rehabilitation facility, or 68826
children's clinic licensed, regulated, approved, operated under 68827
the direction of, or otherwise certified by the department of 68828
education, a local board of education, the department of youth 68829
services, the department of ~~mental health~~ mental health and 68830
addiction services, or the department of developmental 68831
disabilities; 68832

(ii) Any individual who provides care for only a 68833
single-family group, placed there by their parents or other 68834
relative having custody. 68835

(2) "Legal custody" and "permanent custody" have the same 68836
meanings as in section 2151.011 of the Revised Code. 68837

(3) "Preteen" means an individual under thirteen years of 68838
age. 68839

(B) No person shall operate a children's crisis care facility 68840
or hold a children's crisis care facility out as a certified 68841
children's crisis care facility unless there is a valid children's 68842
crisis care facility certificate issued under this section for the 68843
facility. 68844

(C) A person seeking to operate a children's crisis care 68845

facility shall apply to the director of job and family services to 68846
obtain a certificate for the facility. The director shall certify 68847
the person's children's crisis care facility if the facility meets 68848
all of the certification standards established in rules adopted 68849
under division (F) of this section and the person complies with 68850
all of the rules governing the certification of children's crisis 68851
care facilities adopted under that division. The issuance of a 68852
children's crisis care facility certificate does not exempt the 68853
facility from a requirement to obtain another certificate or 68854
license mandated by law. 68855

(D)(1) No certified children's crisis care facility shall do 68856
any of the following: 68857

(a) Provide residential care to a preteen for more than one 68858
hundred twenty days in a calendar year; 68859

(b) Subject to division (D)(1)(c) of this section and except 68860
as provided in division (D)(2) of this section, provide 68861
residential care to a preteen for more than sixty consecutive 68862
days; 68863

(c) Except as provided in division (D)(3) of this section, 68864
provide residential care to a preteen for more than seventy-two 68865
consecutive hours if a public children services agency or private 68866
child placing agency placed the preteen in the facility; 68867

(d) Fail to comply with section 2151.86 of the Revised Code. 68868

(2) A certified children's crisis care facility may provide 68869
residential care to a preteen for up to ninety consecutive days, 68870
other than a preteen placed in the facility by a public children 68871
services agency or private child placing agency, if any of the 68872
following are the case: 68873

(a) The preteen's parent or other caretaker is enrolled in an 68874
alcohol and drug addiction ~~program certified under section 3793.06~~ 68875
~~of the Revised Code~~ service or a community mental health service 68876

certified under section ~~5119.611~~ 5119.36 of the Revised Code; 68877

(b) The preteen's parent or other caretaker is an inpatient 68878
in a hospital; 68879

(c) The preteen's parent or other caretaker is incarcerated; 68880

(d) A physician has diagnosed the preteen's parent or other 68881
caretaker as medically incapacitated. 68882

(3) A certified children's crisis care facility may provide 68883
residential care to a preteen placed in the facility by a public 68884
children services agency or private child placing agency for more 68885
than seventy-two consecutive hours if the director of job and 68886
family services or the director's designee issues the agency a 68887
waiver of the seventy-two consecutive hour limitation. The waiver 68888
may authorize the certified children's crisis care facility to 68889
provide residential care to the preteen for up to fourteen 68890
consecutive days. 68891

(E) The director of job and family services may suspend or 68892
revoke a children's crisis care facility's certificate pursuant to 68893
Chapter 119. of the Revised Code if the facility violates division 68894
(D) of this section or ceases to meet any of the certification 68895
standards established in rules adopted under division (F) of this 68896
section or the facility's operator ceases to comply with any of 68897
the rules governing the certification of children's crisis care 68898
facilities adopted under that division. 68899

(F) Not later than ninety days after September 21, 2006, the 68900
director of job and family services shall adopt rules pursuant to 68901
Chapter 119. of the Revised Code for the certification of 68902
children's crisis care facilities. The rules shall specify that a 68903
certificate shall not be issued to an applicant if the conditions 68904
at the children's crisis care facility would jeopardize the health 68905
or safety of the preteens placed in the facility. 68906

Sec. 5103.42. Prior to the beginning of the fiscal biennium 68907
that first follows October 5, 2000, the public children services 68908
agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, 68909
~~Hamilton~~, Lucas, and Summit counties shall each establish and 68910
maintain a regional training center. Prior to the beginning of the 68911
fiscal biennium that first follows the effective date of this 68912
amendment, the public children services agency of Butler county 68913
shall establish and maintain a regional training center. At any 68914
time after the beginning of ~~that~~ the specified biennium, the 68915
department of job and family services, on the recommendation of 68916
the Ohio child welfare training program steering committee, may 68917
direct a public children services agency to establish and maintain 68918
a training center to replace the center established by an agency 68919
under this section. There may be no more and no less than eight 68920
centers in existence at any time. The department may make a grant 68921
to a public children services agency that establishes and 68922
maintains a regional training center under this section for the 68923
purpose of wholly or partially subsidizing the operation of the 68924
center. The department shall specify in the grant all of the 68925
center's duties, including the duties specified in section 68926
5103.422 of the Revised Code. 68927

The regional training center established by the public 68928
children services agency of Butler county under this section 68929
replaces the regional training center previously established by 68930
the public children services agency of Hamilton county under this 68931
section. 68932

Sec. 5104.012. (A)(1) At the times specified in this 68933
division, the administrator of a child day-care center or a type A 68934
family day-care home shall request the superintendent of the 68935
bureau of criminal identification and investigation to conduct a 68936
criminal records check with respect to any applicant who has 68937

applied to the center or type A home for employment as a person 68938
responsible for the care, custody, or control of a child. 68939

The administrator shall request a criminal records check 68940
pursuant to this division at the time of the applicant's initial 68941
application for employment and every ~~four~~ five years thereafter. 68942
When the administrator requests pursuant to this division a 68943
criminal records check for an applicant at the time of the 68944
applicant's initial application for employment, the administrator 68945
shall request that the superintendent obtain information from the 68946
federal bureau of investigation as a part of the criminal records 68947
check for the applicant, including fingerprint-based checks of 68948
national crime information databases as described in 42 U.S.C. 68949
671, for the person subject to the criminal records check. In all 68950
other cases in which the administrator requests a criminal records 68951
check for an applicant pursuant to this division, the 68952
administrator may request that the superintendent include 68953
information from the federal bureau of investigation in the 68954
criminal records check, including fingerprint-based checks of 68955
national crime information databases as described in 42 U.S.C. 68956
671. 68957

(2) A person required by division (A)(1) of this section to 68958
request a criminal records check shall provide to each applicant a 68959
copy of the form prescribed pursuant to division (C)(1) of section 68960
109.572 of the Revised Code, provide to each applicant a standard 68961
impression sheet to obtain fingerprint impressions prescribed 68962
pursuant to division (C)(2) of section 109.572 of the Revised 68963
Code, obtain the completed form and impression sheet from each 68964
applicant, and forward the completed form and impression sheet to 68965
the superintendent of the bureau of criminal identification and 68966
investigation at the time the person requests a criminal records 68967
check pursuant to division (A)(1) of this section. On and after 68968
August 14, 2008, the administrator of a child day-care center or a 68969

type A family day-care home shall review the results of the 68970
criminal records check before the applicant has sole 68971
responsibility for the care, custody, or control of any child. 68972

(3) An applicant who receives pursuant to division (A)(2) of 68973
this section a copy of the form prescribed pursuant to division 68974
(C)(1) of section 109.572 of the Revised Code and a copy of an 68975
impression sheet prescribed pursuant to division (C)(2) of that 68976
section and who is requested to complete the form and provide a 68977
set of fingerprint impressions shall complete the form or provide 68978
all the information necessary to complete the form and shall 68979
provide the impression sheet with the impressions of the 68980
applicant's fingerprints. If an applicant, upon request, fails to 68981
provide the information necessary to complete the form or fails to 68982
provide impressions of the applicant's fingerprints, the center or 68983
type A home shall not employ that applicant for any position for 68984
which a criminal records check is required by division (A)(1) of 68985
this section. 68986

(B)(1) Except as provided in rules adopted under division (E) 68987
of this section, no child day-care center or type A family 68988
day-care home shall employ or contract with another entity for the 68989
services of a person as a person responsible for the care, 68990
custody, or control of a child if the person previously has been 68991
convicted of or pleaded guilty to any of the violations described 68992
in division (A)(5) of section 109.572 of the Revised Code. 68993

(2) A child day-care center or type A family day-care home 68994
may employ an applicant conditionally until the criminal records 68995
check required by this section is completed and the center or home 68996
receives the results of the criminal records check. If the results 68997
of the criminal records check indicate that, pursuant to division 68998
(B)(1) of this section, the applicant does not qualify for 68999
employment, the center or home shall release the applicant from 69000
employment. 69001

(C)(1) Each child day-care center and type A family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center or type A home will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative; the center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this

section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center; 69065
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(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home. 69067
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(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home. 69070
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(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every ~~four~~ five years thereafter. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every ~~four~~ five years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person 69079
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subject to the criminal records check. In all other cases in which 69097
the director of job and family services or the director of a 69098
county department of job and family services requests a criminal 69099
records check for an applicant pursuant to division (A)(1) or (2) 69100
of this section, the director may request that the superintendent 69101
include information from the federal bureau of investigation in 69102
the criminal records check, including fingerprint-based checks of 69103
national crime information databases as described in 42 U.S.C. 69104
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(4) The director of job and family services shall review the 69106
results of a criminal records check subsequent to a request made 69107
pursuant to divisions (A)(1) and (3) of this section prior to 69108
approval of a license. The director of a county department of job 69109
and family services shall review the results of a criminal records 69110
check subsequent to a request made pursuant to divisions (A)(2) 69111
and (3) of this section prior to approval of certification. 69112

(B) The director of job and family services or the director 69113
of a county department of job and family services shall provide to 69114
each person for whom a criminal records check is required under 69115
this section a copy of the form prescribed pursuant to division 69116
(C)(1) of section 109.572 of the Revised Code and a standard 69117
impression sheet to obtain fingerprint impressions prescribed 69118
pursuant to division (C)(2) of that section, obtain the completed 69119
form and impression sheet from that person, and forward the 69120
completed form and impression sheet to the superintendent of the 69121
bureau of criminal identification and investigation. 69122

(C) A person who receives pursuant to division (B) of this 69123
section a copy of the form and standard impression sheet described 69124
in that division and who is requested to complete the form and 69125
provide a set of fingerprint impressions shall complete the form 69126
or provide all the information necessary to complete the form and 69127
shall provide the impression sheet with the impressions of the 69128

person's fingerprints. If the person, upon request, fails to 69129
provide the information necessary to complete the form or fails to 69130
provide impressions of the person's fingerprints, the director may 69131
consider the failure as a reason to deny licensure or 69132
certification. 69133

(D) Except as provided in rules adopted under division (G) of 69134
this section, the director of job and family services shall not 69135
grant a license to a child day-care center or type A family 69136
day-care home and a county director of job and family services 69137
shall not certify a type B family day-care home if a person for 69138
whom a criminal records check was required in connection with the 69139
center or home previously has been convicted of or pleaded guilty 69140
to any of the violations described in division (A)(5) of section 69141
109.572 of the Revised Code. 69142

(E) Each child day-care center, type A family day-care home, 69143
and type B family day-care home shall pay to the bureau of 69144
criminal identification and investigation the fee prescribed 69145
pursuant to division (C)(3) of section 109.572 of the Revised Code 69146
for each criminal records check conducted in accordance with that 69147
section upon a request made pursuant to division (A) of this 69148
section. 69149

(F) The report of any criminal records check conducted by the 69150
bureau of criminal identification and investigation in accordance 69151
with section 109.572 of the Revised Code and pursuant to a request 69152
made under division (A) of this section is not a public record for 69153
the purposes of section 149.43 of the Revised Code and shall not 69154
be made available to any person other than the person who is the 69155
subject of the criminal records check or the person's 69156
representative, the director of job and family services, the 69157
director of a county department of job and family services, the 69158
center, type A home, or type B home involved, and any court, 69159
hearing officer, or other necessary individual involved in a case 69160

dealing with a denial of licensure or certification related to the 69161
criminal records check. 69162

(G) The director of job and family services shall adopt rules 69163
pursuant to Chapter 119. of the Revised Code to implement this 69164
section, including rules specifying exceptions to the prohibition 69165
in division (D) of this section for persons who have been 69166
convicted of an offense listed in that division but who meet 69167
standards in regard to rehabilitation set by the director. 69168

(H) As used in this section, "criminal records check" has the 69169
same meaning as in section 109.572 of the Revised Code. 69170

Sec. 5104.02. (A) The director of job and family services is 69171
responsible for the licensing of child day-care centers and type A 69172
family day-care homes. Each entity operating a head start program 69173
shall meet the criteria for, and be licensed as, a child day-care 69174
center. The director is responsible for the enforcement of this 69175
chapter and of rules promulgated pursuant to this chapter. 69176

No person, firm, organization, institution, or agency shall 69177
operate, establish, manage, conduct, or maintain a child day-care 69178
center or type A family day-care home without a license issued 69179
under section 5104.03 of the Revised Code. The current license 69180
shall be posted in a conspicuous place in the center or type A 69181
home that is accessible to parents, custodians, or guardians and 69182
employees of the center or type A home at all times when the 69183
center or type A home is in operation. 69184

(B) A person, firm, institution, organization, or agency 69185
operating any of the following programs is exempt from the 69186
requirements of this chapter: 69187

(1) A program of child care that operates for two or less 69188
consecutive weeks; 69189

(2) Child care in places of worship during religious 69190

activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child care and is readily accessible at all times, except that child care provided on the premises at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool-age children, or school-age children served by the program at one time; 69222
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(iii) The number of adults providing child care for the number of infants, toddlers, preschool-age children, or school-age children; 69225
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(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director. 69228
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The director shall maintain a record of the child care information submitted by other state departments and shall provide this information upon request to the general assembly or the public. 69230
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(b) Child care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child care to school-age children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter. 69234
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(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code. 69239
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(8) Any program providing child care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only: 69243
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(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly; 69247
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(b) The nonpublic school continues to be chartered by the 69251

state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care ~~and at least two, which is child care that does not require parental signature, permission, or notice for the child receiving the care to enter or leave the program;~~

(c) The program provides any of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

~~(e)~~(d) The program is eligible for participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

~~(d)~~(e) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.021. The director of job and family services may ~~not~~ issue a child day-care center or type A family day-care home license to a youth development program that is exempted by division (B)(9) of section 5104.02 of the Revised Code from the

requirements of this chapter if the youth development program 69282
applies for and meets all of the requirements for the license. 69283

Sec. 5104.03. (A) Any person, firm, organization, 69284
institution, or agency desiring to establish a child day-care 69285
center or type A family day-care home shall apply for a license to 69286
the director of job and family services on such form as the 69287
director prescribes. The director shall provide at no charge to 69288
each applicant for licensure a copy of the child care license 69289
requirements in this chapter and a copy of the rules adopted 69290
pursuant to this chapter. The copies may be provided in paper or 69291
electronic form. 69292

Fees shall be set by the director pursuant to section 69293
5104.011 of the Revised Code and shall be paid at the time of 69294
application for a license to operate a center or type A home. Fees 69295
collected under this section shall be paid into the state treasury 69296
to the credit of the general revenue fund. 69297

(B) Upon filing of the application for a license, the 69298
director shall investigate and inspect the center or type A home 69299
to determine the license capacity for each age category of 69300
children of the center or type A home and to determine whether the 69301
center or type A home complies with this chapter and rules adopted 69302
pursuant to this chapter. When, after investigation and 69303
inspection, the director is satisfied that this chapter and rules 69304
adopted pursuant to it are complied with, subject to division (G) 69305
of this section, a provisional license shall be issued as soon as 69306
practicable in such form and manner as prescribed by the director. 69307
The provisional license shall be valid for twelve months from the 69308
date of issuance unless revoked. 69309

(C) The director shall investigate and inspect the center or 69310
type A home at least once during operation under the provisional 69311
license. If after the investigation and inspection the director 69312

determines that the requirements of this chapter and rules adopted 69313
pursuant to this chapter are met, subject to division (G) of this 69314
section, the director shall issue a license to the center or home. 69315

(D) The license or provisional license shall state the name 69316
of the licensee, the name of the administrator, the address of the 69317
center or type A home, and the license capacity for each age 69318
category of children. The license or provisional license shall 69319
include thereon, in accordance with section 5104.011 of the 69320
Revised Code, the toll-free telephone number to be used by persons 69321
suspecting that the center or type A home has violated a provision 69322
of this chapter or rules adopted pursuant to this chapter. A 69323
license or provisional license is valid only for the licensee, 69324
administrator, address, and license capacity for each age category 69325
of children designated on the license. The license capacity 69326
specified on the license or provisional license is the maximum 69327
number of children in each age category that may be cared for in 69328
the center or type A home at one time. 69329

The center or type A home licensee shall notify the director 69330
when the administrator of the center or home changes. The director 69331
shall amend the current license or provisional license to reflect 69332
a change in an administrator, if the administrator meets the 69333
requirements of Chapter 5104. of the Revised Code and rules 69334
adopted pursuant to Chapter 5104. of the Revised Code, or a change 69335
in license capacity for any age category of children as determined 69336
by the director of job and family services. 69337

(E) If the director revokes the license of a center or a type 69338
A home, the director shall not issue another license to the owner 69339
of the center or type A home until five years have elapsed from 69340
the date the license is revoked. 69341

If the director denies an application for a license, the 69342
director shall not accept another application from the applicant 69343
until five years have elapsed from the date the application is 69344

denied. 69345

(F) If during the application for licensure process the 69346
director determines that the license of the owner has been 69347
revoked, the investigation of the center or type A home shall 69348
cease. This action does not constitute denial of the application 69349
and may not be appealed under division (G) of this section. 69350

(G) All actions of the director with respect to licensing 69351
centers or type A homes, refusal to license, and revocation of a 69352
license shall be in accordance with Chapter 119. of the Revised 69353
Code. Any applicant who is denied a license or any owner whose 69354
license is revoked may appeal in accordance with section 119.12 of 69355
the Revised Code. 69356

(H) In no case shall the director issue a license or 69357
provisional license under this section for a type A home or center 69358
if the director, based on documentation provided by the 69359
appropriate county department of job and family services, 69360
determines that the applicant previously had been certified as a 69361
type B family day-care home, that the county department revoked 69362
that certification within the immediately preceding five years, 69363
that the revocation was based on the applicant's refusal or 69364
inability to comply with the criteria for certification, and that 69365
the refusal or inability resulted in a risk to the health or 69366
safety of children. 69367

Sec. 5104.08. (A) There is hereby created in the department 69368
of job and family services a child care advisory council to advise 69369
and assist the department in the administration of this chapter 69370
and in the development of child care. The council shall consist of 69371
twenty-two voting members appointed by the director of job and 69372
family services with the approval of the governor. The director of 69373
job and family services, the director of developmental 69374
disabilities, the director of ~~mental health~~ mental health and 69375

addiction services, the superintendent of public instruction, the 69376
director of health, the director of commerce, and the state fire 69377
marshal shall serve as nonvoting members of the council. 69378

Six members shall be representatives of child care centers 69379
subject to licensing, the members to represent a variety of 69380
centers, including nonprofit and proprietary, from different 69381
geographical areas of the state. At least three members shall be 69382
parents, guardians, or custodians of children receiving child care 69383
or publicly funded child care in the child's own home, a center, a 69384
type A home, a head start program, a certified type B home, or a 69385
type B home at the time of appointment. Three members shall be 69386
representatives of in-home aides, type A homes, certified type B 69387
homes, or type B homes or head start programs. At least six 69388
members shall represent county departments of job and family 69389
services. The remaining members shall be representatives of the 69390
teaching, child development, and health professions, and other 69391
individuals interested in the welfare of children. At least six 69392
members of the council shall not be employees or licensees of a 69393
child day-care center, head start program, or type A home, or 69394
providers operating a certified type B home or type B home, or 69395
in-home aides. 69396

Appointments shall be for three-year terms. Vacancies shall 69397
be filled for the unexpired terms. A member of the council is 69398
subject to removal by the director of job and family services for 69399
a willful and flagrant exercise of authority or power that is not 69400
authorized by law, for a refusal or willful neglect to perform any 69401
official duty as a member of the council imposed by law, or for 69402
being guilty of misfeasance, malfeasance, nonfeasance, or gross 69403
neglect of duty as a member of the council. 69404

There shall be two co-chairpersons of the council. One 69405
co-chairperson shall be the director of job and family services or 69406
the director's designee, and one co-chairperson shall be elected 69407

by the members of the council. The council shall meet as often as 69408
is necessary to perform its duties, provided that it shall meet at 69409
least once in each quarter of each calendar year and at the call 69410
of the co-chairpersons. The co-chairpersons or their designee 69411
shall send to each member a written notice of the date, time, and 69412
place of each meeting. 69413

Members of the council shall serve without compensation, but 69414
shall be reimbursed for necessary expenses. 69415

(B) The child care advisory council shall advise the director 69416
on matters affecting the licensing of centers and type A homes and 69417
the certification of type B homes and in-home aides. The council 69418
shall make an annual report to the director of job and family 69419
services that addresses the availability, affordability, 69420
accessibility, and quality of child care and that summarizes the 69421
recommendations and plans of action that the council has proposed 69422
to the director during the preceding fiscal year. The director of 69423
job and family services shall provide copies of the report to the 69424
governor, speaker and minority leader of the house of 69425
representatives, and the president and minority leader of the 69426
senate and, on request, shall make copies available to the public. 69427

(C) The director of job and family services shall adopt rules 69428
pursuant to Chapter 119. of the Revised Code to implement this 69429
section. 69430

Sec. 5104.11. (A)(1) Every person desiring to receive 69431
certification for a type B family day-care home to provide 69432
publicly funded child care shall apply for certification to the 69433
county director of job and family services on such forms as the 69434
director of job and family services prescribes. The county 69435
director shall provide at no charge to each applicant a copy of 69436
rules for certifying type B family day-care homes adopted pursuant 69437
to this chapter. 69438

(2) Except as provided in division (G)(1) of section 5104.011 69439
of the Revised Code, after receipt of an application for 69440
certification from a type B family day-care home, the county 69441
director of job and family services shall inspect the home. If it 69442
complies with this chapter and any applicable rules adopted under 69443
this chapter, the county department shall certify the type B 69444
family day-care home to provide publicly funded child care 69445
pursuant to this chapter and any rules adopted under it. The 69446
director of job and family services or a county director of job 69447
and family services may contract with a government entity or a 69448
private nonprofit entity for that entity to inspect and certify 69449
type B family day-care homes pursuant to this section. The county 69450
department of job and family services, government entity, or 69451
nonprofit entity shall conduct the inspection prior to the 69452
issuance of a certificate for the type B home and, as part of that 69453
inspection, ensure that the type B home is safe and sanitary. 69454

(3)(a) On receipt of an application for certification for a 69455
type B family day-care home to provide publicly funded child care 69456
or for renewal of such certification, the county department shall 69457
request from ~~both of the following~~ the public children services 69458
agency information concerning any abuse or neglect report made 69459
pursuant to section 2151.421 of the Revised Code of which the 69460
applicant, any other adult residing in the applicant's home, or a 69461
person designated by the applicant to be an emergency or 69462
substitute caregiver for the applicant is the subject: 69463

~~(i) The public children services agency, until the county 69464
department is notified by the department of job and family 69465
services that the uniform statewide automated child welfare 69466
information system has been finalized statewide; 69467~~

~~(ii) Upon receipt of notification under division (D) of 69468
section 5101.13 of the Revised Code that the uniform statewide 69469
automated child welfare information system has been implemented 69470~~

~~statewide, the uniform statewide automated child welfare
information system via the department.~~ 69471
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(b) The county department shall consider any information 69473
provided by the agency ~~or the department~~ pursuant to section 69474
5153.175 of the Revised Code. If the county department determines 69475
that the information, when viewed within the totality of the 69476
circumstances, reasonably leads to the conclusion that the 69477
applicant may directly or indirectly endanger the health, safety, 69478
or welfare of children, the county department shall deny the 69479
application for certification or renewal of certification, or 69480
revoke the certification of an authorized provider. 69481

(c) As used in division (A)(3) of this section, "public 69482
children services agency" means either an entity separate from the 69483
county department or the part of the county department that serves 69484
as the county's public children services agency, as appropriate. 69485

(4) Except as provided in division (A)(5) of this section, an 69486
authorized provider of a type B family day-care home that receives 69487
a certificate pursuant to this section to provide publicly funded 69488
child care is an independent contractor and is not an employee of 69489
the county department of job and family services that issues the 69490
certificate. 69491

(5) For purposes of Chapter 4141. of the Revised Code, 69492
determinations concerning the employment of an authorized provider 69493
of a type B family day-care home that receives a certificate 69494
pursuant to this section shall be determined under Chapter 4141. 69495
of the Revised Code. 69496

(B)(1) If the county director of job and family services 69497
determines that the type B family day-care home complies with this 69498
chapter and any rules adopted under it, the county director shall 69499
issue to the provider a certificate to provide publicly funded 69500
child care, ~~which.~~ The certificate is valid for twelve months, 69501

unless revoked earlier. ~~The county director may revoke the~~ 69502
~~certificate after determining that revocation is necessary.~~ The 69503
authorized provider shall post the certificate in a conspicuous 69504
place in the certified type B home that is accessible to parents, 69505
custodians, or guardians at all times. The certificate shall state 69506
the name and address of the authorized provider, the maximum 69507
number of children who may be cared for at any one time in the 69508
certified type B home, the expiration date of the certification, 69509
and the name and telephone number of the county director who 69510
issued the certificate. 69511

(2) The county director may revoke a certificate to provide 69512
publicly funded child care in either of the following 69513
circumstances: 69514

(a) The county director determines, pursuant to rules adopted 69515
under Chapter 119. of the Revised Code, that revocation is 69516
necessary; 69517

(b) The authorized provider does not comply with division 69518
(D)(2) of section 5104.32 of the Revised Code. 69519

(C)(1) The county director shall inspect every certified type 69520
B family day-care home at least twice within each twelve-month 69521
period of the operation of the certified type B home. A minimum of 69522
one inspection shall be unannounced and all inspections may be 69523
unannounced. Upon receipt of a complaint, the county director 69524
shall investigate the certified type B home, and division (C)(2) 69525
of this section applies regarding the complaint. The authorized 69526
provider shall permit the county director to inspect any part of 69527
the certified type B home. The county director shall prepare a 69528
written inspection report and furnish one copy to the authorized 69529
provider within a reasonable time after the inspection. 69530

(2) Upon receipt of a complaint as described in division 69531
(C)(1) of this section, in addition to the investigation that is 69532

required under that division, both of the following apply: 69533

(a) If the complaint alleges that a child suffered physical 69534
harm while receiving child care at the certified type B family 69535
day-care home or that the noncompliance with law or act alleged in 69536
the complaint involved, resulted in, or poses a substantial risk 69537
of physical harm to a child receiving child care at the home, the 69538
county director shall inspect the home. 69539

(b) If division (C)(2)(a) of this section does not apply 69540
regarding the complaint, the county director may inspect the 69541
certified type B family day-care home. 69542

(3) Division (C)(2) of this section does not limit, restrict, 69543
or negate any duty of the county director to inspect a certified 69544
type B family day-care home that otherwise is imposed under this 69545
section, or any authority of the county director to inspect a home 69546
that otherwise is granted under this section when the county 69547
director believes the inspection is necessary and it is permitted 69548
under the grant. 69549

(D) The county director of job and family services, in 69550
accordance with rules adopted pursuant to section 5104.052 of the 69551
Revised Code regarding fire safety and fire prevention, shall 69552
inspect each type B home that applies to be certified that is 69553
providing or is to provide publicly funded child care. 69554

(E) All materials that are supplied by the department of job 69555
and family services to type A family day-care home providers, type 69556
B family day-care home providers, in-home aides, persons who 69557
desire to be type A family day-care home providers, type B family 69558
day-care home providers, or in-home aides, and caretaker parents 69559
shall be written at no higher than the sixth grade reading level. 69560
The department may employ a readability expert to verify its 69561
compliance with this division. 69562

Sec. 5104.12. (A) The county director of job and family services may certify in-home aides to provide publicly funded child care pursuant to this chapter and any rules adopted under it. Any in-home aide who receives a certificate pursuant to this section to provide publicly funded child care is an independent contractor and is not an employee of the county department of job and family services that issues the certificate.

(B) Every person desiring to receive certification as an in-home aide shall apply for certification to the county director of job and family services on such forms as the director of job and family services prescribes. The county director shall provide at no charge to each applicant a copy of rules for certifying in-home aides adopted pursuant to this chapter.

(C)(1) If the county director of job and family services determines that public funds are available and that the person complies with this chapter and any rules adopted under it, the county director shall certify the person as an in-home aide and issue the person a certificate to provide publicly funded child care for twelve months. ~~The county director may revoke the certificate after determining that revocation is necessary.~~ The county director shall furnish a copy of the certificate to the parent, custodian, or guardian. The certificate shall state the name and address of the in-home aide, the expiration date of the certification, and the name and telephone number of the county director who issued the certificate.

(2) The county director may revoke the certificate in either of the following circumstances:

(a) The county director determines, pursuant to rules adopted under Chapter 119. of the Revised Code, that revocation is necessary;

(b) The in-home aide does not comply with division (D)(2) of

section 5104.32 of the Revised Code. 69594

(D)(1) The county director of job and family services shall 69595
inspect every home of a child who is receiving publicly funded 69596
child care in the child's own home while the in-home aide is 69597
providing the services. Inspections may be unannounced. Upon 69598
receipt of a complaint, the county director shall investigate the 69599
in-home aide, shall investigate the home of a child who is 69600
receiving publicly funded child care in the child's own home, and 69601
division (D)(2) of this section applies regarding the complaint. 69602
The caretaker parent shall permit the county director to inspect 69603
any part of the child's home. The county director shall prepare a 69604
written inspection report and furnish one copy each to the in-home 69605
aide and the caretaker parent within a reasonable time after the 69606
inspection. 69607

(2) Upon receipt of a complaint as described in division 69608
(D)(1) of this section, in addition to the investigations that are 69609
required under that division, both of the following apply: 69610

(a) If the complaint alleges that a child suffered physical 69611
harm while receiving publicly funded child care in the child's own 69612
home from an in-home aide or that the noncompliance with law or 69613
act alleged in the complaint involved, resulted in, or poses a 69614
substantial risk of physical harm to a child receiving publicly 69615
funded child care in the child's own home from an in-home aide, 69616
the county director shall inspect the home of the child. 69617

(b) If division (D)(2)(a) of this section does not apply 69618
regarding the complaint, the county director may inspect the home 69619
of the child. 69620

(3) Division (D)(2) of this section does not limit, restrict, 69621
or negate any duty of the county director to inspect a home of a 69622
child who is receiving publicly funded child care from an in-home 69623
aide that otherwise is imposed under this section, or any 69624

authority of the county director to inspect such a home that 69625
otherwise is granted under this section when the county director 69626
believes the inspection is necessary and it is permitted under the 69627
grant. 69628

Sec. 5104.32. (A) Except as provided in division (C) of this 69629
section, all purchases of publicly funded child care shall be made 69630
under a contract entered into by a licensed child day-care center, 69631
licensed type A family day-care home, certified type B family 69632
day-care home, certified in-home aide, approved child day camp, 69633
licensed preschool program, licensed school child program, or 69634
border state child care provider and the department of job and 69635
family services. All contracts for publicly funded child care 69636
shall be contingent upon the availability of state and federal 69637
funds. The department shall prescribe a standard form to be used 69638
for all contracts for the purchase of publicly funded child care, 69639
regardless of the source of public funds used to purchase the 69640
child care. To the extent permitted by federal law and 69641
notwithstanding any other provision of the Revised Code that 69642
regulates state contracts or contracts involving the expenditure 69643
of state or federal funds, all contracts for publicly funded child 69644
care shall be entered into in accordance with the provisions of 69645
this chapter and are exempt from any other provision of the 69646
Revised Code that regulates state contracts or contracts involving 69647
the expenditure of state or federal funds. 69648

(B) Each contract for publicly funded child care shall 69649
specify at least the following: 69650

(1) That the provider of publicly funded child care agrees to 69651
be paid for rendering services at the lower of the rate 69652
customarily charged by the provider for children enrolled for 69653
child care or the reimbursement ceiling or rate of payment 69654
established pursuant to section 5104.30 of the Revised Code; 69655

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the state department of job and family services or in some other manner as prescribed

by rules adopted under section 5104.42 of the Revised Code; 69688

(7) That the contract is subject to the availability of state 69689
and federal funds. 69690

(C) Unless specifically prohibited by federal law or by rules 69691
adopted under section 5104.42 of the Revised Code, the county 69692
department of job and family services shall give individuals 69693
eligible for publicly funded child care the option of obtaining 69694
certificates that the individual may use to purchase services from 69695
any provider qualified to provide publicly funded child care under 69696
section 5104.31 of the Revised Code. Providers of publicly funded 69697
child care may present these certificates for payment in 69698
accordance with rules that the director of job and family services 69699
shall adopt. Only providers may receive payment for certificates. 69700
The value of the certificate shall be based on the lower of the 69701
rate customarily charged by the provider or the rate of payment 69702
established pursuant to section 5104.30 of the Revised Code. The 69703
county department may provide the certificates to the individuals 69704
or may contract with child care providers or child care resource 69705
and referral service organizations that make determinations of 69706
eligibility for publicly funded child care pursuant to contracts 69707
entered into under section 5104.34 of the Revised Code for the 69708
providers or resource and referral service organizations to 69709
provide the certificates to individuals whom they determine are 69710
eligible for publicly funded child care. 69711

For each six-month period a provider of publicly funded child 69712
care provides publicly funded child care to the child of an 69713
individual given certificates, the individual shall provide the 69714
provider certificates for days the provider would have provided 69715
publicly funded child care to the child had the child been 69716
present. The maximum number of days providers shall be provided 69717
certificates shall not exceed ten days in a six-month period 69718
during which publicly funded child care is provided to the child 69719

regardless of the number of providers that provide publicly funded child care to the child during that period.

(D)(1) The department shall establish the Ohio electronic child care system to track attendance and calculate payments for publicly funded child care. The system shall include issuing an electronic child care card to each caretaker parent to swipe through a point-of-service device issued to an eligible provider, as described in section 5104.31 of the Revised Code.

(2) Each eligible provider that provides publicly funded child care shall participate in the Ohio electronic child care system. A provider participating in the system shall not do any of the following:

(a) Use or have possession of an electronic child care card issued to a caretaker parent;

(b) Falsify attendance records;

(c) Knowingly seek payment for publicly funded child care that was not provided;

(d) Knowingly accept reimbursement for publicly funded child care that was not provided.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

(4) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives

supplemental security income or federal, state, or local foster care or adoption assistance; 69780
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(d) A woman at least six months pregnant. 69782

(2) The assistance group must meet the income requirements established by division (D) of this section. 69783
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(3) No member of the assistance group may be involved in a strike. 69785
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(4) The assistance group must satisfy the requirements for Ohio works first established by this chapter and ~~sections 5101.58, 5101.59, and section~~ section 5101.83 of the Revised Code. 69787
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(5) The assistance group must meet requirements for Ohio works first established by rules adopted under section 5107.05 of the Revised Code. 69790
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(D)(1) Except as provided in division (D)(4) of this section, to determine whether an assistance group is initially eligible to participate in Ohio works first, a county department of job and family services shall do the following: 69793
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(a) Determine whether the assistance group's gross income exceeds fifty per cent of the federal poverty guidelines. In making this determination, the county department shall disregard amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be disregarded. The assistance group is ineligible to participate in Ohio works first if the assistance group's gross income, less the amounts disregarded, exceeds fifty per cent of the federal poverty guidelines. 69797
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(b) If the assistance group's gross income, less the amounts disregarded pursuant to division (D)(1)(a) of this section, does not exceed fifty per cent of the federal poverty guidelines, determine whether the assistance group's countable income is less 69806
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than the payment standard. The assistance group is ineligible to 69810
participate in Ohio works first if the assistance group's 69811
countable income equals or exceeds the payment standard. 69812

(2) For the purpose of determining whether an assistance 69813
group meets the income requirement established by division 69814
(D)(1)(a) of this section, the annual revision that the United 69815
States department of health and human services makes to the 69816
federal poverty guidelines shall go into effect on the first day 69817
of July of the year for which the revision is made. 69818

(3) To determine whether an assistance group participating in 69819
Ohio works first continues to be eligible to participate, a county 69820
department of job and family services shall determine whether the 69821
assistance group's countable income continues to be less than the 69822
payment standard. In making this determination, the county 69823
department shall disregard the first two hundred fifty dollars and 69824
fifty per cent of the remainder of the assistance group's gross 69825
earned income. No amounts shall be disregarded from the assistance 69826
group's gross unearned income. The assistance group ceases to be 69827
eligible to participate in Ohio works first if its countable 69828
income, less the amounts disregarded, equals or exceeds the 69829
payment standard. 69830

(4) If an assistance group reapplies to participate in Ohio 69831
works first not more than four months after ceasing to 69832
participate, a county department of job and family services shall 69833
use the income requirement established by division (D)(3) of this 69834
section to determine eligibility for resumed participation rather 69835
than the income requirement established by division (D)(1) of this 69836
section. 69837

(E)(1) An assistance group may continue to participate in 69838
Ohio works first even though a public children services agency 69839
removes the assistance group's minor children from the assistance 69840
group's home due to abuse, neglect, or dependency if the agency 69841

does both of the following: 69842

(a) Notifies the county department of job and family services 69843
at the time the agency removes the children that it believes the 69844
children will be able to return to the assistance group within six 69845
months; 69846

(b) Informs the county department at the end of each of the 69847
first five months after the agency removes the children that the 69848
parent, guardian, custodian, or specified relative of the children 69849
is cooperating with the case plans prepared for the children under 69850
section 2151.412 of the Revised Code and that the agency is making 69851
reasonable efforts to return the children to the assistance group. 69852

(2) An assistance group may continue to participate in Ohio 69853
works first pursuant to division (E)(1) of this section for not 69854
more than six payment months. This division does not affect the 69855
eligibility of an assistance group that includes a woman at least 69856
six months pregnant. 69857

Sec. 5107.14. (A) An assistance group is ineligible to 69858
participate in Ohio works first unless the following enter into a 69859
written self-sufficiency contract with the county department of 69860
job and family services: 69861

(1) Each adult member of the assistance group; 69862

(2) The assistance group's minor head of household. 69863

(B) A self-sufficiency contract shall set forth the rights 69864
and responsibilities of the assistance group as applicants for and 69865
participants of Ohio works first. Each self-sufficiency contract 69866
shall include, based on appraisals conducted under section 5107.41 69867
of the Revised Code and assessments conducted under section 69868
5107.70 of the Revised Code, the following: 69869

(1) The assistance group's plan, developed under section 69870
5107.41 of the Revised Code, to achieve the goal of self 69871

sufficiency and personal responsibility through unsubsidized 69872
employment within the time limit for participating in Ohio works 69873
first established by section 5107.18 of the Revised Code; 69874

(2) Work activities, developmental activities, and 69875
alternative work activities to which members of the assistance 69876
group are assigned under sections 5107.40 to 5107.69 of the 69877
Revised Code; 69878

(3) The responsibility of a caretaker member of the 69879
assistance group to cooperate in establishing a minor child's 69880
paternity and establishing, modifying, and enforcing a support 69881
order for the child in accordance with section 5107.22 of the 69882
Revised Code; 69883

(4) Other responsibilities that members of the assistance 69884
group must satisfy to participate in Ohio works first and the 69885
consequences for failure or refusal to satisfy the 69886
responsibilities; 69887

(5) An agreement that, except as otherwise provided in a 69888
waiver issued under section 5107.714 of the Revised Code, the 69889
assistance group will comply with the conditions of participating 69890
in Ohio works first established by this chapter and ~~sections~~ 69891
~~5101.58, 5101.59, and~~ section 5101.83 of the Revised Code; 69892

(6) Assistance and services the county department will 69893
provide to the assistance group; 69894

(7) Assistance and services the child support enforcement 69895
agency and public children services agency will provide to the 69896
assistance group pursuant to a plan of cooperation entered into 69897
under section 307.983 of the Revised Code; 69898

(8) Other provisions designed to assist the assistance group 69899
in achieving self sufficiency and personal responsibility; 69900

(9) Procedures for assessing whether responsibilities are 69901

being satisfied and whether the contract should be amended; 69902

(10) Procedures for amending the contract. 69903

(C) No self-sufficiency contract shall include provisions 69904
regarding the LEAP program. 69905

(D) The county department shall provide without charge a copy 69906
of the self-sufficiency contract to each assistance group member 69907
who signs it. 69908

Sec. 5107.16. (A) If a member of an assistance group fails or 69909
refuses, without good cause, to comply in full with a provision of 69910
a self-sufficiency contract entered into under section 5107.14 of 69911
the Revised Code, a county department of job and family services 69912
shall sanction the assistance group as follows: 69913

(1) For a first failure or refusal, the county department 69914
shall deny or terminate the assistance group's eligibility to 69915
participate in Ohio works first for one payment month or until the 69916
failure or refusal ceases, whichever is longer; 69917

(2) For a second failure or refusal, the county department 69918
shall deny or terminate the assistance group's eligibility to 69919
participate in Ohio works first for three payment months or until 69920
the failure or refusal ceases, whichever is longer; 69921

(3) For a third or subsequent failure or refusal, the county 69922
department shall deny or terminate the assistance group's 69923
eligibility to participate in Ohio works first for six payment 69924
months or until the failure or refusal ceases, whichever is 69925
longer. 69926

(B) The director of job and family services shall establish 69927
standards for the determination of good cause for failure or 69928
refusal to comply in full with a provision of a self-sufficiency 69929
contract in rules adopted under section 5107.05 of the Revised 69930
Code. 69931

(C) An assistance group member who fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract must complete all compliance activities specified in rules adopted under section 5107.05 of the Revised Code in order for the failure or refusal to be considered to have ceased.

(D) After sanctioning an assistance group under division (A) of this section, a county department of job and family services shall continue to work with the assistance group.

(E) An adult eligible for medicaid ~~pursuant to division (C)(1)(a) of section 5111.01 of the Revised Code~~ who is sanctioned under division (A)(3) of this section for a failure or refusal, without good cause, to comply in full with a provision of a self-sufficiency contract related to work responsibilities under sections 5107.40 to 5107.69 of the Revised Code loses eligibility for medicaid unless the adult is otherwise eligible for medicaid pursuant to another division of section 5111.01 of the Revised Code an eligibility category other than the category associated with Title IV-A.

An assistance group that would be participating in Ohio works first if not for a sanction under this section shall continue to be eligible for all of the following:

(1) Publicly funded child care in accordance with division (A)(3) of section 5104.30 of the Revised Code;

(2) Support services in accordance with section 5107.66 of the Revised Code;

(3) To the extent permitted by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, to participate in work activities, developmental activities, and alternative work activities in accordance with sections 5107.40 to 5107.69 of the Revised Code.

Sec. 5107.20. As used in this section, "support" means child support, spousal support, and support for a spouse or a former spouse. 69963
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Participation in Ohio works first constitutes an assignment to the department of job and family services of any rights members of an assistance group have to support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code.~~ The rights to support assigned to the department pursuant to this section constitute an obligation of the person who is responsible for providing the support to the state for the amount of cash assistance provided to the assistance group. 69966
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The office of child support in the department of job and family services shall collect and distribute support payments owed to Ohio works first participants, whether assigned to the department or unassigned, in accordance with 42 U.S.C. 654 B and 657 and regulations adopted under those statutes, state statutes, and rules adopted under section 5107.05 of the Revised Code. 69974
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Upon implementation of centralized collection and disbursement under Chapter 3121. of the Revised Code, in accordance with 42 U.S.C. 654 B and 657 and regulations adopted under those statutes, the department shall deposit support payments it receives pursuant to this section into the state treasury to the credit of the child support collections fund or the child support administrative fund, both of which are hereby created. Money credited to the funds shall be used to make cash assistance payments under Ohio works first. 69980
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Sec. 5107.24. (A) As used in this section: 69989

(1) "Adult-supervised living arrangement" means a family setting approved, licensed, or certified by the department of job and family services, the department of ~~mental health~~ mental health 69990
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and addiction services, the department of developmental 69993
disabilities, the department of youth services, a public children 69994
services agency, a private child placing agency, or a private 69995
noncustodial agency that is maintained by a person age eighteen or 69996
older who assumes responsibility for the care and control of a 69997
minor parent, pregnant minor, or child of a minor parent or 69998
provides the minor parent, pregnant minor, or child of a minor 69999
parent supportive services, including counseling, guidance, and 70000
supervision. "Adult-supervised living arrangement" does not mean a 70001
public institution. 70002

(2) "Child of a minor parent" means a child born to a minor 70003
parent, except that the child ceases to be considered a child of 70004
minor parent when the minor parent attains age eighteen. 70005

(3) "Minor parent" means a parent who is under age eighteen 70006
and is not married. 70007

(4) "Pregnant minor" means a pregnant person who is under age 70008
eighteen and not married. 70009

(B)(1) Except as provided in division (B)(2) of this section 70010
and to the extent permitted by Title IV-A and federal regulations 70011
adopted under Title IV-A, a pregnant minor, minor parent, or child 70012
of a minor parent must reside in a place of residence maintained 70013
by a parent, guardian, custodian, or specified relative of the 70014
pregnant minor or minor parent as the parent's, guardian's, 70015
custodian's, or specified relative's own home to be eligible to 70016
participate in Ohio works first. 70017

(2) To the extent permitted by Title IV-A and federal 70018
regulations adopted under it, a pregnant minor, minor parent, or 70019
child of a minor parent is exempt from the requirement of division 70020
(B)(1) of this section if any of the following apply: 70021

(a) The minor parent or pregnant minor does not have a 70022
parent, guardian, custodian, or specified relative living or whose 70023

whereabouts are known. 70024

(b) No parent, guardian, custodian, or specified relative of 70025
the minor parent or pregnant minor will allow the pregnant minor, 70026
minor parent, or minor parent's child to live in the parent's, 70027
guardian's, custodian's, or specified relative's home. 70028

(c) The department of job and family services, a county 70029
department of job and family services, or a public children 70030
services agency determines that the physical or emotional health 70031
or safety of the pregnant minor, minor parent, or minor parent's 70032
child would be in jeopardy if the pregnant minor, minor parent, or 70033
minor parent's child lived in the same home as the parent, 70034
guardian, custodian, or specified relative. 70035

(d) The department of job and family services, a county 70036
department of job and family services, or a public children 70037
services agency otherwise determines that it is in the best 70038
interest of the pregnant minor, minor parent, or minor parent's 70039
child to waive the requirement of division (B)(1) of this section. 70040

(C) A pregnant minor, minor parent, or child of a minor 70041
parent exempt from the requirement of division (B)(1) of this 70042
section must reside in an adult-supervised living arrangement to 70043
be eligible to participate in Ohio works first. 70044

(D) The department of job and family services, whenever 70045
possible and to the extent permitted by Title IV-A and federal 70046
regulations adopted under it, shall provide cash assistance under 70047
Ohio works first to the parent, guardian, custodian, or specified 70048
relative of a pregnant minor or minor parent on behalf of the 70049
pregnant minor, minor parent, or minor parent's child. 70050

Sec. 5107.26. (A) As used in this section+ 70051

~~(1) "Transitional,~~ "transitional child care" means publicly 70052
funded child care provided under division (A)(3) of section 70053

5104.34 of the Revised Code. 70054

~~(2) "Transitional medicaid" means the medical assistance provided under section 5111.0115 of the Revised Code.~~ 70055
70056

(B) Except as provided in division (C) of this section, ~~each:~~ 70057

(1) Each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of the assistance group terminated the member's employment ~~and each.~~ 70058
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(2) Each person who, on the day prior to the day a recipient begins to receive transitional child care ~~or transitional medicaid~~, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment. 70063
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(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care ~~or transitional medicaid~~ secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause. 70069
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Just cause includes the following: 70077

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin; 70078
70079

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule; 70080
70081
70082

(3) Employment that has become unsuitable due to any of the 70083

following: 70084

(a) The wage is less than the federal minimum wage; 70085

(b) The work is at a site subject to a strike or lockout, 70086
unless the strike has been enjoined under section 208 of the 70087
"Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 70088
178, as amended, an injunction has been issued under section 10 of 70089
the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as 70090
amended, or an injunction has been issued under section 4117.16 of 70091
the Revised Code; 70092

(c) The documented degree of risk to the member or 70093
recipient's health and safety is unreasonable; 70094

(d) The member or recipient is physically or mentally unfit 70095
to perform the employment, as documented by medical evidence or by 70096
reliable information from other sources. 70097

(4) Documented illness of the member or recipient or of 70098
another assistance group member of the member or recipient 70099
requiring the presence of the member or recipient; 70100

(5) A documented household emergency; 70101

(6) Lack of adequate child care for children of the member or 70102
recipient who are under six years of age. 70103

Sec. 5107.42. (A) Except as provided in divisions (B) and (C) 70104
of this section, county departments of job and family services 70105
shall assign each minor head of household and adult participating 70106
in Ohio works first, other than a minor head of household 70107
participating in the LEAP program, to one or more work activities 70108
and developmental activities. 70109

If a county department assigns a minor head of household or 70110
adult to the work activity established under division (H) of 70111
section 5107.60 of the Revised Code, the county department shall 70112
make reasonable efforts to assign the minor head of household or 70113

adult to at least one other work activity at the same time. If a 70114
county department assigns a minor head of household or adult to 70115
the work activity established under section 5107.58 of the Revised 70116
Code, the county department shall assign the minor head of 70117
household or adult to at least one other work activity at the same 70118
time. 70119

A county department may not assign a minor head of household 70120
or adult to a work activity established under division (D) of 70121
section 5107.60 of the Revised Code for more than twelve months. 70122

(B) If a county department determines that a minor head of 70123
household or adult has a temporary or permanent barrier to 70124
participation in a work activity, it may assign the minor head of 70125
household or adult to one or more alternative work activities 70126
instead of assigning the minor head of household or adult to one 70127
or more work activities or developmental activities. A county 70128
department may not assign more than twenty per cent of minor heads 70129
of household and adults participating in Ohio works first to an 70130
alternative work activity. 70131

County departments shall establish standards for determining 70132
whether a minor head of household or adult has a temporary or 70133
permanent barrier to participating in a work activity. The 70134
following are examples of circumstances that a county department 70135
may consider when it develops its standards: 70136

(1) A minor head of household or adult provides the county 70137
department documented evidence that one or more members of the 70138
assistance group have been the victim of domestic violence and are 70139
in imminent danger of suffering continued domestic violence; 70140

(2) A minor head of household or adult is actively 70141
participating in ~~an alcohol or drug~~ a community addiction program 70142
services provider certified by the department of ~~alcohol and drug~~ 70143
~~addiction services~~ mental health and addiction services under 70144

section ~~3793.06~~ 5119.36 of the Revised Code; 70145

(3) An assistance group is homeless. 70146

(C) A county department may exempt a minor head of household 70147
or adult who is unmarried and caring for a minor child under 70148
twelve months of age from the work requirements of sections 70149
5107.40 to 5107.69 of the Revised Code for not more than twelve 70150
months. While exempt, the minor head of household or adult shall 70151
be disregarded in determining whether the county department is 70152
meeting the requirement of section 5107.44 of the Revised Code. 70153
The county department shall assign the exempt minor head of 70154
household or adult to at least one developmental activity for a 70155
number of hours a week the county department determines. The 70156
county department may assign the exempt minor head of household or 70157
adult to one or more work activities, in addition to developmental 70158
activities, for a number of hours the county department 70159
determines. Division (B) of section 5107.43 of the Revised Code 70160
does not apply to the exempt minor head of household or adult. 70161

(D) A county department may reassign a minor head of 70162
household or adult when the county department determines 70163
reassignment will aid the assistance group in achieving self 70164
sufficiency and personal responsibility and shall make 70165
reassignments when circumstances requiring reassignment occur, 70166
including when a temporary barrier to participating in a work 70167
activity is eliminated. 70168

A county department shall include assignments in the 70169
self-sufficiency contract entered into under section 5107.14 of 70170
the Revised Code and shall amend the contract when a reassignment 70171
is made to include the reassignment in the contract. 70172

Sec. 5107.64. County departments of job and family services 70173
shall establish and administer alternative work activities for 70174
minor heads of households and adults participating in Ohio works 70175

first. In establishing alternative work activities, county 70176
departments are not limited by the restrictions Title IV-A imposes 70177
on work activities. The following are examples of alternative work 70178
activities that a county department may establish: 70179

(A) Parenting classes and life-skills training; 70180

(B) Participation in ~~an alcohol or drug~~ a community addiction 70181
~~program services provider~~ certified by the department of ~~alcohol~~ 70182
~~and drug addiction services~~ mental health and addiction services 70183
under section ~~3793.06~~ 5119.36 of the Revised Code; 70184

(C) In the case of a homeless assistance group, finding a 70185
home; 70186

(D) In the case of a minor head of household or adult with a 70187
disability, active work in an individual written rehabilitation 70188
plan with the ~~rehabilitation services commission~~ opportunities for 70189
Ohioans with disabilities agency; 70190

(E) In the case of a minor head of household or adult who has 70191
been the victim of domestic violence, residing in a domestic 70192
violence shelter, receiving counseling or treatment related to the 70193
domestic violence, or participating in criminal justice activities 70194
against the domestic violence offender; 70195

(F) An education program under which a participant who does 70196
not speak English attends English as a second language course. 70197

Sec. ~~3793.01~~ 5119.01. (A) As used in this chapter: 70198

(1) "Addiction" means the chronic and habitual use of 70199
alcoholic beverages, the use of a drug of abuse as defined in 70200
section 3719.011 of the Revised Code, or the use of gambling by an 70201
individual to the extent that the individual no longer can control 70202
the individual's use of alcohol, the individual becomes physically 70203
or psychologically dependent on the drug, the individual's use of 70204
alcohol or drugs endangers the health, safety, or welfare of the 70205

individual or others, or the individual's gambling causes 70206
psychological, financial, emotional, marital, legal, or other 70207
difficulties endangering the health, safety, or welfare of the 70208
individual or others. 70209

(2) "Addiction services" means services, including 70210
intervention, for the treatment of persons with alcohol, drug, or 70211
gambling addictions, and for the prevention of such addictions. 70212

(3) "Alcohol and drug addiction services" means services, 70213
including intervention, for the treatment of alcoholics or persons 70214
who abuse drugs of abuse and for the prevention of alcoholism and 70215
drug addiction. 70216

(4) "Alcoholic" means a person suffering from alcoholism. 70217

(5) "Alcoholism" means the chronic and habitual use of 70218
alcoholic beverages by an individual to the extent that the 70219
individual no longer can control the individual's use of alcohol 70220
or endangers the health, safety, or welfare of the individual or 70221
others. 70222

~~(2) "Alcoholic" means a person suffering from alcoholism.~~ 70223

~~(3)~~(6) "Community addiction services provider" means an 70224
agency, association, corporation, individual, or program that 70225
provides community alcohol, drug addiction, or gambling addiction 70226
services that are certified by the department of mental health and 70227
addiction services under section 5119.36 of the Revised Code. 70228

(7) "Community mental health services provider" means an 70229
agency, association, corporation, individual, or program that 70230
provides community mental health services that are certified by 70231
the department of mental health and addiction services under 70232
section 5119.36 of the Revised Code. 70233

(8) "Drug addiction" means the use of a drug of abuse, as 70234
defined in section 3719.011 of the Revised Code, by an individual 70235

to the extent that the individual becomes physically or 70236
psychologically dependent on the drug or endangers the health, 70237
safety, or welfare of the individual or others. 70238

~~(4) "Alcohol and drug addiction services" means services,~~ 70239
~~including intervention, for the treatment of alcoholics or persons~~ 70240
~~who abuse drugs of abuse and for the prevention of alcoholism and~~ 70241
~~drug addiction.~~ 70242

~~(5) "Alcohol and drug addiction program" means a program that~~ 70243
~~provides alcohol or drug addiction services and includes a~~ 70244
~~facility or entity that operates such a program.~~ 70245

~~(6)~~(9) "Gambling addiction" means the use of gambling by an 70246
individual to the extent that it causes psychological, financial, 70247
emotional, marital, legal, or other difficulties endangering the 70248
health, safety, or welfare of the individual or others. 70249

~~(7)~~(10) "Gambling addiction services" means services for the 70250
treatment of persons who have a gambling addiction and for the 70251
prevention of gambling addiction. 70252

(11) "Hospital" means a hospital or inpatient unit licensed 70253
by the department of mental health and addiction services under 70254
section 5119.33 of the Revised Code, and any institution, 70255
hospital, or other place established, controlled, or supervised by 70256
the department under Chapter 5119. of the Revised Code. 70257

(12) "Mental illness" means a substantial disorder of 70258
thought, mood, perception, orientation, or memory that grossly 70259
impairs judgment, behavior, capacity to recognize reality, or 70260
ability to meet the ordinary demands of life. 70261

(13) "Mental health services" means services for the 70262
assessment, care, or treatment of persons who have a mental 70263
illness as defined in section 5122.01 of the Revised Code. 70264

(14)(a) "Residence" means a person's physical presence in a 70265

county with intent to remain there, except in either of the 70266
following circumstances: 70267

(i) If a person is receiving a mental health service at a 70268
facility that includes nighttime sleeping accommodations, 70269
"residence" means that county in which the person maintained the 70270
person's primary place of residence at the time the person entered 70271
the facility; 70272

(ii) If a person is committed pursuant to section 2945.38, 70273
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 70274
"residence" means the county where the criminal charges were 70275
filed. 70276

(b) When the residence of a person is disputed, the matter of 70277
residence shall be referred to the department of mental health and 70278
addiction services for investigation and determination. Residence 70279
shall not be a basis for a board of alcohol, drug addiction, and 70280
mental health services to deny services to any person present in 70281
the board's service district, and the board shall provide services 70282
for a person whose residence is in dispute while residence is 70283
being determined and for a person in an emergency situation. 70284

(B) Any reference in this chapter to a board of alcohol, drug 70285
addiction, and mental health services also refers to an alcohol 70286
and drug addiction services board or a community mental health 70287
board in a service district in which an alcohol and drug addiction 70288
services board or a community mental health board has been 70289
established under section 340.021 of the Revised Code. 70290

Sec. 5119.04. The department of ~~mental health~~ mental health 70291
and addiction services and any institutions under its supervision 70292
or jurisdiction shall, where applicable, be in substantial 70293
compliance with standards set forth for psychiatric facilities by 70294
the joint commission ~~on accreditation of healthcare organizations~~ 70295
or medical assistance standards under Title XIX of the "Social 70296

Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or 70297
other applicable standards, ~~except that the department and any~~ 70298
~~institution under its supervision or jurisdiction shall be in~~ 70299
~~substantial compliance with standards for physical facilities and~~ 70300
~~equipment by July 1, 1989. The requirements of this section do not~~ 70301
~~apply to any facility designated by the director of mental health~~ 70302
~~for use as a psychiatric rehabilitation center.~~ 70303

The requirements of this section are in addition to any other 70304
requirements established by the Revised Code and nothing in this 70305
section shall be construed to limit any rights, privileges, 70306
protections, or immunities which may exist under the constitution 70307
and laws of the United States or this state. 70308

Sec. ~~5119.27~~ 5119.05. Subject to the rules of the director of 70309
~~mental health~~ mental health and addiction services, each 70310
institution under the jurisdiction of the department shall be 70311
under the management and control of a managing officer to be known 70312
as a ~~superintendent~~ chief executive officer or by another 70313
appropriate title. Such managing officer shall be appointed by the 70314
director of ~~mental health~~ mental health and addiction services, 70315
and shall be in the unclassified service and serve at the pleasure 70316
of the director. Each managing officer shall be of good moral 70317
character and have skill, ability, and experience in ~~his~~ the 70318
managing officer's profession. ~~Appointment to this position may be~~ 70319
~~made from persons holding positions in the classified service in~~ 70320
~~the department.~~ 70321

The managing officer, under the director, shall ~~have entire~~ 70322
~~executive charge~~ serve as the appointing authority of the 70323
institution ~~for~~ to which such managing officer is appointed. 70324
Subject to civil service rules, the managing officer shall have 70325
the power to appoint ~~the necessary~~ and remove employees and ~~he or~~ 70326
~~the director may remove such employees for cause~~ of the 70327

institution. On behalf of the institution, the managing officer 70328
has the authority and responsibility for entering into contracts 70329
and other agreements for the efficient operations of the 70330
institution. 70331

Sec. ~~5119.44~~ 5119.051. The department of ~~mental health~~ mental 70332
health and addiction services shall keep in its office a proper 70333
and complete set of books and accounts with each institution, 70334
which shall clearly show the nature and amount of every 70335
expenditure authorized and made at such institution, and which 70336
shall contain an account of all appropriations made by the general 70337
assembly and of all other funds, together with the disposition of 70338
such funds. 70339

The department shall prescribe the form of vouchers, records, 70340
and methods of keeping accounts at each of the institutions, which 70341
shall be as nearly uniform as possible. The department may examine 70342
the records of each institution at any time. 70343

The department may authorize any of its ~~bookkeepers~~ 70344
bookkeepers, accountants, or employees to examine and check the 70345
records, accounts, and vouchers or take an inventory of the 70346
property of any institution, or do whatever is necessary, and pay 70347
the actual and reasonable expenses incurred in such service when 70348
an itemized account is filed and approved. 70349

Sec. ~~5119.43~~ 5119.06. The department of ~~mental health~~ mental 70350
health and addiction services shall keep in its office, accessible 70351
only to its employees, except by the consent of the department or 70352
the order of the judge of a court of record, a record showing the 70353
name, residence, sex, age, nativity, occupation, condition, and 70354
date of entrance or commitment of every patient in the 70355
institutions governed by it, the date, cause, and terms of 70356
discharge and the condition of such person at the time of leaving, 70357

and also a record of all transfers from one institution to 70358
another, and, if such person dies while in the care or custody of 70359
the department, the date and cause of death. These and such other 70360
facts as the department requires shall be furnished by the 70361
managing officer of each institution within twenty-four hours 70362
after the commitment, entrance, death, or discharge of a patient. 70363

In case of an accident or injury or peculiar death of a 70364
patient the managing officer shall make a special report to the 70365
department within twenty-four hours thereafter, giving the 70366
circumstances as fully as possible. 70367

Sec. ~~5119.42~~ 5119.07. A person, firm, or corporation may file 70368
a petition in the court of common pleas of the county in which a 70369
benevolent institution of the department of health and addiction 70370
services is located, in which petition the desire to erect or 70371
carry on at a less distance than that prescribed in section 70372
3767.19 of the Revised Code shall be set forth, the business 70373
prohibited, the precise point of its establishment, and the 70374
reasons and circumstances, in its opinion, why the erection or 70375
carrying on ~~thereof~~ of the business would not annoy or endanger 70376
the health, convenience, or recovery of the patients of such 70377
institution. The petitioner shall give notice in a newspaper of 70378
general circulation in the county of the pendency and prayer of 70379
the petition for at least six consecutive weeks before the day set 70380
for hearing the petition and serve a written notice upon the 70381
~~superintendent~~ managing officer of the institution at least thirty 70382
days before the day set for hearing the petition. 70383

If, upon the hearing of the petition, it appears that the 70384
notice has been given as required and the court is of the opinion 70385
that no good reason exists why such establishment may not be 70386
erected or such business carried on and that by the erection or 70387
carrying on ~~thereof~~ of the business at the point named, the 70388

institution will sustain no detriment, the court may issue an 70389
order granting the prayer of the petitioner. Thereafter the 70390
petitioner may locate such establishment or carry on such business 70391
at the point named in the petition. 70392

Sec. ~~5119.14~~ 5119.08. (A) As used in this section, "felony" 70393
has the same meaning as in section 109.511 of the Revised Code. 70394

(B)(1) Subject to division (C) of this section, upon the 70395
recommendation of the director of ~~mental health~~ mental health and 70396
addiction services, the managing officer of an institution under 70397
the jurisdiction of the department of ~~mental health~~ mental health 70398
and addiction services may designate one or more employees to be 70399
special police officers of the department. The special police 70400
officers shall take an oath of office, wear the badge of office, 70401
and give bond for the proper and faithful discharge of their 70402
duties in an amount that the director requires. 70403

(2) In accordance with section 109.77 of the Revised Code, 70404
the special police officers shall be required to complete 70405
successfully a peace officer basic training program approved by 70406
the Ohio peace officer training commission and to be certified by 70407
the commission. The cost of the training shall be paid by the 70408
department of ~~mental health~~ mental health and addiction services. 70409

(3) Special police officers, on the premises of institutions 70410
under the jurisdiction of the department of ~~mental health~~ mental 70411
health and addiction services and subject to the rules of the 70412
department, shall protect the property of the institutions and the 70413
persons and property of patients in the institutions, suppress 70414
riots, disturbances, and breaches of the peace, and enforce the 70415
laws of the state and the rules of the department for the 70416
preservation of good order. They may arrest any person without a 70417
warrant and detain the person until a warrant can be obtained 70418
under the circumstances described in division (F) of section 70419

2935.03 of the Revised Code. 70420

(C)(1) The managing officer of an institution under the 70421
jurisdiction of the department of ~~mental health~~ mental health and 70422
addiction services shall not designate an employee as a special 70423
police officer of the department pursuant to division (B)(1) of 70424
this section on a permanent basis, on a temporary basis, for a 70425
probationary term, or on other than a permanent basis if the 70426
employee previously has been convicted of or has pleaded guilty to 70427
a felony. 70428

(2)(a) The managing officer of an institution under the 70429
jurisdiction of the department of ~~mental health~~ mental health and 70430
addiction services shall terminate the employment as a special 70431
police officer of the department of an employee designated as a 70432
special police officer under division (B)(1) of this section if 70433
that employee does either of the following: 70434

(i) Pleads guilty to a felony; 70435

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 70436
plea agreement as provided in division (D) of section 2929.43 of 70437
the Revised Code in which the employee agrees to surrender the 70438
certificate awarded to that employee under section 109.77 of the 70439
Revised Code. 70440

(b) The managing officer shall suspend from employment as a 70441
special police officer of the department an employee designated as 70442
a special police officer under division (B)(1) of this section if 70443
that employee is convicted, after trial, of a felony. If the 70444
special police officer files an appeal from that conviction and 70445
the conviction is upheld by the highest court to which the appeal 70446
is taken or if the special police officer does not file a timely 70447
appeal, the managing officer shall terminate the employment of 70448
that special police officer. If the special police officer files 70449
an appeal that results in that special police officer's acquittal 70450

of the felony or conviction of a misdemeanor, or in the dismissal 70451
of the felony charge against that special police officer, the 70452
managing officer shall reinstate that special police officer. A 70453
special police officer of the department who is reinstated under 70454
division (C)(2)(b) of this section shall not receive any back pay 70455
unless that special police officer's conviction of the felony was 70456
reversed on appeal, or the felony charge was dismissed, because 70457
the court found insufficient evidence to convict the special 70458
police officer of the felony. 70459

(3) Division (C) of this section does not apply regarding an 70460
offense that was committed prior to January 1, 1997. 70461

(4) The suspension from employment, or the termination of the 70462
employment, of a special police officer under division (C)(2) of 70463
this section shall be in accordance with ~~Chapter 119. of the~~ 70464
~~Revised Code~~ applicable collective bargaining agreements. 70465

Sec. ~~5119.30~~ 5119.09. The attorney general shall attend to 70466
all ~~suits~~ claims instituted on behalf of or against the department 70467
of mental health and addiction services or any institution under 70468
the jurisdiction of the department ~~of mental health~~ and the 70469
managing officer thereof, except such institutions as are 70470
privately owned or operated under a license from the department of 70471
~~mental health~~ mental health and addiction services, and shall 70472
represent the public hospital in proceedings under section 5122.15 70473
of the Revised Code. The department of ~~mental health~~ mental health 70474
and addiction services shall reimburse the attorney general for 70475
the compensation of assistant attorneys general required to 70476
represent the public hospital in proceedings under section 5122.15 70477
of the Revised code and shall also pay the costs of litigation 70478
incurred by the attorney general under that section. 70479

If a writ of habeas corpus is applied for, the clerk of the 70480
court shall give notice of the time and place of hearing to the 70481

attorney general. 70482

Sec. ~~5119.01~~ 5119.10. ~~(A)~~ The director of ~~mental health~~ 70483
mental health and addiction services is the chief executive and 70484
~~administrative officer~~ appointing authority of the department of 70485
~~mental health~~ mental health and addiction services. The director 70486
may organize the department for its efficient operation, including 70487
creating divisions or offices as necessary. The director may 70488
establish procedures for the governance of the department, conduct 70489
of its employees and officers, performance of its business, and 70490
custody, use, and preservation of departmental records, papers, 70491
books, documents, and property. Whenever the Revised Code imposes 70492
a duty upon or requires an action of the department or any of its 70493
institutions, the director or the director's designee shall 70494
perform the action or duty in the name of the department, except 70495
that the medical director appointed pursuant to section ~~5119.07~~ 70496
5119.11 of the Revised Code shall be responsible for decisions 70497
relating to medical diagnosis, treatment, rehabilitation, quality 70498
assurance, and the clinical aspects of the following: licensure of 70499
hospitals and residential facilities, research, community ~~mental~~ 70500
~~health~~ plans, and certification and delivery of mental health and 70501
addiction services. 70502

~~(B)~~ The director shall: 70503

~~(A)~~(1) Adopt rules for the proper execution of the powers and 70504
duties of the department with respect to the institutions under 70505
its control, and require the performance of additional duties by 70506
the officers of the institutions as necessary to fully meet the 70507
requirements, intents, and purposes of this chapter. In case of an 70508
apparent conflict between the powers conferred upon any managing 70509
officer and those conferred by such sections upon the department, 70510
the presumption shall be conclusive in favor of the department. 70511

~~(B)~~(2) Adopt rules for the nonpartisan management of the 70512

institutions under the department's control. An officer or 70513
employee of the department or any officer or employee of any 70514
institution under its control who, by solicitation or otherwise, 70515
exerts influence directly or indirectly to induce any other 70516
officer or employee of the department or any of its institutions 70517
to adopt the exerting officer's or employee's political views or 70518
to favor any particular person, issue, or candidate for office 70519
shall be removed from the exerting officer's or employee's office 70520
or position, by the department in case of an officer or employee, 70521
and by the governor in case of the director. 70522

~~(C)~~(3) Appoint such employees, including the medical 70523
director, as are necessary for the efficient conduct of the 70524
department, and prescribe their titles and duties; 70525

~~(D)~~(4) Prescribe the forms of affidavits, applications, 70526
medical certificates, orders of hospitalization and release, and 70527
all other forms, reports, and records that are required in the 70528
hospitalization or admission and release of all persons to the 70529
institutions under the control of the department, or are otherwise 70530
required under this chapter or Chapter 5122. of the Revised Code; 70531

~~(E)~~ ~~Contract with hospitals licensed by the department under~~ 70532
~~section 5119.20 of the Revised Code for the care and treatment of~~ 70533
~~mentally ill patients, or with persons, organizations, or agencies~~ 70534
~~for the custody, evaluation, supervision, care, or treatment of~~ 70535
~~mentally ill persons receiving services elsewhere than within the~~ 70536
~~enclosure of a hospital operated under section 5119.02 of the~~ 70537
~~Revised Code;~~ 70538

~~(F)~~(5) Exercise the powers and perform the duties relating to 70539
community mental health facilities and services that are assigned 70540
to the director under this chapter and Chapter 340. of the Revised 70541
Code; 70542

~~(G)~~(6) Develop and implement clinical evaluation and 70543

monitoring of services that are operated by the department; 70544

~~(H)~~(7) Adopt rules establishing standards for the performance 70545
of evaluations by a forensic center or other psychiatric program 70546
or facility of the mental condition of defendants ordered by the 70547
court under section 2919.271, or 2945.371 of the Revised Code, and 70548
for the treatment of defendants who have been found incompetent to 70549
stand trial and ordered by the court under section 2945.38, 70550
2945.39, 2945.401, or 2945.402 of the Revised Code to receive 70551
treatment in facilities; 70552

~~(I)~~(8) On behalf of the department, have the authority and 70553
responsibility for entering into contracts and other agreements ~~with~~ 70554
with providers, agencies, institutions, and other entities, both 70555
public and private, as necessary for the department to carry out 70556
its duties under this chapter and Chapters 340., 2919., 2945., and 70557
5122. of the Revised Code. Chapter 125. of the Revised Code does 70558
not apply to contracts the director enters into under this section 70559
for services provided to individuals with mental illness by 70560
providers, agencies, institutions, and other entities not owned or 70561
operated by the department. 70562

~~(J)~~ Prepare and publish regularly a state mental health plan 70563
that describes the department's philosophy, current activities, 70564
and long term and short term goals and activities; 70565

~~(K)~~(9) Adopt rules in accordance with Chapter 119. of the 70566
Revised Code specifying the supplemental services that may be 70567
provided through a trust authorized by section 5815.28 of the 70568
Revised Code; 70569

~~(L)~~(10) Adopt rules in accordance with Chapter 119. of the 70570
Revised Code establishing standards for the maintenance and 70571
distribution to a beneficiary of assets of a trust authorized by 70572
section 5815.28 of the Revised Code. 70573

(C) The director may contract with hospitals licensed by the 70574

department under section 5119.33 of the Revised Code for the care 70575
and treatment of mentally ill patients, or with persons, 70576
organizations, or agencies for the custody, evaluation, 70577
supervision, care, or treatment of mentally ill persons receiving 70578
services elsewhere than within the enclosure of a hospital 70579
operated under section 5119.14 of the Revised Code. 70580

Sec. ~~5119.07~~ 5119.11. (A) The director of ~~mental health~~ 70581
mental health and addiction services shall appoint a medical 70582
director who ~~is a psychiatrist as defined in division (E) of~~ 70583
~~section 5122.01 of the Revised Code,~~ is eligible or certified by 70584
the American board of psychiatry and neurology or the American 70585
osteopathic board of neurology and psychiatry, and has at least 70586
five years of clinical and two years of administrative experience. 70587
The medical director shall also have certification or substantial 70588
training and experience in the field of addiction medicine or 70589
addiction psychiatry. The medical director shall be responsible 70590
for decisions relating to medical diagnosis, treatment, 70591
prevention, rehabilitation, quality assurance, and the clinical 70592
aspects of mental health and addiction services involving all of 70593
the following: ~~licensure~~ 70594

(1) Licensure of hospitals ~~and,~~ residential facilities, 70595
~~research, community mental health and outpatient facilities;~~ 70596

(2) Research; 70597

(3) Community plans; 70598

(4) Certification and delivery of mental health and addiction 70599
services. ~~The~~ 70600

(B) The medical director shall also exercise clinical 70601
supervision of the chief clinical officers of hospitals and 70602
institutions under the jurisdiction of the department and shall 70603
review and approve decisions relating to the employment of the 70604

chief clinical officers. The medical director or ~~his~~ the medical 70605
director's designee shall advise the director on matters relating 70606
to licensure, research, ~~community mental health plans,~~ and the 70607
certification and delivery of mental health and addiction services 70608
and community plans. The medical director shall participate in the 70609
development of guidelines for community plans. The director of 70610
~~mental health~~ mental health and addiction services may establish 70611
other duties of the medical director. ~~The medical director shall~~ 70612
~~participate in the development of guidelines for community mental~~ 70613
~~health plans.~~ 70614

Sec. ~~5119.02~~ 5119.14. (A) The department of ~~mental health~~ 70615
mental health and addiction services shall maintain, operate, 70616
manage, and govern state institutions and other services for the 70617
care and treatment of mentally ill persons. 70618

(B)(1) The department of ~~mental health~~ mental health and 70619
addiction services may, with the approval of the governor, 70620
designate ~~all~~ the name and purpose of any institutions under its 70621
jurisdiction ~~by appropriate respective names, regardless of~~ 70622
~~present statutory designation~~ and may change, with the approval of 70623
the governor, the designation and name when necessary. 70624

~~(C)~~(2) The department shall divide the state into districts 70625
for the purpose of designating the institution in which mentally 70626
ill persons are hospitalized and may change the districts. 70627

(3) Subject to section 5139.08 and pursuant to Chapter 5122. 70628
of the Revised Code and on the agreement of the departments of 70629
~~mental health~~ mental health and addiction services and youth 70630
services, the department of ~~mental health~~ mental health and 70631
addiction services may receive from the department of youth 70632
services for psychiatric observation, diagnosis, or treatment any 70633
person eighteen years of age or older in the custody of the 70634
department of youth services. The departments shall enter into a 70635

written agreement specifying the procedures necessary to implement this division. 70636
70637

~~(D)~~(B) The department of ~~mental health~~ mental health and 70638
addiction services shall designate hospitals, facilities, and 70639
community mental health agencies for the custody, care, and 70640
special treatment of, and authorize payment for such custody, 70641
care, and special treatment provided to, persons who are charged 70642
with a crime and who are found incompetent to stand trial or not 70643
guilty by reason of insanity. 70644

~~(E)~~(C) The department of ~~mental health~~ mental health and 70645
addiction services may do ~~all~~ any of the following: 70646

(1) Require reports from the managing officer of any 70647
institution under the department's jurisdiction, relating to the 70648
admission, examination, comprehensive evaluation, diagnosis, 70649
release, or discharge of any patient; 70650

(2) Visit each institution regularly to review its operations 70651
and to investigate complaints made by any patient or by any person 70652
on behalf of a patient, provided these duties may be performed by 70653
a person designated by the director. 70654

~~(F) The department of mental health shall divide the state~~ 70655
~~into districts for the purpose of designating the institution in~~ 70656
~~which mentally ill persons are hospitalized, and may change the~~ 70657
~~districts.~~ 70658

~~(G)~~(D) The department of mental health and addiction services 70659
may provide or contract to provide addiction services for 70660
offenders incarcerated in the state prison system. 70661

(E) In addition to the powers expressly conferred, the 70662
department of ~~mental health~~ mental health and addiction services 70663
shall have all powers and authority necessary for the full and 70664
efficient exercise of the executive, administrative, and fiscal 70665
supervision over the state institutions described in this section. 70666

~~(H) The department of mental health may provide for the 70667
custody, supervision, control, treatment, and training of mentally 70668
ill persons hospitalized elsewhere than within the enclosure of a 70669
hospital, if the department so determines with respect to any 70670
individual or group of individuals. In all such cases, the 70671
department shall ensure adequate and proper supervision for the 70672
protection of such persons and of the public. 70673~~

Sec. ~~5119.012~~ 5119.141. The department of ~~mental health~~ 70674
mental health and addiction services has all the authority 70675
necessary to carry out its powers and duties under this chapter 70676
and Chapters 340., 2919., 2945., and 5122. of the Revised Code, 70677
including the authority to adopt rules pursuant to Chapter 119. of 70678
the Revised Code that may be necessary to carry out the purposes 70679
of this chapter and Chapters 340., 2919., 2945., and 5122. of the 70680
Revised Code. 70681

Sec. ~~5119.24~~ 5119.15. The department of ~~mental health~~ mental 70682
health and addiction services may make such investigations as are 70683
necessary in the performance of its duties and to that end the 70684
director of ~~mental health~~ mental health and addiction services 70685
shall have the same power as a judge of a county court to 70686
administer oaths and to enforce the attendance and testimony of 70687
witnesses and the production of books or papers. 70688

The department shall keep a record of such investigations 70689
stating the time, place, charges or subject, witnesses summoned 70690
and examined, and its conclusions. 70691

In matters involving the conduct of an officer, a 70692
stenographic report of the evidence shall be taken and a copy of 70693
such report, with all documents introduced, kept on file at the 70694
office of the department. 70695

The fees of witnesses for attendance and travel shall be the 70696

same as in the court of common pleas, but no officer or employee 70697
of the institution under investigation is entitled to such fees. 70698

Any judge of the probate court or of the court of common 70699
pleas, upon application of the department, may compel the 70700
attendance of witnesses, the production of books or papers, and 70701
the giving of testimony before the department, by a judgment for 70702
contempt or otherwise, in the same manner as in cases before such 70703
courts. 70704

The department of ~~mental health~~ mental health and addiction 70705
services may appoint and commission any competent agency or 70706
person, to serve without compensation, as a special agent, 70707
investigator, or representative to perform a designated duty for 70708
the department. Specific credentials shall be given by the 70709
department to each person so designated. Each credential shall 70710
state the: 70711

(A) Name of the agent, investigator, or representative; 70712

(B) Agency with which such person is connected; 70713

(C) Purpose of appointment; 70714

(D) Date of expiration of appointment; 70715

(E) Such information as the department considers proper. 70716

Sec. ~~3793.051~~ 5119.161. The department of ~~alcohol and drug~~ 70717
~~addiction services~~ mental health and addiction services, in 70718
conjunction with the department of job and family services, shall 70719
develop a joint state plan to improve the accessibility and 70720
timeliness of alcohol and drug addiction services for individuals 70721
identified by a public children services agency as in need of 70722
those services. The plan shall address the fact that Ohio works 70723
first participants may be among the persons receiving services 70724
under section 340.15 of the Revised Code and shall require the 70725
department of job and family services to seek federal funds 70726

available under Title IV-A of the "Social Security Act," 49 Stat. 70727
620 (1935), 42 U.S.C.A. 301, as amended, for the provision of the 70728
services to Ohio works first participants who are receiving 70729
services under section 340.15 of the Revised Code. 70730

The plan shall address the need and manner for sharing 70731
information and include a request for the general assembly to 70732
appropriate an amount of funds specified in the report to be used 70733
by the departments to pay for services under section 340.15 of the 70734
Revised Code. The departments shall review and amend the plan as 70735
necessary. 70736

Not later than the first day of July of each even-numbered 70737
year, the departments shall submit a report on the progress made 70738
under the joint state plan to the governor, president of the 70739
senate, and speaker of the house of representatives. The report 70740
shall include information on treatment capacity, needs 70741
assessments, and number of individuals who received services 70742
pursuant to section 340.15 of the Revised Code. 70743

Sec. ~~3793.15~~ 5119.17. (A) The department of ~~alcohol and drug~~ 70744
~~addiction services~~ mental health and addiction services, in 70745
accordance with division (B) of this section, shall give priority 70746
to developing, and promptly shall develop, with available public 70747
and private resources a program that does all of the following: 70748

(1) Provides a manner of identifying the aggregate number of 70749
pregnant women in this state who are addicted to a drug of abuse; 70750

(2) Provides for an effective means of intervention to 70751
eliminate the addiction of pregnant women to drugs of abuse prior 70752
to the birth of their children; 70753

(3) Provides for the continued monitoring of women who were 70754
addicted to a drug of abuse during their pregnancies, after the 70755
birth of their children, and for the availability of treatment and 70756

rehabilitation for those women; 70757

(4) Provides a manner of determining the aggregate number of 70758
children who are born in this state to women who are addicted, at 70759
the time of birth, to a drug of abuse, and of children who are 70760
born in this state with an addiction to or a dependency on a drug 70761
of abuse; 70762

(5) Provides for the continued monitoring of children who are 70763
born in this state to women who are addicted, at the time of 70764
birth, to a drug of abuse, or who are born in this state with an 70765
addiction to or dependency on a drug of abuse, after their birth; 70766

(6) Provides for the treatment and rehabilitation of any 70767
child who is born to a woman who is addicted, at the time of 70768
birth, to a drug of abuse, and of any child who is born with an 70769
addiction to or dependency on a drug of abuse. 70770

(B) In developing the program described in division (A) of 70771
this section, the department may obtain information from the 70772
department of health and the department of job and family 70773
services, and those departments shall cooperate with the 70774
department of ~~alcohol and drug addiction services~~ mental health
and addiction services in its development and implementation of 70775
the program. 70776
70777

(C) Immediately upon its development of the program described 70778
in division (A) of this section, the department shall implement 70779
the program. 70780

(D) Any record or information that is obtained or maintained 70781
by the department in connection with the program described in 70782
division (A) of this section and could enable the identification 70783
of any woman or child described in division (A)(1) or (4) of this 70784
section is not a public record subject to inspection or copying 70785
under section 149.43 of the Revised Code. 70786

~~Sec. 5119.071~~ 5119.18. An appointing authority may appoint a person who holds a certified or permanent position in the classified service within the department of ~~mental health~~ mental health and addiction services to a position in the unclassified service within the department. A person appointed pursuant to this section to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, ~~regardless of the number of positions the person held in the unclassified service.~~ ~~An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124. of the Revised Code, violation of the rules of the director of administrative services or the director of mental health, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.~~

~~Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed~~

~~to a position in the classified service within the department that
the director of administrative services certifies is comparable in
compensation to the position the person previously held in the
classified service. Service in the position in the unclassified
service shall be counted as service in the position in the
classified service held by the person immediately prior to the
person's appointment to the position in the unclassified service.
When a person is reinstated to a position in the classified
service as provided in this section, the person is entitled to all
rights, status, and benefits accruing to the position in the
classified service during the person's time of service in the
position in the unclassified service pursuant to division (D) of
section 124.11 of the Revised Code.~~

Sec. ~~5119.072~~ 5119.181. (A) No appointing officer shall
appoint a person to fill a position in either the classified or
unclassified service of the department of ~~mental health~~ mental
health and addiction services if the person has been convicted of
or pleaded guilty to a violation of the following:

(1) Any felony contained in the Revised Code, if the felony
bears a direct and substantial relationship to the position being
filled;

(2) Any crime contained in the Revised Code constituting a
misdemeanor of the first degree on the first offense and a felony
on subsequent offenses, if the crime bears a direct and
substantial relationship to the position being filled;

(3) An existing or former law of this state, any other state,
or the United States, if the law violated is substantially
equivalent to any of the offenses described in division (A)(1) or
(2) of this section.

(B) The director of ~~mental health~~ mental health and addiction
services shall adopt rules, in accordance with Chapter 119. of the

Revised Code, to implement this section. 70850

(C) The director or an appointing officer shall request the 70851
bureau of criminal identification and investigation created by 70852
section 109.51 of the Revised Code or, at ~~his~~ the director's or 70853
appointing officer's discretion, any other state or federal 70854
agency, to supply ~~him~~ the director or appointing officer with a 70855
written report regarding the criminal records of any applicant. 70856
For each investigation undertaken at the department's request 70857
under this section, the department shall pay a reasonable fee to 70858
the bureau or other state or federal agency conducting the 70859
investigation. The amount of the fee shall be determined by the 70860
bureau or other state or federal agency conducting the 70861
investigation and shall be sufficient to cover the costs of 70862
conducting the investigation. The report made by the bureau or 70863
other state or federal agency is not a public record for purposes 70864
of section 149.43 of the Revised Code and shall not be made 70865
available to any person, except the applicant, the appointing 70866
officer or ~~his designee~~ the appointing officer's designees, or any 70867
hearing officer involved in a case denying employment. 70868

(D) As used in this section, "applicant" means a person who 70869
is under final consideration for appointment to a position in the 70870
classified or unclassified service of the department of ~~mental~~ 70871
~~health~~ mental health and addiction services. 70872

Sec. ~~5119.08~~ 5119.182. The department of ~~mental health~~ shall 70873
mental health and addiction services may require any of its 70874
employees and each officer and employee of every institution under 70875
its control who may be charged with custody or control of any 70876
money or property belonging to the state or who is required to 70877
give bond, to give a surety company bond, properly conditioned, in 70878
a sum to be fixed by the department which when approved by the 70879
department, shall be filed in the office of the secretary of 70880

state. The cost of such bonds, when approved by the department, 70881
shall be paid from funds available for the department. The bonds 70882
required or authorized by this section may, in the discretion of 70883
the director of ~~mental health~~ mental health and addiction 70884
services, be individual, schedule, or blanket bonds. 70885

Sec. ~~5119.10~~ 5119.184. The department of ~~mental health~~ mental 70886
health and addiction services may provide educational grants or 70887
tuition reimbursements to upgrade the education, training, and 70888
professional achievement of its employees, whenever it determines 70889
that provision of such grants or reimbursements is essential to 70890
the achievement of its goals. The department may enter into 70891
agreements with its employees for the purposes of this section. 70892
The agreements may require, as a condition of each grant or 70893
reimbursement, that the employee continue employment with the 70894
department or with another federal, state, or local public agency 70895
designated by the department for a period of time stated in the 70896
agreement. If an employee does not fulfill the employment 70897
requirement stated in the agreement, the department may take 70898
action to recover the amount of all educational grants or tuition 70899
reimbursements paid to the employee under this section, plus 70900
interest at the rate of ten per cent per year calculated from the 70901
date of payment of each grant or reimbursement. 70902

Sec. ~~5119.101~~ 5119.185. (A) As used in this section, 70903
"physician" means an individual authorized under Chapter 4731. of 70904
the Revised Code to practice medicine and surgery or osteopathic 70905
medicine and surgery. 70906

(B) The department of ~~mental health~~ mental health and 70907
addiction services may establish a physician recruitment program 70908
under which the department agrees to repay all or part of the 70909
principal and interest of a government or other educational loan 70910
incurred by a physician who agrees to provide services to 70911

inpatients and outpatients of institutions under the department's 70912
administration. To be eligible to participate in the program, a 70913
physician must have attended a school that was, at the time of 70914
attendance, a medical school or osteopathic medical school in this 70915
country accredited by the liason committee on medical education or 70916
the American osteopathic association, or a medical school or 70917
osteopathic medical school located outside this country that was 70918
acknowledged by the world health organization and verified by a 70919
member state of that organization as operating within that state's 70920
jurisdiction. 70921

(C) The department shall enter into a contract with each 70922
physician it recruits under this section. Each contract shall 70923
include at least the following terms: 70924

(1) The physician agrees to provide a specified scope of 70925
medical or osteopathic medical services for a specified number of 70926
hours per week and a specified number of years to patients of one 70927
or more specified institutions administered by the department. 70928

(2) The department agrees to repay all or a specified portion 70929
of the principal and interest of a government or other educational 70930
loan taken by the physician for the following expenses if the 70931
physician meets the service obligation agreed to and the expenses 70932
were incurred while the physician was enrolled in, for up to a 70933
maximum of four years, a school that qualifies the physician to 70934
participate in the program: 70935

(a) Tuition; 70936

(b) Other educational expenses for specific purposes, 70937
including fees, books, and laboratory expenses, in amounts 70938
determined to be reasonable in accordance with rules adopted under 70939
division (D) of this section; 70940

(c) Room and board, in an amount determined to be reasonable 70941
in accordance with rules adopted under division (D) of this 70942

section. 70943

(3) The physician agrees to pay the department a specified amount, which shall be not less than the amount already paid by the department pursuant to its agreement, as damages if ~~he~~ the physician fails to complete the service obligation agreed to or fails to comply with other specified terms of the contract. The contract may vary the amount of damages based on the portion of the physician's service obligation that remains uncompleted as determined by the department. 70944
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(4) Other terms agreed upon by the parties. 70952

(D) If the department elects to implement the physician recruitment program, it shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following: 70953
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70956

(1) Criteria for designating institutions for which physicians will be recruited; 70957
70958

(2) Criteria for selecting physicians for participation in the program; 70959
70960

(3) Criteria for determining the portion of a physician's loan that the department will agree to repay; 70961
70962

(4) Criteria for determining reasonable amounts of the expenses described in divisions (C)(2)(b) and (c) of this section; 70963
70964

(5) Procedures for monitoring compliance by physicians with the terms of their contracts; 70965
70966

(6) Any other criteria or procedures necessary to implement the program. 70967
70968

Sec. ~~5119.11~~ 5119.186. (A) The director of ~~mental health~~ mental health and addiction services or the managing officer of an institution of the department may enter into an agreement with 70969
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boards of trustees or boards of directors of one or more 70972
institutions of higher education or hospitals licensed pursuant to 70973
section ~~5119.20~~ 5119.33 of the Revised Code to establish, manage, 70974
and conduct collaborative training efforts for students enrolled 70975
in courses of studies for occupations or professions ~~which may be~~ 70976
~~determined by the director upon the approval of the medical~~ 70977
~~director to be in occupations or professions needed to provide~~ 70978
~~adequate~~ that involve the care and treatment for persons receiving 70979
mental health or addiction services. 70980

(B) Such collaborative training efforts may include but are 70981
not limited to programs in psychiatry, psychology, nursing, social 70982
work, counseling professions, and others considered appropriate by 70983
the director of ~~mental health~~ mental health and addiction 70984
services. Any such program shall be approved or accredited by its 70985
respective professional organization or state board having 70986
jurisdiction over the profession. 70987

(1) The department shall require that the following be 70988
provided for in agreements between the department and institutions 70989
of higher education or hospitals licensed pursuant to section 70990
~~5119.20~~ 5119.33 of the Revised Code: 70991

(a) Establishment of inter-disciplinary committees to advise 70992
persons responsible for training programs. Each committee shall 70993
have representation drawn from the geographical community the 70994
institution of higher education or hospital serves and shall 70995
include representatives of agencies, boards, targeted populations 70996
as determined by the department, racial and ethnic minority 70997
groups, and publicly funded programs; 70998

(b) Funding procedures; 70999

(c) Specific outcomes and accomplishments that are expected 71000
or required of a program under such agreement; 71001

(d) The types of services to be provided under such 71002

agreement. 71003

(2) The department may require that the following be provided 71004
for in agreements between the department and institutions of 71005
higher education or hospitals licensed pursuant to section ~~5119.20~~ 71006
5119.33 of the Revised Code: 71007

(a) Special arrangements for individual residents or trainees 71008
to encourage their employment in publicly funded settings upon 71009
completion of their training; 71010

(b) Procedures for the selection of residents or trainees to 71011
promote the admission, retention, and graduation of women, 71012
minorities, and ~~handicapped~~ disabled persons; 71013

(c) Cross-cultural training and other subjects considered 71014
necessary to enhance training efforts and the care and treatment 71015
of patients and clients; 71016

(d) Funding of faculty positions oriented toward meeting the 71017
needs of publicly funded programs. 71018

Subject to appropriations by the general assembly, the 71019
director of ~~mental health~~ mental health and addiction services has 71020
final approval of the funding of these collaborative training 71021
efforts. 71022

Sec. ~~5119.12~~ 5119.187. The courses of study for the 71023
instruction and training of all persons in institutions under the 71024
control of the department of ~~mental health~~ mental health and 71025
addiction services shall be subject to the approval of the 71026
superintendent of public instruction. 71027

All teachers employed in institutions under the control of 71028
the department of ~~mental health~~ mental health and addiction 71029
services shall possess such educator licenses or have such 71030
qualifications and approval as the superintendent of public 71031
instruction, after consulting with the officers in charge of the 71032

institutions, prescribes for the various types of service in the 71033
institutions. 71034

Sec. ~~3793.16~~ 5119.188. (A) As used in this section, "state 71035
correctional institution" has the same meaning as in section 71036
2967.01 of the Revised Code. 71037

(B) The department of ~~alcohol and drug addiction services~~ 71038
mental health and addiction services shall develop a program that 71039
is designed to educate and train the employees of each state 71040
correctional institution, the employees of each department of 71041
youth services institution, and other persons associated by 71042
contract or otherwise with each state correctional institution or 71043
each department of youth services institution, who will be 71044
responsible for the conduct of, or otherwise providing treatment 71045
or rehabilitation services pursuant to, a substance abuse 71046
treatment or rehabilitation program offered in the institution to 71047
adult prisoners or juvenile offenders. Upon the development of the 71048
educational and training program, the department of ~~alcohol and~~ 71049
~~drug addiction services~~ mental health and addiction services 71050
promptly shall commence its implementation. The department of 71051
~~alcohol and drug addiction services~~ mental health and addiction 71052
services may charge to the department of rehabilitation and 71053
correction and to the department of youth services a reasonable 71054
annual fee that reflects the expenses incurred by it during the 71055
immediately preceding calendar year in preparing and offering the 71056
educational and training program during that year to the 71057
respective employees and other associated persons described in 71058
this division. 71059

The director of rehabilitation and correction and the 71060
director of youth services shall require the respective employees 71061
and other associated persons described in this division to attend 71062
and successfully complete the educational and training program 71063

developed pursuant to this division as a condition of their 71064
continuing to have responsibility for the conduct of, or their 71065
continuing to provide treatment or rehabilitation services 71066
pursuant to, any treatment or rehabilitation program that is 71067
offered in a state correctional institution or in a department of 71068
youth services institution to adult prisoners or juvenile 71069
offenders. If the department of ~~alcohol and drug addiction~~ 71070
~~services~~ mental health and addiction services charges a reasonable 71071
annual fee as described in this division, the director involved 71072
shall cause that fee to be paid from any available funds of the 71073
department of rehabilitation and correction or any available funds 71074
of the department of youth services. 71075

(C) The department of rehabilitation and correction and the 71076
department of ~~alcohol and drug addiction services~~ mental health 71077
and addiction services jointly shall develop program 71078
specifications for the alcohol and drug addiction treatment 71079
programs offered in state correctional institutions. 71080

Sec. ~~3793.031~~ 5119.201. (A) The director of ~~alcohol and drug~~ 71081
~~addiction services~~ mental health and addiction services may 71082
acquire by purchase, lease, or otherwise such real and personal 71083
property rights in the name of the state as are necessary for the 71084
purposes of the department. ~~The~~ 71085

(B) When it is necessary for a state institution under the 71086
jurisdiction of the department to acquire any real estate, 71087
right-of-way, or easement in real estate in order to accomplish 71088
the purposes for which it was organized or is being conducted, and 71089
the department is unable to agree with the owner of such property 71090
upon the price to be paid for the property, such property may be 71091
appropriated in the manner provided for the appropriation of 71092
property for other state purposes. 71093

(C) The director, with the approval of the governor and the 71094

~~attorney general~~, may work with the department of administrative services to sell, lease, or exchange portions of real and personal property of the department when the sale, lease, or exchange is advantageous to the state. Money received from such sales, leases, or exchanges shall be credited to the ~~general revenue~~ the department of mental health and addiction services trust fund, created in section 5119.46 of the Revised Code.

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

Sec. ~~5119.06~~ 5119.21. (A) The department of ~~mental health~~ mental health and addiction services shall:

~~(A)(1)~~ To the extent the department has available resources and in consultation with boards of alcohol, drug addiction, and mental health services, support a ~~community support system~~ continuum of care in accordance with ~~section 340.03~~ Chapter 340. of the Revised Code on a district or multi-district basis. The department shall define the essential elements of a ~~community support system~~ continuum of care, shall assist in identifying resources, and may prioritize support for one or more of the elements.

~~(B) Operate inpatient and other mental health services;~~

~~(C)(2)~~ Provide training, consultation, and technical assistance regarding mental health ~~programs~~ and addiction services and appropriate prevention, recovery, and mental health promotion activities, including those that are culturally ~~sensitive~~ competent, to employees of the department, community mental health ~~agencies~~ and addiction services providers, boards of alcohol, drug addiction, and mental health services, and other agencies providing mental health and addiction services;

~~(D)~~(3) To the extent the department has available resources, 71126
promote and support a full range of mental health and addiction 71127
services that are available and accessible to all residents of 71128
this state, especially for severely mentally disabled children, 71129
adolescents, ~~and~~ adults, pregnant women, parents, guardians or 71130
custodians of children at risk of abuse or neglect, and other 71131
special target populations, including racial and ethnic 71132
minorities, as determined by the department; 71133

~~(E)~~(4) Develop standards and measures for evaluating the 71134
effectiveness of mental health and addiction services, including 71135
services that use methadone treatment, of gambling addiction 71136
services, and for increasing the accountability of mental health 71137
and alcohol and addiction services providers and of gambling 71138
addiction services providers; 71139

(5) Design and set criteria for the determination of ~~severe~~ 71140
~~mental disability~~ priority populations; 71141

~~(F)~~ ~~Establish standards for evaluation of mental health~~ 71142
~~programs;~~ 71143

~~(G)~~(6) Promote, direct, conduct, and coordinate scientific 71144
research, taking ethnic and racial differences into consideration, 71145
concerning the causes and prevention of mental illness and 71146
addiction, methods of providing effective services and treatment, 71147
and means of enhancing the mental health of and recovery from 71148
addiction of all residents of this state; 71149

~~(H)~~(7) Foster the establishment and availability of 71150
vocational rehabilitation services and the creation of employment 71151
opportunities for consumers of mental health and addiction 71152
services, including members of racial and ethnic minorities; 71153

~~(I)~~(8) Establish a program to protect and promote the rights 71154
of persons receiving mental health and addiction services, 71155
including the issuance of guidelines on informed consent and other 71156

rights; 71157

~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;~~ 71158
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~~(K)(9)~~ (9) Promote the involvement of persons who are receiving or have received mental health or addiction services, including families and other persons having a close relationship to a person receiving ~~mental health~~ those services, in the planning, evaluation, delivery, and operation of mental health and addiction services; 71164
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~~(L)(10)~~ (10) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of ~~mental health~~ mental health and addiction services. These constituencies shall include consumers of mental health and addiction services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised Code that establish procedures for the notification and consultation required by this division. 71170
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~~(M) In cooperation with board of alcohol, drug addiction, and mental health services representatives, provide training regarding the provision of community based mental health services to those department employees who are utilized in state operated, community based mental health services;~~ 71183
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~~(N)~~(11) Provide consultation to the department of 71188
rehabilitation and correction concerning the delivery of mental 71189
health and addiction services in state correctional institutions. 71190

(12) Promote and coordinate efforts in the provision of 71191
alcohol and drug addiction services and of gambling addiction 71192
services by other state agencies, as defined in section 1.60 of 71193
the Revised Code; courts; hospitals; clinics; physicians in 71194
private practice; public health authorities; boards of alcohol, 71195
drug addiction, and mental health services; alcohol and drug 71196
addiction services providers; law enforcement agencies; gambling 71197
addiction services providers; and related groups; 71198

(13) Provide to each court of record, and biennially update, 71199
a list of the treatment and education programs within that court's 71200
jurisdiction that the court may require an offender, sentenced 71201
pursuant to section 4511.19 of the Revised Code, to attend; 71202

(14) Make the warning sign described in sections 3313.752, 71203
3345.41, and 3707.50 of the Revised Code available on the 71204
department's internet web site; 71205

(15) Provide a program of gambling addiction services on 71206
behalf of the state lottery commission, pursuant to an agreement 71207
entered into with the director of the commission under division 71208
(K) of section 3770.02 of the Revised Code, and provide a program 71209
of gambling addiction services on behalf of the Ohio casino 71210
control commission, under an agreement entered into with the 71211
executive director of the commission under section 3772.062 of the 71212
Revised Code. Under Section 6(C)(3) of Article XV, Ohio 71213
Constitution, the department may enter into agreements with boards 71214
of alcohol, drug addiction, and mental health services, including 71215
boards with districts in which a casino facility is not located, 71216
and nonprofit organizations to provide gambling addiction services 71217
and substance abuse services, and with state institutions of 71218
higher education or private nonprofit institutions that possess a 71219

certificate of authorization issued under Chapter 1713. of the 71220
Revised Code to perform related research. 71221

(B) The department may accept and administer grants from 71222
public or private sources for carrying out any of the duties 71223
enumerated in this section. 71224

(C) Pursuant to Chapter 119. of the Revised Code, the 71225
department shall adopt a rule defining the term "intervention" as 71226
it is used in this chapter in connection with alcohol and drug 71227
addiction services and in connection with gambling addiction 71228
services. The department may adopt other rules as necessary to 71229
implement the requirements of this chapter. 71230

~~Sec. 5119.61 5119.22. Any provision in this chapter that~~ 71231
~~refers to a board of alcohol, drug addiction, and mental health~~ 71232
~~services also refers to the community mental health board in an~~ 71233
~~alcohol, drug addiction, and mental health service district that~~ 71234
~~has a community mental health board.~~ 71235

The director of ~~mental health~~ mental health and addiction 71236
services with respect to all mental health and addiction 71237
facilities and ~~programs~~ services established and operated or 71238
provided under Chapter 340. of the Revised Code ~~for mentally ill~~ 71239
~~and emotionally disturbed persons~~, shall do all of the following: 71240

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 71241
that may be necessary to carry out the purposes of ~~Chapter this~~ 71242
chapter and Chapters 340. and ~~sections 5119.61 to 5119.63~~ 5122. of 71243
the Revised Code. 71244

~~(1) The rules shall include the following:~~ 71245

~~(a) Rules governing a community mental health agency's~~ 71246
~~services under section 340.091 of the Revised Code to an~~ 71247
~~individual referred to the agency under division (D)(2) of section~~ 71248
~~5119.69 of the Revised Code;~~ 71249

~~(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services regarding referrals of individuals with mental illness or severe mental disability to residential facilities as defined in division (A)(9)(b) of section 5119.22 of the Revised Code and effective arrangements for ongoing mental health services for the individuals.~~

~~(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.~~

~~(B) Review and evaluate, and the continuum of care in each service district, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program submitted under division (A)(4) of section 340.03 of the Revised Code and the requirements and priorities and plans of the state mental health plan department, including the needs of residents of the district now residing in state mental institutions currently receiving services in state-operated hospitals, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;~~

~~(C) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;~~

~~(D) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section~~

~~5119.62~~ 5119.23 of the Revised Code, for special programs or 71282
projects the director considers necessary but for which local 71283
funds are not available; 71284

(D) Establish, in consultation with board of alcohol, drug 71285
addiction, and mental health service representatives and after 71286
consideration of the recommendations of the medical director, 71287
guidelines for the development of community mental health and 71288
addiction services plans and the review and approval or 71289
disapproval of such plans submitted pursuant to section 340.03 of 71290
the Revised Code. 71291

(E) Establish criteria by which a board of alcohol, drug 71292
addiction, and mental health services reviews and evaluates the 71293
quality, effectiveness, and efficiency of its contracted services 71294
~~provided through its community mental health plan~~. The criteria 71295
shall include requirements ensuring appropriate service 71296
utilization. The department shall assess a board's evaluation of 71297
services and the compliance of each board with this section, 71298
Chapter 340. or section ~~5119.62~~ 5119.23 of the Revised Code, and 71299
other state or federal law and regulations. The department, in 71300
cooperation with the board, periodically shall review and evaluate 71301
the quality, effectiveness, and efficiency of services provided 71302
through each board. The department shall collect information that 71303
is necessary to perform these functions. 71304

(F) To the extent the director determines necessary and after 71305
consulting with boards of alcohol, drug addiction, and mental 71306
health services, develop and operate, or contract for the 71307
operation of, a community ~~mental~~ behavioral health information 71308
system or systems. The department shall specify the information 71309
that must be provided by boards of alcohol, drug addiction, and 71310
mental health services for inclusion in the system or systems. 71311

Boards of alcohol, drug addiction, and mental health services 71312
shall submit information requested by the department in the form 71313

and manner ~~and in accordance with time frames~~ prescribed by the 71314
department. Information collected by the department ~~shall~~ may 71315
~~include, but not be limited to,~~ all of the following: 71316

(1) Information ~~regarding units of~~ on services provided in 71317
whole or in part under contract with a board, ~~including diagnosis~~ 71318
~~and special needs, demographic information, the number of units of~~ 71319
~~service provided, past treatment, financial status, and service~~ 71320
~~dates in accordance with rules adopted by the department in~~ 71321
~~accordance with Chapter 119. of the Revised Code;~~ 71322

(2) Financial information ~~other than price or price related~~ 71323
~~data~~ regarding expenditures of federal, state, or local funds by 71324
boards and ~~community mental health agencies, including units of~~ 71325
~~service provided, budgeted and actual expenses by type, and~~ 71326
~~sources of funds;~~ 71327

(3) Information about persons served under contract with a 71328
board. 71329

~~Boards shall submit the information specified in division~~ 71330
~~(F)(1) of this section no less frequently than annually for each~~ 71331
~~client, and each time the client's case is opened or closed. The~~ 71332
department shall not collect any personal information from the 71333
boards except as required or permitted by state or federal law for 71334
purposes related to payment, health care operations, program and 71335
service evaluation, reporting activities, research, system 71336
administration, and oversight. 71337

(G)(1) Review each board's community mental health and 71338
addiction services plan, budget, and statement of services to be 71339
made available submitted pursuant to ~~section~~ sections 340.03 and 71340
340.08 of the Revised Code and approve or disapprove ~~it~~ the plan, 71341
the budget, and the statement of services in whole or in part. 71342
~~Periodically, in consultation with representatives of boards and~~ 71343
~~after considering the recommendations of the medical director, the~~ 71344

~~director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:~~

~~(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;~~

~~(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;~~

~~(3) The adequacy of the board's accounting for the expenditure of funds.~~

~~If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.~~

~~If the approval of a plan remains in dispute, the board or the director may request that the dispute be submitted to a mutually agreed upon third party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part. The department may withhold all or part of the funds allocated to a board if it disapproves all or part of a plan, budget, or~~

statement of services. Prior to a final decision to disapprove a 71376
plan, budget, or statement of services, or to withhold funds from 71377
a board, a representative of the director of mental health and 71378
addiction services shall meet with the board and discuss the 71379
reason for the action the department proposes to take and any 71380
corrective action that should be taken to make the plan, budget, 71381
or statement of services acceptable to the department. In 71382
addition, the department shall offer technical assistance to the 71383
board to assist it to make the plan, budget, or statement of 71384
services acceptable. The department shall give the board a 71385
reasonable time in which to revise the plan, budget, or statement 71386
of services. The board thereafter shall submit a revised plan, 71387
budget, or statement of services, or a new plan, budget, or 71388
statement of services. 71389

(2) If a board determines that it is necessary to amend the 71390
plan, budget, or statement of services that has been approved 71391
under this section, the board shall submit the proposed amendment 71392
to the department. The department may approve or disapprove all or 71393
part of the amendment. 71394

(3) If the director disapproves of all or part of any 71395
proposed amendment, the director shall provide the board an 71396
opportunity to present its position. The director shall inform the 71397
board of the reasons for the disapproval and of the criteria that 71398
must be met before the proposed amendment may be approved. The 71399
director shall give the board a reasonable time within which to 71400
meet the criteria and shall offer technical assistance to the 71401
board to help it meet the criteria. 71402

(4) The department shall establish procedures for the review 71403
of plans, budgets, and statements of services, and a timetable for 71404
submission and review of plans, budgets, and statements of 71405
services and for corrective action and submission of new or 71406
revised plans, budgets, and statements of services. 71407

~~Sec. 5119.62~~ 5119.23. (A) The department of ~~mental health~~ 71408
mental health and addiction services shall establish a methodology 71409
for allocating to boards of alcohol, drug addiction, and mental 71410
health services the funds appropriated by the general assembly to 71411
the department for the purpose of local mental health ~~systems and~~ 71412
addiction services continuums of care. The department shall 71413
establish the methodology after notifying and consulting with 71414
relevant constituencies as required by division ~~(H)~~(A)(10) of 71415
section ~~5119.06~~ 5119.21 of the Revised Code. The methodology may 71416
provide for the funds to be allocated to boards on a district or 71417
multi-district basis. ~~Subject~~ 71418

~~(B) Subject to sections 5119.622 and 5119.623~~ section 5119.25 71419
of the Revised Code, and to required submissions and approvals 71420
under section 340.08 of the Revised Code, the department shall 71421
allocate the funds to the boards in a manner consistent with the 71422
methodology, this section, other state and federal laws, rules, 71423
and regulations. 71424

~~(B) The department may allocate to boards a portion of the~~ 71425
~~funds appropriated by the general assembly to the department for~~ 71426
~~the operation of state hospital services. If the department~~ 71427
~~allocates the funds, the department shall do all of the following:~~ 71428

~~(1) In consultation with the boards:~~ 71429

~~(a) Annually determine the unit costs of providing state~~ 71430
~~hospital services; and~~ 71431

~~(b) Establish the methodology for allocating the funds to the~~ 71432
~~boards.~~ 71433

~~(2) Determine the type of unit costs of providing state~~ 71434
~~hospital services to be included as a factor in the methodology~~ 71435
~~and include that unit cost as a factor in the methodology;~~ 71436

~~(3) Subject to sections 5119.622 and 5119.623 of the Revised~~ 71437

~~Code, allocate the funds to the boards in a manner consistent with 71438
the methodology, this section, other state and federal laws, 71439
rules, and regulations. 71440~~

~~(c) Not later than the first day of April of each year, the 71441
department shall notify each board of the department's estimate of 71442
the amount of funds to be allocated to the board under this 71443
section during the fiscal year beginning on the next July first. 71444
If the department makes an allocation under division (B) of this 71445
section, the department shall also notify each board of the unit 71446
costs of providing state hospital services for the upcoming fiscal 71447
year as determined under that division. Not later than the first 71448
day of May of each year, each board shall notify the department as 71449
to which of the following options it has elected for the upcoming 71450
fiscal year: 71451~~

~~(1) The board elects to accept distribution of the amount 71452
allocated to it under this section. Funds distributed to each 71453
board shall be used to supplement and not to supplant other state, 71454
local, or federal funds that are being used to support 71455
community based programs for severely mentally disabled children, 71456
adolescents, and adults, unless the funds have been specifically 71457
designated for the initiation of programs in accordance with the 71458
community mental health plan developed and submitted under section 71459
340.03 and approved under section 5119.61 of the Revised Code. 71460
Notwithstanding section 131.33 of the Revised Code, any board may 71461
expend unexpended funds distributed to the board from 71462
appropriations for the purpose of local management of mental 71463
health services in the fiscal year following the fiscal year for 71464
which the appropriations are made, in accordance with the approved 71465
community mental health plan. 71466~~

~~(2) Subject to division (D) of this section, the board elects 71467
not to accept the amount allocated to it under this section, 71468
authorizes the department to determine the use of its allocation, 71469~~

~~and agrees to provide the department with a statement of projected utilization of state hospitals and other state operated services by residents of its service district during the fiscal year.~~

~~(D) No board shall elect the option in division (C)(2) of this section unless all of the following apply:~~

~~(1) Either the total funds estimated by the department to be allocated to the board under this section for the next fiscal year are reduced by a substantial amount, as defined in guidelines adopted by the director of mental health under division (E) of this section, in comparison to the amount allocated for the current fiscal year, for reasons not related to performance or the board has experienced other circumstances specified in the guidelines.~~

~~(2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:~~

~~(a) Individuals who receive mental health services and such individuals' families;~~

~~(b) Boards of county commissioners;~~

~~(c) Judges of juvenile and probate courts;~~

~~(d) County sheriffs, jail administrators, and other local law enforcement officials.~~

~~(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation required by division (D)(2) of this section, the board conducts a public hearing on the issue.~~

~~(E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what~~

~~constitutes a substantial reduction of funds and what other
circumstances qualify a board to elect the option in division
(C)(2) of this section.~~ 71500
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~~(F) No board shall use state funds for the purpose of
discouraging employees from seeking collective bargaining
representation or encouraging employees to decertify a recognized
collective bargaining agent.~~ 71503
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~~(G) The department shall charge against the allocation made
to a board under division (B) of this section, if any, any
unreimbursed costs for services provided by the department.~~ 71507
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~~(H) A board's use of funds allocated under this section is
subject to audit by county, state, and federal authorities.~~ 71510
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(C) In consultation with boards, services providers, and
persons receiving services, the department shall establish
guidelines for the use of funds allocated and distributed under
this section and for the boards' development of plans for services
required by section 340.03 of the Revised Code. 71512
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Sec. ~~5119.621~~ 5119.24. (A) As used in this section, 71517
"administrative function" means a function related to one or more 71518
of the following: 71519

(1) Continuous quality improvement; 71520

(2) Utilization review; 71521

(3) Resource development; 71522

(4) Fiscal administration; 71523

(5) General administration; 71524

(6) Any other function related to administration that is 71525
required by Chapter 340. of the Revised Code. 71526

(B) Each board of alcohol, drug addiction, and mental health 71527
services shall submit an annual report to the department of ~~mental~~ 71528

~~health~~ mental health and addiction services specifying how the 71529
board used funds allocated to the board under section ~~5119.62~~ 71530
5119.23 of the Revised Code for administrative functions in the 71531
year preceding the report's submission. The director of ~~mental~~ 71532
~~health~~ mental health and addiction services shall establish the 71533
date by which the report must be submitted each year. 71534

Sec. ~~5119.622~~ 5119.25. (A) The director of ~~mental health~~ 71535
mental health and addiction services, in whole or in part, may 71536
withhold funds otherwise to be allocated to a board of alcohol, 71537
drug addiction, and mental health services under section ~~5119.62~~ 71538
5119.23 of the Revised Code if the board fails to comply with 71539
Chapter 340. or section ~~5119.61, 5119.611, 5119.612, or 5119.621~~ 71540
5119.22, 5119.24, 5119.36, or 5119.37 of the Revised Code or rules 71541
of the department of ~~mental health regarding a community mental~~ 71542
~~health service~~ mental health and addiction services. The 71543

(B) The director of mental health and addiction services may 71544
withhold funds otherwise to be allocated to a board of alcohol, 71545
drug addiction, and mental health services under section 5119.23 71546
of the Revised Code if the board denies available service on the 71547
basis of race, color, religion, sex, national origin, marital 71548
status, sexual orientation, genetic information, or developmental 71549
disability, or age, disability, or military status as defined in 71550
section 4112.01 of the Revised Code. 71551

(C) The director shall identify issue a notice identifying 71552
the areas of noncompliance and the action necessary to achieve 71553
compliance. The director ~~shall~~ may offer technical assistance to 71554
the board to achieve compliance. The ~~director shall give the board~~ 71555
~~a reasonable time within which to comply or~~ shall have ten days 71556
from receipt of the notice of noncompliance to present its 71557
position that it is in compliance. Before withholding funds, the 71558
director or the director's designee shall hold a hearing ~~shall be~~ 71559

~~conducted~~ within ten days of receipt of the board's position to 71560
determine if there are continuing violations and that either 71561
assistance is rejected or the board is unable to achieve 71562
compliance. Subsequent to the hearing process, if it is determined 71563
that compliance has not been achieved, the director may allocate 71564
all or part of the withheld funds to a public or private agency to 71565
provide the community mental health or community addiction service 71566
for which the board is not in compliance until the time that there 71567
is compliance. The director ~~shall~~ may adopt rules in accordance 71568
with Chapter 119. of the Revised Code to implement this section. 71569

Sec. ~~3793.13~~ 5119.27. (A) Records or information, other than 71570
court journal entries or court docket entries, pertaining to the 71571
identity, diagnosis, or treatment of any ~~patient~~ person seeking or 71572
receiving services that are maintained in connection with the 71573
performance of any drug treatment program or services licensed by, 71574
or certified by, the director of ~~alcohol and drug addiction~~ 71575
~~services~~ mental health and addiction services, under ~~section~~ 71576
~~3793.11 of the Revised Code~~ this chapter, shall be kept 71577
confidential, may be disclosed only for the purposes and under the 71578
circumstances expressly authorized under this section, and may not 71579
otherwise be divulged in any civil, criminal, administrative, or 71580
legislative proceeding. 71581

(B) When the ~~patient~~ person, with respect to whom any record 71582
or information referred to in division (A) of this section is 71583
maintained, gives consent in the form of a written release signed 71584
by the ~~patient~~ person, the content of the record or information 71585
may be disclosed if the written release conforms to all of the 71586
following: 71587

(1) Specifically identifies the person, official, or entity 71588
to whom the information is to be provided; 71589

(2) Describes with reasonable specificity the record, 71590

records, or information to be disclosed; and 71591

(3) Describes with reasonable specificity the purposes of the 71592
disclosure and the intended use of the disclosed information. 71593

(C) A ~~patient~~ person who is subject to a community control 71594
sanction, parole, or a post-release control sanction or who is 71595
ordered to rehabilitation in lieu of conviction, and who has 71596
agreed to participate in a drug treatment or rehabilitation 71597
program as a condition of the community control sanction, 71598
post-release control sanction, parole, or order to rehabilitation, 71599
shall be considered to have consented to the release of records 71600
and information relating to the progress of treatment, frequency 71601
of treatment, adherence to treatment requirements, and probable 71602
outcome of treatment. Release of information and records under 71603
this division shall be limited to the court or governmental 71604
personnel having the responsibility for supervising the patient's 71605
community control sanction, post-release control sanction, parole, 71606
or order to rehabilitation. A ~~patient~~ person, described in this 71607
division, who refuses to allow disclosure may be considered in 71608
violation of the conditions of the ~~patient's~~ person's community 71609
control sanction, post-release control sanction, parole, or order 71610
to rehabilitation. 71611

(D) Disclosure of a ~~patient's~~ person's record may be made 71612
without the ~~patient's~~ person's consent to qualified personnel for 71613
the purpose of conducting scientific research, management, 71614
financial audits, or program evaluation, but these personnel may 71615
not identify, directly or indirectly, any individual ~~patient~~ 71616
person in any report of the research, audit, or evaluation, or 71617
otherwise disclose a ~~patient's~~ person's identity in any manner. 71618

(E) Upon the request of a prosecuting attorney or the 71619
director of ~~alcohol and drug addiction services~~ mental health and 71620
addiction services, a court of competent jurisdiction may order 71621
the disclosure of records or information referred to in division 71622

(A) of this section if the court has reason to believe that a treatment program or facility is being operated or used in a manner contrary to law. The use of any information or record so disclosed shall be limited to the prosecution of persons who are or may be charged with any offense related to the illegal operation or use of the drug treatment program or facility, or to the decision to withdraw the authority of a drug treatment program or facility to continue operation. For purposes of this division the court shall:

(1) Limit disclosure to those parts of the ~~patient's~~ person's record considered essential to fulfill the objective for which the order was granted;

(2) Require, where appropriate, that all information be disclosed in chambers;

(3) Include any other appropriate measures to keep disclosure to a minimum, consistent with the protection of the ~~patients~~ persons seeking or receiving services, the physician-patient relationship, and the administration of the drug treatment and rehabilitation program.

(F) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

Sec. 5119.28. (A) All records, and reports, other than court journal entries or court docket entries, identifying a person and pertaining to the person's mental health condition, assessment, provision of care or treatment, or payment for assessment, care or treatment that are maintained in connection with any services certified by the department of mental health and addiction

services, or any hospitals or facilities licensed or operated by 71653
the department, shall be kept confidential and shall not be 71654
disclosed by any person except: 71655

(1) If the person identified, or the person's legal guardian, 71656
if any, or if the person is a minor, the person's parent or legal 71657
guardian, consents; 71658

(2) When disclosure is provided for in this chapter or 71659
Chapter 340. or 5122., or Title XLVII of the Revised Code; 71660

(3) That hospitals, boards of alcohol, drug addiction, and 71661
mental health services, licensed facilities, and community mental 71662
health services providers may release necessary medical 71663
information to insurers and other third-party payers, including 71664
government entities responsible for processing and authorizing 71665
payment, to obtain payment for goods and services furnished to the 71666
person; 71667

(4) Pursuant to a court order signed by a judge; 71668

(5) That a person shall be granted access to the person's own 71669
psychiatric and medical records, unless access specifically is 71670
restricted in a person's treatment plan for clear treatment 71671
reasons; 71672

(6) That the department of mental health and addiction 71673
services may exchange psychiatric records and other pertinent 71674
information with community mental health services providers and 71675
boards of alcohol, drug addiction, and mental health services 71676
relating to the person's care or services. Records and information 71677
that may be exchanged pursuant to this division shall be limited 71678
to medication history, physical health status and history, 71679
financial status, summary of course of treatment in the hospital, 71680
summary of treatment needs, and a discharge summary, if any. 71681

(7) That the department of mental health and addiction 71682

services, hospitals and community providers operated by the 71683
department, hospitals licensed by the department under section 71684
5119.33 of the Revised Code, and community mental health services 71685
providers may exchange psychiatric records and other pertinent 71686
information with payers and other providers of treatment and 71687
health services if the purpose of the exchange is to facilitate 71688
continuity of care for the person or for the emergency treatment 71689
of the person; 71690

(8) That the department of mental health and addiction 71691
services and community mental health services providers may 71692
exchange psychiatric records and other pertinent information with 71693
boards of alcohol, drug addiction, and mental health services for 71694
purposes of any board function set forth in Chapter 340. of the 71695
Revised Code. Boards of alcohol, drug addiction, and mental health 71696
services shall not access any personal information from the 71697
department or providers except as required or permitted by this 71698
section, or Chapter 340. or 5122. of the Revised Code for purposes 71699
related to payment, care coordination, health care operations, 71700
program and service evaluation, reporting activities, research, 71701
system administration, oversight, or other authorized purposes. 71702

(9) That a person's family member who is involved in the 71703
provision, planning, and monitoring of services to the person may 71704
receive medication information, a summary of the person's 71705
diagnosis and prognosis, and a list of the services and personnel 71706
available to assist the person and the person's family, if the 71707
person's treatment provider determines that the disclosure would 71708
be in the best interests of the person. No such disclosure shall 71709
be made unless the person is notified first and receives the 71710
information and does not object to the disclosure. 71711

(10) That community mental health services providers may 71712
exchange psychiatric records and certain other information with 71713
the board of alcohol, drug addiction, and mental health services 71714

and other providers in order to provide services to a person 71715
involuntarily committed to a board. Release of records under this 71716
division shall be limited to medication history, physical health 71717
status and history, financial status, summary of course of 71718
treatment, summary of treatment needs, and discharge summary, if 71719
any. 71720

(11) That information may be disclosed to the executor or the 71721
administrator of an estate of a deceased person when the 71722
information is necessary to administer the estate; 71723

(12) That information may be disclosed to staff members of 71724
the appropriate board or to staff members designated by the 71725
director of mental health and addiction services for the purpose 71726
of evaluating the quality, effectiveness, and efficiency of 71727
services and determining if the services meet minimum standards. 71728
Information obtained during such evaluations shall not be retained 71729
with the name of any person. 71730

(13) That records pertaining to the person's diagnosis, 71731
course of treatment, treatment needs, and prognosis shall be 71732
disclosed and released to the appropriate prosecuting attorney if 71733
the person was committed pursuant to section 2945.38, 2945.39, 71734
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 71735
attorney designated by the board for proceedings pursuant to 71736
involuntary commitment under Chapter 5122. of the Revised Code. 71737

(14) That the department of mental health and addiction 71738
services may exchange psychiatric hospitalization records, other 71739
mental health treatment records, and other pertinent information 71740
with the department of rehabilitation and correction and with the 71741
department of youth services to ensure continuity of care for 71742
inmates and offenders who are receiving mental health services in 71743
an institution of the department of rehabilitation and correction 71744
or the department of youth services and may exchange psychiatric 71745
hospitalization records, other mental health treatment records, 71746

and other pertinent information with boards of alcohol, drug 71747
addiction, and mental health services and community mental health 71748
services providers to ensure continuity of care for inmates or 71749
offenders who are receiving mental health services in an 71750
institution and are scheduled for release within six months. The 71751
release of records under this division is limited to records 71752
regarding an inmate's or offender's medication history, physical 71753
health status and history, summary of course of treatment, summary 71754
of treatment needs, and a discharge summary, if any. 71755

(15) That a community mental health services provider that 71756
ceases to operate may transfer to either a community mental health 71757
services provider that assumes its caseload or to the board of 71758
alcohol, drug addiction, and mental health services of the service 71759
district in which the person resided at the time services were 71760
most recently provided any treatment records that have not been 71761
transferred elsewhere at the person's request. 71762

(B) Before records are disclosed pursuant to divisions 71763
(A)(3), (6), and (10) of this section, the custodian of the 71764
records shall attempt to obtain the person's consent for the 71765
disclosure. 71766

(C) No person shall reveal the content of a medical record of 71767
a person that is confidential pursuant to this section, except as 71768
authorized by law. 71769

Sec. ~~5119.57~~ 5119.29. ~~No later than January 1, 1998, the~~ The 71770
department of ~~mental health~~ mental health and addiction services, 71771
in conjunction with boards of alcohol, drug addiction, and mental 71772
health services and community mental health boards, shall develop 71773
a coordinated system for tracking and monitoring persons found not 71774
guilty by reason of insanity and committed pursuant to section 71775
2945.40 of the Revised Code who have been granted a conditional 71776
release and persons found incompetent to stand trial and committed 71777

pursuant to section 2945.39 of the Revised Code who have been 71778
granted a conditional release. The system shall do all of the 71779
following: 71780

(A) Centralize responsibility for the tracking of those 71781
persons; 71782

(B) Develop uniformity in monitoring those persons; 71783

(C) Develop a mechanism to allow prompt rehospitalization, 71784
reinstitutionalization, or detention when a violation of the 71785
conditional release or decompensation occurs. 71786

Sec. ~~3793.18~~ 5119.30. The department of ~~alcohol and drug~~ 71787
~~addiction services~~ mental health and addiction services promptly 71788
shall develop and maintain a program that continually provides the 71789
courts of this state with relevant information pertaining to 71790
~~alcohol and drug~~ addiction services and programs available both 71791
within their jurisdictions and statewide in order to facilitate 71792
the ability of the courts to utilize treatment and rehabilitation 71793
alternatives in addition to or in lieu of imposing sentences of 71794
imprisonment upon appropriate offenders. 71795

Sec. ~~5119.23~~ 5119.31. The department of ~~mental health~~ mental 71796
health and addiction services may examine into, with or without 71797
expert assistance, the question of the mental and physical 71798
condition of any person committed to or involuntarily confined in 71799
any hospital for the mentally ill, or restrained of ~~his~~ liberty at 71800
any place within this state by reason of alleged mental illness 71801
and may order and compel the discharge of any such person who is 71802
not a mentally ill person subject to hospitalization by court 71803
order as defined in division (B) of section 5122.01 of the Revised 71804
Code and direct what disposition shall be made of ~~him~~ the person. 71805
The order of discharge shall be signed by the director of ~~mental~~ 71806
~~health~~ mental health and addiction services. Upon receipt of such 71807

order by the superintendent or other person in charge of the 71808
building in which the person named in such order is confined, such 71809
person shall forthwith be discharged or otherwise disposed of 71810
according to the terms of said order, and any further or other 71811
detention of such person is unlawful. No such order shall be made 71812
in favor of any person committed and held for trial on a criminal 71813
charge, in confinement by an order of a judge or court made in a 71814
criminal proceeding, or in any case unless notice is given to the 71815
superintendent or other person having charge of the building in 71816
which the alleged mentally ill person is detained, and a 71817
reasonable opportunity is allowed the person in charge to justify 71818
further detention of the person confined. 71819

Sec. ~~5119.60~~ 5119.32. The department of ~~mental health~~ mental 71820
health and addiction services is hereby designated as the state 71821
administrative agency for the ~~alcohol, drug abuse and mental~~ 71822
~~health services~~ substance abuse prevention treatment block grant 71823
and the community mental health services block grant authorized by 71824
the "Public Health Services Act," 95 Stat. 357, 543, 42 U.S.C. 71825
300x, as amended, and similar alcohol, drug abuse, or mental 71826
health programs that are specified in an appropriations act. ~~The~~ 71827
~~department shall establish and administer an annual plan to~~ 71828
~~utilize federal block grant funds. The department shall consult~~ 71829
~~with the department of alcohol and drug addiction services on the~~ 71830
~~allocation of funds for alcohol and drug addiction services~~ 71831
~~pursuant to Chapter 3793. of the Revised Code and shall notify the~~ 71832
~~controlling board, which shall authorize the transfer of funds~~ 71833
~~allocated to the department of alcohol and drug addiction~~ 71834
~~services.~~ 71835

Sec. ~~5119.20~~ 5119.33. The department of ~~mental health~~ mental 71836
health and addiction services shall inspect and license all 71837
hospitals that receive mentally ill persons, except those 71838

hospitals managed by the department. No hospital may receive for 71839
care or treatment, either at public or private expense, any person 71840
who is or appears to be mentally ill, whether or not so 71841
adjudicated, unless the hospital has received a license from the 71842
department authorizing it to receive for care or treatment persons 71843
who are mentally ill or the hospital is managed by the department. 71844

No such license shall be granted to a hospital for the 71845
treatment of mentally ill persons unless the department is 71846
satisfied, after investigation, that the hospital is managed and 71847
operated by qualified persons and has on its staff one or more 71848
qualified physicians responsible for the medical care of the 71849
patients confined there. At least one such physician shall be a 71850
psychiatrist. 71851

The department shall adopt rules under Chapter 119. of the 71852
Revised Code prescribing minimum standards for the operation of 71853
hospitals for the care and treatment of mentally ill persons and 71854
establishing standards and procedures for the issuance, renewal, 71855
or revocation of full, probationary, and interim licenses. No 71856
license shall be granted to any hospital established or used for 71857
the care of mentally ill persons unless such hospital is operating 71858
in accordance with this section and rules adopted pursuant to this 71859
section. A full license shall expire one year after the date of 71860
issuance, a probationary license shall expire at the time 71861
prescribed by rule adopted pursuant to Chapter 119. of the Revised 71862
Code by the director of ~~mental health~~ mental health and addiction 71863
services, and an interim license shall expire ninety days after 71864
the date of issuance. A full, probationary, or interim license may 71865
be renewed, except that an interim license may be renewed only 71866
twice. The department may fix reasonable fees for licenses and for 71867
license renewals. Such hospitals are subject to inspection and 71868
~~visitation~~ on-site review by the department. 71869

Except as otherwise provided in Chapter 5122. of the Revised 71870

Code, neither the director of ~~the department of mental health~~ 71871
mental health and addiction services; an employee of the 71872
department; a board of alcohol, drug addiction, and mental health 71873
services or ~~agency~~ employee of a community mental health services 71874
provider; nor any other public official shall hospitalize any 71875
mentally ill person for care or treatment in any hospital that is 71876
not licensed in accordance with this section. 71877

Any license issued by the department under this section may 71878
be revoked by the department for any of the following reasons: 71879

(A) The hospital is no longer a suitable place for the care 71880
or treatment of mentally ill persons. 71881

(B) The hospital refuses to be subject to inspection or 71882
~~visitation~~ on-site review by the department. 71883

(C) The hospital has failed to furnish humane, kind, and 71884
adequate treatment and care. 71885

(D) The hospital fails to comply with the licensure rules of 71886
the department. 71887

The department may inspect, ~~visit~~ conduct an on-site review, 71888
and review the records of any hospital that the department has 71889
reason to believe is operating without a license. 71890

Sec. ~~5119.201~~ 5119.331. If the department of ~~mental health~~ 71891
mental health and addiction services determines that a hospital 71892
not licensed by the department is receiving for care or treatment 71893
any person who is or appears to be mentally ill, the department 71894
may request in writing that the attorney general petition the 71895
court of common pleas in the county where the hospital is located 71896
to enjoin the hospital from continued operation in violation of 71897
section ~~5119.20~~ 5119.33 of the Revised Code. 71898

Sec. ~~5119.202~~ 5119.332. No third-party payer shall directly 71899

or indirectly reimburse, nor shall any person be obligated to pay 71900
any hospital for psychiatric services for which a license is 71901
required under section ~~5119.20~~ 5119.33 of the Revised Code unless 71902
the hospital is licensed by the department of ~~mental health~~ mental 71903
health and addiction services. 71904

As used in this section, "third-party payer" means a health 71905
insuring corporation licensed under Chapter 1751. of the Revised 71906
Code, an insurance company that issues sickness and accident 71907
insurance in conformity with Chapter 3923. of the Revised Code, a 71908
state-financed health insurance program under Chapter 3701., 71909
4123., or 5101. of the Revised Code, or any self-insurance plan. 71910

Sec. ~~5119.21~~ 5119.333. No person shall keep or maintain a 71911
hospital for the care or treatment of mentally ill persons unless 71912
it is licensed by the department of ~~mental health~~ mental health 71913
and addiction services, as provided by section ~~5119.20~~ 5119.33 of 71914
the Revised Code. 71915

Sec. ~~5119.22~~ 5119.34. (A) As used in this section and ~~section~~ 71916
~~5119.221~~ sections 5119.341 and 5119.342 of the Revised Code: 71917
71918

(1) "Accommodations" means housing, daily meal preparation, 71919
laundry, housekeeping, arranging for transportation, social and 71920
recreational activities, maintenance, security, and other services 71921
that do not constitute personal care services or skilled nursing 71922
care. 71923

(2) "ADAMHS board" means a board of alcohol, drug addiction, 71924
and mental health services. 71925

(3) "Adult" means a person who is eighteen years of age or 71926
older, other than a person described in division (A)(4) of this 71927
section who is between eighteen and twenty-one years of age. 71928

(4) "Child" means a person who is under eighteen years of age 71929

or a person with a mental disability who is under twenty-one years of age. 71930
71931

(5) "Community mental health ~~agency~~ services provider" means 71932
a community mental health ~~agency~~ services provider as defined in 71933
~~division (H) of section 5122.01~~ 5119.01 of the Revised Code. 71934

(6) "Community mental health services" means any of the 71935
mental health services listed described in section 340.09 of the 71936
Revised Code. 71937

(7) "Operator" means the person or persons, firm, 71938
partnership, agency, governing body, association, corporation, or 71939
other entity that is responsible for the administration and 71940
management of a residential facility and that is the applicant for 71941
a residential facility license. 71942

(8) "Personal care services" means services including, but 71943
not limited to, the following: 71944

(a) Assisting residents with activities of daily living; 71945

(b) Assisting residents with self-administration of 71946
medication in accordance with rules adopted under this section; 71947

(c) Preparing special diets, other than complex therapeutic 71948
diets, for residents pursuant to the instructions of a physician 71949
or a licensed dietitian, in accordance with rules adopted under 71950
this section. 71951

"Personal care services" does not include "skilled nursing 71952
care" as defined in section 3721.01 of the Revised Code. A 71953
facility need not provide more than one of the services listed in 71954
division (A)(8) of this section to be considered to be providing 71955
personal care services. 71956

(9) "Residential facility" means a publicly or privately 71957
operated home or facility that provides one of the following: 71958

(a) Accommodations, supervision, personal care services, and 71959

community mental health services for one or more of the following 71960
~~unrelated persons~~ adults with mental illness or severe mental 71961
disabilities or to one or more unrelated children and adolescents 71962
with a serious emotional disturbance or who are in need of mental 71963
health services who are referred by or are receiving community 71964
mental health services from a community mental health ~~agency,~~ 71965
services provider or hospital, ~~or practitioner.~~ 71966

~~(i) Adults with mental illness;~~ 71967

~~(ii) Persons of any age with severe mental disabilities;~~ 71968

~~(iii) Children with serious emotional disturbances or in need~~ 71969
~~of mental health services.~~ 71970

(b) ~~Accommodations, supervision, and personal care services~~ 71971
~~for only one or two unrelated adults; accommodations, supervision,~~ 71972
~~and personal care services for three to sixteen unrelated adults;~~ 71973
~~or accommodations, supervision, and personal care services for one~~ 71974
~~or two of the following unrelated persons:~~ 71975

~~(i) Persons of any age with mental illness who are referred~~ 71976
~~by or are receiving community mental health services from a~~ 71977
~~community mental health agency, hospital, or practitioner;~~ 71978

~~(ii) Persons of any age with severe mental disabilities who~~ 71979
~~are referred by or are receiving community mental health services~~ 71980
~~from a community mental health agency, hospital, or practitioner~~ 71981
to any of the following: 71982

(i) One or two unrelated persons with mental illness or 71983
persons with severe mental disabilities who are referred by or are 71984
receiving mental health services from a community mental health 71985
services provider or hospital; 71986

(ii) One or two unrelated adults who are receiving 71987
residential state supplement payments; 71988

(iii) Three to sixteen unrelated adults. 71989

(c) Room and board for five or more of the following unrelated persons;	71990 71991
(i) Adults <u>adults</u> with mental illness <u>or severe mental</u> <u>disability</u> who are referred by or are receiving community mental health services from a community mental health agency, <u>services</u> <u>provider or</u> hospital, or practitioner;	71992 71993 71994 71995
(ii) Adults with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.	71996 71997 71998
(10) "Residential facility" does not include any of the following:	71999 72000
(a) A hospital subject to licensure under section 5119.20 <u>5119.33</u> of the Revised Code;	72001 72002
(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;	72003 72004 72005
(c) An institution or association subject to certification under section 5103.03 of the Revised Code;	72006 72007
(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	72008 72009 72010
(e) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;	72011 72012 72013
(f) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	72014 72015
(g) <u>(f)</u> An alcohol or drug addiction program as defined in section 3793.01 <u>5119.01</u> of the Revised Code;	72016 72017
(h) <u>(g)</u> A facility licensed to provide methadone treatment under section 3793.11 <u>5119.39</u> of the Revised Code;	72018 72019

~~(i)~~(h) Any facility that receives funding for operating costs 72020
from the ~~department of~~ development services agency under any 72021
program established to provide emergency shelter housing or 72022
transitional housing for the homeless; 72023

~~(j)~~(i) A terminal care facility for the homeless that has 72024
entered into an agreement with a hospice care program under 72025
section 3712.07 of the Revised Code; 72026

~~(k)~~(j) A facility approved by the veterans administration 72027
under section 104(a) of the "Veterans Health Care Amendments of 72028
1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used 72029
exclusively for the placement and care of veterans. 72030

(11) "Room and board" means the provision of sleeping and 72031
living space, meals or meal preparation, laundry services, 72032
housekeeping services, or any combination thereof. 72033

(12) "Residential state supplement" means the program 72034
administered under section 5119.41 of the Revised Code and related 72035
provisions of the Administrative Code under which the state 72036
supplements the supplemental security income payments received by 72037
aged, blind, or disabled adults under Title XVI of the Social 72038
Security Act. Residential state supplement payments are used for 72039
the provision of accommodations, supervision, and personal care 72040
services to supplemental security income recipients the department 72041
of mental health and addition services determines are at risk of 72042
needing institutional care. 72043

(13) "Supervision" means any of the following: 72044

(a) Observing a resident to ensure the resident's health, 72045
safety, and welfare while the resident engages in activities of 72046
daily living or other activities; 72047

(b) Reminding a resident to perform or complete an activity, 72048
such as reminding a resident to engage in personal hygiene or 72049
other self-care activities; 72050

(c) Assisting a resident in making or keeping an appointment. 72051

~~(13)~~(14) "Unrelated" means that a resident is not related to 72052
the owner or operator of a residential facility or to the owner's 72053
or operator's spouse as a parent, grandparent, child, stepchild, 72054
grandchild, brother, sister, niece, nephew, aunt, or uncle, or as 72055
the child of an aunt or uncle. 72056

(B) Nothing in division (A)(9) of this section shall be 72057
construed to permit personal care services to be imposed on a 72058
resident who is capable of performing the activity in question 72059
without assistance. 72060

(C) Except in the case of a residential facility described in 72061
division (A)(9)(a) of this section, members of the staff of a 72062
residential facility shall not administer medication to the 72063
facility's residents, but may do any of the following: 72064

(1) Remind a resident when to take medication and watch to 72065
ensure that the resident follows the directions on the container; 72066

(2) Assist a resident in the self-administration of 72067
medication by taking the medication from the locked area where it 72068
is stored, in accordance with rules adopted pursuant to this 72069
section, and handing it to the resident. If the resident is 72070
physically unable to open the container, a staff member may open 72071
the container for the resident. 72072

(3) Assist a physically impaired but mentally alert resident, 72073
such as a resident with arthritis, cerebral palsy, or Parkinson's 72074
disease, in removing oral or topical medication from containers 72075
and in consuming or applying the medication, upon request by or 72076
with the consent of the resident. If a resident is physically 72077
unable to place a dose of medicine to the resident's mouth without 72078
spilling it, a staff member may place the dose in a container and 72079
place the container to the mouth of the resident. 72080

(D)(1) Except as provided in division (D)(2) of this section, 72081

a person operating or seeking to operate a residential facility 72082
shall apply for licensure of the facility to the department of 72083
~~mental health~~ mental health and addiction services. The 72084
application shall be submitted by the operator. When applying for 72085
the license, the applicant shall pay to the department the 72086
application fee specified in rules adopted under division ~~(L)~~(K) 72087
of this section. The fee is nonrefundable. 72088

The department shall send a copy of an application to the 72089
ADAMHS board serving the county in which the person operates or 72090
seeks to operate the facility. The ADAMHS board shall review the 72091
application and provide to the department any information about 72092
the applicant or the facility that the board would like the 72093
department to consider in reviewing the application. 72094

(2) A person may not apply for a license to operate a 72095
residential facility if the person is or has been the owner, 72096
operator, or manager of a residential facility for which a license 72097
to operate was revoked or for which renewal of a license was 72098
refused for any reason other than nonpayment of the license 72099
renewal fee, unless both of the following conditions are met: 72100

(a) A period of not less than two years has elapsed since the 72101
date the director of ~~mental health~~ mental health and addiction 72102
services issued the order revoking or refusing to renew the 72103
facility's license. 72104

(b) The director's revocation or refusal to renew the license 72105
was not based on an act or omission at the facility that violated 72106
a resident's right to be free from abuse, neglect, or 72107
exploitation. 72108

~~(E)(1) Any person may operate a residential facility 72109
providing accommodations and personal care services for one to 72110
five unrelated persons and licensed as a residential facility that 72111
meets the criteria specified in division (A)(9)(b) of this section 72112~~

~~as a permitted use in any residential district or zone, including 72113
any single family residential district or zone of any political 72114
subdivision. Such facilities may be required to comply with area, 72115
height, yard, and architectural compatibility requirements that 72116
are uniformly imposed upon all single family residences within the 72117
district or zone. 72118~~

~~(2) Any person may operate a residential facility providing 72119
accommodations and personal care services for six to sixteen 72120
persons and licensed as a residential facility that meets the 72121
criteria specified in division (A)(9)(b) of this section as a 72122
permitted use in any multiple family residential district or zone 72123
of any political subdivision, except that a political subdivision 72124
that has enacted a zoning ordinance or resolution establishing 72125
planned unit development districts as defined in section 519.021 72126
of the Revised Code may exclude such facilities from such 72127
districts, and a political subdivision that has enacted a zoning 72128
ordinance or resolution may regulate such facilities in 72129
multiple family residential districts or zones as a conditionally 72130
permitted use or special exception, in either case, under 72131
reasonable and specific standards and conditions set out in the 72132
zoning ordinance or resolution to: 72133~~

~~(a) Require the architectural design and site layout of the 72134
home and the location, nature, and height of any walls, screens, 72135
and fences to be compatible with adjoining land uses and the 72136
residential character of the neighborhood; 72137~~

~~(b) Require compliance with yard, parking, and sign 72138
regulation. 72139~~

~~(3) Divisions (E)(1) and (2) of this section do not affect 72140
any right of a political subdivision to permit a person to operate 72141
a residential facility licensed under this section in a 72142
single family residential district or zone under conditions 72143
established by the political subdivision. 72144~~

~~(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section.~~

~~(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on September 10, 2012, and that meet the criteria specified in division (A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this section that are not existing and operating on September 10, 2012.~~

~~(F)(1) The department of mental health mental health and addiction services shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision.~~

The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as specified in rules adopted by the director of mental health under division ~~(L)~~(K) of this section, and an interim license shall expire ninety days after the date of issuance. A license may be renewed in accordance with rules adopted by the director under division ~~(L)~~(K) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division ~~(L)~~(K) of this section. The fee is nonrefundable.

(2) The department may issue an order suspending the admission of residents to the facility or refuse to issue or renew and may revoke a license if it finds the facility is not in compliance with rules adopted by the director pursuant to division ~~(L)~~(K) of this section or if any facility operated by the applicant or licensee has been cited for repeated violations of statutes or rules during the period of previous licenses. Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code.

~~(G)~~(F) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under division ~~(L)~~(K) of this section.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

~~(H)~~(G)(1) The department of mental health may conduct an inspection of a residential facility as follows:

(a) Prior to issuance of a license for the facility;

(b) Prior to renewal of the license;

(c) To determine whether the facility has completed a plan of correction required pursuant to division ~~(H)~~(G)(2) of this section

and corrected deficiencies to the satisfaction of the department 72207
and in compliance with this section and rules adopted pursuant to 72208
it; 72209

(d) Upon complaint by any individual or agency; 72210

(e) At any time the director considers an inspection to be 72211
necessary in order to determine whether the facility is in 72212
compliance with this section and rules adopted pursuant to this 72213
section. 72214

(2) In conducting inspections the department may conduct an 72215
on-site examination and evaluation of the residential facility and 72216
its personnel, activities, and services. The department shall have 72217
access to examine and copy all records, accounts, and any other 72218
documents relating to the operation of the residential facility, 72219
including records pertaining to residents, and shall have access 72220
to the facility in order to conduct interviews with the operator, 72221
staff, and residents. Following each inspection and review, the 72222
department shall complete a report listing any deficiencies, and 72223
including, when appropriate, a time table within which the 72224
operator shall correct the deficiencies. The department may 72225
require the operator to submit a plan of correction describing how 72226
the deficiencies will be corrected. 72227

~~(I)~~(H) No person shall do any of the following: 72228

(1) Operate a residential facility unless the facility holds 72229
a valid license; 72230

(2) Violate any of the conditions of licensure after having 72231
been granted a license; 72232

(3) Interfere with a state or local official's inspection or 72233
investigation of a residential facility; 72234

(4) Violate any of the provisions of this section or any 72235
rules adopted pursuant to this section. 72236

~~(J)~~(I) The following may enter a residential facility at any time: 72237
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(1) Employees designated by the director of ~~mental health~~ mental health and addiction services; 72239
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(2) Employees of an ADAMHS board under either of the following circumstances: 72241
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(a) When a resident of the facility is receiving services from a community mental health ~~agency~~ services provider under contract with that ADAMHS board or another ADAMHS board; 72243
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(b) When authorized by section 340.05 of the Revised Code. 72246

(3) Employees of a community mental health ~~agency~~ services provider under either of the following circumstances: 72247
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(a) When the ~~agency~~ services provider has a ~~client~~ person receiving services residing in the facility; 72249
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(b) When the ~~agency~~ services provider is acting as an agent of an ADAMHS board other than the board with which it is under contract. 72251
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(4) Representatives of the state long-term care ombudsperson program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program. 72254
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The persons specified in division ~~(J)~~(I) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents. 72259
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~~(K)~~(J) Employees of the department of ~~mental health~~ mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that 72263
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the department has reasonable cause to believe is, operating as a residential facility without a valid license.

~~(L)~~(K) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:

(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;

(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;

(3) Procedures for conducting criminal records checks for ~~prospective operators, staff employees, and other individuals~~ volunteers who, ~~if employed by a residential facility, would~~ may have ~~unsupervised~~ direct access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;

(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents who may be served in a residential facility;

(10) The rights of residents of residential facilities and procedures to protect such rights; 72297
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(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health ~~agency~~ services provider; 72299
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(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted. 72302
72303

~~(M)~~(L)(1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction. 72304
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(2) Any person who makes a complaint under division ~~(M)~~(L)(1) of this section, or any person who participates in an administrative or judicial proceeding resulting from such a complaint, is immune from civil liability and is not subject to criminal prosecution, other than for perjury, unless the person has acted in bad faith or with malicious purpose. 72312
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~~(N)~~(M)(1) The director of ~~mental health~~ mental health and addiction services may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a facility without a license or there is a present danger to the health or 72318
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safety of any residents of the facility. 72328

(2) When the court grants injunctive relief in the case of a 72329
facility operating without a license, the court shall issue, at a 72330
minimum, an order enjoining the facility from admitting new 72331
residents to the facility and an order requiring the facility to 72332
assist with the safe and orderly relocation of the facility's 72333
residents. 72334

(3) If injunctive relief is granted against a facility for 72335
operating without a license and the facility continues to operate 72336
without a license, the director shall refer the case to the 72337
attorney general for further action. 72338

~~(O)~~(N) The director may fine a person for violating division 72339
~~(I)~~(H) of this section. The fine shall be five hundred dollars for 72340
a first offense; for each subsequent offense, the fine shall be 72341
one thousand dollars. The director's actions in imposing a fine 72342
shall be taken in accordance with Chapter 119. of the Revised 72343
Code. 72344

Sec. 5119.341. (A) Any person may operate a residential 72345
facility providing accommodations and personal care services for 72346
one to five unrelated persons and licensed as a residential 72347
facility that meets the criteria specified in division (A)(9)(b) 72348
of section 5119.34 of the Revised Code as a permitted use in any 72349
residential district or zone, including any single-family 72350
residential district or zone of any political subdivision. Such 72351
facilities may be required to comply with area, height, yard, and 72352
architectural compatibility requirements that are uniformly 72353
imposed upon all single-family residences within the district or 72354
zone. 72355

(B) Any person may operate a residential facility providing 72356
accommodations and personal care services for six to sixteen 72357
persons and licensed as a residential facility that meets the 72358

criteria specified in division (A)(9)(b) of section 5119.34 of the 72359
Revised Code as a permitted use in any multiple-family residential 72360
district or zone of any political subdivision, except that a 72361
political subdivision that has enacted a zoning ordinance or 72362
resolution establishing planned-unit developments as defined in 72363
section 519.021 of the Revised Code may exclude such facilities 72364
from such districts, and a political subdivision that has enacted 72365
a zoning ordinance or resolution may regulate such facilities in 72366
multiple-family residential districts or zones as a conditionally 72367
permitted use or special exception, in either case, under 72368
reasonable and specific standards and conditions set out in the 72369
zoning ordinance or resolution to: 72370

(1) Require the architectural design and site layout of the 72371
home and the location, nature, and height of any walls, screens, 72372
and fences to be compatible with adjoining land uses and the 72373
residential character of the neighborhood; 72374

(2) Require compliance with yard, parking, and sign 72375
regulation. 72376

(C) Divisions (A)(1) and (2) of this section do not affect 72377
any right of a political subdivision to permit a person to operate 72378
a residential facility licensed under section 5119.34 of the 72379
Revised Code in a single-family residential district or zone under 72380
conditions established by the political subdivision. 72381

(D)(1) Notwithstanding divisions (A) and (B) of this section 72382
and except as provided in division (D)(2) of this section, a 72383
political subdivision that has enacted a zoning ordinance or 72384
resolution may limit the excessive concentration of licensed 72385
residential facilities that meet the criteria specified in 72386
division (A)(9)(b) of section 5119.34 of the Revised Code. 72387

(2) Division (D)(1) of this section does not authorize a 72388
political subdivision to prevent or limit the continued existence 72389

and operation of residential facilities existing and operating on 72390
September 10, 2012, and that meet the criteria specified in 72391
division (A)(9)(b) of section 5119.34 of the Revised Code. A 72392
political subdivision may consider the existence of such 72393
facilities for the purpose of limiting the excessive concentration 72394
of such facilities that meet the criteria specified in division 72395
(A)(9)(b) of section 5119.34 of the Revised Code that are not 72396
existing and operating on September 10, 2012. 72397

Sec. ~~5119.221~~ 5119.342. (A) Upon petition by the director of 72398
~~mental health~~ mental health and addiction services, the court of 72399
common pleas or the probate court may appoint a receiver to take 72400
possession of and operate a residential facility licensed pursuant 72401
to section ~~5119.22~~ 5119.34 of the Revised Code, when conditions 72402
existing at the residential facility present a substantial risk of 72403
physical or mental harm to residents and no other remedies at law 72404
are adequate to protect the health, safety, and welfare of the 72405
residents. 72406

Petitions filed pursuant to this section shall include: 72407

(1) A description of the specific conditions existing at the 72408
residential facility which present a substantial risk of physical 72409
or mental harm to residents; 72410

(2) A statement of the absence of other adequate remedies at 72411
law; 72412

(3) The number of individuals residing at the facility; 72413

(4) A statement that the facts have been brought to the 72414
attention of the owner or licensee and that conditions have not 72415
been remedied within a reasonable period of time or that the 72416
conditions, though remedied periodically, habitually exist at the 72417
residential facility as a pattern or practice; and 72418

(5) The name and address of the person holding the license 72419

for the residential facility. 72420

(B) A court in which a petition is filed pursuant to this 72421
section shall notify the person holding the license for the 72422
facility of the filing. The department shall send notice of the 72423
filing to the following, as appropriate: the Ohio protection and 72424
advocacy system as defined in section 5123.60 of the Revised Code; 72425
facility owner; facility operator; board of alcohol, drug 72426
addiction, and mental health services; board of health; department 72427
of developmental disabilities; department of job and family 72428
services; facility residents; and residents' families and 72429
guardians. The court shall provide a hearing on the petition 72430
within five court days of the time it was filed, except that the 72431
court may appoint a receiver prior to that time if it determines 72432
that the circumstances necessitate such action. 72433

Following a hearing on the petition, and upon a determination 72434
that the appointment of a receiver is warranted, the court shall 72435
appoint a receiver and notify the department of ~~mental health~~ 72436
mental health and addiction services and appropriate persons of 72437
this action. 72438

In setting forth the powers of the receiver, the court may 72439
generally authorize the receiver to do all that is prudent and 72440
necessary to safely and efficiently operate the residential 72441
facility within the requirements of state and federal law, but 72442
shall require the receiver to obtain court approval prior to 72443
making any single expenditure of more than five thousand dollars 72444
to correct deficiencies in the structure or furnishings of a 72445
facility. The court shall closely review the conduct of the 72446
receiver and shall require regular and detailed reports. 72447

(C) A receivership established pursuant to this section shall 72448
be terminated, following notification of the appropriate parties 72449
and a hearing, if the court determines either of the following: 72450

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of ~~mental health~~ mental health and addiction services.

(D) Except for the department of ~~mental health~~ mental health and addiction services or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of ~~the department of mental health~~ mental health and addiction services shall maintain a list of the names of such persons. The department of ~~mental health~~ mental health and addiction services, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may	72482
do the following:	72483
(a) Bring and defend actions in the appointee's name as	72484
receiver;	72485
(b) Take and keep possession of property.	72486
(2) The court shall authorize the receiver to do the	72487
following:	72488
(a) Collect payment for all goods and services provided to	72489
the residents or others during the period of the receivership at	72490
the same rate as was charged by the licensee at the time the	72491
petition for receivership was filed, unless a different rate is	72492
set by the court;	72493
(b) Honor all leases, mortgages, and secured transactions	72494
governing all buildings, goods, and fixtures of which the receiver	72495
has taken possession, but, in the case of a rental agreement only	72496
to the extent of payments that are for the use of the property	72497
during the period of the receivership, or, in the case of a	72498
purchase agreement, only to the extent that payments come due	72499
during the period of the receivership;	72500
(c) If transfer of residents is necessary, provide for the	72501
orderly transfer of residents by:	72502
(i) Cooperating with all appropriate state and local agencies	72503
in carrying out the transfer of residents to alternative community	72504
placements;	72505
(ii) Providing for the transportation of residents'	72506
belongings and records;	72507
(iii) Helping to locate alternative placements and develop	72508
plans for transfer;	72509
(iv) Encouraging residents or guardians to participate in	72510
transfer planning except when an emergency exists and immediate	72511

transfer is necessary. 72512

(d) Make periodic reports on the status of the residential 72513
facility to the court; the appropriate state agencies; and the 72514
board of alcohol, drug addiction, and mental health services. Each 72515
report shall be made available to residents, their guardians, and 72516
families. 72517

(e) Compromise demands or claims; and 72518

(f) Generally do such acts respecting the residential 72519
facility as the court authorizes. 72520

Notwithstanding any other provision of law, contracts which 72521
are necessary to carry out the powers and duties of the receiver 72522
need not be competitively bid. 72523

Sec. ~~5119.611~~ 5119.36. (A) A community mental health agency 72524
services provider applicant or community addiction services 72525
provider applicant that seeks certification of its community 72526
mental health services or community addiction services shall 72527
submit an application to the director of ~~mental health~~ mental 72528
health and addiction services. On receipt of the application, the 72529
director may ~~visit~~ conduct an on-site review and shall evaluate 72530
the ~~agency provider~~ to determine whether its services satisfy the 72531
standards established by rules adopted under division ~~(C)~~ (E) of 72532
this section. The director shall make the evaluation, and, if the 72533
director ~~visits~~ reviews the ~~agency provider~~, ~~shall~~ may make the 72534
~~visit~~ on-site review, in cooperation with the board of alcohol, 72535
drug addiction, and mental health services with which the ~~agency~~ 72536
provider seeks to contract under division (A)(8)(a) of section 72537
340.03 of the Revised Code. 72538

(B) Subject to section ~~5119.612~~ 5119.37 of the Revised Code, 72539
the director shall determine whether the services of an 72540
~~applicant's community mental health agency~~ applicant satisfy the 72541

standards for certification of the services. If the director 72542
determines that a community mental health ~~agency's~~ services 72543
provider's or a community addiction services provider's services 72544
satisfy the standards for certification and the ~~agency~~ provider 72545
has paid the fee required under division (D) of this section, the 72546
director shall certify the services. No community mental health 72547
services provider or community addiction services provider shall 72548
be eligible to receive state, federal, or alcohol, drug, and 72549
mental health services board administered funds unless its 72550
services have been certified by the department. 72551

(C) If the director determines that a community mental health 72552
~~agency's~~ services provider's or a community addiction services 72553
provider's services do not satisfy the standards for 72554
certification, the director shall identify the areas of 72555
noncompliance, specify what action is necessary to satisfy the 72556
standards, and may offer technical assistance to the provider and 72557
to the board of alcohol, drug addiction, and mental health 72558
services so that the board may assist the ~~agency~~ provider in 72559
satisfying the standards. The director shall give the ~~agency~~ 72560
provider a reasonable time within which to demonstrate that its 72561
services satisfy the standards or to bring the services into 72562
compliance with the standards. If the director concludes that the 72563
services continue to fail to satisfy the standards, the director 72564
may request that the board reallocate ~~the~~ any funds for the 72565
~~community~~ mental health or addiction services the ~~agency~~ provider 72566
was to provide to another community mental health ~~agency~~ or 72567
addiction services provider whose community mental health or 72568
community addiction services satisfy the standards. If the board 72569
does not reallocate ~~those~~ such funds in a reasonable period of 72570
time, the director may withhold state and federal funds for the 72571
~~community mental health~~ services and allocate those funds directly 72572
to a community mental health ~~agency~~ or addiction services provider 72573
whose ~~community mental health~~ services satisfy the standards. 72574

(D) Each community mental health ~~agency~~ services provider or 72575
community addiction services provider seeking certification of its 72576
~~community~~ mental health or addiction services under this section 72577
shall pay a fee for the certification required by this section, 72578
unless the provider is exempt under rules adopted under division 72579
(E) of this section. Fees shall be paid into the state treasury to 72580
the credit of the sale of goods and services fund created pursuant 72581
to section ~~5119.161~~ 5119.45 of the Revised Code. 72582

(E) The director shall adopt rules in accordance with Chapter 72583
119. of the Revised Code to implement this section. The rules 72584
shall do all of the following: 72585

(1) Establish certification standards for ~~community~~ mental 72586
health services, ~~including assertive community treatment and~~ 72587
~~intensive home-based mental health services,~~ and addiction 72588
services that are consistent with nationally recognized applicable 72589
standards and facilitate participation in federal assistance 72590
programs. The rules shall include as certification standards only 72591
requirements that improve the quality of services or the health 72592
and safety of ~~clients of~~ persons receiving community mental health 72593
and addiction services. The standards shall address at a minimum 72594
all of the following: 72595

(a) Reporting major unusual incidents to the director; 72596

(b) Procedures for applicants for and ~~clients of~~ persons 72597
receiving community mental health and addiction services to file 72598
grievances and complaints; 72599

(c) Seclusion; 72600

(d) Restraint; 72601

(e) Requirements regarding physical facilities of service 72602
delivery sites; 72603

(f) Requirements with regard to health, safety, adequacy, and 72604

<u>cultural specificity and sensitivity;</u>	72605
<u>(g) Standards for evaluating services;</u>	72606
<u>(h) Standards and procedures for granting full or conditional certification to a service provider;</u>	72607 72608
<u>(i) Standards and procedures for revoking the certification of a provider's services that do not continue to meet the minimum standards established pursuant to this section;</u>	72609 72610 72611
<u>(j) The limitations to be placed on a provider that is granted conditional certification;</u>	72612 72613
<u>(k) Development of written policies addressing the rights of clients persons receiving services, including all of the following:</u>	72614 72615 72616
<u>(i) The right to a copy of the written policies addressing client the rights of persons receiving services;</u>	72617 72618
<u>(ii) The right at all times to be treated with consideration and respect for the client's person's privacy and dignity;</u>	72619 72620
<u>(iii) The right to have access to the client's person's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's person's treatment plan for clear treatment reasons;</u>	72621 72622 72623 72624
<u>(iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client person of the client's person's rights, including the client's person's rights under Chapter 5122. of the Revised Code if the client person is committed to the agency provider or board.</u>	72625 72626 72627 72628 72629 72630
(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;	72631 72632 72633
(3) Establish the process for certification of community	72634

mental health and addiction services; 72635

~~(4)~~(3) Set the amount of certification review fees based on a 72636
portion of the cost of performing the review; 72637

~~(5)~~(4) Specify the type of notice and hearing to be provided 72638
prior to a decision on whether to reallocate funds. 72639

(F) The department shall maintain a current list of providers 72640
whose addiction services are certified by the department under 72641
division (B) of this section and shall provide a copy of the list 72642
to a judge of a court of common pleas who requests a copy for the 72643
use of the judge under division (H) of section 2925.03 of the 72644
Revised Code. The list of certified addiction services shall 72645
identify each provider by its name, its address, and the county in 72646
which it is located. 72647

(G) No person shall represent in any manner that a provider 72648
is certified by the department if the provider is not certified at 72649
the time the representation is made. 72650

Sec. ~~5119.613~~ 5119.361. The director of ~~mental health~~ mental 72651
health and addiction services shall require that each board of 72652
alcohol, drug addiction, and mental health services ensure that 72653
each community mental health ~~agency~~ services provider and 72654
community addiction services provider with which it contracts 72655
under division (A)(8)(a) of section 340.03 of the Revised Code to 72656
provide community mental health services establish grievance 72657
procedures consistent with rules adopted under section ~~5119.611~~ 72658
5119.36 of the Revised Code that are available to all ~~applicants~~ 72659
~~for and clients of the~~ persons seeking or receiving services from 72660
a community mental health or addiction services provider. 72661

Sec. ~~5119.612~~ 5119.37. (A) In lieu of a determination by the 72662
director of ~~mental health~~ mental health and addiction services of 72663
whether the services of a community mental health ~~agency~~ services 72664

provider or a community addiction services provider satisfy the 72665
standards for certification under section ~~5119.611~~ 5119.36 of the 72666
Revised Code, the director shall accept appropriate accreditation 72667
of an applicant's mental health services, integrated mental health 72668
and alcohol and other drug addiction services, or integrated 72669
mental health and physical health services being provided in this 72670
state from any of the following national accrediting organizations 72671
as evidence that the applicant satisfies the standards for 72672
certification: 72673

(1) The joint commission; 72674

(2) The commission on accreditation of rehabilitation 72675
facilities; 72676

(3) The council on accreditation; 72677

(4) Other behavioral health accreditation as determined by 72678
the director. 72679

(B) If the director determines that an applicant's 72680
accreditation is current, is appropriate for the services for 72681
which the applicant is seeking certification, and the applicant 72682
meets any other requirements established under this section or in 72683
rules adopted under this section, the director shall certify the 72684
applicant's services that are accredited. Except as provided in 72685
division (C)(2) of this section, the director shall issue the 72686
certification without further evaluation of the services. 72687

(C) For purposes of this section, all of the following apply: 72688

(1) The director may review the accrediting organizations 72689
listed in division (A) of this section to evaluate whether the 72690
accreditation standards and processes used by the organizations 72691
are consistent with service delivery models the director considers 72692
appropriate for mental health services, physical health services, 72693
or both. The director may communicate to an accrediting 72694

organization any identified concerns, trends, needs, and 72695
recommendations. 72696

(2) The director may ~~visit~~ conduct an on-site review or 72697
otherwise evaluate a community mental health ~~agency~~ services 72698
provider or a community addiction services provider at any time 72699
based on cause, including complaints made by or on behalf of 72700
~~consumers~~ persons receiving services and confirmed or alleged 72701
deficiencies brought to the attention of the director. 72702

(3) The director shall require a community mental health 72703
~~agency~~ services provider and a community addiction services 72704
provider to notify the director not later than ten days after any 72705
change in the ~~agency's~~ provider's accreditation status. The ~~agency~~ 72706
provider may notify the director by providing a copy of the 72707
relevant document the ~~agency~~ provider received from the 72708
accrediting organization. 72709

(4) The director shall require a community mental health 72710
~~agency~~ services provider and a community addiction services 72711
provider to submit to the director reports of major unusual 72712
incidents. 72713

(5) The director may require a community mental health ~~agency~~ 72714
services provider or a community addiction services provider to 72715
submit to the director cost reports pertaining to the ~~agency~~ 72716
provider. 72717

(D) The director shall adopt rules in accordance with Chapter 72718
119. of the Revised Code to implement this section. In adopting 72719
the rules, the director shall do all of the following: 72720

(1) Specify the documentation that must be submitted as 72721
evidence of holding appropriate accreditation; 72722

(2) Establish a process by which the director may review the 72723
accreditation standards and processes used by the national 72724
accrediting organizations listed in division (A) of this section; 72725

(3) Specify the circumstances under which reports of major 72726
unusual incidents and agency provider cost reports must be 72727
submitted to the director; 72728

(4) Specify the circumstances under which the director may 72729
~~visit~~ conduct an on-site review or otherwise evaluate a community 72730
mental health ~~agency~~ services provider and a community addiction 72731
services provider for cause; 72732

(5) Establish a process by which the director, based on 72733
deficiencies identified as a result of ~~visiting~~ conducting an 72734
on-site review or evaluating a community mental health ~~agency~~ 72735
services provider or a community addiction services provider under 72736
division (C)(2) of this section, may take any of a range of 72737
corrective actions, with the most stringent being revocation of 72738
the certification of the ~~agency's~~ provider's services. 72739

Sec. ~~3793.10~~ 5119.38. A drivers' intervention program may be 72740
used as an alternative to a term of imprisonment for an offender 72741
sentenced pursuant to division (G)(1)(a) of section 4511.19 of the 72742
Revised Code, if it is certified by the director of ~~alcohol and~~ 72743
~~drug addiction services~~ mental health and addiction services 72744
pursuant to this section. No drivers' intervention program shall 72745
be used as an alternative to a term of imprisonment that is 72746
imposed pursuant to division (G)(1)(b), (c), (d), or (e) of 72747
section 4511.19 of the Revised Code. 72748

To qualify for certification by the director and to receive 72749
funds from the statewide treatment and prevention fund created by 72750
section 4301.30 of the Revised Code in any amounts and at any 72751
times that the director determines are appropriate, a drivers' 72752
intervention program shall meet state minimum standards that the 72753
director shall establish by rule. The rules shall include, but are 72754
not limited to, standards governing program course hours and 72755
content, qualifications of program personnel, methods of 72756

identifying and testing participants to isolate participants with 72757
alcohol and drug abuse problems, referral of such persons to 72758
~~alcohol and drug~~ community addiction ~~programs~~ services providers, 72759
the prompt notification of courts by program operators of the 72760
completion of the programs by persons required by courts to attend 72761
them, and record keeping, including methods of tracking 72762
participants for a reasonable time after they have left the 72763
program. 72764

The director shall issue a certificate to any qualified 72765
drivers' intervention program. The certificate is valid for three 72766
years. 72767

Sec. ~~3793.11~~ 5119.39. (A) No ~~alcohol and drug~~ community 72768
addiction ~~program~~ services provider shall employ methadone 72769
treatment or prescribe, dispense, or administer methadone unless 72770
the program is licensed under this section. No ~~alcohol and drug~~ 72771
community addiction ~~program~~ services provider licensed under this 72772
section shall maintain methadone treatment in a manner 72773
inconsistent with this section and the rules adopted under it. 72774

(B) ~~An alcohol and drug~~ A community addiction ~~program~~ 72775
services provider may apply to the department of ~~alcohol and drug~~ 72776
~~addiction services~~ mental health and addiction services for a 72777
license to maintain methadone treatment. The department shall 72778
review all applications received. 72779

(C) The department may issue a license to maintain methadone 72780
treatment to ~~an alcohol and drug~~ community addiction ~~program~~ 72781
services provider only if all of the following apply: 72782

(1) The ~~program~~ provider is operated by a private, nonprofit 72783
organization or by a government entity; 72784

(2) For at least two years immediately preceding the date of 72785
application, the ~~program~~ provider has been fully certified under 72786

section ~~3793.06~~ 5119.36 of the Revised Code; 72787

(3) The ~~program~~ provider has not been denied a license to 72788
maintain methadone treatment or had its license withdrawn or 72789
revoked within the five-year period immediately preceding the date 72790
of application; 72791

(4) It affirmatively appears to the department that the 72792
~~program~~ provider is adequately staffed and equipped to maintain 72793
methadone treatment; 72794

(5) It affirmatively appears to the department that the 72795
~~program~~ provider will maintain methadone treatment in strict 72796
compliance with section 3719.61 of the Revised Code, all other 72797
laws relating to drug abuse, and the rules adopted by the 72798
department; 72799

(6) Except as provided in division (D) of this section, there 72800
is no public or private school, licensed child day-care center, or 72801
other child-serving agency within a radius of five hundred feet of 72802
the location where the program is to maintain methadone treatment. 72803

(D) The department may waive the requirement of division 72804
(C)(6) of this section if it receives, from each public or private 72805
school, licensed child day-care center, or other child-serving 72806
agency that is within the applicable radius of the location where 72807
the program is to maintain methadone treatment, a letter of 72808
support for the location. The department shall determine whether a 72809
letter of support is satisfactory for purposes of waiving the 72810
requirement. 72811

(E) A license to maintain methadone treatment shall expire 72812
one year from the date of issuance. Licenses may be renewed. 72813

(F) The department shall establish procedures and adopt rules 72814
for licensing, inspection, and supervision of ~~alcohol and drug~~ 72815
community addiction programs services providers that maintain 72816
methadone treatment. The rules shall establish standards for the 72817

control, storage, furnishing, use, and dispensing of methadone, 72818
prescribe minimum standards for the operation of the methadone 72819
treatment component of the ~~program~~, provider's operations and 72820
comply with federal laws and regulations. 72821

All rules adopted under this division shall be adopted in 72822
accordance with Chapter 119. of the Revised Code. All actions 72823
taken by the department regarding the licensing of ~~programs~~ 72824
providers to maintain methadone treatment shall be conducted in 72825
accordance with Chapter 119. of the Revised Code, except as 72826
provided in division (L) of this section. 72827

(G) The department of ~~alcohol and drug addiction services~~ 72828
mental health and addiction services shall inspect all ~~alcohol and~~ 72829
~~drug~~ community addiction ~~programs~~ services providers licensed to 72830
maintain methadone treatment. Inspections shall be conducted at 72831
least annually and may be conducted more frequently. No person or 72832
government entity shall interfere with a state or local government 72833
official acting on behalf of the department while conducting an 72834
inspection. 72835

(H) An ~~alcohol and drug~~ community addiction ~~program~~ services 72836
provider shall not administer or dispense methadone in a tablet, 72837
powder, or intravenous form. Methadone shall be administered or 72838
dispensed only in a liquid form intended for ingestion. A ~~program~~ 72839
services provider shall not administer or dispense methadone to an 72840
individual for pain or other medical reasons. 72841

(I) As used in this division, "program sponsor" means a 72842
person who assumes responsibility for the operation and employees 72843
of the methadone treatment component of an ~~alcohol and drug~~ 72844
community addiction ~~program~~ services provider. 72845

~~An alcohol and drug~~ A community addiction ~~program~~ services 72846
provider shall not employ an individual who receives methadone 72847
treatment from that ~~program~~ services provider. A program shall not 72848

permit an individual to act as a ~~program provider~~ sponsor, medical 72849
director, or director of the ~~program provider~~ if the individual is 72850
receiving methadone treatment from any ~~alcohol and drug community~~ 72851
addiction ~~program services provider~~. 72852

(J) The department may issue orders to assure compliance with 72853
section 3719.61 of the Revised Code, all other laws relating to 72854
drug abuse, and the rules adopted under this section. Subject to 72855
section ~~3793.13~~ 5119.27 of the Revised Code, the department may 72856
hold hearings, require the production of relevant matter, compel 72857
testimony, issue subpoenas, and make adjudications. Upon failure 72858
of a person without lawful excuse to obey a subpoena or to produce 72859
relevant matter, the department may apply to a court of common 72860
pleas for an order compelling compliance. 72861

(K) The department may refuse to issue, or may withdraw or 72862
revoke, a license to maintain methadone treatment. A license may 72863
be refused if ~~an alcohol and drug a community~~ addiction ~~program~~ 72864
services provider does not meet the requirements of division (C) 72865
of this section. A license may be withdrawn at any time the 72866
department determines that the program no longer meets the 72867
requirements for receiving the license. A license may be revoked 72868
in accordance with division (L) of this section. 72869

In the case of a license issued prior to ~~the effective date~~ 72870
~~of this amendment~~ December 20, 2012, the department shall not 72871
consider the requirement of division (C)(6) of this section in 72872
determining whether to renew, withdraw, or revoke the license. 72873

(L) If the department of ~~alcohol and drug addiction services~~ 72874
mental health and addiction services finds reasonable cause to 72875
believe that ~~an alcohol and drug a community~~ addiction ~~program~~ 72876
services provider licensed under this section is in violation of 72877
any provision of section 3719.61 of the Revised Code, or of any 72878
other state or federal law or rule relating to drug abuse, the 72879
department may issue an order immediately revoking the license, 72880

subject to division (M) of this section. The department shall set 72881
a date not more than fifteen days later than the date of the order 72882
of revocation for a hearing on the continuation or cancellation of 72883
the revocation. For good cause, the department may continue the 72884
hearing on application of any interested party. In conducting 72885
hearings, the department has all the authority and power set forth 72886
in division (J) of this section. Following the hearing, the 72887
department shall either confirm or cancel the revocation. The 72888
hearing shall be conducted in accordance with Chapter 119. of the 72889
Revised Code, except that the ~~program~~ provider shall not be 72890
permitted to maintain methadone treatment pending the hearing or 72891
pending any appeal from an adjudication made as a result of the 72892
hearing. Notwithstanding any provision of Chapter 119. of the 72893
Revised Code to the contrary, a court shall not stay or suspend 72894
any order of revocation issued by the director under this division 72895
pending judicial appeal. 72896

(M) The department shall not revoke a license to maintain 72897
methadone treatment unless all ~~clients~~ services recipients 72898
receiving methadone treatment from the ~~alcohol and drug~~ community 72899
addiction ~~program~~ services provider are provided adequate 72900
substitute treatment. For purposes of this division, the 72901
department may transfer the ~~clients~~ services recipients to other 72902
programs licensed to maintain methadone treatment or replace any 72903
or all of the administrators and staff of the ~~program~~ provider 72904
with representatives of the department who shall continue on a 72905
provisional basis the methadone treatment component of the 72906
program. 72907

(N) Each time the department receives an application from ~~an~~ 72908
~~alcohol and drug~~ a community addiction ~~program~~ services provider 72909
for a license to maintain methadone treatment, issues or refuses 72910
to issue a license, or withdraws or revokes a license, the 72911
department shall notify the board of alcohol, drug addiction, and 72912

mental health services of each alcohol, drug addiction, and mental 72913
health service district in which the ~~program is operated~~ provider 72914
operates. 72915

(O) Whenever it appears to the department from files, upon 72916
complaint, or otherwise, that ~~an alcohol and drug~~ community 72917
addiction ~~program~~ services provider has engaged in any practice 72918
declared to be illegal or prohibited by section 3719.61 of the 72919
Revised Code, or any other state or federal laws or regulations 72920
relating to drug abuse, or when the department believes it to be 72921
in the best interest of the public and necessary for the 72922
protection of the citizens of the state, the department may 72923
request criminal proceedings by laying before the prosecuting 72924
attorney of the proper county any evidence of criminality which 72925
may come to its knowledge. 72926

(P) The department shall maintain a current list of ~~alcohol~~ 72927
~~and drug~~ community addiction ~~programs~~ services providers licensed 72928
by the department under this section and shall provide a copy of 72929
the current list to a judge of a court of common pleas who 72930
requests a copy for the use of the judge under division (H) of 72931
section 2925.03 of the Revised Code. The list of licensed ~~alcohol~~ 72932
~~and drug~~ community addiction ~~programs~~ services providers shall 72933
identify each licensed ~~program~~ provider by its name, its address, 72934
and the county in which it is located. 72935

Sec. ~~5119.061~~ 5119.40. (A) As used in this section, "mentally 72936
ill individual" and "specialized services" have the same meanings 72937
as in section ~~5111.202~~ 5165.03 of the Revised Code. 72938

(B)(1) Except as provided in division (B)(2) of this section 72939
and rules adopted under division (E)(3) of this section, for 72940
purposes of section ~~5111.202~~ 5165.03 of the Revised Code, the 72941
department of ~~mental health~~ mental health and addiction services 72942
shall determine in accordance with ~~section 1919(e)(7)~~ of the 72943

"Social Security Act," ~~49 Stat. 620 (1935)~~ section 1919(e)(7), 42 72944
U.S.C.A. ~~301 1396r(e)(7)~~, ~~as amended~~, and regulations adopted 72945
under section 1919(f)(8)(A) of that act, 42 U.S.C. 1396r(f)(8)(A), 72946
whether, because of the individual's physical and mental 72947
condition, a mentally ill individual seeking admission to a 72948
nursing facility requires the level of services provided by a 72949
nursing facility and, if the individual requires that level of 72950
services, whether the individual requires specialized services for 72951
mental illness. The determination required by this division shall 72952
be based on an independent physical and mental evaluation 72953
performed by a person or entity other than the department. 72954

(2) A Except as provided in division (B)(3) of this section, 72955
a determination under this division (B)(1) of this section is not 72956
required for any of the following: 72957

(a) An individual seeking readmission to a nursing facility 72958
after having been transferred from a nursing facility to a 72959
hospital for care; 72960

(b) An individual who meets all of the following conditions: 72961

(i) The individual is admitted to the nursing facility 72962
directly from a hospital after receiving inpatient care at the 72963
hospital; 72964

(ii) The individual requires nursing facility services for 72965
the condition for which care in the hospital was received; 72966

(iii) The individual's attending physician has certified, 72967
before admission to the nursing facility, that the individual is 72968
likely to require less than thirty days of nursing facility 72969
services. 72970

(c) An individual transferred from one nursing facility to 72971
another nursing facility, with or without an intervening hospital 72972
stay. 72973

(3) A determination under division (B)(1) of this section is required for an individual described in division (B)(2)(a) or (b) of this section if the hospital from which the individual is transferred or directly admitted to a nursing facility is either of the following:

(a) A hospital that the department maintains, operates, manages, and governs under section 5119.08 of the Revised Code for the care and treatment of mentally ill persons;

(b) A free-standing hospital, or unit of a hospital, licensed by the department under section 5119.54 of the Revised Code.

(C) Except as provided in rules adopted under division (F)(3) of this section, the department of ~~mental health~~ mental health and addiction services shall review and determine for each resident of a nursing facility who is mentally ill, whether the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility and whether the resident requires specialized services for mental illness. The review and determination shall be conducted in accordance with section 1919(e)(7) of the "Social Security Act" and the regulations adopted under section 1919(f)(8)(A) of the act and based on an independent physical and mental evaluation performed by a person or entity other than the department. The review and determination shall be completed promptly after a nursing facility has notified the department that there has been a significant change in the resident's mental or physical condition.

(D)(1) In the case of a nursing facility resident who has continuously resided in a nursing facility for at least thirty months before the date of a review and determination under division (C) of this section, if the resident is determined not to require the level of services provided by a nursing facility, but is determined to require specialized services for mental illness, the department, in consultation with the resident's family or

legal representative and care givers, shall do all of the 73006
following: 73007

(a) Inform the resident of the institutional and 73008
noninstitutional alternatives covered under the state plan for 73009
medical assistance; 73010

(b) Offer the resident the choice of remaining in the nursing 73011
facility or receiving covered services in an alternative 73012
institutional or noninstitutional setting; 73013

(c) Clarify the effect on eligibility for services under the 73014
state plan for medical assistance if the resident chooses to leave 73015
the facility, including its effect on readmission to the facility; 73016

(d) Provide for or arrange for the provision of specialized 73017
services for the resident's mental illness in the setting chosen 73018
by the resident. 73019

(2) In the case of a nursing facility resident who has 73020
continuously resided in a nursing facility for less than thirty 73021
months before the date of the review and determination under 73022
division (C) of this section, if the resident is determined not to 73023
require the level of services provided by a nursing facility, but 73024
is determined to require specialized services for mental illness, 73025
or if the resident is determined to require neither the level of 73026
services provided by a nursing facility nor specialized services 73027
for mental illness, the department shall act in accordance with 73028
its alternative disposition plan approved by the United States 73029
department of health and human services under section 73030
1919(e)(7)(E) of the "Social Security Act." 73031

(3) In the case of an individual who is determined under 73032
division (B) or (C) of this section to require both the level of 73033
services provided by a nursing facility and specialized services 73034
for mental illness, the department of ~~mental health~~ mental health 73035
and addiction services shall provide or arrange for the provision 73036

of the specialized services needed by the individual or resident 73037
while residing in a nursing facility. 73038

(E) The department of ~~mental health~~ mental health and 73039
addiction services shall adopt rules in accordance with Chapter 73040
119. of the Revised Code that do all of the following: 73041

(1) Establish criteria to be used in making the 73042
determinations required by divisions (B) and (C) of this section. 73043
The criteria shall not exceed the criteria established by 73044
regulations adopted by the United States department of health and 73045
human services under section 1919(f)(8)(A) of the "Social Security 73046
Act." 73047

(2) Specify information to be provided by the individual or 73048
nursing facility resident being assessed; 73049

(3) Specify any circumstances, in addition to circumstances 73050
listed in division (B) of this section, under which determinations 73051
under divisions (B) and (C) of this section are not required to be 73052
made. 73053

Sec. ~~5119.69~~ 5119.41. (A) As used in this section and section 73054
~~5119.691~~ 5119.411 of the Revised Code: 73055

(1) ~~"Long term care consultation program" means the program~~ 73056
~~the department of aging is required to develop under section~~ 73057
~~173.42 of the Revised Code.~~ 73058

~~(2) "Long term care consultation program administrator" or~~ 73059
~~"administrator" means the department of aging or, if the~~ 73060
~~department contracts with an area agency on aging or other entity~~ 73061
~~to administer the long term care consultation program for a~~ 73062
~~particular area, that agency or entity.~~ 73063

~~(3)~~ "Nursing facility" has the same meaning as in section 73064
~~5111.20~~ 5165.01 of the Revised Code. 73065

~~(4)~~(2) "Residential state supplement administrative agency" 73066

means the department of ~~mental health~~ mental health and addiction 73067
services or, if the department designates an entity under division 73068
(C) of this section for a particular area, the designated entity. 73069

~~(5)~~(3) "Residential state supplement program" means the 73070
program administered pursuant to this section. 73071

(B) The department of ~~mental health~~ mental health and 73072
addiction services shall implement the residential state 73073
supplement program under which the state supplements the 73074
supplemental security income payments received by aged, blind, or 73075
disabled adults under Title XVI of the "Social Security Act," ~~49~~ 73076
~~Stat. 620 (1935)~~, 42 U.S.C.A., ~~as amended~~ 1381 et seq. Residential 73077
state supplement payments shall be used for the provision of 73078
accommodations, supervision, and personal care services to social 73079
security, supplemental security income, and social security 73080
disability insurance recipients who the department determines are 73081
at risk of needing institutional care. 73082

(C) In implementing the program, the department may designate 73083
one or more entities to be responsible for providing 73084
administrative services regarding the program. The department may 73085
designate an entity to be a residential state supplement 73086
administrative agency under this division either by entering into 73087
a contract with the entity to serve in that capacity or by 73088
otherwise delegating to the entity the responsibility to serve in 73089
that capacity. 73090

(D) For an individual to be eligible for residential state 73091
supplement payments, all of the following must be the case: 73092

(1) Except as provided by division (H) of this section, the 73093
individual must reside in one of the following: 73094

(a) A ~~home or~~ residential care facility, ~~other than a nursing~~ 73095
~~home or nursing home unit of a home for the aging~~, licensed by the 73096
department of health under Chapter 3721. of the Revised Code or an 73097

assisted living program as defined in section 173.51 of the 73098
Revised Code; 73099

(b) A residential facility as defined in division (A)(9)(b) 73100
of section ~~5119.22~~ 5119.34 of the Revised Code licensed by the 73101
department of ~~mental health~~ mental health and addiction services; 73102

(c) An apartment or room used to provide community mental 73103
health housing services certified by the department of ~~mental~~ 73104
~~health~~ mental health and addiction services under section ~~5119.611~~ 73105
5119.36 of the Revised Code and approved by a board of alcohol, 73106
drug addiction, and mental health services under division (A)(14) 73107
of section 340.03 of the Revised Code. 73108

(2) A residential state supplement administrative agency must 73109
have determined that the environment in which the individual will 73110
be living while receiving the payments is appropriate for the 73111
individual's needs. If the individual is eligible for social 73112
security payments, supplemental security income payments, or 73113
social security disability insurance benefits because of a mental 73114
disability, the residential state supplement administrative agency 73115
shall refer the individual to a community mental health ~~agency~~ 73116
services provider for an assessment under division (A) of section 73117
340.091 of the Revised Code. 73118

(3) The individual satisfies all eligibility requirements 73119
established by rules adopted under division (E) of this section. 73120

(E) The ~~directors~~ director of ~~mental health~~ mental health and 73121
addiction services and ~~job and family services~~ medicaid director 73122
shall adopt rules in accordance with section 111.15 of the Revised 73123
Code as necessary to implement the residential state supplement 73124
program. 73125

To the extent permitted by Title XVI of the "Social Security 73126
Act," and any other provision of federal law, the medicaid 73127
director ~~of job and family services~~ may adopt rules establishing 73128

standards for adjusting the eligibility requirements concerning 73129
the level of impairment a person must have so that the amount 73130
appropriated for the program by the general assembly is adequate 73131
for the number of eligible individuals. The rules shall not limit 73132
the eligibility of disabled persons solely on a basis classifying 73133
disabilities as physical or mental. The medicaid director ~~of job~~ 73134
~~and family services~~ also may adopt rules that establish 73135
eligibility standards for aged, blind, or disabled individuals who 73136
reside in one of the homes or facilities specified in division 73137
(D)(1) of this section but who, because of their income, do not 73138
receive supplemental security income payments. The rules may 73139
provide that these individuals may include individuals who receive 73140
other types of benefits, including, social security payments or 73141
social security disability insurance benefits provided under Title 73142
II of the "Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C.A. 73143
401, ~~as amended~~ et seq. Notwithstanding division (B) of this 73144
section, such payments may be made if funds are available for 73145
them. 73146

The director of ~~mental health~~ mental health and addiction 73147
services may adopt rules establishing the method to be used to 73148
determine the amount an eligible individual will receive under the 73149
program. The amount the general assembly appropriates for the 73150
program may be a factor included in the method that director 73151
establishes. 73152

(F) The county department of job and family services of the 73153
county in which an applicant for the residential state supplement 73154
program resides shall determine whether the applicant meets income 73155
and resource requirements for the program. 73156

(G) The department of ~~mental health~~ mental health and 73157
addiction services shall maintain a waiting list of any 73158
individuals eligible for payments under this section but not 73159
receiving them because moneys appropriated to the department for 73160

the purposes of this section are insufficient to make payments to 73161
all eligible individuals. An individual may apply to be placed on 73162
the waiting list even though the individual does not reside in one 73163
of the homes or facilities specified in division (D)(1) of this 73164
section at the time of application. The director of ~~mental health~~ 73165
mental health and addiction services, by rules adopted in 73166
accordance with Chapter 119. of the Revised Code, may specify 73167
procedures and requirements for placing an individual on the 73168
waiting list and priorities for the order in which individuals 73169
placed on the waiting list are to begin to receive residential 73170
state supplement payments. The rules specifying priorities may 73171
give priority to individuals placed on the waiting list on or 73172
after July 1, 2006, who receive social security payments, social 73173
security disability insurance, or supplemental security income 73174
benefits under Title XVI of the "Social Security Act," ~~86 Stat.~~ 73175
~~1475 (1972)~~, 42 U.S.C. 1381, ~~as amended~~ et seq. The rules shall 73176
not affect the place on the waiting list of any person who was on 73177
the list on July 1, 2006. The rules specifying priorities may also 73178
set additional priorities based on living arrangement, such as 73179
whether an individual resides in a facility listed in division 73180
(D)(1) of this section or has been admitted to a nursing facility. 73181

(H) An individual in a licensed or certified living 73182
arrangement receiving state supplementation on November 15, 1990, 73183
under former section 5101.531 of the Revised Code shall not become 73184
ineligible for payments under this section solely by reason of the 73185
individual's living arrangement as long as the individual remains 73186
in the living arrangement in which the individual resided on 73187
November 15, 1990. 73188

(I) The ~~department of mental health~~ county department of job 73189
and family services from which the person is receiving benefits 73190
shall notify each person denied approval for payments under this 73191
section of the person's right to a hearing. On request, the 73192

hearing shall be provided in accordance with Chapter 119. of the Revised Code.

Sec. ~~5119.691~~ 5119.411. On a periodic schedule determined by the department of ~~mental health~~ mental health and addiction services, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the agency serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. ~~If~~ The department shall have a process in place to ensure that if a residential state supplement administrative agency determines that such an individual has been admitted to a nursing facility, ~~the agency shall notify the long term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine there shall be a determination~~ whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. ~~If the administrator determines it is determined~~ that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, ~~the administrator shall so notify the department of mental health. On receipt of the notice from the administrator,~~ the department of ~~mental health~~ mental health and addiction services shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (G) of section ~~5119.69~~ 5119.41 of the Revised Code. Each quarter in which a waiting list is in place, the department of ~~mental health~~ mental health and addiction services shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of

individuals in the program pursuant to this section. 73225

Sec. ~~5119.63~~ 5119.42. (A) As used in this section, "private, 73226
nonprofit organization" means a private association, organization, 73227
corporation, or other entity that is tax exempt under section 73228
501(a) and described in section 501(c) of the "Internal Revenue 73229
Code of 1986," 100 Stat. 2085, 26 U.S.C. 501. 73230

(B) To the extent funds are available and on application by 73231
boards of alcohol, drug addiction, and mental health services, the 73232
director of ~~mental health~~ mental health and addiction services may 73233
approve state reimbursement of, or state grants for, community 73234
~~mental health~~ construction programs including residential housing 73235
for severely mentally disabled persons and persons with substance 73236
use disorders. The director may also approve an application for 73237
reimbursement or a grant for such programs submitted by other 73238
governmental entities or by private, nonprofit organizations, 73239
after the application has been reviewed and recommended for 73240
approval or disapproval by the board of alcohol, drug addiction, 73241
and mental health services for the district from which the 73242
application came, and the application is consistent with the plan 73243
submitted by the board under division (A) of section 340.03 of the 73244
Revised Code and the budget and statement of services submitted by 73245
the board under divisions (A) and (B) of section 340.08 of the 73246
Revised Code. 73247

(C)(1) The director of ~~mental health~~ mental health and 73248
addiction services shall adopt rules in accordance with Chapter 73249
119. of the Revised Code that specify procedures for applying for 73250
state reimbursement of and state grants for community construction 73251
programs, including residential housing for severely mentally 73252
disabled persons and persons with substance use disorders and 73253
procedures and criteria for approval of such reimbursement and 73254
grants. 73255

(2) The director of ~~mental health~~ mental health and addiction services shall not approve state reimbursement or a state grant unless all of the following conditions are met:

(a) The applicant includes with the application a plan specifying the services, in addition to housing, that will be provided to persons who will reside in the residential housing. Services specified may include any of the services listed in section 340.09 of the Revised Code.

(b) The director is satisfied that the residential housing for severely mentally disabled persons will be developed to promote the maximum practical integration of severely mentally disabled persons with persons at the same site who are not severely mentally disabled.

(c) The use of any funds distributed pursuant to the reimbursement or grant will not subject any obligation from which the funds are derived to federal income taxation.

(3) The director may enter into an agreement establishing terms for any reimbursement or grant approved under this division with the organization, board, or other government entity that is the recipient of the reimbursement or grant. Any such agreement is subject to any covenant or agreement pertaining to any obligation issued to provide funds for the reimbursement or grant.

Sec. ~~5119.631~~ 5119.421. (A) This section applies to a board of alcohol, drug addiction, and mental health services, another governmental entity, or a private, nonprofit organization that received a grant or reimbursement under section ~~5119.63~~ 5119.42 of the Revised Code for a facility on which the department of ~~mental health~~ mental health and addiction services holds a security interest.

(B) A board of alcohol, drug addiction, and mental health

services, another governmental entity, or a private, nonprofit 73286
organization to which this section applies may apply to the 73287
director of ~~mental health~~ mental health and addiction services for 73288
approval to sell its facility and acquire, construct, or renovate 73289
a replacement facility pursuant to this section. The director 73290
shall prescribe the form of the application. Before submitting an 73291
application to the director, a governmental entity or private, 73292
nonprofit organization must obtain approval of the application 73293
from the board of alcohol, drug addiction, and mental health 73294
services with jurisdiction over the service district in which the 73295
existing facility is located. The director shall approve an 73296
application for a replacement project upon determining that the 73297
project provides for the continuation of appropriate mental health 73298
and addiction services to the population served by the board, 73299
entity, or organization. 73300

(C) A board, entity, or organization that obtains approval 73301
for a project under division (B) of this section shall pay the 73302
proceeds of the sale of its facility to the director of ~~mental~~ 73303
~~health~~ mental health and addiction services. The director shall 73304
deposit the proceeds to the credit of the community capital 73305
replacement facilities fund. 73306

(D) When a board, entity, or organization that has sold its 73307
facility notifies the director of ~~mental health~~ mental health and 73308
addiction services that it is ready to acquire, construct, or 73309
renovate a replacement facility, the director shall do one of the 73310
following: 73311

(1) If the replacement facility is located in the same 73312
alcohol, drug addiction, and mental health service district as the 73313
original facility, and if the purposes for which the replacement 73314
facility will be used are the same as or similar to those for the 73315
original facility, the director shall pay to the board, entity, or 73316
organization from the community capital replacement facilities 73317

fund an amount equal to the lesser of an amount equal to the 73318
proceeds of the sale of the original facility or the amount of the 73319
state's agreed-upon participation (as a per cent of the total 73320
cost) in the cost of the replacement facility. If the amount of 73321
the state's agreed-upon participation in the cost of the 73322
replacement facility is less than the value of the state's 73323
security interest in the original facility, the difference between 73324
the state's agreed-upon participation in the cost of the 73325
replacement facility and the value of the state's security 73326
interest in the original facility shall be retained in the 73327
community capital replacement facilities fund, and any excess 73328
proceeds shall be paid to the board, entity, or organization. 73329

(2) If the replacement facility is located in a different 73330
alcohol, drug addiction, and mental health service district than 73331
the original facility, or if the purposes for which the 73332
replacement facility will be used are not the same as or similar 73333
to those for the original facility, the director shall request 73334
controlling board approval for release of funds for the project. 73335
If the controlling board so approves, the director shall pay to 73336
the board, entity, or organization from the community capital 73337
replacement facilities fund the lesser of an amount equal to the 73338
proceeds of the sale of the original facility or the amount of the 73339
state's agreed-upon participation (as a per cent of the total 73340
cost) in the cost of the replacement facility. ~~if~~ If the amount of 73341
the state's agreed-upon participation in the cost of the 73342
replacement facility is less than the value of the state's 73343
security interest in the original facility, the difference between 73344
the state's agreed-upon participation in the cost of the 73345
replacement facility and the value of the state's security 73346
interest in the original facility shall be retained in the 73347
community capital replacement facilities fund, and any excess 73348
proceeds shall be paid to the board, entity, or organization. 73349

(E) The director of ~~mental health~~ mental health and addiction services and a board, entity, or organization shall enter into an agreement specifying the terms of any payment made to the board, entity, or organization under division (D) of this section. The terms may include provision for the department of ~~mental health~~ mental health and addiction services to hold a security interest in the facility.

(F)(1) When approving an application under division (B) of this section, the director of ~~mental health~~ mental health and addiction services shall establish a deadline by which the board, entity, or organization must notify the director that it is ready to acquire, construct, or renovate a replacement facility. If the board, entity, or organization does not notify the director on or before the deadline, the director may cancel the project. Upon canceling the project, the director shall pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

(2) Notwithstanding the deadline established under division (F)(1) of this section, if at any time a board, entity, or organization notifies the director that it does not intend to acquire, construct, or renovate a replacement facility under this section, the director shall cancel the replacement project and pay to the board, entity, or organization from the community capital replacement facilities fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

(G) If a replacement project is canceled after the sale of the original facility, the director of ~~mental health~~ mental health and addiction services shall use funds equal to the value of the state's security interest in the original facility for additional

grants or reimbursements under section ~~5119.63~~ 5119.42 of the Revised Code. The director shall obtain the approval of the controlling board before releasing the additional grants or reimbursements.

(H) The community capital replacement facilities fund is hereby created in the state treasury. The director of ~~mental health~~ mental health and addiction services shall use the fund for the purposes of this section.

Sec. ~~5119.16~~ 5119.44. As used in this section, "free clinic" has the same meaning as in section 2305.2341 of the Revised Code.

(A) The department of ~~mental health~~ mental health and addiction services may provide certain goods and services for the department of ~~mental health~~ mental health and addiction services, the department of developmental disabilities, the department of rehabilitation and correction, the department of youth services, and other state, county, or municipal agencies requesting such goods and services when the department of ~~mental health~~ mental health and addiction services determines that it is in the public interest, and considers it advisable, to provide these goods and services. The department of ~~mental health~~ mental health and addiction services also may provide goods and services to agencies operated by the United States government and to public or private nonprofit agencies, other than free clinics, that are funded in whole or in part by the state if the public or private nonprofit agencies are designated for participation in this program by the director of ~~mental health~~ mental health and addiction services for community addiction services providers and community mental health ~~agencies~~ services providers, the director of developmental disabilities for community mental retardation and developmental disabilities agencies, the director of rehabilitation and correction for community rehabilitation and correction agencies,

or the director of youth services for community youth services 73413
agencies. 73414

Designated community ~~agencies~~ services providers shall 73415
receive goods and services through the department of ~~mental health~~ 73416
mental health and addiction services only in those cases where the 73417
designating state agency certifies that providing such goods and 73418
services to the agency will conserve public resources to the 73419
benefit of the public and where the provision of such goods and 73420
services is considered feasible by the department of ~~mental health~~ 73421
mental health and addiction services. 73422

(B) The department of ~~mental health~~ mental health and 73423
addiction services may permit free clinics to purchase certain 73424
goods and services to the extent the purchases fall within the 73425
exemption to the Robinson-Patman Act, 15 U.S.C. 13 et seq., 73426
applicable to nonprofit institutions, in 15 U.S.C. 13c, as 73427
amended. 73428

(C) The goods and services that may be provided by the 73429
department of ~~mental health~~ mental health and addiction services 73430
under divisions (A) and (B) of this section may include: 73431

(1) Procurement, storage, processing, and distribution of 73432
food and professional consultation on food operations; 73433

(2) Procurement, storage, and distribution of medical and 73434
laboratory supplies, dental supplies, medical records, forms, 73435
optical supplies, and sundries, subject to section 5120.135 of the 73436
Revised Code; 73437

(3) Procurement, storage, repackaging, distribution, and 73438
dispensing of drugs, the provision of professional pharmacy 73439
consultation, and drug information services; 73440

(4) Other goods and services. 73441

(D) The department of ~~mental health~~ mental health and 73442

addiction services may provide the goods and services designated 73443
in division (C) of this section to its institutions and to 73444
state-operated community-based mental health services providers. 73445

(E) After consultation with and advice from the director of 73446
developmental disabilities, the director of rehabilitation and 73447
correction, and the director of youth services, the department of 73448
~~mental health~~ mental health and addiction services may provide the 73449
goods and services designated in division (C) of this section to 73450
the department of developmental disabilities, the department of 73451
rehabilitation and correction, and the department of youth 73452
services. 73453

(F) The cost of administration of this section shall be 73454
determined by the department of ~~mental health~~ mental health and 73455
addiction services and paid by the agencies or free clinics 73456
receiving the goods and services to the department for deposit in 73457
the state treasury to the credit of the mental health fund, which 73458
is hereby created. The fund shall be used to pay the cost of 73459
administration of this section to the department. 73460

(G) Whenever a state agency fails to make a payment for goods 73461
and services provided under this section within thirty-one days 73462
after the date the payment was due, the office of budget and 73463
management may transfer moneys from the state agency to the 73464
department of ~~mental health~~ mental health and addiction services. 73465
The amount transferred shall not exceed the amount of overdue 73466
payments. Prior to making a transfer under this division, the 73467
office of budget and management shall apply any credits the state 73468
agency has accumulated in payments for goods and services provided 73469
under this section. 73470

(H) Purchases of goods and services under this section are 73471
not subject to section 307.86 of the Revised Code. 73472

Sec. ~~5119.161~~ 5119.45. Unless otherwise specifically provided 73473

by law, all moneys received by the department of ~~mental health~~ 73474
mental health and addiction services from the sale of goods and 73475
services, including, but not limited to, shared service agreements 73476
with other governmental entities and nongovernmental entities, 73477
employee housing and cafeteria receipts, fees for copying 73478
services, and sales of other tangible personal property under the 73479
department's control, shall be paid into the state treasury to the 73480
credit of the sale of goods and services fund, which is hereby 73481
created. Moneys received by the department pursuant to section 73482
~~5119.16~~ 5119.44 of the Revised Code shall not be paid into the 73483
fund. The department shall use the moneys in the fund for paying 73484
operating expenses of the department. 73485

Sec. ~~5119.18~~ 5119.46. There is hereby created in the state 73486
treasury the department of ~~mental health~~ mental health and 73487
addiction services trust fund. Not later than the first day of 73488
September of each year, the director of ~~mental health~~ mental 73489
health and addiction services shall certify to the director of 73490
budget and management the amount of all of the unexpended, 73491
unencumbered balances of general revenue fund appropriations made 73492
to the department of ~~mental health~~ mental health and addiction 73493
services for the previous fiscal year, excluding funds 73494
appropriated for rental payments to the Ohio public facilities 73495
commission. On receipt of the certification, the director of 73496
budget and management shall transfer cash to the trust fund in an 73497
amount up to, but not exceeding, the total of the amounts 73498
certified by the director of ~~mental health~~ mental health and 73499
addiction services. 73500

In addition, the trust fund shall receive all amounts, 73501
subject to any provisions in bond documents, received from the 73502
sale or lease of lands and facilities by the department. 73503

All moneys in the trust fund shall be used by the department 73504

of ~~mental health~~ mental health and addiction services to pay for 73505
expenditures the department incurs in performing any of its duties 73506
under this chapter. The use of moneys in the trust fund pursuant 73507
to this section does not represent an ongoing commitment to the 73508
continuation of the trust fund or to the use of moneys in the 73509
trust fund. 73510

Sec. ~~3793.032~~ 5119.47. The director of ~~alcohol and drug~~ 73511
~~addiction services~~ mental health and addiction services shall 73512
administer the problem casino gambling and addictions fund. The 73513
director shall use the money in the fund to support ~~programs that~~ 73514
~~provide~~ gambling addiction services, alcohol and drug addiction 73515
~~programs that provide alcohol and drug addiction~~ services, other 73516
~~programs~~ services that relate to gambling addiction and substance 73517
abuse, and research that relates to gambling addiction and 73518
substance abuse. Treatment services ~~provided under programs~~ 73519
supported by money in the fund under this section shall be 73520
services that are ~~provided by alcohol and drug addiction treatment~~ 73521
~~programs~~ certified by the department of ~~alcohol and drug addiction~~ 73522
~~services or provided by counselors who are certified by the~~ 73523
~~department~~ mental health and addiction services. Prevention 73524
services ~~provided under programs~~ supported by money in the fund 73525
under this section shall be services that are ~~provided by alcohol~~ 73526
~~and drug addiction prevention programs~~ certified by the department 73527
of ~~alcohol and drug addiction services~~ mental health and addiction 73528
services. 73529

The director shall prepare an annual report describing the 73530
use of the fund for these purposes. The director shall submit the 73531
report to the Ohio casino control commission, the speaker and 73532
minority leader of the house of representatives, the president and 73533
minority leader of the senate, the governor, and the joint 73534
committee on gaming and wagering. 73535

Sec. ~~3793.22~~ 5119.49. (A) The director of ~~alcohol and drug~~ 73536
~~addiction services~~ mental health and addiction services shall 73537
collaborate with the state board of pharmacy and attorney general 73538
in the establishment and administration of a drug take-back 73539
program, as provided under section 4729.69 of the Revised Code. 73540

(B) The department may accept grants, gifts, or donations for 73541
purposes of the program. Money received under this division shall 73542
be deposited into the drug take-back program fund established 73543
under section 109.90 of the Revised Code. 73544

Sec. ~~5119.34~~ 5119.50. The director of ~~mental health~~ mental 73545
health and addiction services may accept, hold, and administer in 73546
trust on behalf of the state, if it is for the public interest, 73547
any grant, gift, devise, or bequest of money or property made to 73548
the state for the use or benefit of any institution described in 73549
section ~~5119.02~~ 5119.14 of the Revised Code or for the use and 73550
benefit of mentally ill persons under its control. If the trust so 73551
provides, the money or property may be used for any work which the 73552
department of ~~mental health~~ mental health and addiction services 73553
is authorized to undertake. 73554

The department shall keep such gift, grant, devise, or 73555
bequest as a distinct property or fund and, if it is in money, 73556
shall invest it in the manner provided by law. The department may 73557
deposit in a proper trust company or savings bank any money left 73558
in trust during a specified life or lives and shall adopt rules 73559
governing the deposit, transfer, withdrawal, or investment of such 73560
money and the income thereof. 73561

The department shall, in the manner prescribed by the 73562
director of budget and management pursuant to section 126.21 of 73563
the Revised Code, account for all money or property received or 73564
expended under this section. The records, together with a 73565

statement certified by the depository showing the funds deposited 73566
there to the credit of the trust, shall be open to public 73567
inspection. The director of budget and management may require the 73568
department to file a report with ~~him~~ the director on any 73569
particular portion, or the whole, of any trust property received 73570
or expended by it. 73571

The department shall, upon the expiration of any trust 73572
according to its terms, dispose of the funds or property held 73573
thereunder in the manner provided in the instrument creating the 73574
trust. If the instrument creating the trust failed to make any 73575
terms of disposition, or if no trust was in evidence, then the 73576
decedent patient's money, saving or commercial deposits, dividends 73577
or distributions, bonds, or any other interest-bearing debt 73578
certificate or stamp issued by the United States government shall 73579
escheat to the state. All such unclaimed intangible personal 73580
property of a former patient shall be retained by the managing 73581
officer in such institution for the period of one year, during 73582
which time every possible effort shall be made to find such former 73583
patient or ~~his~~ the former patient's legal representative. 73584

If, after a period of one year from the time the patient has 73585
left the institution or has died, the managing officer has been 73586
unable to locate such person or ~~his~~ the person's legal 73587
representative, then upon proper notice of such fact the director 73588
shall at that time formulate in writing a method of disposition on 73589
the minutes of the department authorizing the managing officer to 73590
convert such intangible personal property to cash to be paid into 73591
the state treasury to the credit of the general revenue fund. 73592

The department shall include in its annual report a statement 73593
of all money and property and the terms and conditions relating 73594
thereto. 73595

Sec. 5119.17 5119.51. (A) As used in this section, 73596

"supplemental services" has the same meaning as in section 5815.28 of the Revised Code. 73597
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(B) There is hereby created in the state treasury the services fund for individuals with mental illness. On the death of the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, the portion of the remaining assets of the trust specified in the trust instrument shall be deposited to the credit of the fund. Money credited to the fund shall be used for individuals with mental illness. 73599
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Supplemental services may be provided through the department or boards of alcohol, drug addiction, and mental health services. In accordance with Chapter 119. of the Revised Code, the department of ~~mental health~~ mental health and addiction services may adopt any rules necessary to implement this section. 73606
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Sec. ~~5119.36~~ 5119.52. Each managing officer of an institution under the jurisdiction of the department of ~~mental health~~ mental health and addiction services as described in section ~~5119.02~~ 5119.14 of the Revised Code, with the approval of the director of ~~mental health~~ mental health and addiction services, may establish local institution funds designated as follows: 73611
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(A) Industrial and entertainment fund created and maintained for the entertainment and welfare of the patients of the institution. The director shall establish rules for the operation of the industrial and entertainment fund. 73617
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(B) Commissary fund created and maintained for the benefit of patients in the institution. Commissary revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund operations shall be paid into the industrial and entertainment fund and used only for the entertainment and ~~wel-fare~~ welfare of patients. The director shall 73622
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establish rules for the operation of the commissary fund. 73628

Sec. ~~5119.33~~ 5119.54. The treasurer of state shall have 73629
charge of all funds under the jurisdiction of the department of 73630
~~mental health~~ mental health and addiction services and shall pay 73631
out the same only in accordance with this chapter. 73632

The department shall cause to be furnished a contract of 73633
indemnity to cover all funds received by it or by its managing 73634
officers, employees, or agents while the funds are in the 73635
possession of such managing officers, employees or agents. Such 73636
funds are designated as follows: 73637

(A) Funds which are due and payable to the treasurer of state 73638
as provided by Chapter 131. of the Revised Code; 73639

(B) Those funds which are held in trust by the managing 73640
officers, employees, or agents of the institution as local funds 73641
or accounts under the jurisdiction of the department. 73642

Such contract of indemnity shall be made payable to the state 73643
and the premium for such contract of indemnity may be paid from 73644
any of the moneys received for the use of the department under 73645
this chapter and Chapters 5121. and 5122. of the Revised Code. 73646

Funds collected from various sources, such as the sale of 73647
goods, and all miscellaneous articles, shall be transmitted on or 73648
before Monday of each week to the treasurer of state and a 73649
detailed statement of such collections shall be made to the 73650
department. 73651

Sec. ~~5119.351~~ 5119.55. The department of ~~mental health~~ mental 73652
health and addiction services may pay an amount for personal use 73653
to each individual residing in a state institution as described in 73654
section ~~5119.02~~ 5119.14 of the Revised Code who would be eligible 73655
for supplemental security income benefits at the reduced rate 73656
established by Title XVI of the "Social Security Act," ~~49 Stat.~~ 73657

~~620 (1935), 42 U.S.C.A. 1382, as amended 1381 et seq., if the~~ 73658
~~state plan for providing medical assistance under section 5111.01~~ 73659
~~of the Revised Code included reimbursement of medicaid program~~ 73660
covers services provided in such institutions. The amount paid by 73661
the department shall not exceed the reduced supplemental security 73662
income benefit rate established by Title XVI of the "Social 73663
Security Act." 73664

Sec. ~~5119.35~~ 5119.56. Money or property deposited with 73665
managing officers of institutions under the jurisdiction of the 73666
department of ~~mental health~~ mental health and addiction services 73667
by any patient under the department's control or by relatives, 73668
guardians, conservators, and others for the special benefit of 73669
such patient, as well as all other funds and all other income paid 73670
to the patient, ~~his~~ the patient's estate, or on ~~his~~ the patient's 73671
behalf, or paid to the managing officer or to the institution as 73672
representative payee or otherwise paid on the patient's behalf, 73673
shall remain in the hands of such officers in appropriate accounts 73674
for use accordingly. The managing officer shall keep itemized book 73675
accounts of the receipt and disposition of such money and 73676
property, which book shall be open at all times to the inspection 73677
of the department. The director of ~~mental health~~ mental health and 73678
addiction services shall adopt rules governing the deposit, 73679
transfer, withdrawal, or investment of the funds and the income 73680
thereof, as well as rules under which such funds and income shall 73681
be paid by managing officers for the support of the patients 73682
pursuant to Chapter 5121. of the Revised Code, or for their other 73683
needs. 73684

Whenever any patient confined in any state institution 73685
subject to the jurisdiction of the department dies, escapes, or is 73686
discharged from such institution, and any personal funds of such 73687
person remain in the hands of the managing officer thereof and no 73688
demand for such funds is made upon such managing officer by the 73689

owner of the funds or ~~his~~ the owner's legally appointed 73690
representative, the managing officer shall hold the funds in the 73691
personal deposit fund for a period of at least one year during 73692
which time the managing officer shall make every effort possible 73693
to locate the owner or ~~his~~ the owner's legally appointed 73694
representative. 73695

If at the end of this period no demand has been made for the 73696
funds, the managing officer shall dispose of the funds as follows: 73697

(A) All money in a personal deposit fund in excess of ten 73698
dollars due for the support of a patient shall be paid in 73699
accordance with the provisions of Chapter 5121. of the Revised 73700
Code. 73701

(B) All money in a personal deposit fund in excess of ten 73702
dollars not due for the support of a patient shall be placed to 73703
the credit of the institution's local account designated as the 73704
"industrial and entertainment" fund. 73705

(C) The first ten dollars to the credit of a patient shall be 73706
placed to the credit of the institution's local account designated 73707
as the "industrial and entertainment" fund. 73708

Whenever any patient in any state institution subject to the 73709
jurisdiction of the department dies, escapes, or is discharged 73710
from such institution, and any personal effects of such person 73711
remain in the hands of the managing officer thereof, and no demand 73712
is made upon such managing officer by the owner of the property or 73713
~~his~~ the owner's legally appointed representative, the managing 73714
officer shall hold and dispose of such property in the following 73715
manner. 73716

All the miscellaneous personal effects shall be held for a 73717
period of at least one year, during which time the managing 73718
officer shall make every effort possible to locate the owner or 73719
~~his~~ the owner's legal representative. If at the end of this 73720

period, no demand has been made by the owner of the property or 73721
~~his~~ the owner's legal representative, the managing officer shall 73722
file with the county recorder of the county of commitment of such 73723
owner, all deeds, wills, contract mortgages, or assignments. The 73724
balance of the personal effects shall be sold at public auction 73725
after being duly advertised, and the funds turned over to the 73726
treasurer of state for credit to the general revenue fund. If any 73727
of the property is not of a type to be filed with the county 73728
recorder and is not salable at public auction, then the managing 73729
officer of the institution shall destroy such property. 73730

Sec. ~~5119.46~~ 5119.60. ~~In its annual report, the~~ The 73731
department of ~~mental health~~ mental health and addiction services 73732
shall submit an annual report to the governor that shall describe 73733
the services the department offers and how appropriated funds have 73734
been spent. The report shall include ~~the~~ all of the following: 73735

(A) The utilization of state hospitals by each alcohol, drug 73736
addiction, and mental health service district, ~~the;~~ 73737

(B) The number of persons served by community addiction 73738
services providers that receive funds distributed by the 73739
department, with a breakdown into categories including age, sex, 73740
race, the type of drug to which the person is addicted, and any 73741
other categories the director of mental health and addiction 73742
services considers significant; 73743

(C) The number of severely mentally disabled persons served 73744
in each district, ~~and the;~~ 73745

(D) The number and types of services provided to severely 73746
mentally disabled persons through state-operated services and 73747
community mental health ~~agencies~~ services providers; 73748

(E) A report measuring the success of community addiction 73749
services providers, based on the measures for accountability 73750

developed by the department, including the percentage of persons 73751
served by such community addiction services providers who have not 73752
relapsed; 73753

(F) Any other information that the director considers 73754
significant or is requested by the governor. 73755

Sec. ~~3793.12~~ 5119.61. (A) The department of ~~alcohol and drug~~ 73756
~~addiction services~~ mental health and addiction services shall 73757
collect and compile statistics and other information on the care, 73758
treatment, and rehabilitation of alcoholics, drug dependent 73759
persons, and persons in danger of drug dependence in this state, 73760
including, without limitation, information on the number of such 73761
persons, the type of drug involved, the type of care, treatment, 73762
or rehabilitation prescribed or undertaken, and the success or 73763
failure of the care, treatment, or rehabilitation. The department 73764
shall collect information about services delivered and persons 73765
served as required for reporting and evaluation relating to state 73766
and federal funds expended for such purposes. 73767

(B) No alcohol ~~or~~ drug addiction program, or mental health 73768
services provider shall fail to supply statistics and other 73769
information within its knowledge and with respect to its ~~programs~~ 73770
services, upon request of the department. 73771

(C) Communications by a person seeking aid in good faith for 73772
alcoholism or drug dependence are confidential, and this section 73773
does not require the collection or permit the disclosure of 73774
information which reveals or comprises the identity of any person 73775
seeking aid. 73776

(D) Based on the information collected and compiled under 73777
division (A) of this section, the department shall develop a 73778
project to assess the outcomes of persons served by alcohol and 73779
drug addiction ~~programs~~ services providers that receive funds 73780
distributed by the department. 73781

~~Sec. 5119.50~~ 5119.70. The "interstate compact on mental health" is hereby ratified, enacted into law, and entered into by the state of Ohio as a party thereto with any other state which has legally joined in the compact as follows:

INTERSTATE COMPACT ON MENTAL HEALTH

The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally retarded can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally retarded under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental retardation.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, or convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental retardation" shall mean mental retardation as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental retardation, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such

institutionalization may be for the entire period of care and 73844
treatment or for any portion or portions thereof. The factors 73845
referred to in this paragraph shall include the patient's full 73846
record with due regard for the location of the patient's family, 73847
character of the illness and probable duration thereof, and such 73848
other factors as shall be considered appropriate. 73849

(c) No state shall be obliged to receive any patient pursuant 73850
to the provisions of paragraph (b) of this article unless the 73851
sending state has given advance notice of its intention to send 73852
the patient; furnished all available medical and other pertinent 73853
records concerning the patient; given the qualified medical or 73854
other appropriate clinical authorities of the receiving state an 73855
opportunity to examine the patient if said authorities so wish; 73856
and unless the receiving state shall agree to accept the patient. 73857

(d) In the event that the laws of the receiving state 73858
establish a system of priorities for the admission of patients, an 73859
interstate patient under this compact shall receive the same 73860
priority as a local patient and shall be taken in the same order 73861
and at the same time that he would be taken if he were a local 73862
patient. 73863

(e) Pursuant to this compact, the determination as to the 73864
suitable place of institutionalization for a patient may be 73865
reviewed at any time and such further transfer of the patient may 73866
be made as seems likely to be in the best interest of the patient. 73867

Article IV 73868

(a) Whenever, pursuant to the laws of the state in which a 73869
patient is physically present, it shall be determined that the 73870
patient should receive after-care or supervision, such care or 73871
supervision may be provided in a receiving state. If the medical 73872
or other appropriate clinical authorities having responsibility 73873
for the care and treatment of the patient in the sending state 73874
shall have reason to believe that after-care in another state 73875

would be in the best interest of the patient and would not 73876
jeopardize the public safety, they shall request the appropriate 73877
authorities in the receiving state to investigate the desirability 73878
of affording the patient such after-care in said receiving state, 73879
and such investigation shall be made with all reasonable speed. 73880
The request for investigation shall be accompanied by complete 73881
information concerning the patient's intended place of residence 73882
and the identity of the person in whose charge it is proposed to 73883
place the patient, the complete medical history of the patient, 73884
and such other documents as may be pertinent. 73885

(b) If the medical or other appropriate clinical authorities 73886
having responsibility for the care and treatment of the patient in 73887
the sending state and the appropriate authorities in the receiving 73888
state find that the best interest of the patient would be served 73889
thereby, and if the public safety would not be jeopardized 73890
thereby, the patient may receive after-care or supervision in the 73891
receiving state. 73892

(c) In supervising, treating, or caring for a patient on 73893
after-care pursuant to the terms of this article, a receiving 73894
state shall employ the same standards of visitation, examination, 73895
care, and treatment that it employs for similar local patients. 73896

Article V 73897

Whenever a dangerous or potentially dangerous patient escapes 73898
from an institution in any party state, that state shall promptly 73899
notify all appropriate authorities within and without the 73900
jurisdiction of the escape in a manner reasonably calculated to 73901
facilitate the speedy apprehension of the escapee. Immediately 73902
upon the apprehension and identification of any such dangerous or 73903
potentially dangerous patient, he shall be detained in the state 73904
where found pending disposition in accordance with law. 73905

Article VI 73906

The duly accredited officers of any state party to this 73907

compact, upon the establishment of their authority and the 73908
identity of the patient, shall be permitted to transport any 73909
patient being moved pursuant to this compact through any and all 73910
states party to this compact, without interference. 73911

Article VII 73912

(a) No person shall be deemed a patient of more than one 73913
institution at any given time. Completion of transfer of any 73914
patient to an institution in a receiving state shall have the 73915
effect of making the person a patient of the institution in the 73916
receiving state. 73917

(b) The sending state shall pay all costs of and incidental 73918
to the transportation of any patient pursuant to this compact, but 73919
any two or more party states may, by making a specific agreement 73920
for that purpose, arrange for a different allocation of costs as 73921
among themselves. 73922

(c) No provision of this compact shall be construed to alter 73923
or affect any internal relationships among the departments, 73924
agencies and officers of and in the government of a party state, 73925
or between a party state and its subdivisions, as to the payment 73926
of costs, or responsibilities therefor. 73927

(d) Nothing in this compact shall be construed to prevent any 73928
party state or subdivision thereof from asserting any right 73929
against any person, agency or other entity in regard to costs for 73930
which such party state or subdivision thereof may be responsible 73931
pursuant to any provision of this compact. 73932

(e) Nothing in this compact shall be construed to invalidate 73933
any reciprocal agreement between a party state and a nonparty 73934
state relating to institutionalization, care or treatment of the 73935
mentally ill or mentally retarded, or any statutory authority 73936
pursuant to which such agreements may be made. 73937

Article VIII 73938

(a) Nothing in this compact shall be construed to abridge, 73939
diminish, or in any way impair the rights, duties, and 73940
responsibilities of any patient's guardian on his own behalf or in 73941
respect of any patient for whom he may serve, except that where 73942
the transfer of any patient to another jurisdiction makes 73943
advisable the appointment of a supplemental or substitute 73944
guardian, any court of competent jurisdiction in the receiving 73945
state may make such supplemental or substitute appointment and the 73946
court which appointed the previous guardian shall upon being duly 73947
advised of the new appointment, and upon the satisfactory 73948
completion of such accounting and other acts as such court may by 73949
law require, relieve the previous guardian of power and 73950
responsibility to whatever extent shall be appropriate in the 73951
circumstances; provided, however, that in the case of any patient 73952
having settlement in the sending state, the court of competent 73953
jurisdiction in the sending state shall have the sole discretion 73954
to relieve a guardian appointed by it or continue his power and 73955
responsibility, whichever it shall deem advisable. The court in 73956
the receiving state may, in its discretion, confirm or reappoint 73957
the person or persons previously serving as guardian in the 73958
sending state in lieu of making a supplemental or substitute 73959
appointment. 73960

(b) The term "guardian" as used in paragraph (a) of this 73961
article shall include any guardian, trustee, legal committee, 73962
conservator, or other person or agency however denominated who is 73963
charged by law with power to act for or responsibility for the 73964
person or property of a patient. 73965

Article IX 73966

(a) No provision of this compact except Article V shall apply 73967
to any person institutionalized while under sentence in a penal or 73968
correctional institution or while subject to trial on a criminal 73969
charge, or whose institutionalization is due to the commission of 73970

an offense for which, in the absence of mental illness or mental
retardation, said person would be subject to incarceration in a
penal or correctional institution.

(b) To every extent possible, it shall be the policy of
states party to this compact that no patient shall be placed or
detained in any prison, jail or lockup, but such patient shall,
with all expedition, be taken to a suitable institutional facility
for mental illllness or mental retardation.

Article X

(a) Each party state shall appoint a "compact administrator"
who, on behalf of his state, shall act as general coordinator of
activities under the compact in his state and who shall receive
copies of all reports, correspondence, and other documents
relating to any patient processed under the compact by his state
either in the capacity of sending or receiving state. The compact
administrator or his duly designated representative shall be the
official with whom other party states shall deal in any matter
relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states
shall have power to promulgate reasonable rules and regulations to
carry out more effectively the terms and provisions of this
compact.

Article XI

The duly constituted administrative authorities of any two or
more party states may enter into supplementary agreements for the
provision of any service or facility or for the maintenance of any
institution on a joint or cooperative basis whenever the states
concerned shall find that such agreements will improve services,
facilities, or institutional care and treatment in the fields of
mental illness or mental retardation. No such supplementary
agreement shall be construed so as to relieve any party state of
any obligation which it otherwise would have under other

provisions of this compact. 74003

Article XII 74004

This compact shall enter into full force and effect as to any 74005
state when enacted by it into law and such states shall thereafter 74006
be a party thereto with any and all states legally joining 74007
therein. 74008

Article XIII 74009

(a) A state party to this compact may withdraw therefrom by 74010
enacting a statute repealing the same. Such withdrawal shall take 74011
effect one year after notice thereof has been communicated 74012
officially and in writing to the governors and compact 74013
administrators of all other party states. However, the withdrawal 74014
of any state shall not change the status of any patient who has 74015
been sent to said state or sent out of said state pursuant to the 74016
provisions of the compact. 74017

(b) Withdrawal from any agreement permitted by Article VII 74018
(b) as to costs or from any supplementary agreement made pursuant 74019
to Article XI shall be in accordance with the terms of such 74020
agreement. 74021

Article XIV 74022

This compact shall be liberally construed so as to effectuate 74023
the purposes thereof. The provisions of this compact shall be 74024
severable and if any phrase, clause, sentence or provision of this 74025
compact is declared to be contrary to the constitution of any 74026
party state or of the United States or the applicability thereof 74027
to any government, agency, person or circumstance is held invalid, 74028
the validity of the remainder of this compact and the 74029
applicability thereof to any government, agency, person or 74030
circumstance shall not be affected thereby. If this compact shall 74031
be held contrary to the constitution of any state party thereto, 74032
the compact shall remain in full force and effect as to the 74033
remaining states and in full force and effect as to the state 74034

affected as to all severable matters. 74035

Sec. ~~5119.51~~ 5119.71. Pursuant to Article X of the compact 74036
set forth in section ~~5119.50~~ 5119.70 of the Revised Code, the 74037
director of ~~mental health~~ mental health and addiction services and 74038
the director of developmental disabilities each shall designate an 74039
officer who shall be the compact administrator for the department 74040
and who, acting jointly with like officers of other party states, 74041
shall adopt rules to carry out more effectively the terms of the 74042
compact. The compact administrators of each department shall serve 74043
subject to the pleasure of the governor and shall cooperate with 74044
all departments, agencies, and officers of and in the government 74045
of this state and its subdivisions in facilitating the proper 74046
administration of the compact or of any supplementary agreements 74047
entered into by this state thereunder. 74048

Sec. ~~5119.52~~ 5119.72. The compact administrator may enter 74049
into supplementary agreements with appropriate officials of other 74050
states pursuant to articles VII and XI of the compact set forth in 74051
section 5119.50 of the Revised Code. In the event that such 74052
supplementary agreements require or contemplate the use of any 74053
institution or facility of this state or require or contemplate 74054
the provision of any service by this state, no such agreement 74055
shall have force or effect until approved by the head of the 74056
department or agency under whose jurisdiction the institution or 74057
facility is operated or whose department or agency will be charged 74058
with the rendering of such service. 74059

Sec. ~~5119.53~~ 5119.73. Any payments necessary to discharge any 74060
financial obligations imposed upon the state of Ohio by the 74061
compact or by any supplementary agreement entered into thereunder, 74062
as provided in sections 5119.50 to 5119.52 of the Revised Code, 74063
shall be made from appropriated funds upon presentation to the 74064

director of budget and management of itemized vouchers approved by 74065
the compact administrator. 74066

Sec. ~~3793.31~~ 5119.90. As used in sections ~~3793.31~~ 5119.90 to 74067
~~3793.39~~ 5119.98 of the Revised Code: 74068

(A) "Alcohol and other drug abuse" means alcoholism or drug 74069
addiction. 74070

(B) "Another drug" means a controlled substance as defined in 74071
section 3719.01 of the Revised Code or a harmful intoxicant as 74072
defined in section 2925.01 of the Revised Code. 74073

(C) "Board of alcohol, drug addiction, and mental health 74074
services" means a board of alcohol, drug addiction, and mental 74075
health services established under section 340.02 or 340.021 of the 74076
Revised Code. 74077

(D) "Danger" or "threat of danger to self, family, or others" 74078
means substantial physical harm or threat of substantial physical 74079
harm upon self, family, or others. 74080

(E) "Hospital" has the same meaning as in section 3701.01 or 74081
3727.01 of the Revised Code but does not include either a hospital 74082
operated by the department of ~~mental health~~ mental health and 74083
addiction services or an inpatient unit licensed by the 74084
department. 74085

(F) "Intoxicated" means being under the influence of alcohol, 74086
another drug, or both alcohol and another drug and, as a result, 74087
having a significantly impaired ability to function. 74088

(G) "Petitioner" means a person who institutes a proceeding 74089
under sections ~~3793.32~~ 5119.91 to ~~3793.39~~ 5119.98 of the Revised 74090
Code. 74091

(H) "Probate court" means the probate division of the court 74092
of common pleas. 74093

(I) "Qualified health professional" means a person that is properly credentialed or licensed to conduct a drug and alcohol assessment and diagnosis under Ohio law.

(J) "Residence" means the legal residence of a person as determined by applicable principles governing conflicts of law.

(K) "Respondent" means a person alleged in a petition filed or hearing under sections ~~3793.32~~ 5119.91 to ~~3793.39~~ 5119.98 of the Revised Code to be a person who is suffering from alcohol and other drug abuse and who may be ordered under those sections to undergo treatment.

(L) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes residential treatment, a halfway house setting, and an intensive outpatient or outpatient level of care.

Sec. ~~3793.32~~ 5119.91. A probate court may order involuntary treatment for a person suffering from alcohol and other drug abuse pursuant to the procedures set forth in sections ~~3793.31~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code.

Sec. ~~3793.33~~ 5119.92. No person shall be ordered to undergo treatment under sections ~~3793.31~~ 5119.90 to ~~3793.39~~ 5119.98 of the Revised Code unless all of the following apply to that person:

(A) The person suffers from alcohol and other drug abuse.

(B) The person presents an imminent danger or imminent threat of danger to self, family, or others as a result of alcohol and other drug abuse, or there exists a substantial likelihood of such a threat in the near future.

(C) The person can reasonably benefit from treatment.

Sec. ~~3793.34~~ 5119.93. (A) A person may initiate proceedings 74122
for treatment for an individual suffering from alcohol and other 74123
drug abuse by filing a verified petition in the probate court and 74124
paying a filing fee in the same amount, if any, that is charged 74125
for the filing under section 5122.11 of the Revised Code of an 74126
affidavit seeking the hospitalization of a person. The petition 74127
and all subsequent court documents shall be entitled: "In the 74128
interest of (name of respondent)." A spouse, relative, or guardian 74129
of the individual concerning whom the petition is filed shall file 74130
the petition. 74131

(B) A petition filed under division (A) of this section shall 74132
set forth all of the following: 74133

(1) The petitioner's relationship to the respondent; 74134

(2) The respondent's name, residence address, and current 74135
location, if known; 74136

(3) The name and residence of the respondent's parents, if 74137
living and if known, or of the respondent's legal guardian, if any 74138
and if known; 74139

(4) The name and residence of the respondent's spouse, if any 74140
and if known; 74141

(5) The name and residence of the person having custody of 74142
the respondent, if any, or if no such person is known, the name 74143
and residence of a near relative or a statement that the person is 74144
unknown; 74145

(6) The petitioner's belief, including the factual basis for 74146
the belief, that the respondent is suffering from alcohol and 74147
other drug abuse and presents an imminent danger or imminent 74148
threat of danger to self, family, or others if not treated for 74149
alcohol or other drug abuse. 74150

(C)(1) Any petition filed pursuant to divisions (A) and (B) 74151

of this section shall be accompanied by a certificate of a 74152
physician who has examined the respondent within two days prior to 74153
the day that the petition is filed in the probate court. The 74154
physician shall be authorized to practice medicine and surgery or 74155
osteopathic medicine and surgery under Chapter 4731. of the 74156
Revised Code. The physician's certificate shall set forth the 74157
physician's findings in support of the need to treat the 74158
respondent for alcohol or other drug abuse. The certificate shall 74159
indicate if the respondent presents an imminent danger or imminent 74160
threat of danger to self, family, or others if not treated. 74161
Further, the certificate shall indicate the type and length of 74162
treatment required and if the respondent can reasonably benefit 74163
from treatment. If the physician's certificate indicates that 74164
inpatient treatment is required, the certificate shall identify 74165
any inpatient facilities known to the physician that are able and 74166
willing to provide the recommended inpatient treatment. 74167

If the respondent refuses to undergo an examination with a 74168
physician concerning the respondent's possible need for treatment 74169
for alcohol or other drug abuse, the petition shall state that the 74170
respondent has refused all requests made by the petitioner to 74171
undergo a physician's examination. In that case, the petitioner 74172
shall not be required to provide a physician's certificate with 74173
the petition. 74174

(2) Any petition filed pursuant to divisions (A) and (B) of 74175
this section shall contain a statement that the petitioner has 74176
arranged for treatment of the respondent. Further, the petition 74177
shall be accompanied by a statement from the person or facility 74178
who has agreed to provide the treatment that verifies that the 74179
person or facility has agreed to provide the treatment and the 74180
estimated cost of the treatment. 74181

(D) Any petition filed pursuant to divisions (A) and (B) of 74182
this section shall be accompanied by both of the following: 74183

(1) A security deposit to be deposited with the clerk of the probate court that will cover half of the estimated cost of treatment of the respondent;

(2) A guarantee, signed by the petitioner or another person authorized to file the petition obligating the guarantor to pay the costs of the examinations of the respondent conducted by the physician and qualified health professional under division (B)(5) of section ~~3793.35~~ 5119.94 of the Revised Code, the costs of the respondent that are associated with a hearing conducted in accordance with section ~~3793.35~~ 5119.94 of the Revised Code and that the court determines to be appropriate, and the costs of any treatment ordered by the court.

Sec. ~~3793.35~~ 5119.94. (A) Upon receipt of a petition filed under section ~~3793.34~~ 5119.93 of the Revised Code and the payment of the appropriate filing fee, if any, the probate court shall examine the petitioner under oath as to the contents of the petition.

(B) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the probate court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(1) Schedule a hearing to be held within seven days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment for alcohol and other drug abuse;

(2) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and of the date and purpose of the hearing;

(3) Notify the respondent that the respondent may retain 74214
counsel and, if the person is unable to obtain an attorney, that 74215
the respondent may be represented by court-appointed counsel at 74216
public expense if the person is indigent. Upon the appointment of 74217
an attorney to represent an indigent respondent, the court shall 74218
notify the respondent of the name, address, and telephone number 74219
of the attorney appointed to represent the respondent. 74220

(4) Notify the respondent that the court shall cause the 74221
respondent to be examined not later than twenty-four hours before 74222
the hearing date by a physician for the purpose of a physical 74223
examination and by a qualified health professional for the purpose 74224
of a drug and alcohol addiction assessment and diagnosis. In 74225
addition, the court shall notify the respondent that the 74226
respondent may have an independent expert evaluation of the 74227
person's physical and mental condition conducted at the 74228
respondent's own expense. 74229

(5) Cause the respondent to be examined not later than 74230
twenty-four hours before the hearing date by a physician for the 74231
purpose of a physical examination and by a qualified health 74232
professional for the purpose of a drug and alcohol addiction 74233
assessment and diagnosis; 74234

(6) Conduct the hearing. 74235

(C) The physician and qualified health professional who 74236
examine the respondent pursuant to division (B)(5) of this section 74237
or who are obtained by the respondent at the respondent's own 74238
expense shall certify their findings to the court within 74239
twenty-four hours of the examinations. The findings of each 74240
qualified health professional shall include a recommendation for 74241
treatment if the qualified health professional determines that 74242
treatment is necessary. 74243

(D)(1) If upon completion of the hearing held under this 74244

section the probate court finds by clear and convincing evidence 74245
that the respondent may reasonably benefit from treatment, the 74246
court may order the treatment after considering the qualified 74247
health professionals' recommendations for treatment that have been 74248
submitted to the court under division (C) of this section. If the 74249
court orders the treatment under this division, the court shall 74250
order the treatment to be provided through ~~an alcohol and drug~~ 74251
community addiction program services provider certified under 74252
section ~~3793.06~~ 5119.36 of the Revised Code or by an individual 74253
licensed or certified by the state medical board under Chapter 74254
4731. of the Revised Code, the chemical dependency professionals 74255
board under Chapter 4758. of the Revised Code, the counselor, 74256
social worker, and marriage and family therapist board under 74257
Chapter 4757. of the Revised Code, or a similar board of another 74258
state authorized to provide substance abuse treatment. 74259

(2) Failure of a respondent to undergo and complete any 74260
treatment ordered pursuant to this division is contempt of court. 74261
Any alcohol and drug addiction program or person providing 74262
treatment under this division shall notify the probate court of a 74263
respondent's failure to undergo or complete the ordered treatment. 74264

(E) If, at any time after a petition is filed under section 74265
~~3793.34~~ 5119.93 of the Revised Code, the probate court finds that 74266
there is not probable cause to continue treatment or if the 74267
petitioner withdraws the petition, then the court shall dismiss 74268
the proceedings against the respondent. 74269

Sec. ~~3793.36~~ 5119.95. (A) Following an examination by a 74270
qualified health professional and a certification by that 74271
professional that the person meets the criteria specified in 74272
section ~~3793.33~~ 5119.92 of the Revised Code, a probate court may 74273
order the person hospitalized for a period not to exceed 74274
seventy-two hours if the court finds by clear and convincing 74275

evidence that the person presents an imminent threat of danger to 74276
self, family, or others as a result of alcohol and other drug 74277
abuse. However, if the hearing to be held under section ~~3793.35~~ 74278
5119.94 of the Revised Code will not be held within seventy-two 74279
hours, the court may order the person hospitalized until the 74280
hearing. In making its order, the court shall inform the person 74281
that the person may immediately make a reasonable number of 74282
telephone calls or use other reasonable means to contact an 74283
attorney, a licensed physician, or a qualified health 74284
professional, to contact any other person or persons to secure 74285
representation by counsel, or to obtain medical or psychological 74286
assistance and that the person will be provided assistance in 74287
making calls if the assistance is needed and requested. 74288

(B) Any person who has been admitted to a hospital under 74289
division (A) of this section shall be released from the hospital 74290
immediately upon the expiration of the time period established by 74291
the court for the hospitalization. 74292

(C) No person ordered hospitalized under this section shall 74293
be held in jail pending transportation to the hospital or 74294
evaluation unless the probate court previously has found the 74295
person to be in contempt of court for either failure to undergo 74296
treatment or failure to appear at the evaluation ordered pursuant 74297
to section ~~3793.35~~ 5119.94 of the Revised Code. 74298

Sec. ~~3793.37~~ 5119.96. When a probate court is authorized to 74299
issue an order that the respondent be transported to a hospital, 74300
the court may issue a summons. If the respondent fails to attend 74301
an examination scheduled before the hearing under section ~~3793.35~~ 74302
5119.94 of the Revised Code, the court shall issue a summons. A 74303
summons so issued shall be directed to the respondent and shall 74304
command the respondent to appear at a time and place specified in 74305
the summons. If a respondent who has been summoned fails to appear 74306

at the hospital or the examination, the probate court may order 74307
the sheriff or any other peace officer to transport the respondent 74308
to a hospital on the list provided under section ~~3793.38~~ 5119.97 74309
of the Revised Code for treatment. The sheriff or any other peace 74310
officer, upon agreement of a person authorized by the peace 74311
officer, may authorize a board of alcohol, drug addiction, and 74312
mental health services, a private agency under contract with a 74313
board of alcohol, drug addiction, and mental health services, or 74314
an ambulance service designated by a board of alcohol, drug 74315
addiction, and mental health services to transport the respondent 74316
to the hospital. The transportation costs of the sheriff, other 74317
peace officer, ambulance service, or other private agency under 74318
contract with the board of alcohol, drug addiction, and mental 74319
health services shall be included in the costs of treatment for 74320
alcohol and other drug abuse to be paid by the petitioner. 74321

Sec. ~~3793.38~~ 5119.97. Each board of alcohol, drug addiction, 74322
and mental health services on at least an annual basis shall 74323
submit each of the following lists to the clerk of the probate 74324
court in each county served by the board: 74325

(A) A list of all hospitals in the counties served by the 74326
board that are able and willing to take respondents ordered to 74327
undergo seventy-two hours of treatment and observation pursuant to 74328
section ~~3793.36~~ 5119.95 of the Revised Code; 74329

(B) A list of hospitals and treatment providers in the 74330
counties served by the board that are able and willing to provide 74331
treatment for alcohol and other drug abuse ordered pursuant to 74332
section ~~3793.35~~ 5119.94 of the Revised Code. 74333

Sec. ~~3793.39~~ 5119.98. Sections ~~3793.12, 3793.13~~ 5119.26, 74334
5119.27, and ~~3793.14~~ 5119.61 of the Revised Code apply to a person 74335
who is ordered to undergo treatment under sections ~~3793.31 to~~ 74336

~~3793.39~~ 5119.90 to 5119.98 of the Revised Code. 74337

Sec. 5119.99. (A) Whoever violates section ~~5119.21~~ 5119.333 74338
of the Revised Code is guilty of a misdemeanor of the first 74339
degree. 74340

(B) Whoever violates division (B) of section 5119.61 of the 74341
Revised Code is guilty of a misdemeanor of the fourth degree. 74342

(C) Whoever violates section 5119.27 or 5119.28 or division 74343
(G) of section 5119.36 of the Revised Code is guilty of a felony 74344
of the fifth degree. 74345

Sec. 5120.07. (A) There is hereby created the ex-offender 74346
reentry coalition consisting of the following ~~eighteen~~ seventeen 74347
members or their designees: 74348

(1) The director of rehabilitation and correction; 74349

(2) The director of aging; 74350

(3) The director of ~~alcohol and drug addiction services~~ 74351
mental health and addiction services; 74352

(4) The director of development services; 74353

(5) The superintendent of public instruction; 74354

(6) The director of health; 74355

(7) The director of job and family services; 74356

(8) ~~The director of mental health;~~ 74357

~~(9)~~ The director of developmental disabilities; 74358

~~(10)~~(9) The director of public safety; 74359

~~(11)~~(10) The director of youth services; 74360

~~(12)~~(11) The chancellor of the Ohio board of regents; 74361

~~(13)~~(12) A representative or member of the governor's staff; 74362

~~(14)~~(13) The executive director of the ~~rehabilitation~~ 74363
~~services commission~~ opportunities for Ohioans with disabilities 74364
agency; 74365

~~(15)~~(14) The director of the department of commerce; 74366

~~(16)~~(15) The executive director of a health care licensing 74367
board created under Title XLVII of the Revised Code, as appointed 74368
by the chairperson of the coalition; 74369

~~(17)~~(16) The director of veterans services; 74370

~~(18)~~(17) An ex-offender appointed by the director of 74371
rehabilitation and correction. 74372

(B) The members of the coalition shall serve without 74373
compensation. The director of rehabilitation and correction or the 74374
director's designee shall be the chairperson of the coalition. 74375

(C) In consultation with persons interested and involved in 74376
the reentry of ex-offenders into the community, including but not 74377
limited to, services providers, community-based organizations, and 74378
local governments, the coalition shall identify and examine social 74379
service barriers and other obstacles to the reentry of 74380
ex-offenders into the community. Not later than one year after 74381
April 7, 2009, and on or before the same date of each year 74382
thereafter, the coalition shall submit to the speaker of the house 74383
of representatives and the president of the senate a report, 74384
including recommendations for legislative action, the activities 74385
of the coalition, and the barriers affecting the successful 74386
reentry of ex-offenders into the community. The report shall 74387
analyze the effects of those barriers on ex-offenders and on their 74388
children and other family members in various areas, including but 74389
not limited to, the following: 74390

(1) Admission to public and other housing; 74391

(2) Child support obligations and procedures; 74392

(3) Parental incarceration and family reunification;	74393
(4) Social security benefits, veterans' benefits, food stamps, and other forms of public assistance;	74394 74395
(5) Employment;	74396
(6) Education programs and financial assistance;	74397
(7) Substance abuse, mental health , and sex offender treatment programs and financial assistance <u>and mental health services and financial assistance</u> ;	74398 74399 74400
(8) Civic and political participation;	74401
(9) Other collateral consequences under the Revised Code or the Ohio administrative code law that may result from a criminal conviction.	74402 74403 74404
(D)(1) The report shall also include the following information:	74405 74406
(a) Identification of state appropriations for reentry programs;	74407 74408
(b) Identification of other funding sources for reentry programs that are not funded by the state;	74409 74410
(2) The coalition shall gather information about reentry programs in a repository maintained and made available by the coalition. Where available, the information shall include the following:	74411 74412 74413 74414
(a) The amount of funding received;	74415
(b) The number of program participants;	74416
(c) The composition of the program, including program goals, methods for measuring success, and program success rate;	74417 74418
(d) The type of post-program tracking that is utilized;	74419
(e) Information about employment rates and recidivism rates	74420

of ex-offenders. 74421

(E) The coalition shall cease to exist on December 31, 2014. 74422

Sec. 5120.09. Under the supervision and control of the 74423
director of rehabilitation and correction, the division of 74424
business administration shall do all of the following: 74425

(A) Submit the budgets for the several divisions of the 74426
department of rehabilitation and correction, as prepared by the 74427
respective chiefs of those divisions, to the director. The 74428
director, with the assistance of the chief of the division of 74429
business administration, shall compile a departmental budget that 74430
contains all proposals submitted by the chiefs of the divisions 74431
and shall forward the departmental budget to the governor with 74432
comments and recommendations that the director considers 74433
necessary. 74434

(B) Maintain accounts and records and compile statistics that 74435
the director prescribes; 74436

(C) Under the control of the director, coordinate and make 74437
the necessary purchases and requisitions for the department and 74438
its divisions, except when goods and services are provided to the 74439
department as described in section ~~5119.16~~ 5119.44 of the Revised 74440
Code; 74441

(D) Administer within this state federal criminal justice 74442
acts that the governor requires the department to administer. In 74443
order to improve the criminal justice system of this state, the 74444
division of business administration shall apply for, allocate, 74445
disburse, and account for grants that are made available pursuant 74446
to those federal criminal justice acts and grants that are made 74447
available from other federal government sources, state government 74448
sources, or private sources. As used in this division, "criminal 74449
justice system" and "federal criminal justice acts" have the same 74450

meanings as in section 5502.61 of the Revised Code. 74451

(E) Audit the activities of governmental entities, persons as 74452
defined in section 1.59 of the Revised Code, and other types of 74453
nongovernmental entities that are financed in whole or in part by 74454
funds that the department allocates or disburses and that are 74455
derived from grants described in division (D) of this section; 74456

(F) Enter into contracts, including contracts with federal, 74457
state, or local governmental entities, persons as defined in 74458
section 1.59 of the Revised Code, foundations, and other types of 74459
nongovernmental entities, that are necessary for the department to 74460
carry out its duties and that neither the director nor another 74461
section of the Revised Code authorizes another division of the 74462
department to enter; 74463

(G) Exercise other powers and perform other duties that the 74464
director may assign to the division of business administration. 74465

Sec. 5120.135. (A) As used in this section, "laboratory 74466
services" includes the performance of medical laboratory analysis; 74467
professional laboratory and pathologist consultation; the 74468
procurement, storage, and distribution of laboratory supplies; and 74469
the performance of phlebotomy services. 74470

(B) The department of rehabilitation and correction may 74471
provide laboratory services to the departments of ~~mental health~~ 74472
mental health and addiction services, developmental disabilities, 74473
youth services, and rehabilitation and correction. The department 74474
of rehabilitation and correction may also provide laboratory 74475
services to other state, county, or municipal agencies and to 74476
private persons that request laboratory services if the department 74477
of rehabilitation and correction determines that the provision of 74478
laboratory services is in the public interest and considers it 74479
advisable to provide such services. The department of 74480
rehabilitation and correction may also provide laboratory services 74481

to agencies operated by the United States government and to public 74482
and private entities funded in whole or in part by the state if 74483
the director of rehabilitation and correction designates them as 74484
eligible to receive such services. 74485

The department of rehabilitation and correction shall provide 74486
laboratory services from a laboratory that complies with the 74487
standards for certification set by the United States department of 74488
health and human services under the "Clinical Laboratory 74489
Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. 74490
In addition, the laboratory shall maintain accreditation or 74491
certification with an appropriate accrediting or certifying 74492
organization as considered necessary by the recipients of its 74493
laboratory services and as authorized by the director of 74494
rehabilitation and correction. 74495

(C) The cost of administering this section shall be 74496
determined by the department of rehabilitation and correction and 74497
shall be paid by entities that receive laboratory services to the 74498
department for deposit in the state treasury to the credit of the 74499
laboratory services fund, which is hereby created. The fund shall 74500
be used to pay the costs the department incurs in administering 74501
this section. 74502

(D) Whenever a state agency fails to make a payment for 74503
laboratory services provided to it by the department of 74504
rehabilitation and correction under this section within thirty-one 74505
days after the date the payment was due, the office of budget and 74506
management may transfer moneys from that state agency to the 74507
department of rehabilitation and correction for deposit to the 74508
credit of the laboratory services fund. The amount transferred 74509
shall not exceed the amount of the overdue payments. Prior to 74510
making a transfer under this division, the office shall apply any 74511
credits the state agency has accumulated in payment for laboratory 74512
services provided under this section. 74513

Sec. 5120.17. (A) As used in this section: 74514

(1) "Mental illness" means a substantial disorder of thought, 74515
mood, perception, orientation, or memory that grossly impairs 74516
judgment, behavior, capacity to recognize reality, or ability to 74517
meet the ordinary demands of life. 74518

(2) "Mentally ill person subject to hospitalization" means a 74519
mentally ill person to whom any of the following applies because 74520
of the person's mental illness: 74521

(a) The person represents a substantial risk of physical harm 74522
to the person as manifested by evidence of threats of, or attempts 74523
at, suicide or serious self-inflicted bodily harm. 74524

(b) The person represents a substantial risk of physical harm 74525
to others as manifested by evidence of recent homicidal or other 74526
violent behavior, evidence of recent threats that place another in 74527
reasonable fear of violent behavior and serious physical harm, or 74528
other evidence of present dangerousness. 74529

(c) The person represents a substantial and immediate risk of 74530
serious physical impairment or injury to the person as manifested 74531
by evidence that the person is unable to provide for and is not 74532
providing for the person's basic physical needs because of the 74533
person's mental illness and that appropriate provision for those 74534
needs cannot be made immediately available in the correctional 74535
institution in which the inmate is currently housed. 74536

(d) The person would benefit from treatment in a hospital for 74537
the person's mental illness and is in need of treatment in a 74538
hospital as manifested by evidence of behavior that creates a 74539
grave and imminent risk to substantial rights of others or the 74540
person. 74541

(3) "Psychiatric hospital" means all or part of a facility 74542
that is operated and managed by the department of ~~mental health~~ 74543

mental health and addiction services to provide psychiatric 74544
hospitalization services in accordance with the requirements of 74545
this section pursuant to an agreement between the directors of 74546
rehabilitation and correction and ~~mental health~~ mental health and 74547
addiction services or, is licensed by the department of ~~mental~~ 74548
~~health~~ mental health and addiction services pursuant to section 74549
~~5119.20~~ 5119.33 of the Revised Code as a psychiatric hospital and 74550
is accredited by a healthcare accrediting organization approved by 74551
the department of ~~mental health~~ mental health and addiction 74552
services and the psychiatric hospital is any of the following: 74553

(a) Operated and managed by the department of rehabilitation 74554
and correction within a facility that is operated by the 74555
department of rehabilitation and correction; 74556

(b) Operated and managed by a contractor for the department 74557
of rehabilitation and correction within a facility that is 74558
operated by the department of rehabilitation and correction; 74559

(c) Operated and managed in the community by an entity that 74560
has contracted with the department of rehabilitation and 74561
correction to provide psychiatric hospitalization services in 74562
accordance with the requirements of this section. 74563

(4) "Inmate patient" means an inmate who is admitted to a 74564
psychiatric hospital. 74565

(5) "Admitted" to a psychiatric hospital means being accepted 74566
for and staying at least one night at the psychiatric hospital. 74567

(6) "Treatment plan" means a written statement of reasonable 74568
objectives and goals for an inmate patient that is based on the 74569
needs of the inmate patient and that is established by the 74570
treatment team, with the active participation of the inmate 74571
patient and with documentation of that participation. "Treatment 74572
plan" includes all of the following: 74573

(a) The specific criteria to be used in evaluating progress 74574

toward achieving the objectives and goals; 74575

(b) The services to be provided to the inmate patient during 74576
the inmate patient's hospitalization; 74577

(c) The services to be provided to the inmate patient after 74578
discharge from the hospital, including, but not limited to, 74579
housing and mental health services provided at the state 74580
correctional institution to which the inmate patient returns after 74581
discharge or community mental health services. 74582

(7) "Mentally retarded person subject to institutionalization 74583
by court order" has the same meaning as in section 5123.01 of the 74584
Revised Code. 74585

(8) "Emergency transfer" means the transfer of a mentally ill 74586
inmate to a psychiatric hospital when the inmate presents an 74587
immediate danger to self or others and requires hospital-level 74588
care. 74589

(9) "Uncontested transfer" means the transfer of a mentally 74590
ill inmate to a psychiatric hospital when the inmate has the 74591
mental capacity to, and has waived, the hearing required by 74592
division (B) of this section. 74593

(10)(a) "Independent decision-maker" means a person who is 74594
employed or retained by the department of rehabilitation and 74595
correction and is appointed by the chief or chief clinical officer 74596
of mental health services as a hospitalization hearing officer to 74597
conduct due process hearings. 74598

(b) An independent decision-maker who presides over any 74599
hearing or issues any order pursuant to this section shall be a 74600
psychiatrist, psychologist, or attorney, shall not be specifically 74601
associated with the institution in which the inmate who is the 74602
subject of the hearing or order resides at the time of the hearing 74603
or order, and previously shall not have had any treatment 74604
relationship with nor have represented in any legal proceeding the 74605

inmate who is the subject of the order. 74606

(B)(1) Except as provided in division (C) of this section, if 74607
the warden of a state correctional institution or the warden's 74608
designee believes that an inmate should be transferred from the 74609
institution to a psychiatric hospital, the department shall hold a 74610
hearing to determine whether the inmate is a mentally ill person 74611
subject to hospitalization. The department shall conduct the 74612
hearing at the state correctional institution in which the inmate 74613
is confined, and the department shall provide qualified 74614
independent assistance to the inmate for the hearing. An 74615
independent decision-maker provided by the department shall 74616
preside at the hearing and determine whether the inmate is a 74617
mentally ill person subject to hospitalization. 74618

(2) Except as provided in division (C) of this section, prior 74619
to the hearing held pursuant to division (B)(1) of this section, 74620
the warden or the warden's designee shall give written notice to 74621
the inmate that the department is considering transferring the 74622
inmate to a psychiatric hospital, that it will hold a hearing on 74623
the proposed transfer at which the inmate may be present, that at 74624
the hearing the inmate has the rights described in division (B)(3) 74625
of this section, and that the department will provide qualified 74626
independent assistance to the inmate with respect to the hearing. 74627
The department shall not hold the hearing until the inmate has 74628
received written notice of the proposed transfer and has had 74629
sufficient time to consult with the person appointed by the 74630
department to provide assistance to the inmate and to prepare for 74631
a presentation at the hearing. 74632

(3) At the hearing held pursuant to division (B)(1) of this 74633
section, the department shall disclose to the inmate the evidence 74634
that it relies upon for the transfer and shall give the inmate an 74635
opportunity to be heard. Unless the independent decision-maker 74636
finds good cause for not permitting it, the inmate may present 74637

documentary evidence and the testimony of witnesses at the hearing 74638
and may confront and cross-examine witnesses called by the 74639
department. 74640

(4) If the independent decision-maker does not find clear and 74641
convincing evidence that the inmate is a mentally ill person 74642
subject to hospitalization, the department shall not transfer the 74643
inmate to a psychiatric hospital but shall continue to confine the 74644
inmate in the same state correctional institution or in another 74645
state correctional institution that the department considers 74646
appropriate. If the independent decision-maker finds clear and 74647
convincing evidence that the inmate is a mentally ill person 74648
subject to hospitalization, the decision-maker shall order that 74649
the inmate be transported to a psychiatric hospital for 74650
observation and treatment for a period of not longer than thirty 74651
days. After the hearing, the independent decision-maker shall 74652
submit to the department a written decision that states one of the 74653
findings described in division (B)(4) of this section, the 74654
evidence that the decision-maker relied on in reaching that 74655
conclusion, and, if the decision is that the inmate should be 74656
transferred, the reasons for the transfer. 74657

(C)(1) The department may transfer an inmate to a psychiatric 74658
hospital under an emergency transfer order if the chief clinical 74659
officer of mental health services of the department or that 74660
officer's designee and either a psychiatrist employed or retained 74661
by the department or, in the absence of a psychiatrist, a 74662
psychologist employed or retained by the department determines 74663
that the inmate is mentally ill, presents an immediate danger to 74664
self or others, and requires hospital-level care. 74665

(2) The department may transfer an inmate to a psychiatric 74666
hospital under an uncontested transfer order if both of the 74667
following apply: 74668

(a) A psychiatrist employed or retained by the department 74669

determines all of the following apply: 74670

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization. 74671
74672

(ii) The inmate requires hospital care to address the mental illness. 74673
74674

(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital. 74675
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(b) The inmate agrees to a transfer to a hospital. 74677

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section. 74678
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(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section. 74682
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(5) After an uncontested transfer under division (C)(2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section. 74690
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(D)(1) If an independent decision-maker, pursuant to division 74699

(B)(4) of this section, orders an inmate transported to a 74700
psychiatric hospital or if an inmate is transferred pursuant to 74701
division (C)(1) or (2) of this section, the staff of the 74702
psychiatric hospital shall examine the inmate patient when 74703
admitted to the psychiatric hospital as soon as practicable after 74704
the inmate patient arrives at the hospital and no later than 74705
twenty-four hours after the time of arrival. The attending 74706
physician responsible for the inmate patient's care shall give the 74707
inmate patient all information necessary to enable the patient to 74708
give a fully informed, intelligent, and knowing consent to the 74709
treatment the inmate patient will receive in the hospital. The 74710
attending physician shall tell the inmate patient the expected 74711
physical and medical consequences of any proposed treatment and 74712
shall give the inmate patient the opportunity to consult with 74713
another psychiatrist at the hospital and with the inmate advisor. 74714

(2) No inmate patient who is transported or transferred 74715
pursuant to division (B)(4) or (C)(1) or (2) of this section to a 74716
psychiatric hospital within a facility that is operated by the 74717
department of rehabilitation and correction shall be subjected to 74718
any of the following procedures: 74719

(a) Convulsive therapy; 74720

(b) Major aversive interventions; 74721

(c) Any unusually hazardous treatment procedures; 74722

(d) Psychosurgery. 74723

(E) The department of rehabilitation and correction shall 74724
ensure that an inmate patient hospitalized pursuant to this 74725
section receives or has all of the following: 74726

(1) Receives sufficient professional care within twenty days 74727
of admission to ensure that an evaluation of the inmate patient's 74728
current status, differential diagnosis, probable prognosis, and 74729
description of the current treatment plan have been formulated and 74730

are stated on the inmate patient's official chart; 74731

(2) Has a written treatment plan consistent with the 74732
evaluation, diagnosis, prognosis, and goals of treatment; 74733

(3) Receives treatment consistent with the treatment plan; 74734

(4) Receives periodic reevaluations of the treatment plan by 74735
the professional staff at intervals not to exceed thirty days; 74736

(5) Is provided with adequate medical treatment for physical 74737
disease or injury; 74738

(6) Receives humane care and treatment, including, without 74739
being limited to, the following: 74740

(a) Access to the facilities and personnel required by the 74741
treatment plan; 74742

(b) A humane psychological and physical environment; 74743

(c) The right to obtain current information concerning the 74744
treatment program, the expected outcomes of treatment, and the 74745
expectations for the inmate patient's participation in the 74746
treatment program in terms that the inmate patient reasonably can 74747
understand; 74748

(d) Opportunity for participation in programs designed to 74749
help the inmate patient acquire the skills needed to work toward 74750
discharge from the psychiatric hospital; 74751

(e) The right to be free from unnecessary or excessive 74752
medication and from unnecessary restraints or isolation; 74753

(f) All other rights afforded inmates in the custody of the 74754
department consistent with rules, policy, and procedure of the 74755
department. 74756

(F) The department shall hold a hearing for the continued 74757
hospitalization of an inmate patient who is transported or 74758
transferred to a psychiatric hospital pursuant to division (B)(4) 74759

or (C)(1) of this section prior to the expiration of the initial 74760
thirty-day period of hospitalization. The department shall hold 74761
any subsequent hearings, if necessary, not later than ninety days 74762
after the first thirty-day hearing and then not later than each 74763
one hundred and eighty days after the immediately prior hearing. 74764
An independent decision-maker shall conduct the hearings at the 74765
psychiatric hospital in which the inmate patient is confined. The 74766
inmate patient shall be afforded all of the rights set forth in 74767
this section for the hearing prior to transfer to the psychiatric 74768
hospital. The department may not waive a hearing for continued 74769
commitment. A hearing for continued commitment is mandatory for an 74770
inmate patient transported or transferred to a psychiatric 74771
hospital pursuant to division (B)(4) or (C)(1) of this section 74772
unless the inmate patient has the capacity to make a reasoned 74773
choice to execute a waiver and waives the hearing in writing. An 74774
inmate patient who is transferred to a psychiatric hospital 74775
pursuant to an uncontested transfer under division (C)(2) of this 74776
section and who has scheduled hearings after withdrawal of consent 74777
for hospitalization may waive any of the scheduled hearings if the 74778
inmate has the capacity to make a reasoned choice and executes a 74779
written waiver of the hearing. 74780

If upon completion of the hearing the independent 74781
decision-maker does not find by clear and convincing evidence that 74782
the inmate patient is a mentally ill person subject to 74783
hospitalization, the independent decision-maker shall order the 74784
inmate patient's discharge from the psychiatric hospital. If the 74785
independent decision-maker finds by clear and convincing evidence 74786
that the inmate patient is a mentally ill person subject to 74787
hospitalization, the independent decision-maker shall order that 74788
the inmate patient remain at the psychiatric hospital for 74789
continued hospitalization until the next required hearing. 74790

If at any time prior to the next required hearing for 74791

continued hospitalization, the medical director of the hospital or 74792
the attending physician determines that the treatment needs of the 74793
inmate patient could be met equally well in an available and 74794
appropriate less restrictive state correctional institution or 74795
unit, the medical director or attending physician may discharge 74796
the inmate to that facility. 74797

(G) An inmate patient is entitled to the credits toward the 74798
reduction of the inmate patient's stated prison term pursuant to 74799
Chapters 2967. and 5120. of the Revised Code under the same terms 74800
and conditions as if the inmate patient were in any other 74801
institution of the department of rehabilitation and correction. 74802

(H) The adult parole authority may place an inmate patient on 74803
parole or under post-release control directly from a psychiatric 74804
hospital. 74805

(I) If an inmate patient who is a mentally ill person subject 74806
to hospitalization is to be released from a psychiatric hospital 74807
because of the expiration of the inmate patient's stated prison 74808
term, the director of rehabilitation and correction or the 74809
director's designee, at least fourteen days before the expiration 74810
date, may file an affidavit under section 5122.11 or 5123.71 of 74811
the Revised Code with the probate court in the county where the 74812
psychiatric hospital is located or the probate court in the county 74813
where the inmate will reside, alleging that the inmate patient is 74814
a mentally ill person subject to hospitalization by court order or 74815
a mentally retarded person subject to institutionalization by 74816
court order, whichever is applicable. The proceedings in the 74817
probate court shall be conducted pursuant to Chapter 5122. or 74818
5123. of the Revised Code except as modified by this division. 74819

Upon the request of the inmate patient, the probate court 74820
shall grant the inmate patient an initial hearing under section 74821
5122.141 of the Revised Code or a probable cause hearing under 74822
section 5123.75 of the Revised Code before the expiration of the 74823

stated prison term. After holding a full hearing, the probate court shall make a disposition authorized by section 5122.15 or 5123.76 of the Revised Code before the date of the expiration of the stated prison term. No inmate patient shall be held in the custody of the department of rehabilitation and correction past the date of the expiration of the inmate patient's stated prison term.

(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients.

(K) A certificate, application, record, or report that is made in compliance with this section and that directly or indirectly identifies an inmate or former inmate whose hospitalization has been sought under this section is confidential. No person shall disclose the contents of any certificate, application, record, or report of that nature or any other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies:

(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person.

(2) Disclosure is required by a court order signed by a judge.

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons.

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the

information that may be released about an inmate patient is 74855
limited to medication history, physical health status and history, 74856
summary of course of treatment in the hospital, summary of 74857
treatment needs, and a discharge summary, if any. 74858

(5) An inmate patient's family member who is involved in 74859
planning, providing, and monitoring services to the inmate patient 74860
may receive medication information, a summary of the inmate 74861
patient's diagnosis and prognosis, and a list of the services and 74862
personnel available to assist the inmate patient and family if the 74863
attending physician determines that disclosure would be in the 74864
best interest of the inmate patient. No disclosure shall be made 74865
under this division unless the inmate patient is notified of the 74866
possible disclosure, receives the information to be disclosed, and 74867
does not object to the disclosure. 74868

(6) The department of rehabilitation and correction may 74869
exchange psychiatric hospitalization records, other mental health 74870
treatment records, and other pertinent information with county 74871
sheriffs' offices, hospitals, institutions, and facilities of the 74872
department of ~~mental health~~ mental health and addiction services 74873
and with community mental health ~~agencies~~ services providers and 74874
boards of alcohol, drug addiction, and mental health services with 74875
which the department of ~~mental health~~ mental health and addiction 74876
services has a current agreement for patient care or services to 74877
ensure continuity of care. Disclosure under this division is 74878
limited to records regarding a mentally ill inmate's medication 74879
history, physical health status and history, summary of course of 74880
treatment, summary of treatment needs, and a discharge summary, if 74881
any. No office, department, agency, provider, or board shall 74882
disclose the records and other information unless one of the 74883
following applies: 74884

(a) The mentally ill inmate is notified of the possible 74885
disclosure and consents to the disclosure. 74886

(b) The mentally ill inmate is notified of the possible 74887
disclosure, an attempt to gain the consent of the inmate is made, 74888
and the office, department, agency, or board documents the attempt 74889
to gain consent, the inmate's objections, if any, and the reasons 74890
for disclosure in spite of the inmate's objections. 74891

(7) Information may be disclosed to staff members designated 74892
by the director of rehabilitation and correction for the purpose 74893
of evaluating the quality, effectiveness, and efficiency of 74894
services and determining if the services meet minimum standards. 74895

The name of an inmate patient shall not be retained with the 74896
information obtained during the evaluations. 74897

(L) The director of rehabilitation and correction may adopt 74898
rules setting forth guidelines for the procedures required under 74899
divisions (B), (C)(1), and (C)(2) of this section. 74900

Sec. 5120.171. (A) The department of rehabilitation and 74901
correction shall have exclusive direction and control of the care 74902
and treatment of seriously mentally ill inmates who are in the 74903
department's custody. The department shall enter into any 74904
arrangements it considers desirable on such matters, including but 74905
not limited to both of the following: 74906

(1) The monitoring of such services by another state agency 74907
or agencies; 74908

(2) Adopting joint standards for the provision and monitoring 74909
of mental health services with the department of ~~mental health~~ 74910
mental health and addiction services and other state agencies. 74911

(B) In order to implement its duties imposed by division (A) 74912
of this section, the department of rehabilitation and correction 74913
may enter into a contract for the provision of the mental health 74914
services described in that division. 74915

Sec. 5120.652. To participate in the prison nursery program, 74916
each eligible inmate selected by the department shall do all the 74917
following: 74918

(A) Agree in writing to do all the following: 74919

(1) Comply with any program, educational, counseling, and 74920
other requirements established for the program by the department 74921
of rehabilitation and correction; 74922

(2) If eligible, have the child participate in the medicaid 74923
program or a health insurance program; 74924

(3) Accept the normal risks of childrearing; 74925

(4) Abide by any court decisions regarding the allocation of 74926
parental rights and responsibilities with respect to the child. 74927

(B) Assign to the department any rights to support from any 74928
other person, excluding support assigned pursuant to section 74929
5107.20 of the Revised Code and medical support assigned pursuant 74930
to section ~~5101.59~~ 5160.38 of the Revised Code; 74931

(C) Specify with whom the child is to be placed in the event 74932
the inmate's participation in the program is terminated for a 74933
reason other than release from imprisonment. 74934

Sec. 5120.654. (A) The rights to support assigned by an 74935
inmate pursuant to section 5120.652 of the Revised Code constitute 74936
an obligation of the person who is responsible for providing the 74937
support to the department of rehabilitation and correction for the 74938
support provided the inmate and child pursuant to the prison 74939
nursery program. The division of child support in the department 74940
of job and family services shall collect support payments made 74941
pursuant to the assignment and forward them to the department of 74942
rehabilitation and correction. 74943

(B) The department of rehabilitation and correction may 74944

receive the following: 74945

(1) Money that is assigned or donated on behalf of, and 74946
~~public~~ assistance provided under Ohio works first to, a specific 74947
inmate or child participating in the prison nursery program; 74948

(2) Money assigned or donated to establish and maintain the 74949
prison nursery program. 74950

(C) The amounts described in division (B)(1) of this section 74951
shall be placed in the individual nursery account created and 74952
maintained under section 5120.655 of the Revised Code for the 74953
inmate and child for whom the money was received. The money 74954
described in division (B)(2) of this section shall be deposited in 74955
the appropriate prison nursery program fund. 74956

Sec. 5121.051. All outstanding liability of relatives for the 74957
support of any patient or resident in a benevolent institution 74958
under the control of the department of ~~mental health~~ mental health 74959
and addiction services or the department of developmental 74960
disabilities accrued prior to January 1, 1956, including the 74961
liability of the patient personally, is hereby canceled, provided 74962
that this section does not abrogate any written agreements or 74963
security arrangement for the payment of support charges entered 74964
into between the state and any patient or liable relative prior to 74965
such date. 74966

Sec. 5121.30. As used in sections 5121.30 to 5121.56 of the 74967
Revised Code: 74968

(A) ~~"Community mental health services client" or "client"~~ 74969
~~means a person receiving state operated community mental health~~ 74970
~~services.~~ 74971

~~(B)~~ "Countable assets" means all of the following: 74972

(1) Cash; 74973

(2) Bank deposits;	74974
(3) Securities;	74975
(4) Individual retirement accounts;	74976
(5) Qualified employer plans, including 401(k) and Keogh plans;	74977 74978
(6) Annuities;	74979
(7) Funds in a trust created under section 5815.28 of the Revised Code;	74980 74981
(8) Investment property and income;	74982
(9) The cash surrender values of life insurance policies;	74983
(10) Assets acquired by gift, bequest, devise, or inheritance;	74984 74985
(11) Any other asset determined by the department of mental health <u>mental health and addiction services</u> to be equivalent to the assets enumerated in this division.	74986 74987 74988
(C) (B) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	74989 74990 74991 74992 74993 74994 74995
(D) (C) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.	74996 74997 74998 74999 75000 75001
(E) (D) "Hospital" means an institution, hospital, or other	75002

place established, controlled, or supervised by the department of 75003
~~mental health~~ mental health and addiction services under Chapter 75004
5119. of the Revised Code. 75005

~~(F)~~(E) "Liable relative" means all of the following: 75006

(1) A patient's spouse; 75007

(2) A patient's mother or father, or both, if the patient is 75008
under eighteen years of age; 75009

(3) A patient's guardian. 75010

~~(G)~~(F) "Patient" means a person admitted to a hospital for 75011
inpatient care or treatment, including a person transferred to a 75012
hospital from a state correctional institution or a person under 75013
indictment or conviction who has been transferred to a hospital. 75014

Sec. 5121.32. On an annual basis, the department of ~~mental~~ 75015
~~health~~ mental health and addiction services shall determine both 75016
of the following using generally accepted governmental accounting 75017
principles: 75018

(A) The applicable per diem charge for each hospital operated 75019
by the department; 75020

(B) The ancillary per diem rate for each hospital operated by 75021
the department. 75022

In determining a hospital's applicable per diem charge and 75023
ancillary per diem rate, the department shall consider the average 75024
actual per diem cost of maintaining and treating a patient at the 75025
hospital or, at the department's discretion, the average actual 75026
per diem cost of maintaining and treating a patient in a unit of 75027
the hospital. 75028

Sec. 5121.33. Except as provided in sections 5121.35, 75029
5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised 75030
Code, the department of ~~mental health~~ mental health and addiction 75031

services shall, for each billing cycle, charge a patient, 75032
patient's estate, or liable relative an amount equal to the sum of 75033
the following: 75034

(A) The applicable per diem charge multiplied by the number 75035
of days the patient was admitted to the hospital; 75036

(B) An amount that was previously billed but not paid. 75037

Sec. 5121.34. (A) A patient, patient's estate, and patient's 75038
liable relatives shall be jointly and severally liable for amounts 75039
charged by the department of ~~mental health~~ mental health and 75040
addiction services in accordance with section 5121.33 or 5121.35 75041
of the Revised Code. In no case shall any of the foregoing persons 75042
be liable for more than one hundred per cent of the full sum 75043
charged under section 5121.33 of the Revised Code. 75044

(B) Collections of support payments shall be made by the 75045
department and, subject to meeting prior requirements for payment 75046
and crediting of such collections and other available receipts, in 75047
accordance with the bond proceedings applicable to obligations 75048
issued pursuant to section 154.20 of the Revised Code. The 75049
collections and other available receipts designated by the 75050
director of ~~mental health~~ mental health and addiction services for 75051
deposit in the special accounts, together with insurance contract 75052
payments provided for in section 5121.43 of the Revised Code, 75053
shall be remitted to the treasurer of state for deposit in the 75054
state treasury to the credit of the mental health operating fund, 75055
which is hereby created, to be used for the general purposes of 75056
the department. The department shall make refunds of overpayment 75057
of support charges from the mental health operating fund. 75058

Sec. 5121.35. The department of ~~mental health~~ mental health 75059
and addiction services shall charge a patient, patient's estate, 75060
or liable relative an amount discounted from the amount the 75061

department charges under section 5121.33 of the Revised Code if 75062
the department determines through the application process 75063
described in section 5121.36 of the Revised Code or through the 75064
financial assessment process described in section 5121.37 of the 75065
Revised Code that the patient, estate, or relative is eligible for 75066
a discount. 75067

Sec. 5121.36. (A) A patient, patient's estate, or liable 75068
relative may apply for a discount by completing an application 75069
form prescribed by the director of ~~mental health~~ mental health and 75070
addiction services. The department of ~~mental health~~ mental health 75071
and addiction services may require a patient, estate, or relative 75072
to furnish any of the following with an application form: 75073

(1) A copy of the patient's, estate's, or liable relative's 75074
federal income tax return for the year preceding the date of 75075
application or, if that is not yet available, the preceding year; 75076

(2) A copy of the patient's, estate's, or liable relative's 75077
employee tax withholding return (form W-2) for the year preceding 75078
the date of application; 75079

(3) Any other relevant documents prescribed by the director 75080
of ~~mental health~~ mental health and addiction services. 75081

(B) To be considered, an application must be submitted to the 75082
department not later than ninety days after the date the patient 75083
is admitted to a hospital. 75084

(C) From the information provided by a patient, estate, or 75085
relative, the department shall determine whether the department 75086
will charge the person a discounted amount in accordance with 75087
sections 5121.40 and 5121.41 of the Revised Code. In making this 75088
determination, the department shall consider whether the patient 75089
is covered by an insurance policy or other contract that provides 75090
for payment of expenses and treatment for mental illness. If the 75091

department determines that the patient has coverage, the 75092
department shall require payment in accordance with section 75093
5121.43 of the Revised Code. 75094

(D) The department shall notify the patient, executor or 75095
administrator of the patient's estate, or liable relative who 75096
submitted the application form in writing regarding whether that 75097
person will be charged a discounted amount and the per diem rate 75098
to be charged. 75099

(E) In accordance with section 5121.42 of the Revised Code, 75100
the department may, at any time, modify an amount charged or 75101
change the per diem rate to be charged if the department learns of 75102
countable assets or income that was not previously disclosed or 75103
was acquired after the application form was submitted. Within a 75104
reasonable time, the department shall notify in writing any person 75105
affected by a modification or change. 75106

Sec. 5121.37. After a patient's admittance to a hospital, the 75107
department of ~~mental health~~ mental health and addiction services 75108
shall conduct a financial assessment to determine whether the 75109
patient, patient's estate, or liable relative will be charged an 75110
amount discounted from the amount the department charges under 75111
section 5121.33 of the Revised Code. The department shall make the 75112
determination in accordance with sections 5121.40 and 5121.41 of 75113
the Revised Code. 75114

If a discounted rate is to be charged, the department shall 75115
notify the person whose financial condition was assessed. The 75116
notice shall specify the per diem rate to be charged. 75117

In accordance with section 5121.42 of the Revised Code, the 75118
department may, at any time, modify an amount charged or change 75119
the per diem rate to be charged if the department learns of 75120
countable assets or income that was not previously disclosed or 75121
was acquired after the assessment was conducted. Within a 75122

reasonable time, the department shall notify in writing any person 75123
affected by a modification or change. 75124

Sec. 5121.38. The department of ~~mental health~~ mental health 75125
and addiction services may subpoena witnesses, take testimony 75126
under oath, and examine any public records relating to the income 75127
and other assets of a patient or of a relative liable for such 75128
patient's support. All information, conclusions, and 75129
recommendations shall be submitted to the department by the 75130
investigating agent of the department. 75131

Sec. 5121.40. (A) A patient, patient's estate, or liable 75132
relative may be eligible to be charged an amount discounted from 75133
the amount the department of ~~mental health~~ mental health and 75134
addiction services charges under section 5121.33 of the Revised 75135
Code if the patient, estate, or relative has countable assets with 75136
a total value that is not greater than an amount equal to fifty 75137
per cent of the difference between the following: 75138

(1) The gross annual income that corresponds with a family 75139
size of two persons at one hundred per cent of the federal poverty 75140
level for the state; 75141

(2) The gross annual income that corresponds with a family 75142
size of one person at one hundred per cent of the federal poverty 75143
level for the state. For purposes of determining family size, the 75144
patient is one dependent. One additional dependent shall be 75145
included for each of the following circumstances and persons: 75146

(a) The patient or liable relative is legally blind or deaf. 75147

(b) The patient or liable relative is ~~of~~ sixty-five years of 75148
age or older. 75149

(c) Each child under eighteen years of age for which the 75150
patient or liable relative has legal custody; 75151

(d) The patient's or liable relative's spouse. 75152

(B) A patient, estate, or relative may, not later than ninety 75153
days after the patient's admission to a hospital, surrender the 75154
value of countable assets sufficient to reduce countable assets to 75155
not more than the limit described in division (A) of this section. 75156

Sec. 5121.42. (A) Except as provided in division (B) of this 75157
section, a patient, patient's estate, or liable relative shall 75158
cease to be eligible for a discount under ~~sections~~ section 5121.36 75159
or 5121.37 of the Revised Code on accumulation of countable assets 75160
in excess of an amount equal to fifty per cent of the difference 75161
between the following: 75162

(1) The gross annual income that corresponds with a family 75163
size of two persons at one hundred per cent of the federal poverty 75164
level for the state; 75165

(2) The gross annual income that corresponds with a family 75166
size of one person at one hundred per cent of the federal poverty 75167
level for the state. 75168

(B) Money needed to meet the patient's needs and burial fund 75169
as determined by a needs assessment conducted by the department of 75170
~~mental health~~ mental health and addiction services pursuant to 75171
rules adopted under section ~~5119.01~~ 5119.10 of the Revised Code 75172
shall be excluded from any determination the department makes 75173
under division (A) of this section. 75174

Sec. 5121.43. If a patient is covered by an insurance policy 75175
or other contract that provides for payment of expenses for care 75176
and treatment for mental illness at or from a hospital under the 75177
jurisdiction of the department of ~~mental health~~ mental health and 75178
addiction services, sections 5121.33 to 5121.55 of the Revised 75179
Code are inapplicable to the extent that the policy or contract is 75180
in force. Any insurance carrier or other third party payor 75181

providing coverage for such care and treatment shall pay for the 75182
patient's support obligation in amounts equal to the lesser of 75183
amounts charged by the department under section 5121.33 of the 75184
Revised Code or the benefits provided under the policy or other 75185
contract. Whether or not an insured, owner of, or other person 75186
having an interest in such policy or other contract is liable for 75187
support payments, the insured, policy owner, or other person shall 75188
assign payment directly to the department of all assignable 75189
benefits under the policy or other contract and shall pay to the 75190
department, within ten days of receipt, all insurance or other 75191
benefits received as reimbursement or payment for expenses 75192
incurred by the patient or for any other reason. If the insured, 75193
policy owner, or other person refuses to assign payment to the 75194
department or refuses to pay received reimbursements or payments 75195
to the department within ten days of receipt, the total liability 75196
of the insured, policy owner, or other person for the services is 75197
an amount equal to the per diem charge for the hospital where the 75198
patient was admitted multiplied by the number of days the patient 75199
was admitted. 75200

In no event shall this total liability exceed the 75201
department's actual cost of providing care and treatment to a 75202
patient. The department may disqualify patients and liable 75203
relatives who have retained third party funds from future 75204
discounts. The department may request that the attorney general 75205
petition a court of competent jurisdiction to compel the insured, 75206
owner of, or other person having an interest in the policy or 75207
contract to comply with the assignment requirements in this 75208
section. 75209

Sec. 5121.44. The department of ~~mental health~~ mental health 75210
and addiction services may enter into an extended payment 75211
agreement with a patient, patient's estate, or liable relative who 75212

has notified the department that the patient, estate, or relative 75213
cannot reasonably pay an amount the department has charged. In no 75214
case shall the department take a security interest, mortgage, or 75215
lien against the principal family residence of a patient or liable 75216
relative. 75217

Sec. 5121.45. (A) For purposes of this section, "delinquent 75218
payment" means an amount owed by a patient, patient's estate, or 75219
liable relative to the department of ~~mental health~~ mental health 75220
and addiction services for which the person has failed to do 75221
either of the following not later than ninety days after the 75222
service associated with the charge was incurred: 75223

(1) Make payment in full; 75224

(2) Make a payment in accordance with the terms of an 75225
agreement entered into under section 5121.44 of the Revised Code. 75226

(B) An action to enforce the collection of a delinquent 75227
payment shall be commenced not later than six years after the 75228
later of the following: 75229

(1) The last date the department received money to satisfy 75230
the delinquent payment; 75231

(2) The date the charge was due. 75232

(C) In all actions to enforce the collection of delinquent 75233
payments, a court of record shall receive into evidence the proof 75234
of claim document made by the state together with all debts and 75235
credits. The proof of claim document shall be prima-facie evidence 75236
of the facts stated in the document. 75237

Sec. 5121.46. The department of ~~mental health~~ mental health 75238
and addiction services shall not charge a liable relative under 75239
sections 5121.33 and 5121.35 of the Revised Code who has done 75240
either of the following: 75241

(A) Paid all amounts charged by the department for the care and treatment of a particular patient for fifteen consecutive years; 75242
75243
75244

(B) Paid amounts charged by the department for the care and treatment of more than one patient for a total of fifteen consecutive years. 75245
75246
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Sec. 5121.47. Irrespective of the number of patients for which the department of ~~mental health~~ mental health and addiction services may charge a liable relative under sections 5121.33 ~~or~~ and 5121.35 of the Revised Code, the department shall not charge a liable relative or group of liable relatives who are members of the same family unit for the support of more than one patient during the same period of time. 75248
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Sec. 5121.49. (A) Any person who has been charged under section 5121.33 or 5121.35 of the Revised Code may petition the department of ~~mental health~~ mental health and addiction services to do the following: 75255
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(1) Release the person from a charge; 75259

(2) Modify or cancel a charge. 75260

(B) The department shall respond to a petition in writing and inform the petitioner of whether a release, modification, or cancellation has been approved. 75261
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Sec. 5121.50. When a patient is committed to a hospital pursuant to judicial proceedings, the judge ordering the commitment shall: 75264
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(A) Make a reliable report on the financial condition of the patient and of each liable relative, as provided in rules adopted by the director of ~~mental health~~ mental health and addiction services; 75267
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(B) Certify the report required under division (A) of this section to the managing officer of the hospital. The managing officer shall thereupon enter in the managing officer's records the name and address of any guardian appointed and of any relative liable for the patient's support.

Sec. 5121.51. In case the estate of any patient in a hospital is sufficient for the patient's support and no guardian has been appointed for such estate, the agent of the department of ~~mental health~~ mental health and addiction services shall petition the probate court of the proper county to appoint a guardian.

Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of ~~mental health~~ mental health and addiction services may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 5815.28 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

The department of ~~mental health~~ mental health and addiction services may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

Sec. 5121.55. The cost for support of a client of 75301
state-operated community mental health services is an amount 75302
determined using guidelines the department of ~~mental health~~ mental 75303
health and addiction services shall issue. The guidelines shall be 75304
based on cost findings and rate-settings applicable to such 75305
services. 75306

Sec. 5122.01. As used in this chapter and Chapter 5119. of 75307
the Revised Code: 75308

(A) "Mental illness" means a substantial disorder of thought, 75309
mood, perception, orientation, or memory that grossly impairs 75310
judgment, behavior, capacity to recognize reality, or ability to 75311
meet the ordinary demands of life. 75312

(B) "Mentally ill person subject to hospitalization by court 75313
order" means a mentally ill person who, because of the person's 75314
illness: 75315

(1) Represents a substantial risk of physical harm to self as 75316
manifested by evidence of threats of, or attempts at, suicide or 75317
serious self-inflicted bodily harm; 75318

(2) Represents a substantial risk of physical harm to others 75319
as manifested by evidence of recent homicidal or other violent 75320
behavior, evidence of recent threats that place another in 75321
reasonable fear of violent behavior and serious physical harm, or 75322
other evidence of present dangerousness; 75323

(3) Represents a substantial and immediate risk of serious 75324
physical impairment or injury to self as manifested by evidence 75325
that the person is unable to provide for and is not providing for 75326
the person's basic physical needs because of the person's mental 75327
illness and that appropriate provision for those needs cannot be 75328
made immediately available in the community; or 75329

(4) Would benefit from treatment in a hospital for the 75330

person's mental illness and is in need of such treatment as 75331
manifested by evidence of behavior that creates a grave and 75332
imminent risk to substantial rights of others or the person. 75333

(C)(1) "Patient" means, subject to division (C)(2) of this 75334
section, a person who is admitted either voluntarily or 75335
involuntarily to a hospital or other place under section 2945.39, 75336
2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a 75337
finding of not guilty by reason of insanity or incompetence to 75338
stand trial or under this chapter, who is under observation or 75339
receiving treatment in such place. 75340

(2) "Patient" does not include a person admitted to a 75341
hospital or other place under section 2945.39, 2945.40, 2945.401, 75342
or 2945.402 of the Revised Code to the extent that the reference 75343
in this chapter to patient, or the context in which the reference 75344
occurs, is in conflict with any provision of sections 2945.37 to 75345
2945.402 of the Revised Code. 75346

(D) "Licensed physician" means a person licensed under the 75347
laws of this state to practice medicine or a medical officer of 75348
the government of the United States while in this state in the 75349
performance of the person's official duties. 75350

(E) "Psychiatrist" means a licensed physician who has 75351
satisfactorily completed a residency training program in 75352
psychiatry, as approved by the residency review committee of the 75353
American medical association, the committee on post-graduate 75354
education of the American osteopathic association, or the American 75355
osteopathic board of neurology and psychiatry, or who on July 1, 75356
1989, has been recognized as a psychiatrist by the Ohio state 75357
medical association or the Ohio osteopathic association on the 75358
basis of formal training and five or more years of medical 75359
practice limited to psychiatry. 75360

(F) "Hospital" means a hospital or inpatient unit licensed by 75361

the department of ~~mental health~~ mental health and addiction 75362
services under section ~~5119.20~~ 5119.33 of the Revised Code, and 75363
any institution, hospital, or other place established, controlled, 75364
or supervised by the department under Chapter 5119. of the Revised 75365
Code. 75366

(G) "Public hospital" means a facility that is tax-supported 75367
and under the jurisdiction of the department of ~~mental health~~ 75368
mental health and addiction services. 75369

(H) "Community mental health ~~agency~~ services provider" means 75370
an agency, association, corporation, individual, or program that 75371
provides community mental health services that are certified by 75372
the director of ~~mental health~~ mental health and addiction services 75373
under section ~~5119.611~~ 5119.36 of the Revised Code. 75374

(I) "Licensed clinical psychologist" means a person who holds 75375
a current valid psychologist license issued under section 4732.12 75376
or 4732.15 of the Revised Code, and in addition, meets either of 75377
the following criteria: 75378

(1) Meets the educational requirements set forth in division 75379
(B) of section 4732.10 of the Revised Code and has a minimum of 75380
two years' full-time professional experience, or the equivalent as 75381
determined by rule of the state board of psychology, at least one 75382
year of which shall be a predoctoral internship, in clinical 75383
psychological work in a public or private hospital or clinic or in 75384
private practice, diagnosing and treating problems of mental 75385
illness or mental retardation under the supervision of a 75386
psychologist who is licensed or who holds a diploma issued by the 75387
American board of professional psychology, or whose qualifications 75388
are substantially similar to those required for licensure by the 75389
state board of psychology when the supervision has occurred prior 75390
to enactment of laws governing the practice of psychology; 75391

(2) Meets the educational requirements set forth in division 75392

(B) of section 4732.15 of the Revised Code and has a minimum of 75393
four years' full-time professional experience, or the equivalent 75394
as determined by rule of the state board of psychology, in 75395
clinical psychological work in a public or private hospital or 75396
clinic or in private practice, diagnosing and treating problems of 75397
mental illness or mental retardation under supervision, as set 75398
forth in division (I)(1) of this section. 75399

(J) "Health officer" means any public health physician; 75400
public health nurse; or other person authorized by or designated 75401
by a city health district; a general health district; or a board 75402
of alcohol, drug addiction, and mental health services to perform 75403
the duties of a health officer under this chapter. 75404

(K) "Chief clinical officer" means the medical director of a 75405
hospital, or a community mental health ~~agency~~ services provider, 75406
or a board of alcohol, drug addiction, and mental health services, 75407
or, if there is no medical director, the licensed physician 75408
responsible for the treatment a hospital or community mental 75409
health ~~agency~~ services provider provides. The chief clinical 75410
officer may delegate to the attending physician responsible for a 75411
patient's care the duties imposed on the chief clinical officer by 75412
this chapter. Within a community mental health ~~agency~~ services 75413
provider, the chief clinical officer shall be designated by the 75414
governing body of the ~~agency~~ services provider and shall be a 75415
licensed physician or licensed clinical psychologist who 75416
supervises diagnostic and treatment services. A licensed physician 75417
or licensed clinical psychologist designated by the chief clinical 75418
officer may perform the duties and accept the responsibilities of 75419
the chief clinical officer in the chief clinical officer's 75420
absence. 75421

(L) "Working day" or "court day" means Monday, Tuesday, 75422
Wednesday, Thursday, and Friday, except when such day is a 75423
holiday. 75424

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) "Ohio protection and advocacy system" has the same meaning as in section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a

county with intent to remain there, except that: 75455

(1) If a person is receiving a mental health service at a 75456
facility that includes nighttime sleeping accommodations, 75457
residence means that county in which the person maintained the 75458
person's primary place of residence at the time the person entered 75459
the facility; 75460

(2) If a person is committed pursuant to section 2945.38, 75461
2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, 75462
residence means the county where the criminal charges were filed. 75463

When the residence of a person is disputed, the matter of 75464
residence shall be referred to the department of ~~mental health~~ 75465
mental health and addiction services for investigation and 75466
determination. Residence shall not be a basis for a board's 75467
denying services to any person present in the board's service 75468
district, and the board shall provide services for a person whose 75469
residence is in dispute while residence is being determined and 75470
for a person in an emergency situation. 75471

(T) "Admission" to a hospital or other place means that a 75472
patient is accepted for and stays at least one night at the 75473
hospital or other place. 75474

(U) "Prosecutor" means the prosecuting attorney, village 75475
solicitor, city director of law, or similar chief legal officer 75476
who prosecuted a criminal case in which a person was found not 75477
guilty by reason of insanity, who would have had the authority to 75478
prosecute a criminal case against a person if the person had not 75479
been found incompetent to stand trial, or who prosecuted a case in 75480
which a person was found guilty. 75481

(V) "Treatment plan" means a written statement of reasonable 75482
objectives and goals for an individual established by the 75483
treatment team, with specific criteria to evaluate progress 75484
towards achieving those objectives. The active participation of 75485

the patient in establishing the objectives and goals shall be 75486
documented. The treatment plan shall be based on patient needs and 75487
include services to be provided to the patient while the patient 75488
is hospitalized and after the patient is discharged. The treatment 75489
plan shall address services to be provided upon discharge, 75490
including but not limited to housing, financial, and vocational 75491
services. 75492

(W) "Community control sanction" has the same meaning as in 75493
section 2929.01 of the Revised Code. 75494

(X) "Post-release control sanction" has the same meaning as 75495
in section 2967.01 of the Revised Code. 75496

Sec. 5122.03. A patient admitted under section 5122.02 of the 75497
Revised Code who requests release in writing, or whose release is 75498
requested in writing by the patient's counsel, legal guardian, 75499
parent, spouse, or adult next of kin shall be released forthwith, 75500
except that when: 75501

(A) The patient was admitted on the patient's own application 75502
and the request for release is made by a person other than the 75503
patient, release may be conditional upon the agreement of the 75504
patient; or 75505

(B) The chief clinical officer of the hospital, within three 75506
court days from the receipt of the request for release, files or 75507
causes to be filed with the court of the county where the patient 75508
is hospitalized or of the county where the patient is a resident, 75509
an affidavit under section 5122.11 of the Revised Code. Release 75510
may be postponed until the hearing held under section 5122.141 of 75511
the Revised Code. A telephone communication within three court 75512
days from the receipt of the request for release from the chief 75513
clinical officer to the court, indicating that the required 75514
affidavit has been mailed, is sufficient compliance with the time 75515
limit for filing such affidavit. 75516

Unless the patient is released within three days from the receipt of the request by the chief clinical officer, the request shall serve as a request for an initial hearing under section 5122.141 of the Revised Code. If the court finds that the patient is a mentally ill person subject to hospitalization by court order, all provisions of this chapter with respect to involuntary hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient except pursuant to this section.

Sections 5121.30 to 5121.56 of the Revised Code apply to persons received in a hospital operated by the department of ~~mental health~~ mental health and addiction services on a voluntary application.

The chief clinical officer of the hospital shall provide reasonable means and arrangements for informing patients of their rights to release as provided in this section and for assisting them in making and presenting requests for release or for a hearing under section 5122.141 of the Revised Code.

Before a patient is released from a public hospital, the chief clinical officer shall, when possible, notify the board of the patient's county of residence of the patient's pending release after the chief clinical officer has informed the patient that the board will be so notified.

Sec. 5122.10. Any psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff may take a person into custody, or the chief of the adult parole authority or a parole or probation officer with the approval of the chief of the authority may take a parolee, an offender under a community control sanction or a post-release control sanction, or an offender under transitional

control into custody and may immediately transport the parolee, 75548
offender on community control or post-release control, or offender 75549
under transitional control to a hospital or, notwithstanding 75550
section ~~5119.20~~ 5119.33 of the Revised Code, to a general hospital 75551
not licensed by the department of ~~mental health~~ mental health and
addiction services where the parolee, offender on community 75552
control or post-release control, or offender under transitional 75553
control may be held for the period prescribed in this section, if 75554
the psychiatrist, licensed clinical psychologist, licensed 75555
physician, health officer, parole officer, police officer, or 75556
sheriff has reason to believe that the person is a mentally ill 75557
person subject to hospitalization by court order under division 75558
(B) of section 5122.01 of the Revised Code, and represents a 75559
substantial risk of physical harm to self or others if allowed to 75560
remain at liberty pending examination. 75561
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A written statement shall be given to such hospital by the 75563
transporting psychiatrist, licensed clinical psychologist, 75564
licensed physician, health officer, parole officer, police 75565
officer, chief of the adult parole authority, parole or probation 75566
officer, or sheriff stating the circumstances under which such 75567
person was taken into custody and the reasons for the 75568
psychiatrist's, licensed clinical psychologist's, licensed 75569
physician's, health officer's, parole officer's, police officer's, 75570
chief of the adult parole authority's, parole or probation 75571
officer's, or sheriff's belief. This statement shall be made 75572
available to the respondent or the respondent's attorney upon 75573
request of either. 75574

Every reasonable and appropriate effort shall be made to take 75575
persons into custody in the least conspicuous manner possible. A 75576
person taking the respondent into custody pursuant to this section 75577
shall explain to the respondent: the name, and professional 75578
designation, ~~and agency~~ affiliation of the person taking the 75579

respondent into custody; that the custody-taking is not a criminal 75580
arrest; and that the person is being taken for examination by 75581
mental health professionals at a specified mental health facility 75582
identified by name. 75583

If a person taken into custody under this section is 75584
transported to a general hospital, the general hospital may admit 75585
the person, or provide care and treatment for the person, or both, 75586
notwithstanding section ~~5119.20~~ 5119.33 of the Revised Code, but 75587
by the end of twenty-four hours after arrival at the general 75588
hospital, the person shall be transferred to a hospital as defined 75589
in section 5122.01 of the Revised Code. 75590

A person transported or transferred to a hospital or 75591
community mental health ~~agency~~ services provider under this 75592
section shall be examined by the staff of the hospital or ~~agency~~ 75593
services provider within twenty-four hours after arrival at the 75594
hospital or ~~agency~~ services provider. If to conduct the 75595
examination requires that the person remain overnight, the 75596
hospital or ~~agency~~ services provider shall admit the person in an 75597
unclassified status until making a disposition under this section. 75598
After the examination, if the chief clinical officer of the 75599
hospital or ~~agency~~ services provider believes that the person is 75600
not a mentally ill person subject to hospitalization by court 75601
order, the chief clinical officer shall release or discharge the 75602
person immediately unless a court has issued a temporary order of 75603
detention applicable to the person under section 5122.11 of the 75604
Revised Code. After the examination, if the chief clinical officer 75605
believes that the person is a mentally ill person subject to 75606
hospitalization by court order, the chief clinical officer may 75607
detain the person for not more than three court days following the 75608
day of the examination and during such period admit the person as 75609
a voluntary patient under section 5122.02 of the Revised Code or 75610
file an affidavit under section 5122.11 of the Revised Code. If 75611

neither action is taken and a court has not otherwise issued a 75612
temporary order of detention applicable to the person under 75613
section 5122.11 of the Revised Code, the chief clinical officer 75614
shall discharge the person at the end of the three-day period 75615
unless the person has been sentenced to the department of 75616
rehabilitation and correction and has not been released from the 75617
person's sentence, in which case the person shall be returned to 75618
that department. 75619

Sec. 5122.11. Proceedings for the hospitalization of a person 75620
pursuant to sections 5122.11 to 5122.15 of the Revised Code shall 75621
be commenced by the filing of an affidavit in the manner and form 75622
prescribed by the department of ~~mental health~~ mental health and 75623
addiction services, by any person or persons with the court, 75624
either on reliable information or actual knowledge, whichever is 75625
determined to be proper by the court. This section does not apply 75626
to the hospitalization of a person pursuant to section 2945.39, 75627
2945.40, 2945.401, or 2945.402 of the Revised Code. 75628

The affidavit shall contain an allegation setting forth the 75629
specific category or categories under division (B) of section 75630
5122.01 of the Revised Code upon which the jurisdiction of the 75631
court is based and a statement of alleged facts sufficient to 75632
indicate probable cause to believe that the person is a mentally 75633
ill person subject to hospitalization by court order. The 75634
affidavit may be accompanied, or the court may require that the 75635
affidavit be accompanied, by a certificate of a psychiatrist, or a 75636
certificate signed by a licensed clinical psychologist and a 75637
certificate signed by a licensed physician stating that the person 75638
who issued the certificate has examined the person and is of the 75639
opinion that the person is a mentally ill person subject to 75640
hospitalization by court order, or shall be accompanied by a 75641
written statement by the applicant, under oath, that the person 75642
has refused to submit to an examination by a psychiatrist, or by a 75643

licensed clinical psychologist and licensed physician. 75644

Upon receipt of the affidavit, if a judge of the court or a 75645
referee who is an attorney at law appointed by the court has 75646
probable cause to believe that the person named in the affidavit 75647
is a mentally ill person subject to hospitalization by court 75648
order, the judge or referee may issue a temporary order of 75649
detention ordering any health or police officer or sheriff to take 75650
into custody and transport the person to a hospital or other place 75651
designated in section 5122.17 of the Revised Code, or may set the 75652
matter for further hearing. 75653

The person may be observed and treated until the hearing 75654
provided for in section 5122.141 of the Revised Code. If no such 75655
hearing is held, the person may be observed and treated until the 75656
hearing provided for in section 5122.15 of the Revised Code. 75657

Sec. 5122.12. After receipt of the affidavit required by 75658
section 5122.11 of the Revised Code, the court shall cause written 75659
notice by mail or otherwise of any hearing as the court directs to 75660
be given to the following persons: 75661

(A) The respondent; 75662

(B) The respondent's legal guardian, if any, the respondent's 75663
spouse, if any, and the respondent's parents, if the respondent is 75664
a minor, if these persons' addresses are known to the court or can 75665
be obtained through exercise of reasonable diligence; 75666

(C) The person who filed the affidavit; 75667

(D) Any one person designated by the respondent; but if the 75668
respondent does not make a selection, the notice shall be sent to 75669
the adult next of kin other than the person who filed the 75670
affidavit if that person's address is known to the court or can be 75671
obtained through exercise of reasonable diligence; 75672

(E) The respondent's counsel; 75673

(F) The director, chief clinical officer, or the respective 75674
designee of the hospital, board, agency services provider, or 75675
facility to which the person has been committed; 75676

(G) The board of alcohol, drug addiction, and mental health 75677
services serving the respondent's county of residence or ~~an agency~~ 75678
a services provider the board designates. 75679

Any person entitled to notice under this section, with the 75680
exception of the respondent, may waive the notice. 75681

A copy of the affidavit and temporary order of detention 75682
shall be served with the notice to the parties and to respondent's 75683
counsel, if counsel has been appointed or retained. 75684

Sec. 5122.13. Upon receipt of the affidavit required by 75685
section 5122.11 of the Revised Code, the court shall refer the 75686
affidavit to the board of alcohol, drug addiction, and mental 75687
health services or ~~an agency~~ services provider the board 75688
designates to assist the court in determining whether the 75689
respondent is subject to hospitalization and whether alternative 75690
services are available, unless the ~~agency~~ services provider or 75691
board has already performed such screening. The board or ~~agency~~ 75692
services provider shall review the allegations of the affidavit 75693
and other information relating to whether or not the person named 75694
in the affidavit or statement is a mentally ill person subject to 75695
hospitalization by court order, and the availability of 75696
appropriate treatment alternatives. 75697

The person who conducts the investigation shall promptly make 75698
a report to the court, in writing, in open court or in chambers, 75699
as directed by the court and a full record of the report shall be 75700
made by the court. The report is not admissible as evidence for 75701
the purpose of establishing whether or not the respondent is a 75702
mentally ill person subject to hospitalization by court order, but 75703
shall be considered by the court in its determination of an 75704

appropriate placement for any person after that person is found to be a mentally ill person subject to hospitalization. 75705
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The court, prior to the hearing under section 5122.141 of the Revised Code, shall release a copy of the investigative report to the respondent's counsel. 75707
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Nothing in this section precludes a judge or referee from issuing a temporary order of detention pursuant to section 5122.11 of the Revised Code. 75710
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Sec. 5122.15. (A) Full hearings shall be conducted in a manner consistent with this chapter and with due process of law. The hearings shall be conducted by a judge of the probate court or a referee designated by a judge of the probate court and may be conducted in or out of the county in which the respondent is held. Any referee designated under this division shall be an attorney. 75713
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(1) With the consent of the respondent, the following shall be made available to counsel for the respondent: 75719
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(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor; 75721
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(b) All relevant documents, information, and evidence in the custody or control of the hospital in which the respondent currently is held, or in which the respondent has been held pursuant to this chapter; 75723
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(c) All relevant documents, information, and evidence in the custody or control of any hospital, facility, or person not included in division (A)(1)(a) or (b) of this section. 75727
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(2) The respondent has the right to attend the hearing and to be represented by counsel of the respondent's choice. The right to attend the hearing may be waived only by the respondent or counsel for the respondent after consultation with the respondent. 75730
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(3) If the respondent is not represented by counsel, is 75734

absent from the hearing, and has not validly waived the right to 75735
counsel, the court shall appoint counsel immediately to represent 75736
the respondent at the hearing, reserving the right to tax costs of 75737
appointed counsel to the respondent, unless it is shown that the 75738
respondent is indigent. If the court appoints counsel, or if the 75739
court determines that the evidence relevant to the respondent's 75740
absence does not justify the absence, the court shall continue the 75741
case. 75742

(4) The respondent shall be informed that the respondent may 75743
retain counsel and have independent expert evaluation. If the 75744
respondent is unable to obtain an attorney, the respondent shall 75745
be represented by court-appointed counsel. If the respondent is 75746
indigent, court-appointed counsel and independent expert 75747
evaluation shall be provided as an expense under section 5122.43 75748
of the Revised Code. 75749

(5) The hearing shall be closed to the public, unless counsel 75750
for the respondent, with the permission of the respondent, 75751
requests that the hearing be open to the public. 75752

(6) If the hearing is closed to the public, the court, for 75753
good cause shown, may admit persons who have a legitimate interest 75754
in the proceedings. If the respondent, the respondent's counsel, 75755
or the designee of the director or of the chief clinical officer 75756
objects to the admission of any person, the court shall hear the 75757
objection and any opposing argument and shall rule upon the 75758
admission of the person to the hearing. 75759

(7) The affiant under section 5122.11 of the Revised Code 75760
shall be subject to subpoena by either party. 75761

(8) The court shall examine the sufficiency of all documents 75762
filed and shall inform the respondent, if present, and the 75763
respondent's counsel of the nature and content of the documents 75764
and the reason for which the respondent is being detained, or for 75765

which the respondent's placement is being sought. 75766

(9) The court shall receive only reliable, competent, and 75767
material evidence. 75768

(10) Unless proceedings are initiated pursuant to section 75769
5120.17 or 5139.08 of the Revised Code ~~or proceedings are~~ 75770
~~initiated regarding a resident of the service district of a board~~ 75771
~~of alcohol, drug addiction, and mental health services that elects~~ 75772
~~under division (C)(2) of section 5119.62 of the Revised Code not~~ 75773
~~to accept the amount allocated to it under that section, an~~ 75774
attorney that the board designates shall present the case 75775
demonstrating that the respondent is a mentally ill person subject 75776
to hospitalization by court order. The attorney shall offer 75777
evidence of the diagnosis, prognosis, record of treatment, if any, 75778
and less restrictive treatment plans, if any. In proceedings 75779
pursuant to section 5120.17 or 5139.08 of the Revised Code ~~and in~~ 75780
~~proceedings in which the respondent is a resident of a service~~ 75781
~~district of a board that elects under division (C)(2) of section~~ 75782
~~5119.62 of the Revised Code not to accept the amount allocated to~~ 75783
~~it under that section, the attorney general shall designate an~~ 75784
attorney who shall present the case demonstrating that the 75785
respondent is a mentally ill person subject to hospitalization by 75786
court order. The attorney shall offer evidence of the diagnosis, 75787
prognosis, record of treatment, if any, and less restrictive 75788
treatment plans, if any. 75789

(11) The respondent or the respondent's counsel has the right 75790
to subpoena witnesses and documents and to examine and 75791
cross-examine witnesses. 75792

(12) The respondent has the right, but shall not be 75793
compelled, to testify, and shall be so advised by the court. 75794

(13) On motion of the respondent or the respondent's counsel 75795
for good cause shown, or on the court's own motion, the court may 75796

order a continuance of the hearing. 75797

(14) If the respondent is represented by counsel and the 75798
respondent's counsel requests a transcript and record, or if the 75799
respondent is not represented by counsel, the court shall make and 75800
maintain a full transcript and record of the proceeding. If the 75801
respondent is indigent and the transcript and record is made, a 75802
copy shall be provided to the respondent upon request and be 75803
treated as an expense under section 5122.43 of the Revised Code. 75804

(15) To the extent not inconsistent with this chapter, the 75805
Rules of Civil Procedure are applicable. 75806

(B) Unless, upon completion of the hearing the court finds by 75807
clear and convincing evidence that the respondent is a mentally 75808
ill person subject to hospitalization by court order, it shall 75809
order the respondent's discharge immediately. 75810

(C) If, upon completion of the hearing, the court finds by 75811
clear and convincing evidence that the respondent is a mentally 75812
ill person subject to hospitalization by court order, the court 75813
shall order the respondent for a period not to exceed ninety days 75814
to any of the following: 75815

(1) A hospital operated by the department of ~~mental health~~ 75816
mental health and addiction services if the respondent is 75817
committed pursuant to section 5139.08 of the Revised Code; 75818

(2) A nonpublic hospital; 75819

(3) The veterans' administration or other agency of the 75820
United States government; 75821

(4) A board of alcohol, drug addiction, and mental health 75822
services or ~~agency~~ services provider the board designates; 75823

(5) Receive private psychiatric or psychological care and 75824
treatment; 75825

(6) Any other suitable facility or person consistent with the 75826

diagnosis, prognosis, and treatment needs of the respondent. 75827

(D) Any order made pursuant to division (C)(2), (3), (5), or 75828
(6) of this section shall be conditioned upon the receipt by the 75829
court of consent by the hospital, facility, ~~agency~~ services 75830
provider, or person to accept the respondent. 75831

(E) In determining the place to which, or the person with 75832
whom, the respondent is to be committed, the court shall consider 75833
the diagnosis, prognosis, preferences of the respondent and the 75834
projected treatment plan for the respondent and shall order the 75835
implementation of the least restrictive alternative available and 75836
consistent with treatment goals. If the court determines that the 75837
least restrictive alternative available that is consistent with 75838
treatment goals is inpatient hospitalization, the court's order 75839
shall so state. 75840

(F) During such ninety-day period the hospital; facility; 75841
board of alcohol, drug addiction, and mental health services; 75842
~~agency~~ services provider the board designates; or person shall 75843
examine and treat the individual. If, at any time prior to the 75844
expiration of the ninety-day period, it is determined by the 75845
hospital, facility, board, ~~agency~~ services provider, or person 75846
that the respondent's treatment needs could be equally well met in 75847
an available and appropriate less restrictive environment, both of 75848
the following apply: 75849

(1) The respondent shall be released from the care of the 75850
hospital, ~~agency~~ services provider, facility, or person 75851
immediately and shall be referred to the court together with a 75852
report of the findings and recommendations of the hospital, ~~agency~~ 75853
services provider, facility, or person; and 75854

(2) The hospital, ~~agency~~ services provider, facility, or 75855
person shall notify the respondent's counsel or the attorney 75856
designated by a board of alcohol, drug addiction, and mental 75857

health services or, if the respondent was committed to a board or 75858
~~an agency~~ a services provider designated by the board, it shall 75859
place the respondent in the least restrictive environment 75860
available consistent with treatment goals and notify the court and 75861
the respondent's counsel of the placement. 75862

The court shall dismiss the case or order placement in the 75863
least restrictive environment. 75864

(G)(1) Except as provided in divisions (G)(2) and (3) of this 75865
section, any person who has been committed under this section, or 75866
for whom proceedings for hospitalization have been commenced 75867
pursuant to section 5122.11 of the Revised Code, may apply at any 75868
time for voluntary admission to the hospital, facility, ~~agency~~ or 75869
services provider that the board designates, or person to which 75870
the person was committed. Upon admission as a voluntary patient 75871
the chief clinical officer of the hospital, ~~agency~~ services 75872
provider, or other facility, or the person immediately shall 75873
notify the court, the patient's counsel, and the attorney 75874
designated by the board, if the attorney has entered the 75875
proceedings, in writing of that fact, and, upon receipt of the 75876
notice, the court shall dismiss the case. 75877

(2) A person who is found incompetent to stand trial or not 75878
guilty by reason of insanity and who is committed pursuant to 75879
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 75880
Code shall not voluntarily commit the person pursuant to this 75881
section until after the final termination of the commitment, as 75882
described in division (J) of section 2945.401 of the Revised Code. 75883

(H) If, at the end of the first ninety-day period or any 75884
subsequent period of continued commitment, there has been no 75885
disposition of the case, either by discharge or voluntary 75886
admission, the hospital, facility, board, ~~agency~~ services 75887
provider, or person shall discharge the patient immediately, 75888
unless at least ten days before the expiration of the period the 75889

attorney the board designates or the prosecutor files with the 75890
court an application for continued commitment. The application of 75891
the attorney or the prosecutor shall include a written report 75892
containing the diagnosis, prognosis, past treatment, a list of 75893
alternative treatment settings and plans, and identification of 75894
the treatment setting that is the least restrictive consistent 75895
with treatment needs. The attorney the board designates or the 75896
prosecutor shall file the written report at least three days prior 75897
to the full hearing. A copy of the application and written report 75898
shall be provided to the respondent's counsel immediately. 75899

The court shall hold a full hearing on applications for 75900
continued commitment at the expiration of the first ninety-day 75901
period and at least every two years after the expiration of the 75902
first ninety-day period. 75903

Hearings following any application for continued commitment 75904
are mandatory and may not be waived. 75905

Upon request of a person who is involuntarily committed under 75906
this section, or the person's counsel, that is made more than one 75907
hundred eighty days after the person's last full hearing, 75908
mandatory or requested, the court shall hold a full hearing on the 75909
person's continued commitment. Upon the application of a person 75910
involuntarily committed under this section, supported by an 75911
affidavit of a psychiatrist or licensed clinical psychologist, 75912
alleging that the person no longer is a mentally ill person 75913
subject to hospitalization by court order, the court for good 75914
cause shown may hold a full hearing on the person's continued 75915
commitment prior to the expiration of one hundred eighty days 75916
after the person's last full hearing. Section 5122.12 of the 75917
Revised Code applies to all hearings on continued commitment. 75918

If the court, after a hearing for continued commitment finds 75919
by clear and convincing evidence that the respondent is a mentally 75920
ill person subject to hospitalization by court order, the court 75921

may order continued commitment at places specified in division (C) 75922
of this section. 75923

(I) Unless the admission is pursuant to section 5120.17 or 75924
5139.08 of the Revised Code, the chief clinical officer of the 75925
hospital or ~~agency~~ services provider admitting a respondent 75926
pursuant to a judicial proceeding, within ten working days of the 75927
admission, shall make a report of the admission to the board of 75928
alcohol, drug addiction, and mental health services serving the 75929
respondent's county of residence. 75930

(J) A referee appointed by the court may make all orders that 75931
a judge may make under this section and sections 5122.11 and 75932
5122.141 of the Revised Code, except an order of contempt of 75933
court. The orders of a referee take effect immediately. Within 75934
fourteen days of the making of an order by a referee, a party may 75935
file written objections to the order with the court. The filed 75936
objections shall be considered a motion, shall be specific, and 75937
shall state their grounds with particularity. Within ten days of 75938
the filing of the objections, a judge of the court shall hold a 75939
hearing on the objections and may hear and consider any testimony 75940
or other evidence relating to the respondent's mental condition. 75941
At the conclusion of the hearing, the judge may ratify, rescind, 75942
or modify the referee's order. 75943

(K) An order of the court under division (C), (H), or (J) of 75944
this section is a final order. 75945

(L) Before a board, or ~~an agency~~ a services provider the 75946
board designates, may place an unconsenting respondent in an 75947
inpatient setting from a less restrictive placement, the board or 75948
~~agency~~ services provider shall do all of the following: 75949

(1) Determine that the respondent is in immediate need of 75950
treatment in an inpatient setting because the respondent 75951
represents a substantial risk of physical harm to the respondent 75952

or others if allowed to remain in a less restrictive setting; 75953

(2) On the day of placement in the inpatient setting or on 75954
the next court day, file with the court a motion for transfer to 75955
an inpatient setting or communicate to the court by telephone that 75956
the required motion has been mailed; 75957

(3) Ensure that every reasonable and appropriate effort is 75958
made to take the respondent to the inpatient setting in the least 75959
conspicuous manner possible; 75960

(4) Immediately notify the board's designated attorney and 75961
the respondent's attorney. 75962

At the respondent's request, the court shall hold a hearing 75963
on the motion and make a determination pursuant to division (E) of 75964
this section within five days of the placement. 75965

(M) Before a board, or an ~~agency~~ services provider the board 75966
designates, may move a respondent from one residential placement 75967
to another, the board or ~~agency~~ services provider shall consult 75968
with the respondent about the placement. If the respondent objects 75969
to the placement, the proposed placement and the need for it shall 75970
be reviewed by a qualified mental health professional who 75971
otherwise is not involved in the treatment of the respondent. 75972

Sec. 5122.17. Pending ~~his~~ removal to a hospital, a person 75973
taken into custody or ordered to be hospitalized pursuant to this 75974
chapter may be detained for not more than forty-eight hours in a 75975
licensed rest or nursing home, a licensed or unlicensed hospital, 75976
a community mental health ~~agency~~ services provider, or a county 75977
home, but ~~he~~ the person shall not be detained in a nonmedical 75978
facility used for detention of persons charged with or convicted 75979
of penal offenses unless the court finds that a less restrictive 75980
alternative cannot be made available. 75981

Sec. 5122.18. Whenever a person has been involuntarily 75982

detained at or admitted to a hospital, community mental health 75983
agency services provider, or other facility at the request of 75984
anyone other than the person's legal guardian, spouse, or next of 75985
kin under this chapter, the chief clinical officer of the 75986
hospital, agency services provider, or other facility in which the 75987
person is temporarily detained under section 5122.17 of the 75988
Revised Code shall immediately notify the person's legal guardian, 75989
spouse or next of kin, and counsel, if these persons can be 75990
ascertained through exercise of reasonable diligence. If a person 75991
voluntarily remains at or is admitted to a hospital, agency 75992
services provider, or other facility, such notification shall not 75993
be given without ~~his~~ the person's consent. The chief clinical 75994
officer of the hospital, agency services provider, or other 75995
facility shall inform a person voluntarily remaining at or 75996
admitted to a hospital, agency services provider, or other 75997
facility that ~~he~~ the person may authorize such notification. 75998

Sec. 5122.19. Every person transported to a hospital or 75999
community mental health agency services provider pursuant to 76000
sections 5122.11 to 5122.16 of the Revised Code, shall be examined 76001
by the staff of the hospital or agency services provider as soon 76002
as practicable after ~~his~~ arrival at the hospital or agency 76003
services provider. Such an examination shall be held within 76004
twenty-four hours after the time of arrival, and if the chief 76005
clinical officer fails after such an examination to certify that 76006
in ~~his~~ the chief clinical officer's opinion the person is a 76007
mentally ill person subject to hospitalization by court order, the 76008
person shall be immediately released. 76009

Sec. 5122.20. The director of ~~mental health~~ mental health and 76010
addiction services or the director's designee may transfer, or 76011
authorize the transfer of, an involuntary patient, or a consenting 76012
voluntary patient hospitalized pursuant to section 5122.02 or 76013

sections 5122.11 to 5122.15 of the Revised Code, from one public 76014
hospital to another, or to a hospital, community mental health 76015
~~agency services provider~~, or other facility offering treatment or 76016
other services for mental illness, if the medical director of the 76017
department of ~~mental health~~ mental health and addiction services 76018
determines that it would be consistent with the medical needs of 76019
the patient to do so. If such a transfer is made to a private 76020
facility, the transfer shall be conditioned upon the consent of 76021
the facility. 76022

Before an involuntary patient may be transferred to a more 76023
restrictive setting, the chief clinical officer shall file a 76024
motion with the court requesting the court to amend its order of 76025
placement issued under section 5122.15 of the Revised Code. At the 76026
patient's request, the court shall hold a hearing on the motion at 76027
which the patient has the same rights as at a full hearing under 76028
section 5122.15 of the Revised Code. The hearing shall be held 76029
within ten days after the date on which the respondent was 76030
transferred to the more restrictive setting or on which the motion 76031
was filed, whichever is earlier. On the motion of the respondent, 76032
the respondent's counsel, or the chief clinical officer, or on its 76033
own motion, and for good cause shown, the court may order a 76034
continuance of the hearing for up to ten days. 76035

Whenever an involuntary patient is transferred, written 76036
notice of the transfer shall be given to the patient's legal 76037
guardian, parents, spouse, and counsel, or, if none is known, to 76038
the patient's nearest known relative or friend. If the patient is 76039
a minor, the department, before making such a transfer, shall make 76040
a minute of the order for the transfer and the reason for it upon 76041
its record and shall send a certified copy at least seven days 76042
prior to the transfer to the person shown by its record to have 76043
had the care or custody of the minor immediately prior to the 76044
minor's commitment. Whenever a consenting voluntary patient is 76045

transferred, the notification shall be given only at the patient's 76046
request. The chief clinical officer shall advise a voluntary 76047
patient who is being transferred that the patient may decide if 76048
the notification shall be given. In all such transfers, due 76049
consideration shall be given to the wishes of the patient, and the 76050
relationship of the patient to the patient's family, legal 76051
guardian, or friends, so as to maintain the relationship and 76052
encourage visits beneficial to the patient. 76053

When a voluntary patient whose medical or psychological needs 76054
are found by the chief clinical officer to warrant a transfer 76055
refuses to be transferred to an alternate facility, the chief 76056
clinical officer may file an affidavit for a hearing under section 76057
5122.11 of the Revised Code. 76058

Sec. 5122.21. (A) The chief clinical officer shall as 76059
frequently as practicable, and at least once every thirty days, 76060
examine or cause to be examined every patient, and, whenever the 76061
chief clinical officer determines that the conditions justifying 76062
involuntary hospitalization or commitment no longer obtain, shall 76063
discharge the patient not under indictment or conviction for crime 76064
and immediately make a report of the discharge to the department 76065
of ~~mental health~~ mental health and addiction services. The chief 76066
clinical officer may discharge a patient who is under an 76067
indictment, a sentence of imprisonment, a community control 76068
sanction, or a post-release control sanction or on parole ten days 76069
after written notice of intent to discharge the patient has been 76070
given by personal service or certified mail, return receipt 76071
requested, to the court having criminal jurisdiction over the 76072
patient. Except when the patient was found not guilty by reason of 76073
insanity and the defendant's commitment is pursuant to section 76074
2945.40 of the Revised Code, the chief clinical officer has final 76075
authority to discharge a patient who is under an indictment, a 76076
sentence of imprisonment, a community control sanction, or a 76077

post-release control sanction or on parole. 76078

(B) After a finding pursuant to section 5122.15 of the 76079
Revised Code that a person is a mentally ill person subject to 76080
hospitalization by court order, the chief clinical officer of the 76081
hospital or ~~agency~~ services provider to which the person is 76082
ordered or to which the person is transferred under section 76083
5122.20 of the Revised Code, may grant a discharge without the 76084
consent or authorization of any court. 76085

Upon discharge, the chief clinical officer shall notify the 76086
court that caused the judicial hospitalization of the discharge 76087
from the hospital. 76088

Sec. 5122.23. The chief clinical officer of a public hospital 76089
shall immediately report to the department of ~~mental health~~ mental 76090
health and addiction services and the board of alcohol, drug 76091
addiction, and mental health services serving the patient's county 76092
of residence the removal, death, escape, discharge, or trial visit 76093
of any patient hospitalized under section 5122.15 of the Revised 76094
Code, or the return of such an escaped or visiting patient to the 76095
department, the probate judge of the county from which such 76096
patient was hospitalized, and the probate judge of the county of 76097
residence of such patient. In case of death, the chief clinical 76098
officer also shall notify one or more of the nearest relatives of 76099
the deceased patient, if known to ~~him~~ the chief clinical officer, 76100
by letter, telegram, or telephone. If the place of residence of 76101
such relative is unknown to the chief clinical officer, 76102
immediately upon receiving notification the probate judge shall in 76103
the speediest manner possible notify such relatives, if known to 76104
~~him~~ the probate judge. 76105

The chief clinical officer of a public hospital, upon the 76106
request of the probate judge of the county from which a patient 76107

was hospitalized or the probate judge of the county of residence 76108
of such a patient, shall make a report to the judge of the 76109
condition of any patient under the care, treatment, custody, or 76110
control of the chief clinical officer. 76111

Sec. 5122.25. Upon the request of a hospital, person, board, 76112
~~agency services provider~~, or facility who has custody of a patient 76113
hospitalized pursuant to section 5122.15 of the Revised Code, or 76114
on the order of the court, such patient may be called for a 76115
rehearing at such place within the county of ~~his~~ the patient's 76116
residence or the county where such patient is hospitalized as the 76117
court designates. The hearing shall be conducted pursuant to 76118
section 5122.15 of the Revised Code. 76119

Sec. 5122.26. (A) If a patient is absent without leave, on a 76120
verbal or written order issued within five days of the time of the 76121
unauthorized absence by the department of ~~mental health~~ mental 76122
health and addiction services, the chief clinical officer of the 76123
hospital from which the patient is absent without leave, or the 76124
court of either the county from which the patient was committed or 76125
in which the patient is found, any health or police officer or 76126
sheriff may take the patient into custody and transport the 76127
patient to the hospital in which the patient was hospitalized or 76128
to a place that is designated in the order. The officer 76129
immediately shall report such fact to the ~~agency~~ entity that 76130
issued the order. 76131

The chief clinical officer of a hospital may discharge a 76132
patient who is under an indictment, a sentence of imprisonment, a 76133
community control sanction, or a post-release control sanction or 76134
on parole and who has been absent without leave for more than 76135
thirty days but shall give written notice of the discharge to the 76136
court with criminal jurisdiction over the patient. The chief 76137
clinical officer of a hospital may discharge any other patient who 76138

has been absent without leave for more than fourteen days. 76139

The chief clinical officer shall take all proper measures for 76140
the apprehension of an escaped patient. The expense of the return 76141
of an escaped patient shall be borne by the hospital where the 76142
patient is hospitalized. 76143

(B)(1) Subject to division (B)(2) of this section, no patient 76144
hospitalized under Chapter 5122. of the Revised Code whose absence 76145
without leave was caused or contributed to by the patient's mental 76146
illness shall be subject to a charge of escape. 76147

(2) Division (B)(1) of this section does not apply to any 76148
person who was hospitalized, institutionalized, or confined in a 76149
facility under an order made pursuant to or under authority of 76150
section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 76151
2945.402 of the Revised Code and who escapes from the facility, 76152
from confinement in a vehicle for transportation to or from the 76153
facility, or from supervision by an employee of the facility that 76154
is incidental to hospitalization, institutionalization, or 76155
confinement in the facility and that occurs outside the facility, 76156
in violation of section 2921.34 of the Revised Code. 76157

Sec. 5122.27. The chief clinical officer of the hospital or 76158
the chief clinical officer's designee shall assure that all 76159
patients hospitalized or committed pursuant to this chapter shall: 76160

(A) Receive, within twenty days of their admission sufficient 76161
professional care to assure that an evaluation of current status, 76162
differential diagnosis, probable prognosis, and description of the 76163
current treatment plan is stated on the official chart; 76164

(B) Have a written treatment plan consistent with the 76165
evaluation, diagnosis, prognosis, and goals which shall be 76166
provided, upon request of the patient or patient's counsel, to the 76167
patient's counsel and to any private physician or licensed 76168

clinical psychologist designated by the patient or the patient's
counsel or to the Ohio protection and advocacy system; 76169
76170

(C) Receive treatment consistent with the treatment plan. The
department of ~~mental health~~ mental health and addiction services
shall set standards for treatment provided to such patients,
consistent wherever possible with standards set by the joint
commission ~~on accreditation of healthcare organizations~~. 76171
76172
76173
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76175

(D) Receive periodic reevaluations of the treatment plan by
the professional staff at intervals not to exceed ninety days; 76176
76177

(E) Be provided with adequate medical treatment for physical
disease or injury; 76178
76179

(F) Receive humane care and treatment, including without
limitation, the following: 76180
76181

(1) The least restrictive environment consistent with the
treatment plan; 76182
76183

(2) The necessary facilities and personnel required by the
treatment plan; 76184
76185

(3) A humane psychological and physical environment; 76186

(4) The right to obtain current information concerning the
patient's treatment program and expectations in terms that the
patient can reasonably understand; 76187
76188
76189

(5) Participation in programs designed to afford the patient
substantial opportunity to acquire skills to facilitate return to
the community or to terminate an involuntary commitment; 76190
76191
76192

(6) The right to be free from unnecessary or excessive
medication; 76193
76194

(7) Freedom from restraints or isolation unless it is stated
in a written order by the chief clinical officer or the chief
clinical officer's designee, or the patient's individual physician
or psychologist in a private or general hospital. 76195
76196
76197
76198

If the chief clinical officer of the hospital is unable to provide the treatment required by divisions (C), (E), and (F) of this section for any patient hospitalized pursuant to Chapter 5122. of the Revised Code, the chief clinical officer shall immediately notify the patient, the court, the Ohio protection and advocacy system, the director of ~~mental health~~ mental health and addiction services, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification by the director, the director is unable to effect a transfer of the patient, pursuant to section 5122.20 of the Revised Code, to a hospital, community mental health ~~agency~~ services provider, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to Chapter 5122. of the Revised Code and defined as a mentally ill person subject to hospitalization by court order under division (B)(4) of section 5122.01 of the Revised Code shall automatically be terminated.

Sec. 5122.271. (A) Except as provided in divisions (C), (D), and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for the mentally ill to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilizations;

(5) Any unusually hazardous treatment procedures; 76229

(6) Psycho-surgery. 76230

(B) No patient shall be subjected to any of the procedures 76231
listed in divisions (A)(4) to (6) of this section until both the 76232
patient's informed, intelligent, and knowing consent and the 76233
approval of the court have been obtained, except that court 76234
approval is not required for a legally competent and voluntary 76235
patient in a nonpublic hospital. 76236

(C) If, after providing the information required under 76237
division (A) of this section to the patient, the chief clinical 76238
officer or attending physician concludes that a patient is 76239
physically or mentally unable to receive the information required 76240
for surgery under division (A)(1) of this section, or has been 76241
adjudicated incompetent, the information may be provided to the 76242
patient's natural or court-appointed guardian, who may give an 76243
informed, intelligent, and knowing written consent. 76244

If a patient is physically or mentally unable to receive the 76245
information required for surgery under division (A)(1) of this 76246
section and has no guardian, the information, the recommendation 76247
of the chief clinical officer, and the concurring judgment of a 76248
licensed physician who is not a full-time employee of the state 76249
may be provided to the court in the county in which the hospital 76250
is located, which may approve the surgery. Before approving the 76251
surgery, the court shall notify the Ohio protection and advocacy 76252
system created by section 5123.60 of the Revised Code, and shall 76253
notify the patient of the rights to consult with counsel, to have 76254
counsel appointed by the court if the patient is indigent, and to 76255
contest the recommendation of the chief clinical officer. 76256

(D) If, in a medical emergency, and after providing the 76257
information required under division (A) of this section to the 76258
patient, it is the judgment of one licensed physician that delay 76259

in obtaining surgery would create a grave danger to the health of 76260
the patient, it may be administered without the consent of the 76261
patient or the patient's guardian if the necessary information is 76262
provided to the patient's spouse or next of kin to enable that 76263
person to give informed, intelligent, and knowing written consent. 76264
If no spouse or next of kin can reasonably be contacted, or if the 76265
spouse or next of kin is contacted, but refuses to consent, the 76266
surgery may be performed upon the written authorization of the 76267
chief clinical officer or, in a nonpublic hospital, upon the 76268
written authorization of the attending physician responsible for 76269
the patient's care, and after the approval of the court has been 76270
obtained. However, if delay in obtaining court approval would 76271
create a grave danger to the life of the patient, the chief 76272
clinical officer or, in a nonpublic hospital, the attending 76273
physician responsible for the patient's care may authorize 76274
surgery, in writing, without court approval. If the surgery is 76275
authorized without court approval, the chief clinical officer or 76276
the attending physician who made the authorization and the 76277
physician who performed the surgery shall each execute an 76278
affidavit describing the circumstances constituting the emergency 76279
and warranting the surgery and the circumstances warranting their 76280
not obtaining prior court approval. The affidavit shall be filed 76281
with the court with which the request for prior approval would 76282
have been filed within five court days after the surgery, and a 76283
copy of the affidavit shall be placed in the patient's file and be 76284
given to the guardian, spouse, or next of kin of the patient, to 76285
the hospital at which the surgery was performed, and to the Ohio 76286
protection and advocacy system as defined in section 5123.60 of 76287
the Revised Code. 76288

(E) Major aversive interventions shall not be used unless a 76289
patient continues to engage in behavior destructive to self or 76290
others after other forms of therapy have been attempted. Major 76291
aversive interventions may be applied if approved by the director 76292

of ~~mental health~~ mental health and addiction services. Major 76293
aversive interventions shall not be applied to a voluntary patient 76294
without the informed, intelligent, and knowing written consent of 76295
the patient or the patient's guardian. 76296

(F) Unless there is substantial risk of physical harm to self 76297
or others, or other than under division (D) of this section, this 76298
chapter does not authorize any form of compulsory medical, 76299
psychological, or psychiatric treatment of any patient who is 76300
being treated by spiritual means through prayer alone in 76301
accordance with a recognized religious method of healing without 76302
specific court authorization. 76303

(G) For purposes of this section, "convulsive therapy" does 76304
not include defibrillation. 76305

Sec. 5122.31. (A) All certificates, applications, records, 76306
and reports made for the purpose of this chapter and sections 76307
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 76308
Code, other than court journal entries or court docket entries, 76309
and directly or indirectly identifying a patient or former patient 76310
or person whose hospitalization has been sought under this 76311
chapter, shall be kept confidential and shall not be disclosed by 76312
any person except: 76313

(1) If the person identified, or the person's legal guardian, 76314
if any, or if the person is a minor, the person's parent or legal 76315
guardian, consents, and if the disclosure is in the best interests 76316
of the person, as may be determined by the court for judicial 76317
records and by the chief clinical officer for medical records; 76318

(2) When disclosure is provided for in this chapter, Chapters 76319
340. or 5119., Title XLVII, or section 5123.601 of the Revised 76320
Code; 76321

(3) That hospitals, boards of alcohol, drug addiction, and 76322

mental health services, and community mental health ~~agencies~~ 76323
services providers may release necessary medical information to 76324
insurers and other third-party payers, including government 76325
entities responsible for processing and authorizing payment, to 76326
obtain payment for goods and services furnished to the patient; 76327

(4) Pursuant to a court order signed by a judge; 76328

(5) That a patient shall be granted access to the patient's 76329
own psychiatric and medical records, unless access specifically is 76330
restricted in a patient's treatment plan for clear treatment 76331
reasons; 76332

(6) That hospitals and other institutions and facilities 76333
within the department of ~~mental health~~ mental health and addiction 76334
services may exchange psychiatric records and other pertinent 76335
information with other hospitals, institutions, and facilities of 76336
the department, and with community mental health ~~agencies~~ services 76337
providers and boards of alcohol, drug addiction, and mental health 76338
services with which the department has a current agreement for 76339
patient care or services. Records and information that may be 76340
released pursuant to this division shall be limited to medication 76341
history, physical health status and history, financial status, 76342
summary of course of treatment in the hospital, summary of 76343
treatment needs, and a discharge summary, if any. 76344

(7) That hospitals within the department, and other 76345
institutions and facilities within the department, ~~hospitals~~ 76346
~~licensed by the department under section 5119.20 of the Revised~~ 76347
~~Code, and community mental health agencies~~ may exchange 76348
psychiatric records and other pertinent information with payers 76349
and other providers of treatment and health services if the 76350
purpose of the exchange is to facilitate continuity of care for a 76351
patient or for the emergency treatment of an individual; 76352

(8) That a patient's family member who is involved in the 76353

provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health ~~agencies~~ services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other ~~agencies~~ services providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

~~(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.~~

~~(13)~~ That records pertaining to the patient's diagnosis,

course of treatment, treatment needs, and prognosis shall be 76385
disclosed and released to the appropriate prosecuting attorney if 76386
the patient was committed pursuant to section 2945.38, 2945.39, 76387
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 76388
attorney designated by the board for proceedings pursuant to 76389
involuntary commitment under this chapter. 76390

~~(14)~~(13) That the department of ~~mental health~~ mental health 76391
and addiction services may exchange psychiatric hospitalization 76392
records, other mental health treatment records, and other 76393
pertinent information with the department of rehabilitation and 76394
correction to ensure continuity of care for inmates who are 76395
receiving mental health services in an institution of the 76396
department of rehabilitation and correction and may exchange 76397
psychiatric hospitalization records, other mental health treatment 76398
records, and other pertinent information with boards of alcohol, 76399
drug addiction, and mental health services and community mental 76400
health services providers to ensure continuity of care for inmates 76401
or offenders who are receiving mental health services in an 76402
institution and are scheduled for release within six months. The 76403
department shall not disclose those records unless the inmate is 76404
notified, receives the information, and does not object to the 76405
disclosure. The release of records under this division is limited 76406
to records regarding an inmate's medication history, physical 76407
health status and history, summary of course of treatment, summary 76408
of treatment needs, and a discharge summary, if any. 76409

~~(15) That a community mental health agency that ceases to~~ 76410
~~operate may transfer to either a community mental health agency~~ 76411
~~that assumes its caseload or to the board of alcohol, drug~~ 76412
~~addiction, and mental health services of the service district in~~ 76413
~~which the patient resided at the time services were most recently~~ 76414
~~provided any treatment records that have not been transferred~~ 76415
~~elsewhere at the patient's request.~~ 76416

(B) Before records are disclosed pursuant to divisions 76417
(A)(3), (6), and (9) of this section, the custodian of the records 76418
shall attempt to obtain the patient's consent for the disclosure. 76419
No person shall reveal the contents of a medical record of a 76420
patient except as authorized by law. 76421

(C) The managing officer of a hospital who releases necessary 76422
medical information under division (A)(3) of this section to allow 76423
an insurance carrier or other third party payor to comply with 76424
section 5121.43 of the Revised Code shall neither be subject to 76425
criminal nor civil liability. 76426

Sec. 5122.311. (A) Notwithstanding any provision of the 76427
Revised Code to the contrary, if, on or after ~~the effective date~~ 76428
~~of this section~~ April 8, 2004, an individual is found by a court 76429
to be a mentally ill person subject to hospitalization by court 76430
order or becomes an involuntary patient other than one who is a 76431
patient only for purposes of observation, the probate judge who 76432
made the adjudication or the chief clinical officer of the 76433
hospital, ~~agency~~ services provider, or facility in which the 76434
person is an involuntary patient shall notify the bureau of 76435
criminal identification and investigation, on the form described 76436
in division (C) of this section, of the identity of the 76437
individual. The notification shall be transmitted by the judge or 76438
the chief clinical officer not later than seven days after the 76439
adjudication or commitment. 76440

(B) The bureau of criminal identification and investigation 76441
shall compile and maintain the notices it receives under division 76442
(A) of this section and shall use them for the purpose of 76443
conducting incompetency records checks pursuant to section 311.41 76444
of the Revised Code. The notices and the information they contain 76445
are confidential, except as provided in this division, and are not 76446
public records. 76447

(C) The attorney general, by rule adopted under Chapter 119. 76448
of the Revised Code, shall prescribe and make available to all 76449
probate judges and all chief clinical officers a form to be used 76450
by them for the purpose of making the notifications required by 76451
division (A) of this section. 76452

Sec. 5122.32. (A) As used in this section: 76453

(1) "Quality assurance committee" means a committee that is 76454
appointed in the central office of the department of ~~mental health~~ 76455
mental health and addiction services by the director of ~~mental~~ 76456
~~health~~ mental health and addiction services, a committee of a 76457
hospital or community setting program, ~~a committee established~~ 76458
~~pursuant to section 5119.47 of the Revised Code of the department~~ 76459
~~of mental health appointed by the managing officer of the hospital~~ 76460
~~or program~~, or a duly authorized subcommittee of a committee of 76461
that nature and that is designated to carry out quality assurance 76462
program activities. 76463

(2) "Quality assurance program" means a comprehensive program 76464
within the department of ~~mental health~~ mental health and addiction 76465
services to systematically review and improve the quality of 76466
medical and mental health services within the department and its 76467
hospitals and community setting programs, the safety and security 76468
of persons receiving medical and mental health services within the 76469
department and its hospitals and community setting programs, and 76470
the efficiency and effectiveness of the utilization of staff and 76471
resources in the delivery of medical and mental health services 76472
within the department and its hospitals and community setting 76473
programs. "Quality assurance program" includes the central office 76474
quality assurance committees, morbidity and mortality review 76475
committees, quality assurance programs of community setting 76476
programs, quality assurance committees of hospitals operated by 76477
the department of ~~mental health~~ mental health and addiction 76478

services, and the office of licensure and certification of the 76479
department. 76480

(3) "Quality assurance program activities" include collecting 76481
or compiling information and reports required by a quality 76482
assurance committee, receiving, reviewing, or implementing the 76483
recommendations made by a quality assurance committee, and 76484
credentialing, privileging, infection control, tissue review, peer 76485
review, utilization review including access to patient care 76486
records, patient care assessment records, and medical and mental 76487
health records, medical and mental health resource management, 76488
mortality and morbidity review, and identification and prevention 76489
of medical or mental health incidents and risks, whether performed 76490
by a quality assurance committee or by persons who are directed by 76491
a quality assurance committee. 76492

(4) "Quality assurance records" means the proceedings, 76493
discussion, records, findings, recommendations, evaluations, 76494
opinions, minutes, reports, and other documents or actions that 76495
emanate from quality assurance committees, quality assurance 76496
programs, or quality assurance program activities. "Quality 76497
assurance records" does not include aggregate statistical 76498
information that does not disclose the identity of persons 76499
receiving or providing medical or mental health services in 76500
department of ~~mental health~~ mental health and addiction services 76501
institutions or community setting programs. 76502

(B)(1) Except as provided in division (E) of this section, 76503
quality assurance records are confidential and are not public 76504
records under section 149.43 of the Revised Code, and shall be 76505
used only in the course of the proper functions of a quality 76506
assurance program. 76507

(2) Except as provided in division (E) of this section, no 76508
person who possesses or has access to quality assurance records 76509
and who knows that the records are quality assurance records shall 76510

willfully disclose the contents of the records to any person or 76511
entity. 76512

(C)(1) Except as provided in division (E) of this section, no 76513
quality assurance record shall be subject to discovery in, and is 76514
not admissible in evidence, in any judicial or administrative 76515
proceeding. 76516

(2) Except as provided in division (E) of this section, no 76517
member of a quality assurance committee or a person who is 76518
performing a function that is part of a quality assurance program 76519
shall be permitted or required to testify in a judicial or 76520
administrative proceeding with respect to quality assurance 76521
records or with respect to any finding, recommendation, 76522
evaluation, opinion, or other action taken by the committee, 76523
member, or person. 76524

(3) Information, documents, or records otherwise available 76525
from original sources are not to be construed as being unavailable 76526
for discovery or admission in evidence in a judicial or 76527
administrative proceeding merely because they were presented to a 76528
quality assurance committee. No person testifying before a quality 76529
assurance committee or person who is a member of a quality 76530
assurance committee shall be prevented from testifying as to 76531
matters within the person's knowledge, but the witness cannot be 76532
asked about the witness' testimony before the quality assurance 76533
committee or about an opinion formed by the person as a result of 76534
the quality assurance committee proceedings. 76535

(D)(1) A person who, without malice and in the reasonable 76536
belief that the information is warranted by the facts known to the 76537
person, provides information to a person engaged in quality 76538
assurance program activities is not liable for damages in a civil 76539
action for injury, death, or loss to person or property to any 76540
person as a result of providing the information. 76541

(2) A member of a quality assurance committee, a person 76542
engaged in quality assurance program activities, and an employee 76543
of the department of ~~mental health~~ mental health and addiction
services shall not be liable in damages in a civil action for 76544
injury, death, or loss to person or property to any person for any 76545
acts, omissions, decisions, or other conduct within the scope of 76546
the functions of the quality assurance program. 76547
76548

(3) Nothing in this section shall relieve any institution or 76549
individual from liability arising from the treatment of a patient. 76550

(E) Quality assurance records may be disclosed, and testimony 76551
may be provided concerning quality assurance records, only to the 76552
following persons or entities: 76553

(1) Persons who are employed or retained by the department of 76554
~~mental health~~ mental health and addiction services and who have 76555
authority to evaluate or implement the recommendations of a 76556
state-operated hospital, community setting program, or central 76557
office quality assurance committee; 76558

(2) Public or private agencies or organizations if needed to 76559
perform a licensing or accreditation function related to 76560
department of ~~mental health~~ mental health and addiction services 76561
hospitals or community setting programs, or to perform monitoring 76562
of a hospital or program of that nature as required by law. 76563

(F) A disclosure of quality assurance records pursuant to 76564
division (E) of this section does not otherwise waive the 76565
confidential and privileged status of the disclosed quality 76566
assurance records. 76567

(G) Nothing in this section shall limit the access of the 76568
Ohio protection and advocacy system to records or personnel as 76569
required under section 5123.601 of the Revised Code. Nothing in 76570
this section shall limit the admissibility of documentary or 76571
testimonial evidence in an action brought by the Ohio protection 76572

and advocacy system in its own name or on behalf of a client. 76573

Sec. 5122.33. The department of ~~mental health~~ mental health 76574
and addiction services may prescribe the form of applications, 76575
reports, records, and medical certificates provided for under this 76576
chapter, and the information required to be contained therein; 76577
require reports from the chief clinical officer of any public 76578
hospital relating to the admission, examination, diagnosis, 76579
release, or discharge of any patient; visit each such hospital 76580
regularly to review the admission procedures of all new patients 76581
admitted between visits; investigate by personal visit complaints 76582
made by any patient or by any person on behalf of a patient; and 76583
adopt such rules as are reasonably necessary to effectuate the 76584
provisions of this chapter. 76585

Sec. 5122.34. (A) Persons, including, but not limited to, 76586
boards of alcohol, drug addiction, and mental health services and 76587
community mental health ~~agencies~~ services providers, acting in 76588
good faith, either upon actual knowledge or information thought by 76589
them to be reliable, who procedurally or physically assist in the 76590
hospitalization or discharge, determination of appropriate 76591
placement, or in judicial proceedings of a person under this 76592
chapter, do not come within any criminal provisions, and are free 76593
from any liability to the person hospitalized or to any other 76594
person. 76595

(B) Regardless of whether any affirmative action has been 76596
taken under this chapter with respect to a mental health client or 76597
patient and except as otherwise provided in section 2305.51 of the 76598
Revised Code, no person shall be liable for any harm that results 76599
to any other person as a result of failing to disclose any 76600
confidential information about the mental health client or 76601
patient, or failing to otherwise attempt to protect such other 76602
person from harm by such client or patient. 76603

(C) This section applies to expert witnesses who testify at 76604
hearings under this chapter. 76605

(D) The immunity from liability conferred by this section is 76606
in addition to and not in limitation of any immunity conferred by 76607
any other section of the Revised Code or by judicial precedent. 76608

Sec. 5122.341. (A) As used in this section: 76609

(1) "Facility or ~~agency~~ services provider" means, in the 76610
context of a person committed to the department of ~~mental health~~ 76611
mental health and addiction services under sections 2945.37 to 76612
2945.402 of the Revised Code, any entity in which the department 76613
of ~~mental health~~ mental health and addiction services places such 76614
a person. 76615

(2) "Person committed to the department" means a person 76616
committed to the department of ~~mental health~~ mental health and 76617
addiction services under sections 2945.37 to 2945.402 of the 76618
Revised Code. 76619

(B) No member of a board of directors, or employee, of a 76620
facility or ~~agency~~ services provider in which the department of 76621
~~mental health~~ mental health and addiction services places a person 76622
committed to the department is liable for injury or damages caused 76623
by any action or inaction taken within the scope of the board 76624
member's official duties or employee's employment relating to the 76625
commitment of, and services provided to, the person committed to 76626
the department, unless the action or inaction constitutes willful 76627
or wanton misconduct. A board member's or employee's action or 76628
inaction does not constitute willful or wanton misconduct if the 76629
board member or employee acted in good faith and reasonably under 76630
the circumstances and with the knowledge reasonably attributable 76631
to the board member or employee. 76632

The immunity from liability conferred by this section is in 76633

addition to and not in limitation of any immunity conferred by any 76634
other section of the Revised Code or by judicial precedent. 76635

Sec. 5122.39. (A) Mentally ill minors shall remain under the 76636
natural guardianship of their parents, notwithstanding 76637
hospitalization pursuant to this chapter, unless parental rights 76638
have been terminated pursuant to a court finding that the minor is 76639
neglected or dependent. Where a mentally ill minor is found to be 76640
dependent or neglected, the public children's services agency in 76641
the county of residence has final guardianship authority and 76642
responsibility. 76643

(B) In no case shall the guardianship of a mentally ill 76644
person be assigned to the chief medical officer or any staff 76645
member of a hospital, board, or agency mental health services 76646
provider from which the person is receiving mental health 76647
services. 76648

Sec. 5122.43. (A) Costs, fees, and expenses of all 76649
proceedings held under this chapter shall be paid as follows: 76650

(1) To police and health officers, other than sheriffs or 76651
their deputies, the same fees allowed to constables, to be paid 76652
upon the approval of the probate judge; 76653

(2) To sheriffs or their deputies, the same fees allowed for 76654
similar services in the court of common pleas; 76655

(3) To physicians or licensed clinical psychologists acting 76656
as expert witnesses and to other expert witnesses designated by 76657
the court, an amount determined by the court; 76658

(4) To other witnesses, the same fees and mileage as for 76659
attendance at the court of common pleas, to be paid upon the 76660
approval of the probate judge; 76661

(5) To a person, other than the sheriff or the sheriff's 76662

deputies, for taking a mentally ill person to a hospital or 76663
removing a mentally ill person from a hospital, the actual 76664
necessary expenses incurred, specifically itemized, and approved 76665
by the probate judge; 76666

(6) To assistants who convey mentally ill persons to the 76667
hospital when authorized by the probate judge, a fee set by the 76668
probate court, provided the assistants are not drawing a salary 76669
from the state or any political subdivision of the state, and 76670
their actual necessary expenses incurred, provided that the 76671
expenses are specifically itemized and approved by the probate 76672
judge; 76673

(7) To an attorney appointed by the probate division for an 76674
indigent who allegedly is a mentally ill person pursuant to any 76675
section of this chapter, the fees that are determined by the 76676
probate division. When those indigent persons are before the 76677
court, all filing and recording fees shall be waived. 76678

(8) To a referee who is appointed to conduct proceedings 76679
under this chapter that involve a respondent whose domicile is or, 76680
before the respondent's hospitalization, was not the county in 76681
which the proceedings are held, compensation as fixed by the 76682
probate division, but not more than the compensation paid for 76683
similar proceedings for respondents whose domicile is in the 76684
county in which the proceedings are held; 76685

(9) To a court reporter appointed to make a transcript of 76686
proceedings under this chapter, the compensation and fees allowed 76687
in other cases under section 2101.08 of the Revised Code. 76688

(B) A county shall pay for the costs, fees, and expenses 76689
described in division (A) of this section with money appropriated 76690
pursuant to section 2101.11 of the Revised Code. A county may seek 76691
reimbursement from the department of ~~mental health~~ mental health 76692
and addiction services by submitting a request and certification 76693

by the county auditor of the costs, fees, and expenses to the 76694
department within two months of the date the costs, fees, and 76695
expenses are incurred by the county. 76696

Each fiscal year, based on past allocations, historical 76697
utilization, and other factors the department considers 76698
appropriate, the department shall allocate for each county an 76699
amount for reimbursements under this section. The total of all the 76700
allocations shall equal the amount appropriated for the fiscal 76701
year to the department specifically for the purposes of this 76702
section. 76703

On receipt, the department shall review each request for 76704
reimbursement and prepare a voucher for the amount of the costs, 76705
fees, and expenses incurred by the county, provided that the total 76706
amount of money paid to all counties in each fiscal year shall not 76707
exceed the total amount of moneys specifically appropriated to the 76708
department for these purposes. 76709

The department's total reimbursement to each county shall be 76710
the lesser of the full amount requested or the amount allocated 76711
for the county under this division. In addition, the department 76712
shall distribute any surplus remaining from the money appropriated 76713
for the fiscal year to the department for the purposes of this 76714
section as follows to counties whose full requests exceed their 76715
allocations: 76716

(1) If the surplus is sufficient to reimburse such counties 76717
the full amount of their requests, each such county shall receive 76718
the full amount of its request; 76719

(2) If the surplus is insufficient, each such county shall 76720
receive a percentage of the surplus determined by dividing the 76721
difference between the county's full request and its allocation by 76722
the difference between the total of the full requests of all such 76723
counties and the total of the amounts allocated for all such 76724

counties. 76725

The department may adopt rules in accordance with Chapter 76726
119. of the Revised Code to implement the payment of costs, fees, 76727
and expenses under this section. 76728

Sec. 5122.44. As used in sections 5122.44 to 5122.47 of the 76729
Revised Code: 76730

(A) "Compilation" means a written list of the following 76731
information, as the department of ~~mental health~~ mental health and 76732
addiction services is able to reasonably ascertain, for every 76733
patient who was buried, entombed, or inurned prior to ~~the~~ 76734
~~effective date of this section~~ March 31, 2005, in a cemetery 76735
located on the grounds of or adjacent to the grounds of a public 76736
hospital: 76737

(1) Name; 76738

(2) Date of birth; 76739

(3) Date of death or burial; 76740

(4) Specific physical location of the burial, entombment, or 76741
inurnment, including the plot or grave site number if available. 76742

(B) "Patient" means an individual who died while admitted to 76743
a public hospital that was under the control of the department of 76744
~~mental health~~ mental health and addiction services. 76745

(C) "Record" has the same meaning as in section 149.011 of 76746
the Revised Code. 76747

(D) "State agency" means every organized body, office, or 76748
agency established by the laws of the state for the exercise of 76749
any function of state government. 76750

Sec. 5122.45. The department of ~~mental health~~ mental health 76751
and addiction services shall create a separate compilation for 76752

each cemetery located on the grounds of or adjacent to the grounds 76753
of a public hospital that is under the control of the department 76754
on ~~the effective date of this section~~ March 31, 2005. The 76755
compilation shall be created within a reasonable time not 76756
exceeding three years after ~~the effective date of this section~~ 76757
March 31, 2005. The department shall use its best efforts to 76758
create the most complete compilations possible using records in 76759
the department's possession and records obtained in accordance 76760
with section 5122.46 of the Revised Code. 76761

Sec. 5122.46. The Ohio historical society and each state 76762
agency shall, at the request of the department of ~~mental health~~ 76763
mental health and addiction services, provide the department 76764
access to records and information in the possession of the 76765
historical society or state agency for purposes of creating 76766
compilations. 76767

Sec. 5122.47. The department of ~~mental health~~ mental health 76768
and addiction services shall deposit a copy of each compilation 76769
with the Ohio historical society and the state library as soon as 76770
a compilation is completed. The department shall not disclose any 76771
record or information used to create a compilation except as 76772
provided in sections 149.43 and 5122.31 of the Revised Code. 76773

Sec. 5123.01. As used in this chapter: 76774

(A) "Chief medical officer" means the licensed physician 76775
appointed by the managing officer of an institution for the 76776
mentally retarded with the approval of the director of 76777
developmental disabilities to provide medical treatment for 76778
residents of the institution. 76779

(B) "Chief program director" means a person with special 76780
training and experience in the diagnosis and management of the 76781

mentally retarded, certified according to division (C) of this 76782
section in at least one of the designated fields, and appointed by 76783
the managing officer of an institution for the mentally retarded 76784
with the approval of the director to provide habilitation and care 76785
for residents of the institution. 76786

(C) "Comprehensive evaluation" means a study, including a 76787
sequence of observations and examinations, of a person leading to 76788
conclusions and recommendations formulated jointly, with 76789
dissenting opinions if any, by a group of persons with special 76790
training and experience in the diagnosis and management of persons 76791
with mental retardation or a developmental disability, which group 76792
shall include individuals who are professionally qualified in the 76793
fields of medicine, psychology, and social work, together with 76794
such other specialists as the individual case may require. 76795

(D) "Education" means the process of formal training and 76796
instruction to facilitate the intellectual and emotional 76797
development of residents. 76798

(E) "Habilitation" means the process by which the staff of 76799
the institution assists the resident in acquiring and maintaining 76800
those life skills that enable the resident to cope more 76801
effectively with the demands of the resident's own person and of 76802
the resident's environment and in raising the level of the 76803
resident's physical, mental, social, and vocational efficiency. 76804
Habilitation includes but is not limited to programs of formal, 76805
structured education and training. 76806

(F) "Health officer" means any public health physician, 76807
public health nurse, or other person authorized or designated by a 76808
city or general health district. 76809

(G) "Home and community-based services" means medicaid-funded 76810
home and community-based services specified in division ~~(B)~~(A)(1) 76811
of section ~~5111.87~~ 5166.20 of the Revised Code provided under the 76812

medicaid waiver components the department of developmental 76813
disabilities administers pursuant to section ~~5111.871~~ 5166.21 of 76814
the Revised Code. Except as provided in section 5123.0412 of the 76815
Revised Code, home and community-based services provided under the 76816
medicaid waiver component known as the transitions developmental 76817
disabilities waiver are to be considered to be home and 76818
community-based services for the purposes of this chapter, and 76819
Chapters 5124. and 5126. of the Revised Code, only to the extent, 76820
if any, provided by the contract required by section ~~5111.871~~ 76821
5166.21 of the Revised Code regarding the waiver. 76822

(H) "ICF/IID" has the same meaning as in section 5124.01 of 76823
the Revised Code. 76824

(I) "Indigent person" means a person who is unable, without 76825
substantial financial hardship, to provide for the payment of an 76826
attorney and for other necessary expenses of legal representation, 76827
including expert testimony. 76828

~~(I)~~(J) "Institution" means a public or private facility, or a 76829
part of a public or private facility, that is licensed by the 76830
appropriate state department and is equipped to provide 76831
residential habilitation, care, and treatment for the mentally 76832
retarded. 76833

~~(J)~~(K) "Licensed physician" means a person who holds a valid 76834
certificate issued under Chapter 4731. of the Revised Code 76835
authorizing the person to practice medicine and surgery or 76836
osteopathic medicine and surgery, or a medical officer of the 76837
government of the United States while in the performance of the 76838
officer's official duties. 76839

~~(K)~~(L) "Managing officer" means a person who is appointed by 76840
the director of developmental disabilities to be in executive 76841
control of an institution for the mentally retarded under the 76842
jurisdiction of the department. 76843

~~(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~ 76844
76845

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires. 76846
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(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period. 76850
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(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist: 76854
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76858

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community; 76859
76860
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(2) The person needs and is susceptible to significant habilitation in an institution. 76864
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(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation. 76866
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(Q) As used in this division, "substantial functional 76874

limitation," "developmental delay," and "established risk" have 76875
the meanings established pursuant to section 5123.011 of the 76876
Revised Code. 76877

"Developmental disability" means a severe, chronic disability 76878
that is characterized by all of the following: 76879

(1) It is attributable to a mental or physical impairment or 76880
a combination of mental and physical impairments, other than a 76881
mental or physical impairment solely caused by mental illness as 76882
defined in division (A) of section 5122.01 of the Revised Code. 76883

(2) It is manifested before age twenty-two. 76884

(3) It is likely to continue indefinitely. 76885

(4) It results in one of the following: 76886

(a) In the case of a person under three years of age, at 76887
least one developmental delay or an established risk; 76888

(b) In the case of a person at least three years of age but 76889
under six years of age, at least two developmental delays or an 76890
established risk; 76891

(c) In the case of a person six years of age or older, a 76892
substantial functional limitation in at least three of the 76893
following areas of major life activity, as appropriate for the 76894
person's age: self-care, receptive and expressive language, 76895
learning, mobility, self-direction, capacity for independent 76896
living, and, if the person is at least sixteen years of age, 76897
capacity for economic self-sufficiency. 76898

(5) It causes the person to need a combination and sequence 76899
of special, interdisciplinary, or other type of care, treatment, 76900
or provision of services for an extended period of time that is 76901
individually planned and coordinated for the person. 76902

(R) "Developmentally disabled person" means a person with a 76903
developmental disability. 76904

(S) "State institution" means an institution that is 76905
tax-supported and under the jurisdiction of the department. 76906

(T) "Residence" and "legal residence" have the same meaning 76907
as "legal settlement," which is acquired by residing in Ohio for a 76908
period of one year without receiving general assistance prior to 76909
July 17, 1995, under former Chapter 5113. of the Revised Code, 76910
financial assistance under Chapter 5115. of the Revised Code, or 76911
assistance from a private agency that maintains records of 76912
assistance given. A person having a legal settlement in the state 76913
shall be considered as having legal settlement in the assistance 76914
area in which the person resides. No adult person coming into this 76915
state and having a spouse or minor children residing in another 76916
state shall obtain a legal settlement in this state as long as the 76917
spouse or minor children are receiving public assistance, care, or 76918
support at the expense of the other state or its subdivisions. For 76919
the purpose of determining the legal settlement of a person who is 76920
living in a public or private institution or in a home subject to 76921
licensing by the department of job and family services, the 76922
department of ~~mental health~~ mental health and addiction services, 76923
or the department of developmental disabilities, the residence of 76924
the person shall be considered as though the person were residing 76925
in the county in which the person was living prior to the person's 76926
entrance into the institution or home. Settlement once acquired 76927
shall continue until a person has been continuously absent from 76928
Ohio for a period of one year or has acquired a legal residence in 76929
another state. A woman who marries a man with legal settlement in 76930
any county immediately acquires the settlement of her husband. The 76931
legal settlement of a minor is that of the parents, surviving 76932
parent, sole parent, parent who is designated the residential 76933
parent and legal custodian by a court, other adult having 76934
permanent custody awarded by a court, or guardian of the person of 76935
the minor, provided that: 76936

(1) A minor female who marries shall be considered to have 76937
the legal settlement of her husband and, in the case of death of 76938
her husband or divorce, she shall not thereby lose her legal 76939
settlement obtained by the marriage. 76940

(2) A minor male who marries, establishes a home, and who has 76941
resided in this state for one year without receiving general 76942
assistance prior to July 17, 1995, under former Chapter 5113. of 76943
the Revised Code, financial assistance under Chapter 5115. of the 76944
Revised Code, or assistance from a private agency that maintains 76945
records of assistance given shall be considered to have obtained a 76946
legal settlement in this state. 76947

(3) The legal settlement of a child under eighteen years of 76948
age who is in the care or custody of a public or private child 76949
caring agency shall not change if the legal settlement of the 76950
parent changes until after the child has been in the home of the 76951
parent for a period of one year. 76952

No person, adult or minor, may establish a legal settlement 76953
in this state for the purpose of gaining admission to any state 76954
institution. 76955

(U)(1) "Resident" means, subject to division ~~(R)~~(U)(2) of 76956
this section, a person who is admitted either voluntarily or 76957
involuntarily to an institution or other facility pursuant to 76958
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 76959
Code subsequent to a finding of not guilty by reason of insanity 76960
or incompetence to stand trial or under this chapter who is under 76961
observation or receiving habilitation and care in an institution. 76962

(2) "Resident" does not include a person admitted to an 76963
institution or other facility under section 2945.39, 2945.40, 76964
2945.401, or 2945.402 of the Revised Code to the extent that the 76965
reference in this chapter to resident, or the context in which the 76966
reference occurs, is in conflict with any provision of sections 76967

2945.37 to 2945.402 of the Revised Code. 76968

(V) "Respondent" means the person whose detention, 76969
commitment, or continued commitment is being sought in any 76970
proceeding under this chapter. 76971

(W) "Working day" and "court day" mean Monday, Tuesday, 76972
Wednesday, Thursday, and Friday, except when such day is a legal 76973
holiday. 76974

(X) "Prosecutor" means the prosecuting attorney, village 76975
solicitor, city director of law, or similar chief legal officer 76976
who prosecuted a criminal case in which a person was found not 76977
guilty by reason of insanity, who would have had the authority to 76978
prosecute a criminal case against a person if the person had not 76979
been found incompetent to stand trial, or who prosecuted a case in 76980
which a person was found guilty. 76981

(Y) "Court" means the probate division of the court of common 76982
pleas. 76983

(Z) "Supported living" and "residential services" have the 76984
same meanings as in section 5126.01 of the Revised Code. 76985

Sec. 5123.021. (A) As used in this section, "mentally 76986
retarded individual" and "specialized services" have the same 76987
meanings as in section ~~5111.202~~ 5165.03 of the Revised Code. 76988

(B)(1) Except as provided in division (B)(2) of this section 76989
and rules adopted under division (E)(3) of this section, for 76990
purposes of section ~~5111.202~~ 5165.03 of the Revised Code, the 76991
department of developmental disabilities shall determine in 76992
accordance with section 1919(e)(7) of the "Social Security Act," 76993
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and regulations 76994
adopted under section 1919(f)(8)(A) of that act whether, because 76995
of the individual's physical and mental condition, a mentally 76996
retarded individual seeking admission to a nursing facility 76997

requires the level of services provided by a nursing facility and, 76998
if the individual requires that level of services, whether the 76999
individual requires specialized services for mental retardation. 77000

(2) A determination under this division is not required for 77001
any of the following: 77002

(a) An individual seeking readmission to a nursing facility 77003
after having been transferred from a nursing facility to a 77004
hospital for care; 77005

(b) An individual who meets all of the following conditions: 77006

(i) The individual is admitted to the nursing facility 77007
directly from a hospital after receiving inpatient care at the 77008
hospital; 77009

(ii) The individual requires nursing facility services for 77010
the condition for which the individual received care in the 77011
hospital; 77012

(iii) The individual's attending physician has certified, 77013
before admission to the nursing facility, that the individual is 77014
likely to require less than thirty days of nursing facility 77015
services. 77016

(c) An individual transferred from one nursing facility to 77017
another nursing facility, with or without an intervening hospital 77018
stay. 77019

(C) Except as provided in rules adopted under division (F)(3) 77020
of this section, the department of developmental disabilities 77021
shall review and determine, for each resident of a nursing 77022
facility who is mentally retarded, whether the resident, because 77023
of the resident's physical and mental condition, requires the 77024
level of services provided by a nursing facility and whether the 77025
resident requires specialized services for mental retardation. The 77026
review and determination shall be conducted in accordance with 77027

section 1919(e)(7) of the "Social Security Act" and the 77028
regulations adopted under section 1919(f)(8)(A) of the act. The 77029
review and determination shall be completed promptly after a 77030
nursing facility has notified the department that there has been a 77031
significant change in the resident's mental or physical condition. 77032

(D)(1) In the case of a nursing facility resident who has 77033
continuously resided in a nursing facility for at least thirty 77034
months before the date of a review and determination under 77035
division (C) of this section, if the resident is determined not to 77036
require the level of services provided by a nursing facility, but 77037
is determined to require specialized services for mental 77038
retardation, the department, in consultation with the resident's 77039
family or legal representative and care givers, shall do all of 77040
the following: 77041

(a) Inform the resident of the institutional and 77042
noninstitutional alternatives covered under the state plan for 77043
medical assistance; 77044

(b) Offer the resident the choice of remaining in the nursing 77045
facility or receiving covered services in an alternative 77046
institutional or noninstitutional setting; 77047

(c) Clarify the effect on eligibility for services under the 77048
state plan for medical assistance if the resident chooses to leave 77049
the facility, including its effect on readmission to the facility; 77050

(d) Provide for or arrange for the provision of specialized 77051
services for the resident's mental retardation in the setting 77052
chosen by the resident. 77053

(2) In the case of a nursing facility resident who has 77054
continuously resided in a nursing facility for less than thirty 77055
months before the date of the review and determination under 77056
division (C) of this section, if the resident is determined not to 77057
require the level of services provided by a nursing facility, but 77058

is determined to require specialized services for mental 77059
retardation, or if the resident is determined to require neither 77060
the level of services provided by a nursing facility nor 77061
specialized services for mental retardation, the department shall 77062
act in accordance with its alternative disposition plan approved 77063
by the United States department of health and human services under 77064
section 1919(e)(7)(E) of the "Social Security Act." 77065

(3) In the case of an individual who is determined under 77066
division (B) or (C) of this section to require both the level of 77067
services provided by a nursing facility and specialized services 77068
for mental retardation, the department of developmental 77069
disabilities shall provide or arrange for the provision of the 77070
specialized services needed by the individual or resident while 77071
residing in a nursing facility. 77072

(E) The department of developmental disabilities shall adopt 77073
rules in accordance with Chapter 119. of the Revised Code that do 77074
all of the following: 77075

(1) Establish criteria to be used in making the 77076
determinations required by divisions (B) and (C) of this section. 77077
The criteria shall not exceed the criteria established by 77078
regulations adopted by the United States department of health and 77079
human services under section 1919(f)(8)(A) of the "Social Security 77080
Act." 77081

(2) Specify information to be provided by the individual or 77082
nursing facility resident being assessed; 77083

(3) Specify any circumstances, in addition to circumstances 77084
listed in division (B) of this section, under which determinations 77085
under divisions (B) and (C) of this section are not required to be 77086
made. 77087

Sec. 5123.022. ~~It~~ (A) As used in this section: 77088

(1) "Community employment" means competitive employment that 77089
takes place in an integrated setting. 77090

(2) "Competitive employment" means full-time or part-time 77091
work in the competitive labor market in which payment is at or 77092
above the minimum wage but not less than the customary wage and 77093
level of benefits paid by the employer for the same or similar 77094
work performed by persons who are not disabled. 77095

(3) "Integrated setting" means a setting typically found in 77096
the community where individuals with developmental disabilities 77097
interact with individuals who do not have disabilities to the same 77098
extent that individuals in comparable positions who are not 77099
disabled interact with other individuals, including in employment 77100
settings in which employees interact with the community through 77101
technology. 77102

(B) It is hereby declared to be the policy of this state that 77103
employment services for individuals with developmental 77104
disabilities be directed at placement whenever possible of each 77105
individual in a position in the community in which the individual 77106
is integrated with the employer's other workers who are not 77107
developmentally disabled employment. The Every individual with a 77108
developmental disability is presumed capable of community 77109
employment unless proven otherwise through an individualized 77110
assessment process. 77111

The departments of developmental disabilities, education, 77112
medicaid, job and family services, and ~~mental health~~ mental health 77113
and addiction services; the ~~rehabilitation services commission~~ 77114
opportunities for Ohioans with disabilities agency; and each other 77115
state agency that provides employment services to individuals with 77116
developmental disabilities shall implement ~~this~~ the policy of this 77117
state and ensure that it is followed whenever employment services 77118
are provided to individuals with developmental disabilities. 77119

The department of developmental disabilities shall coordinate the actions taken by state agencies to comply with the state's policy. Agencies shall collaborate within their divisions and with each other to ensure that state programs, policies, procedures, and funding support competitive and integrated employment of individuals with developmental disabilities. State agencies shall share information with the department, and the department shall track progress toward full implementation of the policy. The department, in coordination with any task force established by the governor, shall compile data and annually submit to the governor a report on implementation of the policy.

The department and state agencies may adopt rules to implement the state's policy.

(C) The state's policy articulated in this section is intended to promote the right of each individual with a developmental disability to informed choice; however, nothing in this section requires any employer to give preference in hiring to an individual because the individual has a disability.

Sec. 5123.023. (A) The director of developmental disabilities may establish an employment first task force consisting of the departments of developmental disabilities, education, medicaid, job and family services, and mental health and addiction services; and the opportunities for Ohioans with disabilities agency. The purpose of the task force shall be to improve the coordination of the state's efforts to address the needs of individuals with developmental disabilities who seek community employment as defined in section 5123.022 of the Revised Code.

(B) The department of developmental disabilities may enter into interagency agreements with any of the government entities on the task force. The interagency agreements may specify either or

both of the following: 77151

(1) The roles and responsibilities of the government entities that are members of the task force, including any money to be contributed by those entities; 77152
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(2) The projects and activities of the task force. 77155

(C) There is hereby created in the state treasury the employment first taskforce fund. Any money received by the task force from its members shall be credited to the fund. The department of developmental disabilities shall use the fund to support the work of the task force. 77156
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(D) The task force shall cease to exist on January 1, 2020. Any money, assets, or employees of the department of developmental disabilities that on that date are dedicated to the work of the task force shall be reallocated by the department for employment services for individuals with developmental disabilities. 77161
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Sec. 5123.03. (A) The department of developmental disabilities shall do all of the following: 77166
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(1) Maintain, operate, manage, and govern all state institutions for the care, treatment, and training of the mentally retarded; 77168
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(2) Designate all such institutions by appropriate names; 77171

(3) Provide and designate facilities for the custody, care, and special treatment of persons of the following classes: 77172
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(a) Dangerous persons in state institutions for the mentally retarded who represent a serious threat to the safety of the other patients of the institution; 77174
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(b) Persons charged with crimes who are found incompetent to stand trial or not guilty by reason of insanity and who are also mentally retarded persons subject to institutionalization by court 77177
77178
77179

order. 77180

(4) Have control of all institutions maintained in part by 77181
the state for the care, treatment, and training of the mentally 77182
retarded; 77183

(5) Administer the laws relative to persons in such 77184
institutions in an efficient, economical, and humane manner; 77185

(6) Ascertain by actual examinations and inquiry whether 77186
institutionalizations are made according to law. 77187

(B) The department may do any of the following: 77188

(1) Subject to section 5139.08 of the Revised Code, receive 77189
from the department of youth services for observation, diagnosis, 77190
care, habilitation, or placement any children in the custody of 77191
the department of youth services; 77192

(2) Receive for observation any minor from a public 77193
institution other than an institution under the jurisdiction of 77194
the department of developmental disabilities, from a private 77195
charitable institution, or from a person having legal custody of 77196
such a minor, upon such terms as are proper; 77197

(3) Receive from the department of ~~mental health~~ mental 77198
health and addiction services any patient in the custody of the 77199
department who is transferred to the department of developmental 77200
disabilities upon such terms and conditions as may be agreed upon 77201
by the two departments. 77202

(C) In addition to the powers and duties expressly conferred 77203
by this section, the department may take any other action 77204
necessary for the full and efficient executive, administrative, 77205
and fiscal supervision of the state institutions described in this 77206
section. 77207

Sec. 5123.0412. (A) The department of developmental 77208
disabilities shall charge each county board of developmental 77209

disabilities an annual fee equal to one and one-quarter per cent 77210
of the total value of all medicaid paid claims for home and 77211
community-based services provided during the year to an individual 77212
eligible for services from the county board. However, the 77213
department shall not charge the fee for home and community-based 77214
services provided under the medicaid waiver component known as the 77215
transitions developmental disabilities waiver. No county board 77216
shall pass the cost of a fee charged to the county board under 77217
this section on to another provider of these services. 77218

(B) The fees collected under this section shall be deposited 77219
into the ODDD administration and oversight fund ~~and the ODJFS~~ 77220
~~administration and oversight fund, both of~~ which are ~~is~~ hereby 77221
created in the state treasury. ~~The portion of the fees to be~~ 77222
~~deposited into the ODDD administration and oversight fund and the~~ 77223
~~portion of the fees to be deposited into the ODJFS administration~~ 77224
~~and oversight fund shall be the portion specified in an~~ 77225
~~interagency agreement entered into under division (C) of this~~ 77226
~~section.~~ The department ~~of developmental disabilities~~ shall use 77227
the money in the ODDD administration and oversight fund ~~and the~~ 77228
~~department of job and family services shall use the money in the~~ 77229
~~ODJFS administration and oversight fund~~ for both of the following 77230
purposes: 77231

(1) Medicaid administrative costs, including administrative 77232
and oversight costs of medicaid case management services and home 77233
and community-based services. The administrative and oversight 77234
costs of medicaid case management services and home and 77235
community-based services shall include costs for staff, systems, 77236
and other resources the ~~departments need~~ department needs and 77237
~~dedicate~~ dedicates solely to the following duties associated with 77238
the services: 77239

(a) Eligibility determinations; 77240

(b) Training; 77241

(c) Fiscal management;	77242
(d) Claims processing;	77243
(e) Quality assurance oversight;	77244
(f) Other duties the departments identify <u>department</u> <u>identifies</u> .	77245 77246
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	77247 77248 77249
(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:	77250 77251 77252
(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;	77253 77254 77255 77256
(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.	77257 77258 77259
(D) The departments <u>department</u> shall submit an annual report to the director of budget and management certifying how the departments <u>department</u> spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.	77260 77261 77262 77263 77264
Sec. 5123.0417. (A) The director of developmental disabilities shall establish one or more programs for individuals under twenty-two years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5111.871 <u>5166.21</u> of the Revised Code. The programs may do	77265 77266 77267 77268 77269 77270 77271

one or more of the following: 77272

(1) Establish models that incorporate elements common to 77273
effective intervention programs and evidence-based practices in 77274
services for children with intensive behavioral needs; 77275

(2) Design a template for individualized education plans and 77276
individual service plans that provide consistent intervention 77277
programs and evidence-based practices for the care and treatment 77278
of children with intensive behavioral needs; 77279

(3) Disseminate best practice guidelines for use by families 77280
of children with intensive behavioral needs and professionals 77281
working with such families; 77282

(4) Develop a transition planning model for effectively 77283
mainstreaming school-age children with intensive behavioral needs 77284
to their public school district; 77285

(5) Contribute to the field of early and effective 77286
identification and intervention programs for children with 77287
intensive behavioral needs by providing financial support for 77288
scholarly research and publication of clinical findings. 77289

(B) The director of developmental disabilities shall 77290
collaborate with the medicaid director ~~of job and family services~~ 77291
and consult with the executive director of the Ohio center for 77292
autism and low incidence and university-based programs that 77293
specialize in services for individuals with developmental 77294
disabilities when establishing programs under this section. 77295

Sec. 5123.09. Subject to the rules of the department of 77296
developmental disabilities, each institution under the 77297
jurisdiction of the department shall be under the control of a 77298
managing officer to be known as a superintendent or by other 77299
appropriate title. The managing officer shall be appointed by the 77300
director of developmental disabilities and shall be in the 77301

unclassified service and serve at the pleasure of the director. 77302
Each managing officer shall be of good moral character and have 77303
skill, ability, and experience in the managing officer's 77304
profession. Appointment to the position of managing officer of an 77305
institution may be made from persons holding positions in the 77306
classified service in the department. 77307

The managing officer, under the director, shall have entire 77308
executive charge of the institution for which the managing officer 77309
is appointed, except as provided in section ~~5119.16~~ 5119.44 of the 77310
Revised Code. Subject to civil service rules and rules adopted by 77311
the department, the managing officer shall appoint the necessary 77312
employees, and the managing officer or the director may remove 77313
those employees for cause. A report of all appointments, 77314
resignations, and discharges shall be filed with the appropriate 77315
division at the close of each month. 77316

After conference with the managing officer of each 77317
institution, the director shall determine the number of employees 77318
to be appointed to the various institutions and clinics. 77319

Sec. 5123.171. As used in this section, "respite care" means 77320
appropriate, short-term, temporary care provided to a mentally 77321
retarded or developmentally disabled person to sustain the family 77322
structure or to meet planned or emergency needs of the family. 77323

The department of developmental disabilities shall provide 77324
respite care services to persons with mental retardation or a 77325
developmental disability for the purpose of promoting 77326
self-sufficiency and normalization, preventing or reducing 77327
inappropriate institutional care, and furthering the unity of the 77328
family by enabling the family to meet the special needs of a 77329
mentally retarded or developmentally disabled person. 77330

In order to be eligible for respite care services under this 77331
section, the mentally retarded or developmentally disabled person 77332

must be in need of habilitation services as defined in section 77333
5126.01 of the Revised Code. 77334

Respite care may be provided in a residential facility 77335
licensed under section 5123.19 of the Revised Code ~~including a~~ 77336
~~residential facility certified as an intermediate care facility~~ 77337
~~for the mentally retarded under Title XIX of the "Social Security~~ 77338
~~Act," 79 Stat. 344 (1965), 42 U.S.C. 1396, et seq., as amended}~~ 77339
ICF/IID, and a respite care home certified under section 5126.05 77340
of the Revised Code. 77341

The department shall develop a system for locating vacant 77342
beds that are available for respite care and for making 77343
information on vacant beds available to users of respite care 77344
services. ~~Facilities certified as intermediate care facilities for~~ 77345
~~the mentally retarded~~ ICFs/IID shall report vacant beds to the 77346
department but shall not be required to accept respite care 77347
clients. 77348

The director of developmental disabilities shall adopt, and 77349
may amend or rescind, rules in accordance with Chapter 119. of the 77350
Revised Code for both of the following: 77351

(A) Certification by county boards of developmental 77352
disabilities of respite care homes; 77353

(B) Provision of respite care services authorized by this 77354
section. Rules adopted under this division shall establish all of 77355
the following: 77356

(1) A formula for distributing funds appropriated for respite 77357
care services; 77358

(2) Standards for supervision, training and quality control 77359
in the provision of respite care services; 77360

(3) Eligibility criteria for emergency respite care services. 77361

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 of 77362

the Revised Code: 77363

(1) "Independent living arrangement" means an arrangement in 77364
which a mentally retarded or developmentally disabled person 77365
resides in an individualized setting chosen by the person or the 77366
person's guardian, which is not dedicated principally to the 77367
provision of residential services for mentally retarded or 77368
developmentally disabled persons, and for which no financial 77369
support is received for rendering such service from any 77370
governmental agency by a provider of residential services. 77371

~~(2) "Intermediate care facility for the mentally retarded" 77372
has the same meaning as in section 1905(d) of the "Social Security 77373
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 77374~~

~~(3) "Licensee" means the person or government agency that has 77375
applied for a license to operate a residential facility and to 77376
which the license was issued under this section. 77377~~

~~(4)(3) "Political subdivision" means a municipal corporation, 77378
county, or township. 77379~~

~~(5)(4) "Related party" has the same meaning as in section 77380
5123.16 of the Revised Code except that "provider" as used in the 77381
definition of "related party" means a person or government entity 77382
that held or applied for a license to operate a residential 77383
facility, rather than a person or government entity certified to 77384
provide supported living. 77385~~

~~(6)(5)(a) Except as provided in division (A)(6)(5)(b) of this 77386
section, "residential facility" means a home or facility, 77387
including a facility certified as an intermediate care facility 77388
for the mentally retarded an ICF/IID, in which an individual with 77389
mental retardation or a developmental disability resides. 77390~~

(b) "Residential facility" does not mean any of the 77391
following: 77392

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides; 77393
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(ii) A respite care home certified under section 5126.05 of the Revised Code; 77396
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(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code; 77398
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(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living. 77400
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(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, ~~5119.20~~ 5119.33, or division (A)(9)(b) of section ~~5119.22~~ 5119.34 of the Revised Code. 77403
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(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered. 77409
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(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a 77421
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provision, the director may deny issuance of a license, refuse to 77424
renew a license, terminate a license, revoke a license, issue an 77425
order for the suspension of admissions to a facility, issue an 77426
order for the placement of a monitor at a facility, issue an order 77427
for the immediate removal of residents, or take any other action 77428
the director considers necessary consistent with the director's 77429
authority under this chapter regarding residential facilities. In 77430
the director's selection and administration of the sanction to be 77431
imposed, all of the following apply: 77432

(1) The director may deny, refuse to renew, or revoke a 77433
license, if the director determines that the applicant or licensee 77434
has demonstrated a pattern of serious noncompliance or that a 77435
violation creates a substantial risk to the health and safety of 77436
residents of a residential facility. 77437

(2) The director may terminate a license if more than twelve 77438
consecutive months have elapsed since the residential facility was 77439
last occupied by a resident or a notice required by division (K) 77440
of this section is not given. 77441

(3) The director may issue an order for the suspension of 77442
admissions to a facility for any violation that may result in 77443
sanctions under division (D)(1) of this section and for any other 77444
violation specified in rules adopted under division (H)(2) of this 77445
section. If the suspension of admissions is imposed for a 77446
violation that may result in sanctions under division (D)(1) of 77447
this section, the director may impose the suspension before 77448
providing an opportunity for an adjudication under Chapter 119. of 77449
the Revised Code. The director shall lift an order for the 77450
suspension of admissions when the director determines that the 77451
violation that formed the basis for the order has been corrected. 77452

(4) The director may order the placement of a monitor at a 77453
residential facility for any violation specified in rules adopted 77454
under division (H)(2) of this section. The director shall lift the 77455

order when the director determines that the violation that formed 77456
the basis for the order has been corrected. 77457

(5) If the director determines that two or more residential 77458
facilities owned or operated by the same person or government 77459
entity are not being operated in compliance with a provision of 77460
this chapter that applies to residential facilities or the rules 77461
adopted under such a provision, and the director's findings are 77462
based on the same or a substantially similar action, practice, 77463
circumstance, or incident that creates a substantial risk to the 77464
health and safety of the residents, the director shall conduct a 77465
survey as soon as practicable at each residential facility owned 77466
or operated by that person or government entity. The director may 77467
take any action authorized by this section with respect to any 77468
facility found to be operating in violation of a provision of this 77469
chapter that applies to residential facilities or the rules 77470
adopted under such a provision. 77471

(6) When the director initiates license revocation 77472
proceedings, no opportunity for submitting a plan of correction 77473
shall be given. The director shall notify the licensee by letter 77474
of the initiation of the proceedings. The letter shall list the 77475
deficiencies of the residential facility and inform the licensee 77476
that no plan of correction will be accepted. The director shall 77477
also send a copy of the letter to the county board of 77478
developmental disabilities. The county board shall send a copy of 77479
the letter to each of the following: 77480

(a) Each resident who receives services from the licensee; 77481

(b) The guardian of each resident who receives services from 77482
the licensee if the resident has a guardian; 77483

(c) The parent or guardian of each resident who receives 77484
services from the licensee if the resident is a minor. 77485

(7) Pursuant to rules which shall be adopted in accordance 77486

with Chapter 119. of the Revised Code, the director may order the 77487
immediate removal of residents from a residential facility 77488
whenever conditions at the facility present an immediate danger of 77489
physical or psychological harm to the residents. 77490

(8) In determining whether a residential facility is being 77491
operated in compliance with a provision of this chapter that 77492
applies to residential facilities or the rules adopted under such 77493
a provision, or whether conditions at a residential facility 77494
present an immediate danger of physical or psychological harm to 77495
the residents, the director may rely on information obtained by a 77496
county board of developmental disabilities or other governmental 77497
agencies. 77498

(9) In proceedings initiated to deny, refuse to renew, or 77499
revoke licenses, the director may deny, refuse to renew, or revoke 77500
a license regardless of whether some or all of the deficiencies 77501
that prompted the proceedings have been corrected at the time of 77502
the hearing. 77503

(E) The director shall establish a program under which public 77504
notification may be made when the director has initiated license 77505
revocation proceedings or has issued an order for the suspension 77506
of admissions, placement of a monitor, or removal of residents. 77507
The director shall adopt rules in accordance with Chapter 119. of 77508
the Revised Code to implement this division. The rules shall 77509
establish the procedures by which the public notification will be 77510
made and specify the circumstances for which the notification must 77511
be made. The rules shall require that public notification be made 77512
if the director has taken action against the facility in the 77513
eighteen-month period immediately preceding the director's latest 77514
action against the facility and the latest action is being taken 77515
for the same or a substantially similar violation of a provision 77516
of this chapter that applies to residential facilities or the 77517
rules adopted under such a provision. The rules shall specify a 77518

method for removing or amending the public notification if the 77519
director's action is found to have been unjustified or the 77520
violation at the residential facility has been corrected. 77521

(F)(1) Except as provided in division (F)(2) of this section, 77522
appeals from proceedings initiated to impose a sanction under 77523
division (D) of this section shall be conducted in accordance with 77524
Chapter 119. of the Revised Code. 77525

(2) Appeals from proceedings initiated to order the 77526
suspension of admissions to a facility shall be conducted in 77527
accordance with Chapter 119. of the Revised Code, unless the order 77528
was issued before providing an opportunity for an adjudication, in 77529
which case all of the following apply: 77530

(a) The licensee may request a hearing not later than ten 77531
days after receiving the notice specified in section 119.07 of the 77532
Revised Code. 77533

(b) If a timely request for a hearing that includes the 77534
licensee's current address is made, the hearing shall commence not 77535
later than thirty days after the department receives the request. 77536

(c) After commencing, the hearing shall continue 77537
uninterrupted, except for Saturdays, Sundays, and legal holidays, 77538
unless other interruptions are agreed to by the licensee and the 77539
director. 77540

(d) If the hearing is conducted by a hearing examiner, the 77541
hearing examiner shall file a report and recommendations not later 77542
than ten days after the last of the following: 77543

(i) The close of the hearing; 77544

(ii) If a transcript of the proceedings is ordered, the 77545
hearing examiner receives the transcript; 77546

(iii) If post-hearing briefs are timely filed, the hearing 77547
examiner receives the briefs. 77548

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ~~intermediate care facilities for the mentally retarded~~ ICFs/IID may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing

licenses, including procedures and criteria for determining the 77580
length of the licensing period that the director must specify for 77581
each license when it is issued or renewed; 77582

(2) Procedures and criteria for denying, refusing to renew, 77583
terminating, and revoking licenses and for ordering the suspension 77584
of admissions to a facility, placement of a monitor at a facility, 77585
and the immediate removal of residents from a facility; 77586

(3) Fees for issuing and renewing licenses, which shall be 77587
deposited into the program fee fund created under section 5123.033 77588
of the Revised Code; 77589

(4) Procedures for surveying residential facilities; 77590

(5) Requirements for the training of residential facility 77591
personnel; 77592

(6) Classifications for the various types of residential 77593
facilities; 77594

(7) Certification procedures for licensees and management 77595
contractors that the director determines are necessary to ensure 77596
that they have the skills and qualifications to properly operate 77597
or manage residential facilities; 77598

(8) The maximum number of persons who may be served in a 77599
particular type of residential facility; 77600

(9) Uniform procedures for admission of persons to and 77601
transfers and discharges of persons from residential facilities; 77602

(10) Other standards for the operation of residential 77603
facilities and the services provided at residential facilities; 77604

(11) Procedures for waiving any provision of any rule adopted 77605
under this section. 77606

(I) Before issuing a license, the director of the department 77607
or the director's designee shall conduct a survey of the 77608
residential facility for which application is made. The director 77609

or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the

director shall require each applicant to provide a copy of an 77642
approved plan for a proposed residential facility pursuant to 77643
section 5123.042 of the Revised Code. This division does not apply 77644
to renewal of a license or to an applicant for an initial or 77645
modified license who meets the requirements of section 5123.197 of 77646
the Revised Code. 77647

(K) A licensee shall notify the owner of the building in 77648
which the licensee's residential facility is located of any 77649
significant change in the identity of the licensee or management 77650
contractor before the effective date of the change if the licensee 77651
is not the owner of the building. 77652

Pursuant to rules which shall be adopted in accordance with 77653
Chapter 119. of the Revised Code, the director may require 77654
notification to the department of any significant change in the 77655
ownership of a residential facility or in the identity of the 77656
licensee or management contractor. If the director determines that 77657
a significant change of ownership is proposed, the director shall 77658
consider the proposed change to be an application for development 77659
by a new operator pursuant to section 5123.042 of the Revised Code 77660
and shall advise the applicant within sixty days of the 77661
notification that the current license shall continue in effect or 77662
a new license will be required pursuant to this section. If the 77663
director requires a new license, the director shall permit the 77664
facility to continue to operate under the current license until 77665
the new license is issued, unless the current license is revoked, 77666
refused to be renewed, or terminated in accordance with Chapter 77667
119. of the Revised Code. 77668

(L) A county board of developmental disabilities and any 77669
interested person may file complaints alleging violations of 77670
statute or department rule relating to residential facilities with 77671
the department. All complaints shall be in writing and shall state 77672
the facts constituting the basis of the allegation. The department 77673

shall not reveal the source of any complaint unless the 77674
complainant agrees in writing to waive the right to 77675
confidentiality or until so ordered by a court of competent 77676
jurisdiction. 77677

The department shall adopt rules in accordance with Chapter 77678
119. of the Revised Code establishing procedures for the receipt, 77679
referral, investigation, and disposition of complaints filed with 77680
the department under this division. 77681

(M) The department shall establish procedures for the 77682
notification of interested parties of the transfer or interim care 77683
of residents from residential facilities that are closing or are 77684
losing their license. 77685

(N) Before issuing a license under this section to a 77686
residential facility that will accommodate at any time more than 77687
one mentally retarded or developmentally disabled individual, the 77688
director shall, by first class mail, notify the following: 77689

(1) If the facility will be located in a municipal 77690
corporation, the clerk of the legislative authority of the 77691
municipal corporation; 77692

(2) If the facility will be located in unincorporated 77693
territory, the clerk of the appropriate board of county 77694
commissioners and the fiscal officer of the appropriate board of 77695
township trustees. 77696

The director shall not issue the license for ten days after 77697
mailing the notice, excluding Saturdays, Sundays, and legal 77698
holidays, in order to give the notified local officials time in 77699
which to comment on the proposed issuance. 77700

Any legislative authority of a municipal corporation, board 77701
of county commissioners, or board of township trustees that 77702
receives notice under this division of the proposed issuance of a 77703
license for a residential facility may comment on it in writing to 77704

the director within ten days after the director mailed the notice, 77705
excluding Saturdays, Sundays, and legal holidays. If the director 77706
receives written comments from any notified officials within the 77707
specified time, the director shall make written findings 77708
concerning the comments and the director's decision on the 77709
issuance of the license. If the director does not receive written 77710
comments from any notified local officials within the specified 77711
time, the director shall continue the process for issuance of the 77712
license. 77713

(O) Any person may operate a licensed residential facility 77714
that provides room and board, personal care, habilitation 77715
services, and supervision in a family setting for at least six but 77716
not more than eight persons with mental retardation or a 77717
developmental disability as a permitted use in any residential 77718
district or zone, including any single-family residential district 77719
or zone, of any political subdivision. These residential 77720
facilities may be required to comply with area, height, yard, and 77721
architectural compatibility requirements that are uniformly 77722
imposed upon all single-family residences within the district or 77723
zone. 77724

(P) Any person may operate a licensed residential facility 77725
that provides room and board, personal care, habilitation 77726
services, and supervision in a family setting for at least nine 77727
but not more than sixteen persons with mental retardation or a 77728
developmental disability as a permitted use in any multiple-family 77729
residential district or zone of any political subdivision, except 77730
that a political subdivision that has enacted a zoning ordinance 77731
or resolution establishing planned unit development districts may 77732
exclude these residential facilities from those districts, and a 77733
political subdivision that has enacted a zoning ordinance or 77734
resolution may regulate these residential facilities in 77735
multiple-family residential districts or zones as a conditionally 77736

permitted use or special exception, in either case, under 77737
reasonable and specific standards and conditions set out in the 77738
zoning ordinance or resolution to: 77739

(1) Require the architectural design and site layout of the 77740
residential facility and the location, nature, and height of any 77741
walls, screens, and fences to be compatible with adjoining land 77742
uses and the residential character of the neighborhood; 77743

(2) Require compliance with yard, parking, and sign 77744
regulation; 77745

(3) Limit excessive concentration of these residential 77746
facilities. 77747

(Q) This section does not prohibit a political subdivision 77748
from applying to residential facilities nondiscriminatory 77749
regulations requiring compliance with health, fire, and safety 77750
regulations and building standards and regulations. 77751

(R) Divisions (O) and (P) of this section are not applicable 77752
to municipal corporations that had in effect on June 15, 1977, an 77753
ordinance specifically permitting in residential zones licensed 77754
residential facilities by means of permitted uses, conditional 77755
uses, or special exception, so long as such ordinance remains in 77756
effect without any substantive modification. 77757

(S)(1) The director may issue an interim license to operate a 77758
residential facility to an applicant for a license under this 77759
section if either of the following is the case: 77760

(a) The director determines that an emergency exists 77761
requiring immediate placement of persons in a residential 77762
facility, that insufficient licensed beds are available, and that 77763
the residential facility is likely to receive a permanent license 77764
under this section within thirty days after issuance of the 77765
interim license. 77766

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility. 77767
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(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license. 77770
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(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days. 77775
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(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses. 77778
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(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986. 77781
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(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section. 77790
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The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the 77795
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facility from continuing to operate without a license. The court 77798
may grant the injunction on a showing that the person or 77799
governmental agency named in the petition is operating a 77800
residential facility without a license. The court may grant the 77801
injunction, regardless of whether the residential facility meets 77802
the requirements for receiving a license under this section. 77803

Sec. 5123.192. (A) A person or government agency operating, 77804
on ~~the effective date of this section~~ September 10, 2012, an 77805
~~intermediate care facility for the mentally retarded~~ ICF/IID 77806
pursuant to a nursing home license issued under Chapter 3721. of 77807
the Revised Code shall do both of the following as a condition of 77808
continuing to operate the ~~facility~~ ICF/IID on and after July 1, 77809
2013: 77810

(1) Not later than February 1, 2013, apply to the director of 77811
developmental disabilities for a residential facility license 77812
under section 5123.19 of the Revised Code for the ~~facility~~ 77813
ICF/IID; 77814

(2) Not later than July 1, 2013, obtain the residential 77815
facility license for the ~~facility~~ ICF/IID. 77816

(B) The nursing home license of an ~~intermediate care facility~~ 77817
~~for the mentally retarded~~ ICF/IID shall cease to be valid at the 77818
earliest of the following: 77819

(1) The date that the ~~facility's~~ ICF/IID's nursing home 77820
license is revoked or voided under section 3721.07 of the Revised 77821
Code; 77822

(2) The date that a residential facility license is obtained 77823
for the ~~facility~~ ICF/IID under section 5123.19 of the Revised 77824
Code; 77825

(3) July 1, 2013. 77826

(C) Except for existing nursing home beds not certified as 77827

~~intermediate care facility for the mentally retarded ICF/IID~~ beds 77828
and relocated in accordance with a move authorized by a 77829
certificate of need under Chapter 3702. of the Revised Code, no 77830
bed that is part of an ~~intermediate care facility for the mentally~~ 77831
~~retarded ICF/IID~~ that is licensed as a nursing home on ~~the~~ 77832
~~effective date of this section September 10, 2012,~~ may be used as 77833
part of a nursing home on and after the earlier of the following: 77834

(1) The date that a residential facility license is obtained 77835
for the ~~facility ICF/IID~~ under section 5123.19 of the Revised 77836
Code; 77837

(2) July 1, 2013. 77838

Sec. 5123.197. Neither an applicant for an initial 77839
residential facility license under section 5123.19 of the Revised 77840
Code nor an applicant for a modification of an existing 77841
residential facility license under that section is required to 77842
obtain approval of a plan for the proposed new residential 77843
facility or modification to the existing residential facility 77844
pursuant to section 5123.042 of the Revised Code if all of the 77845
following apply: 77846

(A) The new residential facility or modification to the 77847
existing residential facility is to serve individuals who have 77848
diagnoses or special care needs for which a medicaid ~~reimbursement~~ 77849
~~payment~~ rate is set pursuant to section ~~5111.258~~ 5124.153 of the 77850
Revised Code; 77851

(B) The ~~directors of job and family services medicaid~~ 77852
director and director of developmental disabilities determine that 77853
there is a need under the medicaid program for the proposed new 77854
residential facility or modification to the existing residential 77855
facility and that approving the application for the initial 77856
residential facility license or modification to the existing 77857
residential facility license is fiscally prudent for the medicaid 77858

program; 77859

(C) The director of budget and management notifies the 77860
~~directors of job and family services~~ medicaid director and 77861
director of developmental disabilities that the director of budget 77862
and management agrees with the directors' determination under 77863
division (B) of this section. 77864

Sec. 5123.198. (A) As used in this section, "date of the 77865
commitment" means the date that an individual specified in 77866
division (B) of this section begins to reside in a state-operated 77867
~~intermediate care facility for the mentally retarded~~ ICF/IID after 77868
being committed to the ~~facility~~ ICF/IID pursuant to sections 77869
5123.71 to 5123.76 of the Revised Code. 77870

(B) Except as provided in division (C) of this section, 77871
whenever a resident of a residential facility is committed to a 77872
state-operated ~~intermediate care facility for the mentally~~ 77873
~~retarded~~ ICF/IID pursuant to sections 5123.71 to 5123.76 of the 77874
Revised Code, the department of developmental disabilities, 77875
pursuant to an adjudication order issued in accordance with 77876
Chapter 119. of the Revised Code, shall reduce by one the number 77877
of residents for which the residential facility in which the 77878
resident resided is licensed. 77879

(C) The department shall not reduce under division (B) of 77880
this section the number of residents for which a residential 77881
facility is licensed if any of the following are the case: 77882

(1) The resident of the residential facility who is committed 77883
to a state-operated ~~intermediate care facility for the mentally~~ 77884
~~retarded~~ ICF/IID resided in the residential facility because of 77885
the closure, on or after June 26, 2003, of another state-operated 77886
~~intermediate care facility for the mentally retarded~~ ICF/IID; 77887

(2) The residential facility admits within ninety days of the 77888

date of the commitment an individual who resides on the date of 77889
the commitment in a state-operated ~~intermediate care facility for~~ 77890
~~the mentally retarded~~ ICF/IID or another residential facility; 77891

(3) The department fails to do either of the following within 77892
ninety days of the date of the commitment: 77893

(a) Identify an individual to whom all of the following 77894
applies: 77895

(i) Resides on the date of the commitment in a state-operated 77896
~~intermediate care facility for the mentally retarded~~ ICF/IID or 77897
another residential facility; 77898

(ii) Has indicated to the department an interest in 77899
relocating to the residential facility or has a parent or guardian 77900
who has indicated to the department an interest for the individual 77901
to relocate to the residential facility; 77902

(iii) The department determines the individual has needs that 77903
the residential facility can meet. 77904

(b) Provide the residential facility with information about 77905
the individual identified under division (C)(2)(a) of this section 77906
that the residential facility needs in order to determine whether 77907
the facility can meet the individual's needs. 77908

(4) If the department completes the actions specified in 77909
divisions (C)(3)(a) and (b) of this section not later than ninety 77910
days after the date of the commitment and except as provided in 77911
division (D) of this section, the residential facility does all of 77912
the following not later than ninety days after the date of the 77913
commitment: 77914

(a) Evaluates the information provided by the department; 77915

(b) Assesses the identified individual's needs; 77916

(c) Determines that the residential facility cannot meet the 77917
identified individual's needs. 77918

(5) If the department completes the actions specified in 77919
divisions (C)(3)(a) and (b) of this section not later than ninety 77920
days after the date of the commitment and the residential facility 77921
determines that the residential facility can meet the identified 77922
individual's needs, the individual, or a parent or guardian of the 77923
individual, refuses placement in the residential facility. 77924

(D) The department may reduce under division (B) of this 77925
section the number of residents for which a residential facility 77926
is licensed even though the residential facility completes the 77927
actions specified in division (C)(4) of this section not later 77928
than ninety days after the date of the commitment if all of the 77929
following are the case: 77930

(1) The department disagrees with the residential facility's 77931
determination that the residential facility cannot meet the 77932
identified individual's needs. 77933

(2) The department issues a written decision pursuant to the 77934
uniform procedures for admissions, transfers, and discharges 77935
established by rules adopted under division (H)(9) of section 77936
5123.19 of the Revised Code that the residential facility should 77937
admit the identified individual. 77938

(3) After the department issues the written decision 77939
specified in division (D)(2) of this section, the residential 77940
facility refuses to admit the identified individual. 77941

(E) A residential facility that admits, refuses to admit, 77942
transfers, or discharges a resident under this section shall 77943
comply with the uniform procedures for admissions, transfers, and 77944
discharges established by rules adopted under division (H)(9) of 77945
section 5123.19 of the Revised Code. 77946

~~(F) The department of developmental disabilities may notify 77947
the department of job and family services of any reduction under 77948
this section in the number of residents for which a residential 77949~~

~~facility that is an intermediate care facility for the mentally
retarded is licensed. On receiving the notice, the department of
job and family services may transfer to the department of
developmental disabilities the savings in the nonfederal share of
medicaid expenditures for each fiscal year after the year of the
commitment to be used for costs of the resident's care in the
state-operated intermediate care facility for the mentally
retarded. In determining the amount saved, the department of job
and family services shall consider medicaid payments for the
remaining residents of the facility in which the resident resided.~~

Sec. 5123.38. (A) Except as provided in division (B) of this
section, if an individual receiving supported living or home and
community-based services funded by a county board of developmental
disabilities is committed to a state-operated ~~intermediate care
facility for the mentally retarded~~ ICF/IID pursuant to sections
5123.71 to 5123.76 of the Revised Code, the county board is
responsible for the nonfederal share of medicaid expenditures for
the individual's care in the state-operated ~~facility~~ ICF/IID. The
department of developmental disabilities shall collect the amount
of the nonfederal share from the county board by either
withholding that amount from funds the department has otherwise
allocated to the county board or submitting an invoice for payment
of that amount to the county board.

(B) Division (A) of this section does not apply under any of
the following circumstances:

(1) The county board, not later than ninety days after the
date of the commitment of a person receiving supported living,
commences funding of supported living for an individual who
resides in a state-operated ~~intermediate care facility for the
mentally retarded~~ ICF/IID on the date of the commitment or another
eligible individual designated by the department.

(2) The county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated ~~intermediate care facility for the mentally retarded~~ ICF/IID on the date of the commitment or another eligible individual designated by the department.

(3) The director of developmental disabilities, after determining that circumstances warrant granting a waiver in an individual's case, grants the county board a waiver that exempts the county board from responsibility for the nonfederal share for that case.

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or

a developmental disability has suffered or faces a substantial 78011
risk of suffering any wound, injury, disability, or condition of 78012
such a nature as to reasonably indicate abuse or neglect of that 78013
person, shall immediately report or cause reports to be made of 78014
such information to the entity specified in this division. Except 78015
as provided in section 5120.173 of the Revised Code or as 78016
otherwise provided in this division, the person making the report 78017
shall make it to a law enforcement agency or to the county board 78018
of developmental disabilities. If the report concerns a resident 78019
of a facility operated by the department of developmental 78020
disabilities the report shall be made either to a law enforcement 78021
agency or to the department. If the report concerns any act or 78022
omission of an employee of a county board of developmental 78023
disabilities, the report immediately shall be made to the 78024
department and to the county board. 78025

(2) All of the following persons are required to make a 78026
report under division (C)(1) of this section: 78027

(a) Any physician, including a hospital intern or resident, 78028
any dentist, podiatrist, chiropractor, practitioner of a limited 78029
branch of medicine as specified in section 4731.15 of the Revised 78030
Code, hospital administrator or employee of a hospital, nurse 78031
licensed under Chapter 4723. of the Revised Code, employee of an 78032
ambulatory health facility as defined in section 5101.61 of the 78033
Revised Code, employee of a home health agency, employee of a 78034
residential facility licensed under section ~~5119.22~~ 5119.34 of the 78035
Revised Code that provides accommodations, supervision, and person 78036
care services for three to sixteen unrelated adults, or employee 78037
of a community mental health facility; 78038

(b) Any school teacher or school authority, social worker, 78039
psychologist, attorney, peace officer, coroner, or residents' 78040
rights advocate as defined in section 3721.10 of the Revised Code; 78041

(c) A superintendent, board member, or employee of a county 78042

board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A member of the clergy who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to employees of the Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02

of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (C)(1) of this section, if both of the following apply:

(i) The client or patient, at the time of the communication, is a person with mental retardation or a developmental disability.

(ii) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe

that a person with mental retardation or a developmental 78105
disability has suffered injury, abuse, or physical neglect, the 78106
physician shall notify the person in charge of the institution or 78107
that person's designated delegate, who shall make the necessary 78108
reports. 78109

(F) Any person having reasonable cause to believe that a 78110
person with mental retardation or a developmental disability has 78111
suffered or faces a substantial risk of suffering abuse or neglect 78112
may report or cause a report to be made of that belief to the 78113
entity specified in this division. Except as provided in section 78114
5120.173 of the Revised Code or as otherwise provided in this 78115
division, the person making the report shall make it to a law 78116
enforcement agency or the county board of developmental 78117
disabilities. If the person is a resident of a facility operated 78118
by the department of developmental disabilities, the report shall 78119
be made to a law enforcement agency or to the department. If the 78120
report concerns any act or omission of an employee of a county 78121
board of developmental disabilities, the report immediately shall 78122
be made to the department and to the county board. 78123

(G)(1) Upon the receipt of a report concerning the possible 78124
abuse or neglect of a person with mental retardation or a 78125
developmental disability, the law enforcement agency shall inform 78126
the county board of developmental disabilities or, if the person 78127
is a resident of a facility operated by the department of 78128
developmental disabilities, the director of the department or the 78129
director's designee. 78130

(2) On receipt of a report under this section that includes 78131
an allegation of action or inaction that may constitute a crime 78132
under federal law or the law of this state, the department of 78133
developmental disabilities shall notify the law enforcement 78134
agency. 78135

(3) When a county board of developmental disabilities 78136

receives a report under this section that includes an allegation 78137
of action or inaction that may constitute a crime under federal 78138
law or the law of this state, the superintendent of the board or 78139
an individual the superintendent designates under division (H) of 78140
this section shall notify the law enforcement agency. The 78141
superintendent or individual shall notify the department of 78142
developmental disabilities when it receives any report under this 78143
section. 78144

(4) When a county board of developmental disabilities 78145
receives a report under this section and believes that the degree 78146
of risk to the person is such that the report is an emergency, the 78147
superintendent of the board or an employee of the board the 78148
superintendent designates shall attempt a face-to-face contact 78149
with the person with mental retardation or a developmental 78150
disability who allegedly is the victim within one hour of the 78151
board's receipt of the report. 78152

(H) The superintendent of the board may designate an 78153
individual to be responsible for notifying the law enforcement 78154
agency and the department when the county board receives a report 78155
under this section. 78156

(I) An adult with mental retardation or a developmental 78157
disability about whom a report is made may be removed from the 78158
adult's place of residence only by law enforcement officers who 78159
consider that the adult's immediate removal is essential to 78160
protect the adult from further injury or abuse or in accordance 78161
with the order of a court made pursuant to section 5126.33 of the 78162
Revised Code. 78163

(J) A law enforcement agency shall investigate each report of 78164
abuse or neglect it receives under this section. In addition, the 78165
department, in cooperation with law enforcement officials, shall 78166
investigate each report regarding a resident of a facility 78167
operated by the department to determine the circumstances 78168

surrounding the injury, the cause of the injury, and the person 78169
responsible. The investigation shall be in accordance with the 78170
memorandum of understanding prepared under section 5126.058 of the 78171
Revised Code. The department shall determine, with the registry 78172
office which shall be maintained by the department, whether prior 78173
reports have been made concerning an adult with mental retardation 78174
or a developmental disability or other principals in the case. If 78175
the department finds that the report involves action or inaction 78176
that may constitute a crime under federal law or the law of this 78177
state, it shall submit a report of its investigation, in writing, 78178
to the law enforcement agency. If the person with mental 78179
retardation or a developmental disability is an adult, with the 78180
consent of the adult, the department shall provide such protective 78181
services as are necessary to protect the adult. The law 78182
enforcement agency shall make a written report of its findings to 78183
the department. 78184

If the person is an adult and is not a resident of a facility 78185
operated by the department, the county board of developmental 78186
disabilities shall review the report of abuse or neglect in 78187
accordance with sections 5126.30 to 5126.33 of the Revised Code 78188
and the law enforcement agency shall make the written report of 78189
its findings to the county board. 78190

(K) Any person or any hospital, institution, school, health 78191
department, or agency participating in the making of reports 78192
pursuant to this section, any person participating as a witness in 78193
an administrative or judicial proceeding resulting from the 78194
reports, or any person or governmental entity that discharges 78195
responsibilities under sections 5126.31 to 5126.33 of the Revised 78196
Code shall be immune from any civil or criminal liability that 78197
might otherwise be incurred or imposed as a result of such actions 78198
except liability for perjury, unless the person or governmental 78199
entity has acted in bad faith or with malicious purpose. 78200

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.86. (A) Except as provided in divisions (C), (D), (E), and (F) of this section, the chief medical officer shall provide all information, including expected physical and medical consequences, necessary to enable any resident of an institution for the mentally retarded to give a fully informed, intelligent, and knowing consent if any of the following procedures are proposed:

(1) Surgery;

(2) Convulsive therapy;

(3) Major aversive interventions;	78232
(4) Sterilization;	78233
(5) Experimental procedures;	78234
(6) Any unusual or hazardous treatment procedures.	78235
(B) No resident shall be subjected to any of the procedures listed in division (A)(4), (5), or (6) of this section without the resident's informed consent.	78236 78237 78238
(C) If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the resident's natural or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, who may give the informed, intelligent, and knowing written consent for surgery. Consent for surgery shall not be provided by a guardian who is an officer or employee of the department of mental health <u>mental health and addiction services</u> or the department of developmental disabilities.	78239 78240 78241 78242 78243 78244 78245 78246 78247 78248 78249 78250
If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, then the information, the recommendation of the chief medical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the institution is located, which may approve the surgery. Before approving the surgery, the court shall notify the Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the resident of the resident's rights to consult with counsel, to have counsel appointed by the court if the resident is indigent, and to contest the recommendation of the	78251 78252 78253 78254 78255 78256 78257 78258 78259 78260 78261 78262

chief medical officer. 78263

(D) If, in the judgment of two licensed physicians, delay in 78264
obtaining consent for surgery would create a grave danger to the 78265
health of a resident, emergency surgery may be performed without 78266
the consent of the resident if the necessary information is 78267
provided to the resident's guardian, including an agency providing 78268
guardianship services under contract with the department of 78269
developmental disabilities under sections 5123.55 to 5123.59 of 78270
the Revised Code, or to the resident's spouse or next of kin to 78271
enable that person or agency to give an informed, intelligent, and 78272
knowing written consent. 78273

If the guardian, spouse, or next of kin cannot be contacted 78274
through exercise of reasonable diligence, or if the guardian, 78275
spouse, or next of kin is contacted, but refuses to consent, then 78276
the emergency surgery may be performed upon the written 78277
authorization of the chief medical officer and after court 78278
approval has been obtained. However, if delay in obtaining court 78279
approval would create a grave danger to the life of the resident, 78280
the chief medical officer may authorize surgery, in writing, 78281
without court approval. If the surgery is authorized without court 78282
approval, the chief medical officer who made the authorization and 78283
the physician who performed the surgery shall each execute an 78284
affidavit describing the circumstances constituting the emergency 78285
and warranting the surgery and the circumstances warranting their 78286
not obtaining prior court approval. The affidavit shall be filed 78287
with the court with which the request for prior approval would 78288
have been filed within five court days after the surgery, and a 78289
copy of the affidavit shall be placed in the resident's file and 78290
shall be given to the guardian, spouse, or next of kin of the 78291
resident, to the hospital at which the surgery was performed, and 78292
to the Ohio protection and advocacy system created by section 78293
5123.60 of the Revised Code. 78294

(E)(1) If it is the judgment of two licensed physicians, as 78295
described in division (E)(2) of this section, that a medical 78296
emergency exists and delay in obtaining convulsive therapy creates 78297
a grave danger to the life of a resident who is both mentally 78298
retarded and mentally ill, convulsive therapy may be administered 78299
without the consent of the resident if the resident is physically 78300
or mentally unable to receive the information required for 78301
convulsive therapy and if the necessary information is provided to 78302
the resident's natural or court-appointed guardian, including an 78303
agency providing guardianship services under contract with the 78304
department of developmental disabilities under sections 5123.55 to 78305
5123.59 of the Revised Code, or to the resident's spouse or next 78306
of kin to enable that person or agency to give an informed, 78307
intelligent, and knowing written consent. If neither the 78308
resident's guardian, spouse, nor next of kin can be contacted 78309
through exercise of reasonable diligence, or if the guardian, 78310
spouse, or next of kin is contacted, but refuses to consent, then 78311
convulsive therapy may be performed upon the written authorization 78312
of the chief medical officer and after court approval has been 78313
obtained. 78314

(2) The two licensed physicians referred to in division 78315
(E)(1) of this section shall not be associated with each other in 78316
the practice of medicine or surgery by means of a partnership or 78317
corporate arrangement, other business arrangement, or employment. 78318
At least one of the physicians shall be a psychiatrist as defined 78319
in division (E) of section 5122.01 of the Revised Code. 78320

(F) Major aversive interventions shall not be used unless a 78321
resident continues to engage in behavior destructive to self or 78322
others after other forms of therapy have been attempted. Major 78323
aversive interventions shall not be applied to a voluntary 78324
resident without the informed, intelligent, and knowing written 78325
consent of the resident or the resident's guardian, including an 78326

agency providing guardianship services under contract with the 78327
department of developmental disabilities under sections 5123.55 to 78328
5123.59 of the Revised Code. 78329

(G)(1) This chapter does not authorize any form of compulsory 78330
medical or psychiatric treatment of any resident who is being 78331
treated by spiritual means through prayer alone in accordance with 78332
a recognized religious method of healing. 78333

(2) For purposes of this section, "convulsive therapy" does 78334
not include defibrillation. 78335

Sec. 5124.01. As used in this chapter: 78336

(A) "Affiliated operator" means an operator affiliated with 78337
either of the following: 78338

(1) The exiting operator for whom the affiliated operator is 78339
to assume liability for the entire amount of the exiting 78340
operator's debt under the medicaid program or the portion of the 78341
debt that represents the franchise permit fee the exiting operator 78342
owes; 78343

(2) The entering operator involved in the change of operator 78344
with the exiting operator specified in division (A)(1) of this 78345
section. 78346

(B) "Allowable costs" means an ICF/IID's costs that the 78347
department of developmental disabilities determines are 78348
reasonable. Fines paid under section 5124.99 of the Revised Code 78349
are not allowable costs. 78350

(C) "Capital costs" means an ICF/IID's costs of ownership and 78351
costs of nonextensive renovation. 78352

(D) "Case-mix score" means the measure determined under 78353
section 5124.192 of the Revised Code of the relative direct-care 78354
resources needed to provide care and habilitation to an ICF/IID 78355
resident. 78356

(E) "Change of operator" means an entering operator becoming the operator of an ICF/IID in the place of the exiting operator. 78357
78358

(1) Actions that constitute a change of operator include the following: 78359
78360

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 78361
78362
78363

(b) A transfer of all the exiting operator's ownership interest in the operation of the ICF/IID to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the ICF/IID is also transferred; 78364
78365
78366
78367
78368

(c) A lease of the ICF/IID to the entering operator or the exiting operator's termination of the exiting operator's lease; 78369
78370

(d) If the exiting operator is a partnership, dissolution of the partnership; 78371
78372

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 78373
78374

(i) The change in composition does not cause the partnership's dissolution under state law. 78375
78376

(ii) The partners agree that the change in composition does not constitute a change in operator. 78377
78378

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. 78379
78380
78381
78382

(2) The following, alone, do not constitute a change of operator: 78383
78384

(a) A contract for an entity to manage an ICF/IID as the operator's agent, subject to the operator's approval of daily 78385
78386

<u>operating and management decisions;</u>	78387
<u>(b) A change of ownership, lease, or termination of a lease</u>	78388
<u>of real property or personal property associated with an ICF/IID</u>	78389
<u>if an entering operator does not become the operator in place of</u>	78390
<u>an exiting operator;</u>	78391
<u>(c) If the operator is a corporation, a change of one or more</u>	78392
<u>members of the corporation's governing body or transfer of</u>	78393
<u>ownership of one or more shares of the corporation's stock, if the</u>	78394
<u>same corporation continues to be the operator.</u>	78395
<u>(F) "Cost center" means the following:</u>	78396
<u>(1) Capital costs;</u>	78397
<u>(2) Direct care costs;</u>	78398
<u>(3) Indirect care costs;</u>	78399
<u>(4) Other protected costs.</u>	78400
<u>(G) "Costs of nonextensive renovations" means the actual</u>	78401
<u>expense incurred by an ICF/IID for depreciation or amortization</u>	78402
<u>and interest on renovations that are not extensive renovations.</u>	78403
<u>(H)(1) "Costs of ownership" means the actual expenses</u>	78404
<u>incurred by an ICF/IID for all of the following:</u>	78405
<u>(a) Subject to division (H)(2) of this section, depreciation</u>	78406
<u>and interest on any capital assets that cost five hundred dollars</u>	78407
<u>or more per item, including the following:</u>	78408
<u>(i) Buildings;</u>	78409
<u>(ii) Building improvements that are not approved as</u>	78410
<u>nonextensive renovations under section 5124.17 of the Revised</u>	78411
<u>Code;</u>	78412
<u>(iii) Equipment;</u>	78413
<u>(iv) Extensive renovations;</u>	78414

<u>(v) Transportation equipment.</u>	78415
<u>(b) Amortization and interest on land improvements and leasehold improvements;</u>	78416 78417
<u>(c) Amortization of financing costs;</u>	78418
<u>(d) Except as provided in division (Z) of this section, lease and rent of land, building, and equipment.</u>	78419 78420
<u>(2) The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with an ICF/IID provider's practice.</u>	78421 78422 78423
<u>(I)(1) "Date of licensure" means the following:</u>	78424
<u>(a) In the case of an ICF/IID that was originally licensed as a nursing home under Chapter 3721. of the Revised Code, the date that it was originally so licensed, regardless that it was subsequently licensed as a residential facility under section 5123.19 of the Revised Code;</u>	78425 78426 78427 78428 78429
<u>(b) In the case of an ICF/IID that was originally licensed as a residential facility under section 5123.19 of the Revised Code, the date it was originally so licensed;</u>	78430 78431 78432
<u>(c) In the case of an ICF/IID that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it first was operated as a residential facility, regardless of the date the ICF/IID was first licensed as a nursing home or residential facility.</u>	78433 78434 78435 78436 78437 78438
<u>(2) If, after an ICF/IID's original date of licensure, more residential facility beds are added to the ICF/IID or all or part of the ICF/IID undergoes an extensive renovation, the ICF/IID has a different date of licensure for the additional beds or extensively renovated portion of the ICF/IID. This does not apply, however, to additional beds when both of the following apply:</u>	78439 78440 78441 78442 78443 78444

(a) The additional beds are located in a part of the ICF/IID that was constructed at the same time as the continuing beds already located in that part of the ICF/IID; 78445
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(b) The part of the ICF/IID in which the additional beds are located was constructed as part of the ICF/IID at a time when the ICF/IID was not required by law to be licensed as a nursing home or residential facility. 78448
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(3) The definition of "date of licensure" in this section applies in determinations of ICFs/IID's medicaid payment rates but does not apply in determinations of ICFs/IID's franchise permit fees under sections 5168.60 to 5168.71 of the Revised Code. 78452
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(J) "Desk-reviewed" means that an ICF/IID's costs as reported on a cost report filed under section 5124.10 or 5124.101 of the Revised Code have been subjected to a desk review under section 5124.108 of the Revised Code and preliminarily determined to be allowable costs. 78456
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(K) "Developmental center" means a residential facility that is maintained and operated by the department of developmental disabilities. 78461
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(L) "Direct care costs" means all of the following costs incurred by an ICF/IID: 78464
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(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the ICF/IID; 78466
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(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified intellectual disability professionals, program directors, social services staff, activities staff, off-site day programming, psychologists, psychology assistants, social workers, counselors, 78468
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<u>and other persons holding degrees qualifying them to provide</u>	78476
<u>therapy;</u>	78477
<u>(3) Costs of purchased nursing services;</u>	78478
<u>(4) Costs of training and staff development, employee</u>	78479
<u>benefits, payroll taxes, and workers' compensation premiums or</u>	78480
<u>costs for self-insurance claims and related costs as specified in</u>	78481
<u>rules adopted under section 5124.03 of the Revised Code, for</u>	78482
<u>personnel listed in divisions (L)(1), (2), and (3) of this</u>	78483
<u>section;</u>	78484
<u>(5) Costs of quality assurance;</u>	78485
<u>(6) Costs of consulting and management fees related to direct</u>	78486
<u>care;</u>	78487
<u>(7) Allocated direct care home office costs;</u>	78488
<u>(8) Costs of other direct-care resources that are specified</u>	78489
<u>as direct care costs in rules adopted under section 5124.03 of the</u>	78490
<u>Revised Code.</u>	78491
<u>(M) "Downsized ICF/IID" means an ICF/IID that permanently</u>	78492
<u>reduced its medicaid-certified capacity pursuant to a plan</u>	78493
<u>approved by the department of developmental disabilities under</u>	78494
<u>section 5123.042 of the Revised Code.</u>	78495
<u>(N) "Effective date of a change of operator" means the day</u>	78496
<u>the entering operator becomes the operator of the ICF/IID.</u>	78497
<u>(O) "Effective date of a facility closure" means the last day</u>	78498
<u>that the last of the residents of the ICF/IID resides in the</u>	78499
<u>ICF/IID.</u>	78500
<u>(P) "Effective date of an involuntary termination" means the</u>	78501
<u>date the department of medicaid terminates the operator's provider</u>	78502
<u>agreement for the ICF/IID or the last day that such a provider</u>	78503
<u>agreement is in effect when the department cancels or refuses to</u>	78504
<u>revalidate it.</u>	78505

(Q) "Effective date of a voluntary termination" means the day 78506
the ICF/IID ceases to accept medicaid recipients. 78507

(R) "Entering operator" means the person or government entity 78508
that will become the operator of an ICF/IID when a change of 78509
operator occurs or following an involuntary termination. 78510

(S) "Exiting operator" means any of the following: 78511

(1) An operator that will cease to be the operator of an 78512
ICF/IID on the effective date of a change of operator; 78513

(2) An operator that will cease to be the operator of an 78514
ICF/IID on the effective date of a facility closure; 78515

(3) An operator of an ICF/IID that is undergoing or has 78516
undergone a voluntary termination; 78517

(4) An operator of an ICF/IID that is undergoing or has 78518
undergone an involuntary termination. 78519

(T)(1) "Extensive renovation" means the following: 78520

(a) An ICF/IID's betterment, improvement, or restoration to 78521
which both of the following apply: 78522

(i) It was started before July 1, 1993; 78523

(ii) It meets the definition of "extensive renovation" 78524
established in rules that were adopted by the director of job and 78525
family services and in effect on December 22, 1992. 78526

(b) An ICF/IID's betterment, improvement, or restoration to 78527
which all of the following apply: 78528

(i) It was started on or after July 1, 1993; 78529

(ii) Except as provided in division (T)(2) of this section, 78530
it costs more than sixty-five per cent and not more than 78531
eighty-five per cent of the cost of constructing a new bed; 78532

(iii) It extends the useful life of the assets for at least 78533
ten years. 78534

(2) The department of developmental disabilities may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds. 78535
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(3) For the purpose of division (T)(1)(b)(ii) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the extensive renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics. 78540
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(U)(1) Subject to divisions (U)(2) and (3) of this section, "facility closure" means either of the following: 78548
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(a) Discontinuance of the use of the building, or part of the building, that houses the facility as an ICF/IID that results in the relocation of all of the facility's residents; 78550
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(b) Conversion of the building, or part of the building, that houses an ICF/IID to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use. 78553
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(2) A facility closure occurs regardless of any of the following: 78558
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(a) The operator completely or partially replacing the ICF/IID by constructing a new ICF/IID or transferring the ICF/IID's license to another ICF/IID; 78560
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(b) The ICF/IID's residents relocating to another of the operator's ICFs/IID; 78563
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(c) Any action the department of health takes regarding the ICF/IID's medicaid certification that may result in the transfer of part of the ICF/IID's survey findings to another of the operator's ICFs/IID; 78565
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(d) Any action the department of developmental disabilities takes regarding the ICF/IID's license under section 5123.19 of the Revised Code. 78569
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(3) A facility closure does not occur if all of the ICF/IID's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the ICF/IID not later than thirty days after the evacuation occurs. 78572
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(V) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 78576
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(W) "Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code. 78578
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(X) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code. 78580
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(Y) "ICF/IID services" has the same meaning as in 42 C.F.R. 440.150. 78582
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(Z)(1) "Indirect care costs" means all reasonable costs incurred by an ICF/IID other than capital costs, direct care costs, and other protected costs. "Indirect care costs" includes costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repair expenses, help-wanted advertising, informational advertising, start-up 78584
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costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs, as specified in rules adopted under section 5124.03 of the Revised Code, for personnel listed in this division. Notwithstanding division (H) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the ICF/IID's cost report for the cost reporting period ending December 31, 1992.

(2) For the purpose of division (Z)(1) of this section, an operating lease shall be construed in accordance with generally accepted accounting principles.

(AA) "Inpatient days" means both of the following:

(1) All days during which a resident, regardless of payment source, occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity;

(2) All days for which payment is made under section 5124.34 of the Revised Code.

(BB) "Intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" mean an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(CC) "Involuntary termination" means the department of medicaid's termination of, cancellation of, or refusal to revalidate the operator's provider agreement for the ICF/IID when such action is not taken at the operator's request.

(DD) "Low resource utilization resident" means a medicaid recipient residing in an ICF/IID who is placed in the typical adaptive needs and nonsignificant behaviors classification

pursuant to the resident assessment instrument and grouper methodology established in rules authorized by sections 5124.191 and 5124.192 of the Revised Code. 78627
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(EE) "Maintenance and repair expenses" means, except as provided in division (UU)(2)(b) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes the costs of ordinary repairs such as painting and wallpapering. 78630
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(FF) "Medicaid-certified capacity" means the number of an ICF/IID's beds that are certified for participation in medicaid as ICF/IID beds. 78637
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(GG) "Medicaid days" means both of the following: 78640

(1) All days during which a resident who is a medicaid recipient eligible for ICF/IID services occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity; 78641
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(2) All days for which payment is made under section 5124.34 of the Revised Code. 78645
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(HH)(1) "New ICF/IID" means an ICF/IID for which the provider obtains an initial provider agreement following the director of health's medicaid certification of the ICF/IID, including such an ICF/IID that replaces one or more ICFs/IID for which a provider previously held a provider agreement. 78647
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(2) "New ICF/IID" does not mean either of the following: 78652

(a) An ICF/IID for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code; 78653
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<u>(b) A downsized ICF/IID or partially converted ICF/IID.</u>	78657
<u>(II) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.</u>	78658 78659
<u>(JJ) "Operator" means the person or government entity responsible for the daily operating and management decisions for an ICF/IID.</u>	78660 78661 78662
<u>(KK) "Other protected costs" means costs incurred by an ICF/IID for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5124.03 of the Revised Code.</u>	78663 78664 78665 78666 78667 78668 78669
<u>(LL)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding an ICF/IID:</u>	78670 78671 78672 78673
<u>(a) The land on which the ICF/IID is located;</u>	78674
<u>(b) The structure in which the ICF/IID is located;</u>	78675
<u>(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the ICF/IID is located;</u>	78676 78677 78678
<u>(d) Any lease or sublease of the land or structure on or in which the ICF/IID is located.</u>	78679 78680
<u>(2) "Owner" does not mean a holder of a debenture or bond related to an ICF/IID and purchased at public issue or a regulated lender that has made a loan related to the ICF/IID unless the holder or lender operates the ICF/IID directly or through a subsidiary.</u>	78681 78682 78683 78684 78685
<u>(MM) "Partially converted ICF/IID" means an ICF/IID that</u>	78686

converted some, but not all, of its beds to providing home and community-based services under the individual options waiver pursuant to section 5124.60 of the Revised Code. 78687
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(NN)(1) Except as provided in divisions (NN)(2) and (3) of this section, "per diem" means an ICF/IID's desk-reviewed, actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period. 78690
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(2) When determining capital costs for the purpose of section 5124.17 of the Revised Code, "per diem" means an ICF/IID's actual, allowable capital costs in a cost-reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been ninety-five per cent. 78695
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(3) When determining indirect care costs for the purpose of section 5124.21 of the Revised Code, "per diem" means an ICF/IID's actual, allowable indirect care costs in a cost-reporting period divided by the greater of the ICF/IID's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been eighty-five per cent. 78701
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(OO) "Provider" means an operator with a valid provider agreement. 78708
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(PP) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of an ICF/IID for the provision of ICF/IID services under the medicaid program. 78710
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(OO) "Purchased nursing services" means services that are provided in an ICF/IID by registered nurses, licensed practical nurses, or nurse aides who are not employees of the ICF/IID. 78714
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(RR) "Reasonable" means that a cost is an actual cost that is 78717

appropriate and helpful to develop and maintain the operation of 78718
resident care facilities and activities, including normal standby 78719
costs, and that does not exceed what a prudent buyer pays for a 78720
given item or services. Reasonable costs may vary from provider to 78721
provider and from time to time for the same provider. 78722

(SS) "Related party" means an individual or organization 78723
that, to a significant extent, has common ownership with, is 78724
associated or affiliated with, has control of, or is controlled 78725
by, a provider. 78726

(1) An individual who is a relative of an owner is a related 78727
party. 78728

(2) Common ownership exists when an individual or individuals 78729
possess significant ownership or equity in both the provider and 78730
the other organization. Significant ownership or equity exists 78731
when an individual or individuals possess five per cent ownership 78732
or equity in both the provider and a supplier. Significant 78733
ownership or equity is presumed to exist when an individual or 78734
individuals possess ten per cent ownership or equity in both the 78735
provider and another organization from which the provider 78736
purchases or leases real property. 78737

(3) Control exists when an individual or organization has the 78738
power, directly or indirectly, to significantly influence or 78739
direct the actions or policies of an organization. 78740

(4) An individual or organization that supplies goods or 78741
services to a provider shall not be considered a related party if 78742
all of the following conditions are met: 78743

(a) The supplier is a separate bona fide organization. 78744

(b) A substantial part of the supplier's business activity of 78745
the type carried on with the provider is transacted with others 78746
than the provider and there is an open, competitive market for the 78747
types of goods or services the supplier furnishes. 78748

(c) The types of goods or services are commonly obtained by other ICFs/IID from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/IID. 78749
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(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier. 78753
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(TT) "Relative of owner" means an individual who is related to an owner of an ICF/IID by one of the following relationships: 78757
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(1) Spouse; 78759

(2) Natural parent, child, or sibling; 78760

(3) Adopted parent, child, or sibling; 78761

(4) Stepparent, stepchild, stepbrother, or stepsister; 78762

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; 78763
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(6) Grandparent or grandchild; 78765

(7) Foster caregiver, foster child, foster brother, or foster sister. 78766
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(UU)(1) "Renovation" means the following: 78768

(a) An ICF/IID's betterment, improvement, or restoration to which both of the following apply: 78769
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(i) It was started before July 1, 1993; 78771

(ii) It meets the definition of "renovation" established in rules that were adopted by the director of job and family services and in effect on December 22, 1992. 78772
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(b) An ICF/IID's betterment, improvement, or restoration to which both of the following apply: 78775
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- (i) It was started on or after July 1, 1993; 78777
- (ii) It betters, improves, or restores the ICF/IID beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. 78778
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- (2) A renovation started on or after July 1, 1993, may include both of the following: 78781
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- (a) A betterment, improvement, restoration, or replacement of assets that are affixed to a building and have a useful life of at least five years; 78783
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- (b) Costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. 78786
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- (3) "Renovation" does not mean construction of additional space for beds that will be added to an ICF/IID's licensed capacity or medicaid-certified capacity. 78789
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- (VV) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code. 78792
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- (WW) "Sponsor" means an adult relative, friend, or guardian of an ICF/IID resident who has an interest or responsibility in the resident's welfare. 78794
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- (XX) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq. 78797
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- (YY) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395, et seq. 78799
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- (ZZ) "Voluntary termination" means an operator's voluntary election to terminate the participation of an ICF/IID in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code. 78801
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~~Sec. 5111.226 5124.02.~~ Subject, if needed, to the approval of 78806
the United States secretary of health and human services, the The 78807
department of ~~job and family services~~ medicaid shall enter into a 78808
contract with the department of developmental disabilities under 78809
section ~~5111.91~~ 5162.35 of the Revised Code that provides for the 78810
department of developmental disabilities to assume the powers and 78811
duties of the department of ~~job and family services~~ medicaid with 78812
regard to the medicaid program's coverage of ICF/IID services 78813
~~provided by intermediate care facilities for the mentally~~ 78814
~~retarded.~~ The contract shall include a schedule for the assumption 78815
of the powers and duties. Except as otherwise authorized by the 78816
United States secretary of health and human services, no provision 78817
of the contract may violate a federal law or regulation governing 78818
the medicaid program. ~~Once the contract goes into effect, all~~ 78819
~~references to the department of job and family services, and all~~ 78820
~~references to the director of job and family services, with regard~~ 78821
~~to intermediate care facilities for the mentally retarded that are~~ 78822
~~in law enacted by the general assembly shall be deemed to be~~ 78823
~~references to the department of developmental disabilities and~~ 78824
~~director of developmental disabilities, respectively, to the~~ 78825
~~extent necessary to implement the terms of the contract.~~ 78826
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Sec. 5124.03. To the extent authorized by rules authorized by 78828
section 5162.021 of the Revised Code, the director of 78829
developmental disabilities shall adopt rules in accordance with 78830
Chapter 119. of the Revised Code as necessary to implement this 78831
chapter. 78832

Sec. 5124.05. The medicaid program shall cover ICF/IID 78833
services when all of the following apply: 78834

(A) The ICF/IID services are provided to a medicaid recipient 78835

eligible for the services. 78836

(B) The ICF/IID services are provided by an ICF/IID for which the provider has a valid provider agreement. 78837
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(C) Federal financial participation is available for the ICF/IID services. 78839
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Sec. 5124.06. (A) Subject to section 5124.072 of the Revised Code, an ICF/IID operator is eligible to enter into a provider agreement for an ICF/IID if all of the following apply: 78841
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(1) The ICF/IID is certified by the director of health for participation in medicaid; 78844
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(2) The ICF/IID is licensed by the director of developmental disabilities as a residential facility; 78846
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(3) Subject to division (B) of this section, the operator and ICF/IID comply with all applicable state and federal statutes and rules. 78848
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(B) A state rule that requires an ICF/IID operator to have received approval of a plan for the proposed ICF/IID pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible to receive medicaid payments for ICF/IID services the ICF/IID provides does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the ICF/IID without obtaining approval of such a plan. 78851
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Sec. 5124.07. (A) Except as provided in section 5124.072 of the Revised Code, the department of medicaid shall enter into a provider agreement with an ICF/IID operator who applies, and is eligible, for the provider agreement. 78860
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(B) A provider agreement shall require the department of 78864

developmental disabilities, pursuant to its agreement with the 78865
department of medicaid under section 5124.02 of the Revised Code, 78866
to make medicaid payments to the provider in accordance with this 78867
chapter for ICF/IID services the ICF/IID provides to its residents 78868
who are medicaid recipients eligible for ICF/IID services. 78869

(C) A provider agreement shall require the provider to do all 78870
of the following: 78871

(1) Maintain eligibility for the provider agreement as 78872
provided in section 5124.06 of the Revised Code; 78873

(2) Keep records relating to a cost reporting period for the 78874
greater of seven years after the cost report is filed or, if the 78875
department of developmental disabilities issues an audit report in 78876
accordance with section 5124.109 of the Revised Code, six years 78877
after all appeal rights relating to the audit report are 78878
exhausted; 78879

(3) File reports as the department of developmental 78880
disabilities requires; 78881

(4) Open all records relating to the costs of the ICF/IID's 78882
services for inspection and audit by the department of 78883
developmental disabilities; 78884

(5) Open its premises for inspection by the department of 78885
developmental disabilities, department of health, and any other 78886
state or local authority having authority to inspect; 78887

(6) Supply to the department of developmental disabilities 78888
such information as it requires concerning the ICF/IID's services 78889
to residents who are, or are eligible to be, medicaid recipients; 78890

(7) Comply with section 5124.08 of the Revised Code. 78891

(D) A provider agreement may contain other provisions that 78892
are consistent with law and considered necessary by the department 78893
of medicaid or the department of developmental disabilities. 78894

Sec. 5124.071. An ICF/IID operator may enter into provider agreements for more than one ICF/IID. 78895
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Sec. 5124.072. The department of medicaid, in accordance with rules adopted under section 5165.02 of the Revised Code, may elect not to enter into, not to revalidate, or to terminate an ICF/IID provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or the state. The department shall not revalidate an ICF/IID provider agreement if the provider fails to maintain eligibility for the provider agreement as provided in section 5124.06 of the Revised Code. 78897
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Sec. 5124.08. (A) Every provider agreement with an ICF/IID provider shall do both of the following: 78906
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(1) Except as provided by division (B) of this section, include any part of the ICF/IID that meets federal and state standards for medicaid certification; 78908
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(2) Prohibit the provider from doing either of the following: 78911

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin; 78912
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(b) Subject to division (D) of this section, failing or refusing to do either of the following: 78914
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(i) Admit as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) become, a medicaid recipient if less than eighty per cent of the ICF/IID's residents are medicaid recipients; 78916
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(ii) Retain as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) become, a medicaid recipient. 78920
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(B) Unless otherwise required by federal law, an ICF/IID bed is not required to be included in a provider agreement if the bed is designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5166.20 of the Revised Code. 78923
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(C) For the purpose of division (A)(2)(b)(ii) of this section, a medicaid recipient who is a resident of an ICF/IID shall be considered a resident of the ICF/IID during any hospital stays totaling less than twenty-five days during any twelve-month period. A medicaid recipient identified by the department of developmental disabilities or its designee as requiring the level of care of an ICF/IID shall not be subject to a maximum period of absences during which the recipient is considered to be an ICF/IID resident if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained in accordance with rules adopted under section 5124.03 of the Revised Code. 78928
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(D) Nothing in this section shall bar a provider from doing any of the following: 78940
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(1) If the provider is a religious organization operating a religious or denominational ICF/IID, giving preference to persons of the same religion or denomination; 78942
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(2) Giving preference to persons with whom the provider has contracted to provide continuing care; 78945
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(3) Retaining residents who have resided in the provider's ICF/IID for not less than one year as private pay residents and who subsequently become medicaid recipients but refusing to admit as a resident an individual who is, or may (as a resident of the ICF/IID) become, a medicaid recipient, if all of the following apply: 78947
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(a) The provider does not refuse to retain a resident who has 78953

resided in the provider's ICF/IID for not less than one year as a private pay resident because the resident becomes a medicaid recipient, except as necessary to comply with division (D)(3)(b) of this section. 78954
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(b) The number of medicaid recipients retained under division (D)(3) of this section does not at any time exceed ten per cent of all the ICF/IID's residents. 78958
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(c) On July 1, 1980, all the ICF/IID's residents were private pay residents. 78961
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(E) No provider shall violate the provider agreement obligations imposed by this section. 78963
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Sec. 5124.081. An ICF/IID resident has a cause of action against the provider of the ICF/IID for breach of the provider agreement obligations or other duties imposed by section 5124.08 of the Revised Code. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor, by the filing of a civil action in the court of common pleas of the county in which the ICF/IID is located or in the court of common pleas of Franklin county. 78965
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If a court of common pleas finds that a provider has breached a provider agreement obligation or other duty imposed by section 5124.08 of the Revised Code, the court may do one or more of the following: 78973
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(A) Enjoin the provider from engaging in the practice; 78977

(B) Order such affirmative relief as may be necessary; 78978

(C) Award to a resident and a sponsor that brings the action on behalf of a resident actual damages, costs, and reasonable attorney's fees. 78979
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Sec. 5124.10. (A) Except as provided in division (D) of this 78982

section and division (E)(2) of section 5124.101 of the Revised Code, each ICF/IID provider shall file with the department of developmental disabilities an annual cost report for each of the provider's ICFs/IID for which the provider has a valid provider agreement. The cost report for a year shall cover the calendar year or portion of the calendar year during which the ICF/IID participated in the medicaid program. Except as provided in division (E) of this section, the cost report is due not later than ninety days after the end of the calendar year, or portion of the calendar year, that the cost report covers. 78983
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(B)(1) If an ICF/IID undergoes a change of provider that the department determines, in accordance with rules adopted under section 5124.03 of the Revised Code, is not an arms length transaction, the new provider shall file the ICF/IID's cost report in accordance with division (A) of this section and the cost report shall cover the portion of the calendar year during which the new provider operated the ICF/IID and the portion of the calendar year during which the previous provider operated the ICF/IID. 78993
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(2) If an ICF/IID undergoes a change of provider that the department determines, in accordance with rules adopted under section 5124.03 of the Revised Code, is an arms length transaction, the new provider shall file with the department a cost report for the ICF/IID not later than, except as provided in division (E) of this section, ninety days after the end of the ICF/IID's first three full calendar months of operation under the new provider. The cost report shall cover the period that begins with the ICF/IID's first day of operation under the new provider and ends on the first day of the month immediately following the first three full months of operation under the new provider. 79002
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(C) If the medicaid payment rate for a new ICF/IID was most 79013

recently determined in accordance with section 5124.151 of the Revised Code, the provider shall file with the department a cost report for the new ICF/IID not later than, except as provided in division (E) of this section, ninety days after the end of the new ICF/IID's first three full calendar months of operation. The cost report shall cover the period that begins with the ICF/IID's first day of operation and ends on the first day of the month immediately following the first three full months of operation.

(D) An ICF/IID provider is not required to file a cost report for an ICF/IID for a calendar year in accordance with division (A) of this section if the provider files a cost report for the ICF/IID under division (B)(2) or (C) of this section and that cost report covers a period that begins after the first day of October of that calendar year. The provider shall file a cost report for the ICF/IID in accordance with division (A) of this section for the immediately following calendar year.

(E) The department may grant to a provider a fourteen-day extension to file a cost report under this section or section 5124.101 of the Revised Code if the provider provides the department a written request for the extension and the department determines that there is good cause for the extension.

Sec. 5124.101. (A) The provider of an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID may file with the department of developmental disabilities a cost report covering the period specified in division (B) of this section if the ICF/IID has both of the following on the day it becomes a downsized ICF/IID or partially converted ICF/IID:

(1) A medicaid-certified capacity that is at least ten per cent less than its medicaid-certified capacity on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID;

(2) At least five fewer beds certified as ICF/IID beds than it has on the day immediately preceding the day it becomes a downsized ICF/IID or partially converted ICF/IID. 79045
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(B) A cost report filed under division (A) of this section shall cover the period that begins with the day that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID and ends on the first day of the month immediately following the first three full months of operation as a downsized ICF/IID or partially converted ICF/IID. 79048
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(C) The department shall refuse to accept a cost report filed under division (A) of this section if either of the following apply: 79054
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(1) Except as provided in division (E) of section 5124.10 of the Revised Code, the provider fails to file the cost report with the department not later than ninety days after the last day of the period the cost report covers; 79057
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(2) The cost report is incomplete or inadequate. 79061

(D) If the department accepts a cost report filed under division (A) of this section, the department shall determine the ICF/IID's medicaid payment rate in accordance with this chapter using that cost report. The provider shall be paid that rate for ICF/IID services the ICF/IID provides during the period that begins and ends as follows: 79062
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(1) The period begins on the following: 79068

(a) The day that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if that day is the first day of a month; 79069
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(b) The first day of the month immediately following the month that the ICF/IID becomes a downsized ICF/IID or partially converted ICF/IID if division (D)(1)(a) of this section does not 79072
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apply. 79075

(2) The period ends on the first day of the fiscal year for which the ICF/IID begins to be paid a rate determined using a cost report that division (E) of this section requires be filed in accordance with division (A) of section 5124.10 of the Revised Code. 79076
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(E)(1) If the department accepts a cost report filed under division (A) of this section for an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID on or before the first day of October of a calendar year, the provider also shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code for the portion of that calendar year that the ICF/IID operated as a downsized ICF/IID or partially converted ICF/IID. 79081
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(2) If the department accepts a cost report filed under division (A) of this section for an ICF/IID that becomes a downsized ICF/IID or partially converted ICF/IID after the first day of October of a calendar year, the provider is not required to file a cost report for that calendar year in accordance with division (A) of section 5124.10 of the Revised Code. The provider shall file a cost report for the ICF/IID in accordance with division (A) of section 5124.10 of the Revised Code for the immediately following calendar year. 79089
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Sec. 5124.102. No ICF/IID provider shall report fines paid under section 5124.99 of the Revised Code in a cost report filed under section 5124.10, 5124.101, or 5124.522 of the Revised Code. 79098
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Sec. 5124.103. Cost reports shall be completed using the form prescribed under section 5124.104 of the Revised Code and in accordance with the guidelines established under that section. 79101
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Sec. 5124.104. The department of developmental disabilities shall do all of the following: 79104
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(A) Prescribe the form to be used for completing a cost report and a uniform chart of accounts for the purpose of reporting costs on the form; 79106
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(B) Distribute a paper copy of the form, or computer software for electronic submission of the form, to each provider at least sixty days before the date the cost report is due; 79109
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(C) Establish guidelines for completing the form. 79112

Sec. 5124.105. The department of developmental disabilities shall develop an addendum to the cost report form that an ICF/IID provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining an ICF/IID's medicaid payment rate. If the department does not consider such costs in determining an ICF/IID's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section 5124.38 of the Revised Code. If the department subsequently includes such costs in an ICF/IID's medicaid payment rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under section 5124.03 of the Revised Code for the period that the rate excluded the costs. 79113
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Sec. 5124.106. If an ICF/IID provider required by section 5124.10 of the Revised Code to file a cost report for the ICF/IID fails to file the cost report by the date it is due or the date, if any, to which the due date is extended pursuant to division (E) of that section, or files an incomplete or inadequate report for the ICF/IID under that section, the department of developmental disabilities shall provide immediate written notice to the provider that the provider agreement for the ICF/IID will be 79126
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terminated in thirty days unless the provider submits a complete 79134
and adequate cost report for the ICF/IID within thirty days. 79135
During the thirty-day termination period or any additional time 79136
allowed for an appeal of the proposed termination of a provider 79137
agreement, the provider shall be paid the ICF/IID's then current 79138
per medicaid day payment rate, minus the dollar amount by which 79139
ICFs/IID's per medicaid day payment rates are reduced during 79140
fiscal year 2013 in accordance with division (A)(2) of section 79141
5111.26 of the Revised Code (renumbered as section 5165.10 of the 79142
Revised Code by H.B. ... of the 130th general assembly) as that 79143
section existed on the day immediately preceding the effective 79144
date of this section. On the first day of each July, the 79145
department shall adjust the amount of the reduction in effect 79146
during the previous twelve months to reflect the rate of inflation 79147
during the preceding twelve months, as shown in the consumer price 79148
index for all items for all urban consumers for the north central 79149
region, published by the United States bureau of labor statistics. 79150

Sec. 5124.107. (A) Except as provided in division (B) of this 79151
section and not later than three years after an ICF/IID provider 79152
files a cost report with the department of developmental 79153
disabilities under section 5124.10 or 5124.101 of the Revised 79154
Code, the provider may amend the cost report if the provider 79155
discovers a material error in the cost report or additional 79156
information to be included in the cost report. The department 79157
shall review the amended cost report for accuracy and notify the 79158
provider of its determination. 79159

(B) An ICF/IID provider may not amend a cost report if the 79160
department has notified the provider that an audit of the cost 79161
report or a cost report of the provider for a subsequent cost 79162
reporting period is to be conducted under section 5124.109 of the 79163
Revised Code. The provider may, however, provide the department 79164

information that affects the costs included in the cost report. 79165
Such information may not be provided after the adjudication of the 79166
final settlement of the cost report. 79167

Sec. 5124.108. The department of developmental disabilities 79168
shall conduct a desk review of all cost reports it receives under 79169
sections 5124.10, 5124.101, and 5124.522 of the Revised Code. 79170
Based on the desk review, the department shall make a preliminary 79171
determination of whether the reported costs are allowable costs. 79172
The department shall notify each ICF/IID provider of whether any 79173
of the reported costs are preliminarily determined not to be 79174
allowable costs, the medicaid payment rate determined under this 79175
chapter as a result of the determination regarding allowable 79176
costs, and the reasons for the determination and resulting rate. 79177
The department shall allow the provider to verify the calculation 79178
and submit additional information. 79179

Sec. 5124.109. (A) The department of developmental 79180
disabilities may conduct an audit, as defined in rules adopted 79181
under section 5124.03 of the Revised Code, of any cost report 79182
filed under section 5124.10, 5124.101, or 5124.522 of the Revised 79183
Code. The decision whether to conduct an audit and the scope of 79184
the audit, which may be a desk or field audit, may be determined 79185
based on prior performance of the provider, a risk analysis, or 79186
other evidence that gives the department reason to believe that 79187
the provider has reported costs improperly. A desk or field audit 79188
may be performed annually, but is required whenever a provider 79189
does not pass the risk analysis tolerance factors. 79190

(B) Audits shall be conducted by auditors under contract with 79191
the department, auditors working for firms under contract with the 79192
department, or auditors employed by the department. 79193

The department may establish a contract for the auditing of 79194

ICFs/IID by outside firms. Each contract entered into by bidding shall be effective for one to two years. 79195
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(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The department shall issue the audit report not later than three years after the earlier of the following: 79197
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(1) The date the cost report is filed; 79201

(2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed. 79202
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(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5124.41 of the Revised Code. 79204
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(E)(1) The department shall establish an audit manual and program for field audits conducted under this section. Each auditor conducting a field audit under this section shall follow the audit manual and program, regardless of whether the auditor is under contract with the department, works for a firm under contract with the department, or is employed by the department. The manual and program shall do both of the following: 79212
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(a) Require each field audit to be conducted by an auditor to whom all of the following apply: 79219
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(i) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of ICFs/IID in this state. 79221
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<u>(ii) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm.</u>	79226
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<u>(iii) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office.</u>	79228
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<u>(b) Require each auditor conducting a field audit to do all of the following:</u>	79232
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<u>(i) Comply with applicable rules prescribed pursuant to Title XIX;</u>	79234
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<u>(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;</u>	79236
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<u>(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;</u>	79239
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<u>(iv) Complete the audit within the time period specified by the department;</u>	79245
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<u>(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's ICF/IID is entitled.</u>	79247
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<u>(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by an ICF/IID that</u>	79254
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the auditor does not audit does not constitute a direct or 79256
indirect financial interest in the ownership, financing, or 79257
operation of the ICF/IID. 79258

Sec. ~~5111.224~~ 5124.15. (A) Except as otherwise provided by 79259
sections ~~5111.20~~ 5165.151 to ~~5111.331~~ 5165.155 of the Revised Code 79260
and ~~by~~ division (B) of this section, the ~~payments~~ total per 79261
medicaid day payment rate that the department of ~~job and family~~ 79262
~~services~~ developmental disabilities shall ~~agree to make pay to the~~ 79263
~~an ICF/IID provider of an intermediate care facility for the~~ 79264
~~mentally retarded pursuant to a provider agreement for ICF/IID~~ 79265
services the provider's ICF/IID provides during a fiscal year 79266
shall equal the sum of all of the following: 79267

(1) The per medicaid day payment rate for capital costs 79268
determined for the ICF/IID under section 5124.17 of the Revised 79269
Code; 79270

(2) The per medicaid day payment rate for direct care costs 79271
determined for the ~~facility~~ ICF/IID under section ~~5111.23~~ 5124.19 79272
of the Revised Code; 79273

~~(2)~~(3) The per medicaid day payment rate for indirect care 79274
costs determined for the ICF/IID under section 5124.21 of the 79275
Revised Code; 79276

(4) The per medicaid day payment rate for other protected 79277
costs determined for the ~~facility~~ ICF/IID under section ~~5111.235~~ 79278
5124.23 of the Revised Code; 79279

~~(3)~~ The rate for indirect care costs determined for the 79280
facility under section 5111.241 of the Revised Code; 79281

~~(4)~~ The rate for capital costs determined for the facility 79282
under section 5111.251 of the Revised Code. 79283

(B) The department shall adjust the total rate otherwise 79284
determined under division (A) of this section as directed by the 79285

general assembly through the enactment of law governing medicaid 79286
payments to ICF/IID providers ~~of intermediate care facilities for~~ 79287
~~the mentally retarded.~~ 79288

(C) In addition to paying an ICF/IID provider the total rate 79289
determined for the provider's ICF/IID under divisions (A) and (B) 79290
of this section for a fiscal year, the department, in accordance 79291
with section 5124.25 of the Revised Code, may pay the provider a 79292
rate add-on for pediatric ventilator-dependent outlier ICF/IID 79293
services if the rate add-on is to be paid under that section and 79294
the department approves the provider's application for the rate 79295
add-on. The rate add-on is not to be part of the ICF/IID's total 79296
rate. 79297

Sec. ~~5111.255~~ 5124.151. (A) ~~The department of job and family~~ 79298
~~services shall establish initial rates for an intermediate care~~ 79299
~~facility for the mentally retarded with a first date of licensure~~ 79300
~~that is on or after January 1, 1993, including a facility that~~ 79301
~~replaces one or more existing facilities, or for an intermediate~~ 79302
~~care facility for the mentally retarded with a first date of~~ 79303
~~licensure before that date that was initially certified for the~~ 79304
~~medicaid program on or after that date, total per medicaid day~~ 79305
~~payment rate determined under section 5124.15 of the Revised Code~~ 79306
~~shall not be the initial rate for ICF/IID services provided by a~~ 79307
~~new ICF/IID. Instead, the initial total per medicaid day payment~~ 79308
~~rate for ICF/IID services provided by a new ICF/IID shall be~~ 79309
~~determined in the following manner:~~ 79310

(1) The initial rate for capital costs shall be determined 79311
under section 5124.17 of the Revised Code using the greater of the 79312
new ICF/IID's actual inpatient days or an imputed occupancy rate 79313
of eighty per cent. 79314

(2) The initial rate for direct care costs shall be 79315
determined as follows: 79316

(a) If there are no cost or resident assessment data for the 79317
new ICF/IID as necessary to ~~calculate~~ determine a rate under 79318
section ~~5111.23~~ 5124.19 of the Revised Code, the rate shall be 79319
determined as follows: 79320

(i) Determine the median cost per case-mix unit ~~calculated~~ 79321
determined under division (B)~~(1)~~ of ~~that~~ section 5124.19 of the 79322
Revised Code for the ~~relevant~~ new ICF/IID's peer group for the 79323
calendar year preceding the fiscal year in which the rate will be 79324
paid, ~~multiplied;~~ 79325

(ii) Multiply the amount determined under division 79326
(A)(2)(a)(i) of this section by the median annual average case-mix 79327
score for the new ICF/IID's peer group for that period ~~and;~~ 79328

(iii) Adjust the product determined under division 79329
(A)(2)(a)(ii) of this section by the rate of inflation estimated 79330
under division ~~(B)(3)(D)~~ of ~~that~~ section 5124.19 of the Revised 79331
Code. This rate shall be recalculated to reflect the facility's 79332
actual ~~quarterly average case mix score, in accordance with that~~ 79333
~~section, after it submits its first quarterly assessment data that~~ 79334
~~qualifies for use in calculating a case mix score in accordance~~ 79335
~~with rules authorized by division (E) of section 5111.232 of the~~ 79336
~~Revised Code. If the facility's first two quarterly submissions do~~ 79337
~~not contain assessment data that qualifies for use in calculating~~ 79338
~~a case mix score, the department shall continue to calculate the~~ 79339
~~rate using the median annual case mix score for the peer group in~~ 79340
~~lieu of an assigned quarterly case mix score. The department shall~~ 79341
~~assign a case mix score or, if necessary, a cost per case mix unit~~ 79342
~~under division (D) of section 5111.232 of the Revised Code for any~~ 79343
~~subsequent submissions that do not contain assessment data that~~ 79344
~~qualifies for use in calculating a case mix score.~~ 79345

(b) If the ~~facility~~ new ICF/IID is a replacement ~~facility~~ 79346
ICF/IID and the ~~facility~~ ICF/IID or ~~facilities~~ ICFs/IID that are 79347
being replaced are in operation immediately before the ~~replacement~~ 79348

~~facility~~ new ICF/IID opens, the rate shall be the same as the rate for the replaced ~~facility~~ ICF/IID or ~~facilities~~ ICFs/IID, proportionate to the number of ICF/IID beds in each replaced ~~facility~~ ICF/IID. ~~If one or more of the replaced facilities is~~

(c) If the new ICF/IID is a replacement ICF/IID and the ICF/IID or ICFs/IID that are being replaced are not in operation immediately before the ~~replacement facility~~ new ICF/IID opens, its ~~proportion~~ the rate shall be determined under division (A)~~(1)~~(2)(a) of this section.

~~(2)~~(3) The initial rate for indirect care costs shall be the maximum rate for the new ICF/IID's peer group as determined for the fiscal year in accordance with division (C) of section 5124.21 of the Revised Code.

(4) The initial rate for other protected costs shall be one hundred fifteen per cent of the median rate for ~~intermediate care facilities for the mentally retarded~~ calculated ICFs/IID determined for the fiscal year under section ~~5111.235~~ 5124.23 of the Revised Code.

~~(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section 5111.241 of the Revised Code.~~

~~(4) The rate for capital costs shall be determined under section 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.~~

(B) If a new ICF/IID's initial rate for direct care costs is determined under division (A)(2)(a) of this section, the department shall redetermine the rate in accordance with section 5124.19 of the Revised Code to reflect the new ICF/IID's actual quarterly case-mix score, after the provider, in accordance with section 5124.191 of the Revised Code, submits the first quarterly resident assessment data for the ICF/IID that qualifies for use in

determining a case-mix score. If the first two quarterly 79380
submissions for the ICF/IID do not contain resident assessment 79381
data that qualifies for use in determining a case-mix score, the 79382
department shall continue to determine the ICF/IID's rate using 79383
the median annual case-mix score for the peer group in lieu of an 79384
assigned quarterly case-mix score. The department shall assign a 79385
case-mix score or, if necessary, a cost per case-mix unit under 79386
division (B) of section 5124.192 of the Revised Code for any 79387
subsequent submissions that do not contain resident assessment 79388
data that qualifies for use in determining a case-mix score. 79389

(C) The department shall adjust ~~the rates established~~ a new 79390
ICF/IID's initial total per medicaid day payment rate determined 79391
under ~~division (A)~~ of this section at both of the following times: 79392
79393

(1) Effective the first day of July, to reflect new rate 79394
calculations determinations for all facilities ICFs/IID under 79395
sections ~~5111.20 to 5111.331~~ of the Revised Code this chapter; 79396

(2) Following the provider's submission of the ~~facility's~~ 79397
ICF/IID's cost report under division ~~(A)(1)(b)~~(C) of section 79398
5111.26 5124.10 of the Revised Code. 79399

The department shall pay the rate adjusted based on the cost 79400
report beginning the first day of the calendar quarter that begins 79401
more than ninety days after the department receives the cost 79402
report. 79403

Sec. 5124.152. The total per medicaid day payment rate 79404
determined under section 5124.15 of the Revised Code shall not be 79405
paid for ICF/IID services provided on or after July 1, 2014, to 79406
low resource utilization residents. Instead, the total per 79407
medicaid day payment rate for such ICF/IID services shall be a 79408
flat rate set in rules adopted under section 5124.03 of the 79409
Revised Code. 79410

Sec. 5124.153. (A) The total per medicaid day payment rate 79411
determined under section 5124.15 of the Revised Code shall not be 79412
paid for ICF/IID services provided by an ICF/IID, or discrete unit 79413
of an ICF/IID, designated by the department of developmental 79414
disabilities as an outlier ICF/IID or unit. Instead, the provider 79415
of a designated outlier ICF/IID or unit shall be paid each fiscal 79416
year a total per medicaid day payment rate that the department 79417
shall prospectively determine in accordance with a methodology 79418
established in rules authorized by this section. 79419

(B) The department may designate an ICF/IID, or discrete unit 79420
of an ICF/IID, as an outlier ICF/IID or unit if the ICF/IID or 79421
unit serves residents who have either of the following: 79422

(1) Diagnoses or special care needs that require direct care 79423
resources that are not measured adequately by the resident 79424
assessment instrument specified in rules authorized by section 79425
5124.191 of the Revised Code; 79426

(2) Diagnoses or special care needs that are specified in 79427
rules authorized by this section as otherwise qualifying for 79428
consideration under this section. 79429

(C) Notwithstanding any other provision of this chapter, the 79430
costs incurred by a designated outlier ICF/IID or unit shall not 79431
be considered in establishing medicaid payment rates for other 79432
ICFs/IID or units. 79433

(D) The director of developmental disabilities shall adopt 79434
rules under section 5124.03 of the Revised Code as necessary to 79435
implement this section. 79436

(1)(a) The rules shall do both of the following: 79437

(i) Specify the criteria and procedures the department will 79438
apply when designating an ICF/IID, or discrete unit of an ICF/IID, 79439
as an outlier ICF/IID or unit; 79440

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for ICF/IID services provided by a designated outlier ICF/IID or unit. 79441
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(b) The rules adopted under division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall do both of the following: 79445
79446
79447

(i) Provide for consideration of whether all of the allowable costs of an ICF/IID, or discrete unit of an ICF/IID, would be paid by the rate determined under section 5124.15 of the Revised Code; 79448
79449
79450

(ii) Specify the minimum number of ICF/IID beds that an ICF/IID, or discrete unit of an ICF/IID, must have to be designated an outlier ICF/IID or unit. 79451
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(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall not limit the designation to ICFs/IID, or discrete units of ICFs/IID, located in large cities. 79454
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(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier ICFs/IID and units shall provide for the methodology to consider the historical costs of providing ICF/IID services to the residents of designated outlier ICFs/IID and units. 79458
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(2)(a) The rules may do both of the following: 79464

(i) Include for designation as an outlier ICF/IID or unit, an ICF/IID, or discrete unit of an ICF/IID, that serves residents who have complex medical conditions or severe behavioral problems; 79465
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(ii) Require that a designated outlier ICF/IID or unit receive authorization from the department before admitting or retaining a resident. 79468
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79470

(b) If the director adopts rules authorized by division 79471
(D)(2)(a)(ii) of this section regarding the authorization of a 79472
designated outlier ICF/IID or unit to admit or retain a resident, 79473
the rules shall specify the criteria and procedures the department 79474
will apply when granting the authorization. 79475

Sec. 5124.154. (A) To the extent, if any, provided for in 79476
rules authorized by this section, the total per medicaid day 79477
payment rate determined under section 5124.15 of the Revised Code 79478
shall not be paid for ICF/IID services that an ICF/IID not 79479
designated as an outlier ICF/IID or unit provides to a resident 79480
who meets the criteria for admission to a designated outlier 79481
ICF/IID or unit, as specified in rules authorized by section 79482
5124.153 of the Revised Code. Instead, the provider of an ICF/IID 79483
providing ICF/IID services to such a resident shall be paid each 79484
fiscal year a total per medicaid day payment rate that the 79485
department shall prospectively determine in accordance with a 79486
methodology established in rules authorized by this section. 79487

(B) The director of developmental disabilities may adopt 79488
rules under section 5124.03 of the Revised Code to implement this 79489
section. The rules may require that an ICF/IID receive 79490
authorization from the department before admitting or retaining a 79491
resident who meets the criteria for admission to a designated 79492
outlier ICF/IID or unit. If the director adopts such rules, the 79493
rules shall specify the criteria and procedures the department 79494
will apply when granting the authorization. 79495

Sec. ~~5111.291~~ 5124.155. ~~Notwithstanding sections 5111.20 to 79496~~
~~5111.331 of the Revised Code~~ The department of developmental 79497
disabilities is not required to pay the total per medicaid day 79498
payment rates determined under section 5124.15 of the Revised Code 79499
for ICF/IID services provided by developmental centers. Instead, 79500
the department of ~~job and family services~~ may ~~compute~~ determine 79501

the ~~rate~~ medicaid payment rates for ~~intermediate care facilities~~ 79502
for the ~~mentally retarded operated by the department of~~ 79503
~~developmental disabilities or the department of mental health~~ 79504
centers according to the reasonable cost principles of Title 79505
XVIII. 79506

Sec. ~~5111.251~~ 5124.17. (A) ~~The~~ For each fiscal year, the 79507
department of ~~job and family services~~ developmental disabilities 79508
shall ~~pay a provider for~~ prospectively determine each of the 79509
~~provider's eligible intermediate care facilities for the mentally~~ 79510
~~retarded for its reasonable capital costs, a~~ ICF/IID's per 79511
~~resident per~~ medicaid day payment rate established ~~prospectively~~ 79512
each fiscal year for each ~~intermediate care facility for the~~ 79513
~~mentally retarded~~ for reasonable capital costs. Except as 79514
otherwise provided in ~~sections 5111.20 to 5111.331 of the Revised~~ 79515
~~Code~~ this chapter, ~~the~~ an ICF/IID's rate shall be based on the 79516
~~facility's~~ ICF/IID's capital costs for the calendar year preceding 79517
the fiscal year in which the rate will be paid. ~~The~~ Subject to 79518
section 5124.28, an ICF/IID's rate shall equal the sum of the 79519
following: 79520

(1) ~~The facility's~~ ICF/IID's desk-reviewed, actual, 79521
allowable, per diem ~~cost~~ costs of ownership for the immediately 79522
preceding cost reporting period, limited as provided in divisions 79523
(B) and (C) ~~and (F)~~ of this section; 79524

(2) ~~Any efficiency incentive determined under division (B) of~~ 79525
~~this section;~~ 79526

~~(3) Any amounts for~~ The ICF/IID's per medicaid day payment 79527
for the ICF/IID's per diem capitalized costs of nonextensive 79528
renovations determined under division (D)(1) of this section if 79529
the ICF/IID qualifies for a payment for such costs as specified in 79530
division (D)(2) of this section; 79531

~~(4) Any amounts for return on equity determined under~~ 79532

~~division (H) of this section (3) The ICF/IID's per medicaid day
efficiency incentive payment determined under division (E) of this
section.~~ 79533
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~~Buildings shall be depreciated using the straight line method
over forty years or over a different period approved by the
department. Components and equipment shall be depreciated using
the straight line method over a period designated by the director
of job and family services in rules adopted under section 5111.02
of the Revised Code, consistent with the guidelines of the
American hospital association, or over a different period approved
by the department of job and family services. Any rules authorized
by this division that specify useful lives of buildings,
components, or equipment apply only to assets acquired on or after
July 1, 1993. Depreciation for costs paid or reimbursed by any
government agency shall not be included in costs of ownership or
renovation unless that part of the payment under sections 5111.20
to 5111.331 of the Revised Code is used to reimburse the
government agency.~~ 79536
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~~(B) The department of job and family services shall pay to a
provider for each of the provider's eligible intermediate care
facilities for the mentally retarded an efficiency incentive equal
to fifty per cent of the difference between any desk reviewed,
actual, allowable cost of ownership and the applicable limit on
cost of ownership payments under division (C) of this section. For
purposes of computing the efficiency incentive, depreciation for
costs paid or reimbursed by any government agency shall be
considered as a cost of ownership, and the applicable limit under
division (C) of this section shall apply both to facilities with
more than eight beds and facilities with eight or fewer beds. The
efficiency incentive paid to a provider for a facility with eight
or fewer beds shall not exceed three dollars per patient day,
adjusted annually for the inflation rate for the twelve month~~ 79551
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~~period beginning on the first day of July of the calendar year 79565
preceding the calendar year that precedes the fiscal year for 79566
which the efficiency incentive is determined and ending on the 79567
thirtieth day of the following June, using the consumer price 79568
index for shelter costs for all urban consumers for the north 79569
central region, as published by the United States bureau of labor 79570
statistics. 79571~~

~~(C) Cost The costs of ownership payments per diem payment 79572
rates for intermediate care facilities for the mentally retarded 79573
ICFs/IID with more than eight beds shall not exceed the following 79574
limits: 79575~~

~~(1) For ~~facilities~~ ICFs/IID with dates of licensure prior to 79576
January 1, 1958, not exceeding two dollars and fifty cents ~~per 79577~~
~~patient day~~; 79578~~

~~(2) For ~~facilities~~ ICFs/IID with dates of licensure after 79579
December 31, 1957, but prior to January 1, 1968, not exceeding: 79580~~

~~(a) Three dollars and fifty cents ~~per patient day~~ if the cost 79581
of construction was three thousand five hundred dollars or more 79582
per bed; 79583~~

~~(b) Two dollars and fifty cents ~~per patient day~~ if the cost 79584
of construction was less than three thousand five hundred dollars 79585
per bed. 79586~~

~~(3) For ~~facilities~~ ICFs/IID with dates of licensure after 79587
December 31, 1967, but prior to January 1, 1976, not exceeding: 79588~~

~~(a) Four dollars and fifty cents ~~per patient day~~ if the cost 79589
of construction was five thousand one hundred fifty dollars or 79590
more per bed; 79591~~

~~(b) Three dollars and fifty cents ~~per patient day~~ if the cost 79592
of construction was less than five thousand one hundred fifty 79593
dollars per bed, but exceeds three thousand five hundred dollars 79594~~

per bed; 79595

(c) Two dollars and fifty cents ~~per patient day~~ if the cost 79596
of construction was three thousand five hundred dollars or less 79597
per bed. 79598

(4) For ~~facilities~~ ICFs/IID with dates of licensure after 79599
December 31, 1975, but prior to January 1, 1979, not exceeding: 79600

(a) Five dollars and fifty cents ~~per patient day~~ if the cost 79601
of construction was six thousand eight hundred dollars or more per 79602
bed; 79603

(b) Four dollars and fifty cents ~~per patient day~~ if the cost 79604
of construction was less than six thousand eight hundred dollars 79605
per bed but exceeds five thousand one hundred fifty dollars per 79606
bed; 79607

(c) Three dollars and fifty cents ~~per patient day~~ if the cost 79608
of construction was five thousand one hundred fifty dollars or 79609
less per bed, but exceeds three thousand five hundred dollars per 79610
bed; 79611

(d) Two dollars and fifty cents ~~per patient day~~ if the cost 79612
of construction was three thousand five hundred dollars or less 79613
per bed. 79614

(5) For ~~facilities~~ ICFs/IID with dates of licensure after 79615
December 31, 1978, but prior to January 1, 1980, not exceeding: 79616

(a) Six dollars ~~per patient day~~ if the cost of construction 79617
was seven thousand six hundred twenty-five dollars or more per 79618
bed; 79619

(b) Five dollars and fifty cents ~~per patient day~~ if the cost 79620
of construction was less than seven thousand six hundred 79621
twenty-five dollars per bed but exceeds six thousand eight hundred 79622
dollars per bed; 79623

(c) Four dollars and fifty cents ~~per patient day~~ if the cost 79624

of construction was six thousand eight hundred dollars or less per 79625
bed but exceeds five thousand one hundred fifty dollars per bed; 79626

(d) Three dollars and fifty cents ~~per patient day~~ if the cost 79627
of construction was five thousand one hundred fifty dollars or 79628
less but exceeds three thousand five hundred dollars per bed; 79629

(e) Two dollars and fifty cents ~~per patient day~~ if the cost 79630
of construction was three thousand five hundred dollars or less 79631
per bed. 79632

(6) For ~~facilities~~ ICFs/IID with dates of licensure after 79633
December 31, 1979, but prior to January 1, 1981, not exceeding: 79634

(a) Twelve dollars ~~per patient day~~ if the beds were 79635
originally licensed as residential facility beds by the department 79636
of developmental disabilities; 79637

(b) Six dollars ~~per patient day~~ if the beds were originally 79638
licensed as nursing home beds by the department of health. 79639

(7) For ~~facilities~~ ICFs/IID with dates of licensure after 79640
December 31, 1980, but prior to January 1, 1982, not exceeding: 79641

(a) Twelve dollars ~~per patient day~~ if the beds were 79642
originally licensed as residential facility beds by the department 79643
of developmental disabilities; 79644

(b) Six dollars and forty-five cents ~~per patient day~~ if the 79645
beds were originally licensed as nursing home beds by the 79646
department of health. 79647

(8) For ~~facilities~~ ICFs/IID with dates of licensure after 79648
December 31, 1981, but prior to January 1, 1983, not exceeding: 79649

(a) Twelve dollars ~~per patient day~~ if the beds were 79650
originally licensed as residential facility beds by the department 79651
of developmental disabilities; 79652

(b) Six dollars and seventy-nine cents ~~per patient day~~ if the 79653
beds were originally licensed as nursing home beds by the 79654

department of health. 79655

(9) For ~~facilities~~ ICFs/IID with dates of licensure after 79656
December 31, 1982, but prior to January 1, 1984, not exceeding: 79657

(a) Twelve dollars ~~per patient day~~ if the beds were 79658
originally licensed as residential facility beds by the department 79659
of developmental disabilities; 79660

(b) Seven dollars and nine cents ~~per patient day~~ if the beds 79661
were originally licensed as nursing home beds by the department of 79662
health. 79663

(10) For ~~facilities~~ ICFs/IID with dates of licensure after 79664
December 31, 1983, but prior to January 1, 1985, not exceeding: 79665

(a) Twelve dollars and twenty-four cents ~~per patient day~~ if 79666
the beds were originally licensed as residential facility beds by 79667
the department of developmental disabilities; 79668

(b) Seven dollars and twenty-three cents ~~per patient day~~ if 79669
the beds were originally licensed as nursing home beds by the 79670
department of health. 79671

(11) For ~~facilities~~ ICFs/IID with dates of licensure after 79672
December 31, 1984, but prior to January 1, 1986, not exceeding: 79673

(a) Twelve dollars and fifty-three cents ~~per patient day~~ if 79674
the beds were originally licensed as residential facility beds by 79675
the department of developmental disabilities; 79676

(b) Seven dollars and forty cents ~~per patient day~~ if the beds 79677
were originally licensed as nursing home beds by the department of 79678
health. 79679

(12) For ~~facilities~~ ICFs/IID with dates of licensure after 79680
December 31, 1985, but prior to January 1, 1987, not exceeding: 79681

(a) Twelve dollars and seventy cents ~~per patient day~~ if the 79682
beds were originally licensed as residential facility beds by the 79683
department of developmental disabilities; 79684

(b) Seven dollars and fifty cents ~~per patient day~~ if the beds 79685
were originally licensed as nursing home beds by the department of 79686
health. 79687

(13) For ~~facilities~~ ICFs/IID with dates of licensure after 79688
December 31, 1986, but prior to January 1, 1988, not exceeding: 79689

(a) Twelve dollars and ninety-nine cents ~~per patient day~~ if 79690
the beds were originally licensed as residential facility beds by 79691
the department of developmental disabilities; 79692

(b) Seven dollars and sixty-seven cents ~~per patient day~~ if 79693
the beds were originally licensed as nursing home beds by the 79694
department of health. 79695

(14) For ~~facilities~~ ICFs/IID with dates of licensure after 79696
December 31, 1987, but prior to January 1, 1989, not exceeding 79697
thirteen dollars and twenty-six cents ~~per patient day~~; 79698

(15) For ~~facilities~~ ICFs/IID with dates of licensure after 79699
December 31, 1988, but prior to January 1, 1990, not exceeding 79700
thirteen dollars and forty-six cents ~~per patient day~~; 79701

(16) For ~~facilities~~ ICFs/IID with dates of licensure after 79702
December 31, 1989, but prior to January 1, 1991, not exceeding 79703
thirteen dollars and sixty cents ~~per patient day~~; 79704

(17) For ~~facilities~~ ICFs/IID with dates of licensure after 79705
December 31, 1990, but prior to January 1, 1992, not exceeding 79706
thirteen dollars and forty-nine cents ~~per patient day~~; 79707

(18) For ~~facilities~~ ICFs/IID with dates of licensure after 79708
December 31, 1991, but prior to January 1, 1993, not exceeding 79709
thirteen dollars and sixty-seven cents ~~per patient day~~; 79710

(19) For ~~facilities~~ ICFs/IID with dates of licensure after 79711
December 31, 1992, not exceeding fourteen dollars and twenty-eight 79712
cents ~~per patient day~~. 79713

(C)(1) The costs of ownership per diem payment rate for an 79714

ICF/IID with eight or fewer beds shall not exceed the following 79715
limits: 79716

(a) Eighteen dollars and thirty cents as adjusted for 79717
inflation pursuant to division (C)(2) of this section if any of 79718
the following apply to the ICF/IID: 79719

(i) The ICF/IID has a date of licensure, or was granted 79720
project authorization by the department of developmental 79721
disabilities, before July 1, 1993. 79722

(ii) The ICF/IID has a date of licensure, or was granted 79723
project authorization by the department, on or after July 1, 1993, 79724
and the provider demonstrates that the provider made substantial 79725
commitments of funds for the ICF/IID before that date. 79726

(iii) The ICF/IID has a date of licensure, or was granted 79727
project authorization by the department, on or after July 1, 1993, 79728
the provider made no substantial commitment of funds for the 79729
ICF/IID before that date, and the department of job and family 79730
services or department of developmental disabilities gave prior 79731
approval for the ICF/IID's construction. 79732

(b) If division (C)(1)(a) of this section does not apply to 79733
the ICF/IID, the amount that would apply to the ICF/IID under 79734
division (B) of this section if it had more than eight beds. 79735

(2) The eighteen-dollar and thirty-cent payment rate 79736
specified in division (C)(1)(a) of this section shall be increased 79737
as follows: 79738

(a) For the period beginning June 30, 1990, and ending July 79739
1, 1993, by the change in the "Dodge building cost indexes, 79740
northeastern and north central states," published by Marshall and 79741
Swift; 79742

(b) For each fiscal year thereafter, in accordance with 79743
division (F) of this section. 79744

(D)(1) Beginning January 1, 1981, regardless of the original 79745
date of licensure, the ~~department of job and family services shall~~ 79746
~~pay a payment~~ rate for the per diem capitalized costs of 79747
nonextensive renovations to intermediate care facilities for the 79748
mentally retarded made after January 1, 1981, to a qualifying 79749
ICF/IID, shall not exceeding exceed six dollars per patient 79750
medicaid day using 1980 as the base year and adjusting the amount 79751
annually until June 30, 1993, for fluctuations in construction 79752
costs calculated by the department using the "Dodge building cost 79753
indexes, northeastern and north central states," published by 79754
Marshall and Swift. The payment rate shall be further adjusted in 79755
accordance with division (F) of this section. The payment provided 79756
for in this division is the only payment that shall be made for 79757
~~the an ICF/IID's~~ capitalized costs of a nonextensive ~~renovation of~~ 79758
~~an intermediate care facility for the mentally retarded~~ 79759
~~renovations. Nonextensive renovation costs~~ Costs of nonextensive 79760
renovations shall not be included in ~~cost~~ costs of ownership, and 79761
a ~~nonextensive renovation~~ shall not affect the date of licensure 79762
for purposes of division (B) or (C) of this section. This division 79763
applies to nonextensive renovations regardless of whether they are 79764
made by an owner or a lessee. If the tenancy of a lessee that has 79765
made nonextensive renovations ends before the depreciation expense 79766
for the ~~renovation~~ costs of nonextensive renovations has been 79767
fully reported, the former lessee shall not report the 79768
undepreciated balance as an expense. 79769

~~For a nonextensive renovation to qualify~~ (2) An ICF/IID 79770
qualifies for a payment under this division, both for costs of 79771
nonextensive renovations if all of the following conditions must 79772
~~be met~~ apply: 79773

~~(1)~~(a) The ICF/IID has eight or fewer beds. 79774

(b) At least five years have elapsed since the ICF/IID's date 79775
of licensure or date of an extensive renovation of the portion of 79776

the ~~facility~~ ICF/IID that is proposed to be nonextensively 79777
renovated, ~~except that this condition does not apply if unless~~ the 79778
nonextensive renovation is necessary to meet the requirements of 79779
federal, state, or local statutes, ordinances, rules, or policies. 79780

~~(2)(c) The provider has obtained prior approval from the~~ 79781
~~department of job and family services. The provider shall submit~~ 79782
of the ICF/IID does both of the following: 79783

(i) Submits to the department a plan that describes in detail 79784
the changes in capital assets to be accomplished by means of the 79785
nonextensive renovation and the timetable for completing the 79786
project. ~~The time for completion of the project, which shall be no~~ 79787
not more than eighteen months after the nonextensive renovation 79788
begins; 79789

(ii) Obtains prior approval from the department for the 79790
nonextensive renovation. The 79791

(3) The director of ~~job and family services~~ developmental 79792
disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of 79793
the Revised Code that specify criteria and procedures for prior 79794
approval of nonextensive renovation projects. No provider shall 79795
separate a project with the intent to evade the characterization 79796
of the project as a renovation or as an extensive renovation. No 79797
provider shall increase the scope of a project after it is 79798
approved by the department ~~of job and family services~~ unless the 79799
increase in scope is approved by the department. 79800

(E)(1) Subject to division (E)(2) of this section, an 79801
ICF/IID's per medicaid day efficiency incentive payment rate shall 79802
equal the following percentage of the difference between the 79803
ICF/IID's desk-reviewed, actual, allowable per diem costs of 79804
ownership and the applicable limit on costs of ownership payment 79805
rates established by division (B) of this section: 79806

(a) In the case of an ICF/IID with more than eight beds, 79807

twenty-five per cent; 79808

(b) In the case of an ICF/IID with eight or fewer beds, fifty per cent. 79809
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(2) The efficiency incentive payment rate for an ICF/IID with eight or fewer beds shall not exceed three dollars per medicaid day, adjusted annually in accordance with division (F) of this section. For the purpose of determining an ICF/IID's efficiency incentive payment rate, both of the following apply: 79811
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(a) Depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership; 79816
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(b) The applicable limit under division (B) of this section shall apply both to ICFs/IID with more than eight beds and ICFs/IID with eight or fewer beds. 79818
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(F) The amounts specified in divisions (B), (C) and, (D), and (E) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation rate for the twelve-month period beginning on the first day of July of the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics. 79821
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~~(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen dollar and thirty cent amount shall be~~ 79830
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~~increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.~~ 79839
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~~(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.~~ 79846
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~~(3)(G) Notwithstanding divisions (C) and (D) and (F)(1) and (2) of this section, the total payment rate for cost costs of ownership, cost of ownership efficiency incentive, and capitalized costs of nonextensive renovations, and the efficiency incentive for an intermediate care facility for the mentally retarded ICF/IID with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.~~ 79856
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~~(G) Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.~~ 79863
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~~(H) The department of job and family services shall pay a~~ 79870

~~provider for each of the provider's eligible proprietary 79871
intermediate care facilities for the mentally retarded a return on 79872
the facility's net equity computed at the rate of one and one half 79873
times the average of interest rates on special issues of public 79874
debt obligations issued to the federal hospital insurance trust 79875
fund for the cost reporting period. No facility's return on net 79876
equity paid under this division shall exceed one dollar per 79877
patient day. 79878~~

~~In calculating the rate for return on net equity, the 79879
department shall use the greater of the facility's inpatient days 79880
during the applicable cost reporting period or the number of 79881
inpatient days the facility would have had during that period if 79882
its occupancy rate had been ninety five per cent. (1) For the 79883
purpose of determining ICFs/IID's medicaid payment rates for 79884
capital costs: 79885~~

~~(a) Buildings shall be depreciated using the straight line 79886
method over forty years or over a different period approved by the 79887
department. 79888~~

~~(b) Components and equipment shall be depreciated using the 79889
straight line method over a period designated by the director of 79890
developmental disabilities in rules adopted under section 5124.03 79891
of the Revised Code, consistent with the guidelines of the 79892
American hospital association, or over a different period approved 79893
by the department. 79894~~

~~(2) Any rules authorized by division (H)(1) of this section 79895
that specify useful lives of buildings, components, or equipment 79896
apply only to assets acquired on or after July 1, 1993. 79897
Depreciation for costs paid or reimbursed by any government agency 79898
shall not be included in costs of ownership or costs of 79899
nonextensive renovations unless that part of the payment under 79900
this chapter is used to reimburse the government agency. 79901~~

(I)(1) Except as provided in division (I)(2) of this section, 79902
if a provider leases or transfers an interest in ~~a facility~~ an 79903
ICF/IID to another provider who is a related party, the related 79904
party's allowable ~~cost~~ costs of ownership shall include the lesser 79905
of the following: 79906

(a) The annual lease expense or actual cost of ownership, 79907
whichever is applicable; 79908

(b) The reasonable cost to the lessor or provider making the 79909
transfer. 79910

(2) If a provider leases or transfers an interest in ~~a~~ 79911
~~facility~~ an ICF/IID to another provider who is a related party, 79912
regardless of the date of the lease or transfer, the related 79913
party's allowable cost of ownership shall include the annual lease 79914
expense or actual cost of ownership, whichever is applicable, 79915
subject to the limitations specified in divisions (B) to (H) of 79916
this section, if all of the following conditions are met: 79917

(a) The related party is a relative of owner; 79918

(b) In the case of a lease, if the lessor retains any 79919
ownership interest, it is, except as provided in division 79920
(I)(2)(d)(ii) of this section, in only the real property and any 79921
improvements on the real property; 79922

(c) In the case of a transfer, the provider making the 79923
transfer retains, except as provided in division (I)(2)(d)(iv) of 79924
this section, no ownership interest in the ~~facility~~ ICF/IID; 79925

(d) The department ~~of job and family services~~ determines that 79926
the lease or transfer is an arm's length transaction pursuant to 79927
rules adopted under section ~~5111.02~~ 5124.03 of the Revised Code. 79928
The rules shall provide that a lease or transfer is an arm's 79929
length transaction if all of the following, as applicable, apply: 79930

(i) In the case of a lease, once the lease goes into effect, 79931

the lessor has no direct or indirect interest in the lessee or, 79932
except as provided in division (I)(2)(b) of this section, the 79933
~~facility~~ ICF/IID itself, including interest as an owner, officer, 79934
director, employee, independent contractor, or consultant, but 79935
excluding interest as a lessor. 79936

(ii) In the case of a lease, the lessor does not reacquire an 79937
interest in the ~~facility~~ ICF/IID except through the exercise of a 79938
lessor's rights in the event of a default. If the lessor 79939
reacquires an interest in the ~~facility~~ ICF/IID in this manner, the 79940
department shall treat the ~~facility~~ ICF/IID as if the lease never 79941
occurred when the department ~~calculates~~ determines its 79942
~~reimbursement rates~~ payment rate for capital costs. 79943

(iii) In the case of a transfer, once the transfer goes into 79944
effect, the provider that made the transfer has no direct or 79945
indirect interest in the provider that acquires the ~~facility~~ 79946
ICF/IID or the ~~facility~~ ICF/IID itself, including interest as an 79947
owner, officer, director, employee, independent contractor, or 79948
consultant, but excluding interest as a creditor. 79949

(iv) In the case of a transfer, the provider that made the 79950
transfer does not reacquire an interest in the ~~facility~~ ICF/IID 79951
except through the exercise of a creditor's rights in the event of 79952
a default. If the provider reacquires an interest in the ~~facility~~ 79953
ICF/IID in this manner, the department shall treat the ~~facility~~ 79954
ICF/IID as if the transfer never occurred when the department 79955
~~calculates~~ determines its ~~reimbursement rates~~ payment rate for 79956
capital costs. 79957

(v) The lease or transfer satisfies any other criteria 79958
specified in the rules. 79959

(e) Except in the case of hardship caused by a catastrophic 79960
event, as determined by the department, or in the case of a lessor 79961
or provider making the transfer who is at least sixty-five years 79962

of age, not less than twenty years have elapsed since, for the 79963
same facility ICF/IID, allowable cost of ownership was determined 79964
most recently under this division. 79965

~~Sec. 5111.23 5124.19.~~ (A)(1) The department of ~~job and family~~ 79966
~~services developmental disabilities~~ shall ~~pay a provider for~~ 79967
~~prospectively determine~~ each ~~of the provider's eligible~~ 79968
~~intermediate care facilities for the mentally retarded a ICF/IID's~~ 79969
~~per resident per medicaid day payment rate~~ for direct care costs 79970
~~established prospectively for each facility. The department shall~~ 79971
~~establish each facility's rate for direct care costs quarterly as~~ 79972
~~follows:~~ 79973

(a) Multiply the lesser of the following by the ICF/IID's 79974
case-mix score determined or assigned under section 5124.192 of 79975
the Revised Code for the calendar quarter that preceded the 79976
immediately preceding calendar quarter: 79977

(i) The ICF/IID's cost per case-mix unit for the calendar 79978
year immediately preceding the fiscal year in which the rate will 79979
be paid, as determined under division (B) of this section; 79980

(ii) The maximum cost per case-mix unit for the ICF/IID's 79981
peer group for the fiscal year in which the rate will be paid, as 79982
set under division (C) of this section; 79983

(b) Adjust the product determined under division (A)(1)(a) of 79984
this section by the inflation rate estimated under division (D)(1) 79985
of this section and modified under division (D)(2) of this 79986
section. 79987

(2) Except as otherwise directed by law enacted by the 79988
general assembly, the department shall prospectively determine 79989
each ICF/IID's rate for direct care costs for each quarter of 79990
every fiscal year. 79991

~~(B) Each facility's rate for direct care costs shall be based~~ 79992

~~on the facility's cost per case mix unit, subject to the maximum 79993
costs per case mix unit established under division (B)(2) of this 79994
section, from the calendar year preceding the fiscal year in which 79995
the rate is paid. To determine the rate, the department shall do 79996
all of the following: 79997~~

~~(1) Determine each facility's an ICF/IID's cost per case-mix 79998
unit for the calendar year immediately preceding the fiscal year 79999
in which the rate will be paid by dividing, the facility's 80000
department shall divide the ICF/IID's desk-reviewed, actual, 80001
allowable, per diem direct care costs for that calendar year by 80002
its annual average case-mix score determined under section 80003
5111.232 5124.192 of the Revised Code for the same calendar year. 80004~~

~~(2)(a) Set (C)(1) For each fiscal year for which a rate will 80005
be paid, the department shall set the maximum cost per case-mix 80006
unit for each peer group of ~~intermediate care facilities for the~~ 80007
~~mentally retarded ICFs/IID~~ with more than eight beds ~~specified in~~ 80008
~~rules adopted under division (F) of this section~~ at a percentage 80009
above the cost per case-mix unit of determined under division (B) 80010
of this section for the facility ICF/IID in the peer group that 80011
has the peer group's median number of medicaid ~~day~~ days for the 80012
calendar year immediately preceding the fiscal year in which the 80013
rate will be paid, ~~as calculated under division (B)(1) of this~~ 80014
~~section, that is.~~ The percentage shall be no less than the 80015
percentage calculated under division (E)(2) of this section above 80016
the cost per case-mix unit determined under division (B) of this 80017
section for the ICF/IID that has the median number of medicaid 80018
days for calendar year 1992 for all ICFs/IID with more than eight 80019
beds that would result in payment of all desk-reviewed, actual, 80020
allowable direct care costs for eighty and one-half per cent of 80021
the medicaid days for such ICFs/IID for calendar year 1992. 80022~~

~~(b) Set (2) For each fiscal year for which a rate will be 80023
paid, the department shall set the maximum cost per case-mix unit 80024~~

for each peer group of ~~intermediate care facilities for the~~ 80025
~~mentally retarded ICFs/IID~~ with eight or fewer beds ~~specified in~~ 80026
~~rules adopted under division (F) of this section~~ at a percentage 80027
above the cost per case-mix unit ~~of~~ determined under division (B) 80028
of this section for the facility ICF/IID in the peer group that 80029
has the peer group's median number of medicaid ~~day~~ days for the 80030
calendar year immediately preceding the fiscal year in which the 80031
rate will be paid, ~~as calculated under division (B)(1) of this~~ 80032
~~section, that is. The percentage shall be no less than the~~ 80033
~~percentage calculated under division (E)(3) of this section~~ above 80034
the cost per case-mix unit determined under division (B) of this 80035
section for the ICF/IID that has the median number of medicaid 80036
days for calendar year 1992 for all ICFs/IID with eight or fewer 80037
beds that would result in payment of all desk-reviewed, actual, 80038
allowable direct care costs for eighty and one-half per cent of 80039
the medicaid days for such ICFs/IID for calendar year 1992. 80040

~~(e)(3)~~ In calculating determining the maximum cost per 80041
case-mix unit under divisions ~~(B)(2)(a)(C)(1)~~ and ~~(b)(2)~~ of this 80042
section for each peer group, the department shall exclude from its 80043
~~calculations~~ determinations the cost per case-mix unit of any 80044
~~facility ICF/IID~~ in the peer group that participated in the 80045
medicaid program under the same ~~operator~~ provider for less than 80046
twelve months during the calendar year immediately preceding the 80047
fiscal year in which the rate will be paid. 80048

~~(3) Estimate~~ (4) The department shall not reset a peer 80049
group's maximum cost per case-mix unit for a fiscal year under 80050
division (C)(1) or (2) of this section based on additional 80051
information that it receives after it sets the maximum for that 80052
fiscal year. The department shall reset a peer group's maximum 80053
cost per case-mix unit for a fiscal year only if it made an error 80054
in setting the maximum for that fiscal year based on information 80055
available to the department at the time it originally sets the 80056

maximum for that fiscal year. 80057

~~(D)(1) The department shall estimate the rate of inflation 80058
for the eighteen-month period beginning on the first day of July 80059
of the calendar year preceding the fiscal year in which ~~the~~ a rate 80060
will be paid and ending on the thirty-first day of December of the 80061
fiscal year in which the rate will be paid, using the ~~index~~ 80062
~~specified in division (C) of this section. If the estimated~~ 80063
~~inflation rate for the eighteen month period is different from the~~ 80064
~~actual inflation rate for that period, as measured using the same~~ 80065
~~index, the difference shall be added to or subtracted from the~~ 80066
~~inflation rate estimated under division (B)(3) of this section for~~ 80067
~~the following fiscal year.~~ 80068~~

~~(4) The department shall not recalculate a maximum cost per 80069
case mix unit under division (B)(2) of this section or a 80070
percentage under division (E) of this section based on additional 80071
information that it receives after the maximum costs per case mix 80072
unit or percentages are set. The department shall recalculate a 80073
maximum cost per case mix units or percentage only if it made an 80074
error in computing the maximum cost per case mix unit or 80075
percentage based on information available at the time of the 80076
original calculation.~~ 80077

~~(C) The department shall use the following index for the 80078
purpose of division (B)(3) of this section:~~ 80079

~~(1) The (a) Subject to division (D)(1)(b) of this section, 80080
the employment cost index for total compensation, health services 80081
component, published by the United States bureau of labor 80082
statistics; 80083~~

~~(2)(b) If the United States bureau of labor statistics ceases 80084
to publish the index specified in division ~~(C)~~(D)(1)(a) of this 80085
section, the index that is subsequently published by the bureau 80086
and covers ~~nursing facilities~~ the staff costs of ICFs/IID. 80087~~

~~(D) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:~~ 80088
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~~(1) Multiply the lesser of the following by the facility's average case mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:~~ 80091
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~~(a) The facility's cost per case mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;~~ 80095
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~~(b) The maximum cost per case mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;~~ 80098
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80100

~~(2) Adjust the product determined under division (D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.~~ 80101
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~~(E)(1) The department shall calculate the percentage above the median cost per case mix unit determined under division (B)(1) of this section for the facility that has the median medicaid day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk reviewed, actual, allowable direct care costs for eighty and one half per cent of the medicaid days for such facilities for calendar year 1992.~~ 80104
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~~(2) The department shall calculate the percentage above the median cost per case mix unit determined under division (B)(1) of this section for the facility that has the median medicaid day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk reviewed, actual, allowable direct care costs for eighty and one half per cent of the medicaid days for such~~ 80112
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~~facilities for calendar year 1992.~~ 80119

~~(F)(2) If the estimated inflation rate for the eighteen-month period specified in division (D)(1) of this section is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (D)(1) of this section for the following fiscal year.~~ 80120
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~~(E) The director of job and family services developmental disabilities shall adopt rules under section 5111.02 5124.03 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded ICFs/IID with more than eight beds and intermediate care facilities for the mentally retarded peer groups of ICFs/IID with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include case-mix.~~ 80126
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~~(G) The department, in accordance with division (D) of section 5111.232 of the Revised Code and rules adopted under division (F) of that section, may assign case mix scores or costs per case mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case mix score in accordance with that section.~~ 80136
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Sec. 5124.191. Each calendar quarter, each ICF/IID provider shall compile complete assessment data for each resident of each of the provider's ICFs/IID, regardless of payment source, who is in the ICF/IID, or on hospital or therapeutic leave from the ICF/IID, on the last day of the quarter. A resident assessment instrument specified in rules adopted under section 5124.03 of the Revised Code shall be used to compile the resident assessment 80143
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data. Each provider shall submit the resident assessment data to 80150
the department of developmental disabilities not later than 80151
fifteen days after the end of the calendar quarter for which the 80152
data is compiled. The resident assessment data shall be submitted 80153
to the department through the medium or media specified in rules 80154
adopted under section 5124.03 of the Revised Code. 80155

Sec. 5124.192. (A) Except as provided in division (B) of this 80156
section, the department of developmental disabilities shall do 80157
both of the following: 80158

(1) For each calendar quarter, determine a case-mix score for 80159
each ICF/IID using the resident assessment data submitted to the 80160
department under section 5124.191 of the Revised Code and the 80161
grouper methodology prescribed in rules authorized by this 80162
section; 80163

(2) After the end of each calendar year and in accordance 80164
with rules authorized by this section, determine an annual average 80165
case-mix score for each ICF/IID using the ICF/IID's quarterly 80166
case-mix scores for that calendar year. 80167

(B)(1) Subject to division (B)(2) of this section, the 80168
department, for one or more months of a calendar quarter, may 80169
assign to an ICF/IID a case-mix score that is five per cent less 80170
than the ICF/IID's case-mix score for the immediately preceding 80171
calendar quarter if any of the following apply: 80172

(a) The provider does not timely submit complete and accurate 80173
resident assessment data necessary to determine the ICF/IID's 80174
case-mix score for the calendar quarter; 80175

(b) The ICF/IID was subject to an exception review under 80176
section 5124.193 of the Revised Code for the immediately preceding 80177
calendar quarter; 80178

(c) The ICF/IID was assigned a case-mix score for the 80179

immediately preceding calendar quarter. 80180

(2) Before assigning a case-mix score to an ICF/IID due to the submission of incorrect resident assessment data, the department shall permit the provider to correct the data. The department may assign the case-mix score if the provider fails to submit the corrected resident assessment data not later than eighty days after the end of the calendar quarter to which the data pertains or later due date specified in rules authorized by this section. 80181
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(3) If, for more than six months during a calendar year, a provider is paid a rate determined for an ICF/IID using a case-mix score assigned to the ICF/IID under division (B)(1) of this section, the department may assign the ICF/IID a cost per case-mix unit that is five per cent less than the ICF/IID's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of determining the ICF/IID's actual cost per case-mix unit in accordance with section 5124.19 of the Revised Code, to establish the ICF/IID's rate for direct care costs for the fiscal year immediately following the calendar year for which the cost per case-mix unit is assigned. 80189
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(4) The department shall take action under division (B)(1), (2), or (3) of this section only in accordance with rules authorized by this section. The department shall not take an action that affects medicaid payment rates for prior payment periods except in accordance with sections 5124.41 and 5124.42 of the Revised Code. 80201
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(C) The director of developmental disabilities shall adopt rules under section 5124.03 of the Revised Code as necessary to implement this section. 80207
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(1) The rules shall do all of the following: 80210

<u>(a) Prescribe a grouper methodology to be used when</u>	80211
<u>determining the case-mix scores for ICFs/IID;</u>	80212
<u>(b) Specify the process for determining the annual average</u>	80213
<u>case-mix scores for ICFs/IID;</u>	80214
<u>(c) Establish procedures under which resident assessment data</u>	80215
<u>is to be reviewed for accuracy and providers are to be notified of</u>	80216
<u>any data that requires correction;</u>	80217
<u>(d) Establish procedures for providers to correct resident</u>	80218
<u>assessment data and, if necessary, specify a due date for</u>	80219
<u>corrections that is later than the due date specified in division</u>	80220
<u>(B)(2) of this section.</u>	80221
<u>(e) Specify when and how the department will assign a</u>	80222
<u>case-mix score or cost per case-mix unit to an ICF/IID under</u>	80223
<u>division (B) of this section if information necessary to calculate</u>	80224
<u>the ICF/IID's case-mix score is not provided or corrected in</u>	80225
<u>accordance with the procedures established by the rules.</u>	80226
<u>(2) Notwithstanding any other provision of this chapter, the</u>	80227
<u>rules may provide for excluding case-mix scores assigned to an</u>	80228
<u>ICF/IID under division (B) of this section from the determination</u>	80229
<u>of the ICF/IID's annual average case-mix score and the maximum</u>	80230
<u>cost per case-mix unit for the ICF/IID's peer group.</u>	80231
<u>Sec. 5124.193. (A) The department of developmental</u>	80232
<u>disabilities may, pursuant to rules authorized by this section,</u>	80233
<u>conduct an exception review of resident assessment data submitted</u>	80234
<u>by an ICF/IID provider under section 5124.191 of the Revised Code.</u>	80235
<u>The department may conduct an exception review based on the</u>	80236
<u>findings of a medicaid certification survey conducted by the</u>	80237
<u>department of health, a risk analysis, or prior performance of the</u>	80238
<u>provider.</u>	80239
<u>Exception reviews shall be conducted at the ICF/IID by</u>	80240

appropriate health professionals under contract with or employed 80241
by the department. The professionals may review resident 80242
assessment forms and supporting documentation, conduct interviews, 80243
and observe residents to identify any patterns or trends of 80244
inaccurate resident assessments and resulting inaccurate case-mix 80245
scores. 80246

(B) If an exception review is conducted before the effective 80247
date of an ICF/IID's rate for direct care costs that is based on 80248
the resident assessment data being reviewed and the review results 80249
in findings that exceed tolerance levels specified in the rules 80250
authorized by this section, the department, in accordance with the 80251
rules authorized by this section, may use the findings to 80252
redetermine individual resident case-mix scores, the ICF/IID's 80253
case-mix score for the quarter, and the ICF/IID's annual average 80254
case-mix score. The department may use the ICF/IID's redetermined 80255
quarterly and annual average case-mix scores to determine the 80256
ICF/IID's rate for direct care costs for the appropriate calendar 80257
quarter or quarters. 80258

(C) The department shall prepare a written summary of any 80259
exception review finding that is made after the effective date of 80260
an ICF/IID's rate for direct care costs that is based on the 80261
resident assessment data that was reviewed. Where the provider is 80262
pursuing judicial or administrative remedies in good faith 80263
regarding the finding, the department shall not withhold from the 80264
provider's current payments any amounts the department claims to 80265
be due from the provider pursuant to section 5124.41 of the 80266
Revised Code. 80267

(D)(1) The director of developmental disabilities shall adopt 80268
rules under section 5124.03 of the Revised Code as necessary to 80269
implement this section. The rules shall establish an exception 80270
review program that does all of the following: 80271

(a) Requires each exception review to comply with Title XIX; 80272

(b) Requires a written summary for each exception review that states whether resident assessment forms have been completed accurately; 80273
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(c) Prohibits each health professional who conducts an exception review from doing either of the following: 80276
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(i) During the period of the professional's contract or employment with the department, having or being committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of ICFs/IID in this state; 80278
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(ii) Reviewing any provider that has been a client of the professional. 80282
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(2) For the purposes of division (D)(1)(c)(i) of this section, employment of a member of a health professional's family by an ICF/IID that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the ICF/IID. 80284
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Sec. ~~5111.233~~ 5124.194. The costs of day programming shall be 80289
part of the direct care costs of an ~~intermediate care facility for~~ 80290
~~the mentally retarded~~ ICF/IID as off-site day programming if the 80291
area in which the day programming is provided is not certified by 80292
the director of health as an ~~intermediate care facility for the~~ 80293
~~mentally retarded~~ ICF/IID under Title XIX and regardless of either 80294
of the following: 80295

(A) Whether or not the area in which the day programming is 80296
provided is less than two hundred feet away from the ~~intermediate~~ 80297
~~care facility for the mentally retarded~~ ICF/IID; 80298

(B) Whether or not the day programming is provided by an 80299
individual who, or organization that, is a related party to the 80300
provider of the ~~intermediate care facility for the mentally~~ 80301
~~retarded~~ ICF/IID. 80302

~~Sec. 5111.241~~ 5124.21. (A) ~~The~~ For each fiscal year, the 80303
~~department of job and family services developmental disabilities~~ 80304
~~shall pay a provider for prospectively determine each of the~~ 80305
~~provider's eligible intermediate care facilities for the mentally~~ 80306
~~retarded a ICF/IID's per resident per medicaid day payment rate~~ 80307
~~for indirect care costs established prospectively each fiscal year~~ 80308
~~for each facility. The Subject to section 5124.28 of the Revised~~ 80309
~~Code, an ICF/IID's rate for each intermediate care facility for~~ 80310
~~the mentally retarded shall be the sum of the following, but shall~~ 80311
~~not exceed lesser of the individual rate determined under division~~ 80312
~~(B) of this section and the maximum rate established determined~~ 80313
~~for the facility's ICF/IID's peer group under division (B)(C) of~~ 80314
~~this section.~~ 80315

(B) An ICF/IID's individual rate is the sum of the following: 80316

(1) ~~The facility's ICF/IID's~~ desk-reviewed, actual, 80317
allowable, per diem indirect care costs from the calendar year 80318
immediately preceding the fiscal year in which the rate will be 80319
paid, adjusted for the inflation rate estimated under division 80320
~~(C)(D)(1)~~ of this section; 80321

(2) An efficiency incentive in the following amount: 80322

~~(a) For fiscal years ending in even numbered calendar years:~~ 80323

~~(i) In the case of intermediate care facilities for the~~ 80324
~~mentally retarded with~~ If the ICF/IID has more than eight beds, 80325
the following: 80326

(i) For fiscal year 2014, seven and one-tenth per cent of the 80327
maximum rate established for the ~~facility's ICF/IID's~~ peer group 80328
under division ~~(B)(C)~~ of this section; 80329

~~(ii) In the case of intermediate care facilities for the~~ 80330
~~mentally retarded with~~ For fiscal years 2015 and 2016 and each 80331
fiscal year thereafter ending in an even-numbered calendar year, 80332

three and fifty-five hundredths per cent of the maximum rate 80333
established for the ICF/IID's peer group under division (C) of 80334
this section; 80335

(iii) For fiscal year 2017 and each fiscal year thereafter 80336
ending in an odd-numbered calendar year, the amount calculated for 80337
the immediately preceding fiscal year under division (B)(2)(a)(ii) 80338
of this section. 80339

(b) If the ICF/IID has eight or fewer beds, the following: 80340

(i) For each fiscal year ending in an even-numbered calendar 80341
year, seven per cent of the maximum rate established for the 80342
facility's ICF/IID's peer group under division ~~(B)~~(C) of this 80343
section; 80344

~~(b)(ii)~~ For each fiscal ~~years~~ year ending in an odd-numbered 80345
calendar ~~years~~ year, the amount calculated for the immediately 80346
preceding fiscal year under division ~~(A)~~(B)(2)~~(a)~~(b)(i) of this 80347
section. 80348

~~(B)(C)(1)~~ The maximum rate for indirect care costs for each 80349
peer group of ~~intermediate care facilities for the mentally~~ 80350
~~retarded~~ ICFs/IID with more than eight beds ~~specified in rules~~ 80351
~~adopted under division (D) of this section~~ shall be determined as 80352
follows: 80353

(a) For each fiscal ~~years~~ year ending in an even-numbered 80354
calendar ~~years~~ year, the maximum rate for each such peer group 80355
shall be the rate that is no less than twelve and four-tenths per 80356
cent above the median desk-reviewed, actual, allowable, per diem 80357
indirect care cost for all ~~intermediate care facilities for the~~ 80358
~~mentally retarded with more than eight beds~~ ICFs/IID in the peer 80359
group, ~~(excluding facilities~~ ICFs/IID in the peer group whose 80360
indirect care costs for that period are more than three standard 80361
deviations from the mean desk-reviewed, actual, allowable, per 80362
diem indirect care cost for all ~~intermediate care facilities for~~ 80363

~~the mentally retarded ICFs/IID~~ with more than eight beds~~),~~ for the 80364
calendar year immediately preceding the fiscal year in which the 80365
rate will be paid, adjusted by the inflation rate estimated under 80366
division ~~(C)~~(D)(1) of this section. 80367

(b) For each fiscal ~~years~~ year ending in an odd-numbered 80368
calendar ~~years~~ year, the maximum rate for each such peer group is 80369
the peer group's maximum rate for the previous fiscal year, 80370
adjusted for the inflation rate estimated under division ~~(C)~~(D)(2) 80371
of this section. 80372

(2) The maximum rate for indirect care costs for each peer 80373
group of ~~intermediate care facilities for the mentally retarded~~ 80374
ICFs/IID with eight or fewer beds ~~specified in rules adopted under~~ 80375
~~division (D) of this section~~ shall be determined as follows: 80376

(a) For each fiscal ~~years~~ year ending in an even-numbered 80377
calendar ~~years~~ year, the maximum rate for each such peer group 80378
shall be the rate that is no less than ten and three-tenths per 80379
cent above the median desk-reviewed, actual, allowable, per diem 80380
indirect care cost for all ~~intermediate care facilities for the~~ 80381
~~mentally retarded with eight or fewer beds~~ ICFs/IID in the peer 80382
group~~,~~ ~~(excluding facilities ICFs/IID in the peer group whose~~ 80383
indirect care costs are more than three standard deviations from 80384
the mean desk-reviewed, actual, allowable, per diem indirect care 80385
cost for all ~~intermediate care facilities for the mentally~~ 80386
~~retarded ICFs/IID~~ with eight or fewer beds~~),~~ for the calendar year 80387
immediately preceding the fiscal year in which the rate will be 80388
paid, adjusted by the inflation rate estimated under division 80389
~~(C)~~(D)(1) of this section. 80390

(b) For each fiscal ~~years that end~~ year ending in an 80391
odd-numbered calendar ~~years~~ year, the maximum rate for each such 80392
peer group is the peer group's maximum rate for the previous 80393
fiscal year, adjusted for the inflation rate estimated under 80394
division ~~(C)~~(D)(2) of this section. 80395

(3) The department shall not ~~recalculate~~ redetermine a maximum rate for indirect care costs under division ~~(B)(C)~~(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall ~~recalculate~~ redetermine the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available to the department at the time of the original calculation.

~~(C)(D)~~(1) When adjusting rates for inflation under divisions ~~(A)(B)~~(1), ~~(B)(C)~~(1)(a), and ~~(B)(C)~~(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid. To estimate the rate of inflation, the department shall use the following:

(a) The Subject to division (D)(1)(b) of this section, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division ~~(C)(D)~~(1)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(2) When adjusting rates for inflation under divisions ~~(B)(C)~~(1)(b) and ~~(B)(C)~~(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year immediately preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid. To estimate the rate of inflation, the department shall use the following:

(a) ~~The~~ Subject to division (D)(2)(b) of this section, the 80428
consumer price index for all items for all urban consumers for the 80429
north central region, published by the United States bureau of 80430
labor statistics; 80431

(b) If the United States bureau of labor statistics ceases to 80432
publish the index specified in division ~~(C)~~(D)(2)(a) of this 80433
section, a comparable index that the bureau publishes and the 80434
department determines is appropriate. 80435

(3) If an inflation rate estimated under division ~~(C)~~(D)(1) 80436
or (2) of this section is different from the actual inflation rate 80437
for the relevant time period, as measured using the same index, 80438
the difference shall be added to or subtracted from the inflation 80439
rate estimated pursuant to this division for the following fiscal 80440
year. 80441

~~(D)~~(E) The director of ~~job and family services~~ developmental 80442
disabilities shall adopt rules under section ~~5111.02~~ 5124.03 of 80443
the Revised Code that specify peer groups of ~~intermediate care~~ 80444
~~facilities for the mentally retarded~~ ICFs/IID with more than eight 80445
beds, and peer groups of ~~intermediate care facilities for the~~ 80446
~~mentally retarded~~ ICFs/IID with eight or fewer beds, based on 80447
findings of significant per diem indirect care cost differences 80448
due to geography and ~~facility~~ bed-size. The rules also may specify 80449
peer groups based on findings of significant per diem indirect 80450
care cost differences due to other factors, including case-mix. 80451

Sec. ~~5111.235~~ 5124.23. (A) ~~The~~ For each fiscal year, the 80452
department of ~~job and family services~~ developmental disabilities 80453
shall ~~pay a provider for~~ prospectively determine each of the 80454
~~provider's eligible intermediate care facilities for the mentally~~ 80455
~~retarded a~~ ICF/IID's per resident per medicaid day payment rate 80456
for other protected costs ~~established prospectively each fiseal~~ 80457
~~year for each facility. The~~ An ICF/IID's rate for each facility 80458

shall be the ~~facility's~~ ICF/IID's desk-reviewed, actual, 80459
allowable, per diem other protected costs from the calendar year 80460
immediately preceding the fiscal year in which the rate will be 80461
paid, all adjusted for the estimated inflation rate for the 80462
eighteen-month period beginning on the first day of July of the 80463
calendar year immediately preceding the fiscal year in which the 80464
rate will be paid and ending on the thirty-first day of December 80465
of that fiscal year. The department shall estimate inflation using 80466
the index specified in division (B) of this section. If the 80467
estimated inflation rate for the eighteen-month period is 80468
different from the actual inflation rate for that period, the 80469
difference shall be added to or subtracted from the inflation rate 80470
estimated for the following year. 80471

(B) The department shall use the following index for the 80472
purpose of division (A) of this section: 80473

(1) The Subject to division (B)(2) of this section, the 80474
consumer price index for all urban consumers for nonprescription 80475
drugs and medical supplies, as published by the United States 80476
bureau of labor statistics; 80477

(2) If the United States bureau of labor statistics ceases to 80478
publish the index specified in division (B)(1) of this section, 80479
the index that is subsequently published by the bureau and covers 80480
nonprescription drugs and medical supplies. 80481

Sec. 5124.25. (A) Subject to division (D) of this section, 80482
the department of developmental disabilities may pay a medicaid 80483
rate add-on to an ICF/IID provider for outlier ICF/IID services 80484
the ICF/IID provides to qualifying ventilator-dependent residents 80485
on or after July 1, 2014, if the provider applies to the 80486
department of developmental disabilities to receive the rate 80487
add-on and the department approves the application. The department 80488
of developmental disabilities may approve a provider's application 80489

if all of the following apply: 80490

(1) The provider submits to the department of developmental disabilities a best practices protocol for providing outlier ICF/IID services under this section and the department of developmental disabilities determines that the protocol is acceptable; 80491
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(2) The provider executes with the department of medicaid an addendum to its provider agreement for the ICF/IID regarding the outlier ICF/IID services; 80496
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(3) The provider and ICF/IID meet all other eligibility requirements for the rate add-on established in rules authorized by this section. 80499
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(B) An ICF/IID that has been approved by the department of developmental disabilities to provider outlier ICF/IID services under this section shall provide the services in accordance with both of the following: 80502
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(1) The best practices protocol the department of developmental disabilities determined is acceptable; 80506
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(2) Requirements regarding the services established in rules authorized by this section. 80508
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(C) To qualify to receive outlier ICF/IID services from an ICF/IID under this section, a resident of the ICF/IID must be a medicaid recipient, be under twenty-two years of age, be dependent on a ventilator, and meet all other eligibility requirements established in rules authorized by this section. 80510
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(D) The department of developmental disabilities shall negotiate the amount of the medicaid payment rate add-on, if any, to be paid under this section, or the method by which that amount is to be determined, with the department of medicaid. The department of developmental disabilities shall not pay the rate 80515
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add-on unless the department has approved the amount of the rate 80520
add-on or method by which the amount is to be determined. 80521

Sec. 5124.28. Notwithstanding any provision of section 80522
5124.17 or 5124.21 of the Revised Code, the director of 80523
developmental disabilities may adopt rules under section 5124.03 80524
of the Revised Code that provide for the determination of a 80525
combined maximum payment limit for indirect care costs and costs 80526
of ownership for ICFs/IID with eight or fewer beds. 80527

~~Sec. 5111.263~~ 5124.29. Except as otherwise provided in 80528
section ~~5111.264~~ 5124.30 of the Revised Code, the department of 80529
~~job and family services~~ developmental disabilities, in determining 80530
whether an ~~intermediate care facility for the mentally retarded's~~ 80531
ICF/IID's direct care costs and indirect care costs are allowable, 80532
shall place no limit on specific categories of reasonable costs 80533
other than compensation of owners, compensation of relatives of 80534
owners, and compensation of administrators. 80535

Compensation cost limits for owners and relatives of owners 80536
shall be based on compensation costs for individuals who hold 80537
comparable positions but who are not owners or relatives of 80538
owners, as reported on ~~facility~~ ICFs/IID's cost reports. As used 80539
in this section, "comparable position" means the position that is 80540
held by the owner or the owner's relative, if that position is 80541
listed separately on the cost report form, or if the position is 80542
not listed separately, the group of positions that is listed on 80543
the cost report form and that includes the position held by the 80544
owner or the owner's relative. In the case of an owner or owner's 80545
relative who serves the ~~facility~~ ICFs/IID in a capacity such as 80546
corporate officer, proprietor, or partner for which no comparable 80547
position or group of positions is listed on the cost report form, 80548
the compensation cost limit shall be based on civil service 80549
equivalents and shall be specified in rules adopted under section 80550

~~5111.02~~ 5124.03 of the Revised Code. 80551

Compensation cost limits for administrators shall be based on 80552
compensation costs for administrators who are not owners or 80553
relatives of owners, as reported on ~~facility~~ ICFs/IID's cost 80554
reports. Compensation cost limits for administrators of four or 80555
more ~~intermediate care facilities for the mentally retarded~~ 80556
ICFs/IID shall be the same as the limits for administrators of 80557
~~intermediate care facilities for the mentally retarded~~ ICFs/IID 80558
with one hundred fifty or more beds. 80559

Sec. 5124.30. Except as provided in section 5124.17 of the 80560
Revised Code, the costs of goods, services, and facilities, 80561
furnished to an ICF/IID provider by a related party are includable 80562
in the allowable costs of the provider at the reasonable cost to 80563
the related party. 80564

Sec. 5124.31. The department of developmental disabilities 80565
shall adjust medicaid payment rates determined under this chapter 80566
to account for reasonable additional costs that must be incurred 80567
by ICFs/IID to comply with requirements of federal or state 80568
statutes, rules, or policies enacted or amended after January 1, 80569
1992, or with orders issued by state or local fire authorities. 80570

Sec. 5124.32. The department of developmental disabilities 80571
shall not reduce an ICF/IID's medicaid payment rate determined 80572
under this chapter on the basis that the provider charges a lower 80573
rate to any resident who is not eligible for medicaid. 80574

Sec. 5124.33. No medicaid payment shall be made to an ICF/IID 80575
provider for the day a medicaid recipient is discharged from the 80576
ICF/IID. 80577

Sec. ~~5111.33~~ 5124.34. Reimbursement to a (A) The department 80578

~~of developmental disabilities shall pay an ICF/IID provider of an 80579
intermediate care facility for the mentally retarded under 80580
sections 5111.20 to 5111.331 of the Revised Code shall include 80581
payments to the provider, at a rate equal to the percentage one 80582
hundred per cent of the per resident total per medicaid day rates 80583
that the department of job and family services has established 80584
payment rate determined for the provider's facility ICF/IID under 80585
sections 5111.20 to 5111.331 of the Revised Code for the fiscal 80586
year for which the cost of services is reimbursed, this chapter to 80587
reserve a bed for a resident who is a medicaid recipient during a 80588
temporary absence under conditions prescribed by the department, 80589
to include hospitalization for an acute condition, visits with 80590
relatives and friends, and participation in therapeutic programs 80591
outside the facility, ~~when the~~ if all of the following apply: 80592~~

(1) The recipient is temporarily absent from the ICF/IID for 80593
a reason that makes the absence qualified for payments under this 80594
section as specified in rules authorized by this section; 80595

(2) The resident's plan of care provides for such the absence 80596
and federal; 80597

(3) Federal financial participation in the payments is 80598
available for the payments. The 80599

(B) The maximum period during which medicaid payments may be 80600
made to reserve a bed shall not exceed the maximum period 80601
specified under in federal regulations, and shall not be more than 80602
thirty days during any calendar year for hospital stays, visits 80603
with relatives and friends, and participation in therapeutic 80604
programs. 80605

Recipients programs. However, a resident shall not be subject 80606
to a maximum period during which payments may be made to reserve a 80607
bed in an intermediate care facility for the mentally retarded if 80608
prior authorization of the department is obtained for hospital 80609

stays, visits with relatives and friends, and participation in 80610
therapeutic programs. ~~The~~ 80611

(C)(1) The director of ~~job and family services~~ developmental 80612
~~disabilities~~ shall adopt rules under section ~~5111.02~~ 5124.03 of 80613
the Revised Code ~~establishing as necessary to implement this~~ 80614
section, including rules that do the following: 80615

(a) Specify the reasons for which a temporary absence from an 80616
ICF/IID makes the absence qualify for payments under this section; 80617

(b) Establish conditions under which prior authorization may 80618
be obtained for the purpose of division (B) of this section. 80619

(2) The rules authorized by division (C)(1)(a) of this 80620
section shall include the following as reasons for which a 80621
temporary absence from an ICF/IID qualifies for payments under 80622
this section: 80623

(a) Hospitalization for acute conditions; 80624

(b) Visits with relatives and friends; 80625

(c) Participation in therapeutic programs outside the 80626
ICF/IID. 80627

Sec. 5124.35. Medicaid payments may be made for ICF/IID 80628
services provided not later than thirty days after the effective 80629
date of an involuntary termination of the ICF/IID that provides 80630
the services if the services are provided to a medicaid recipient 80631
who is eligible for the services and resided in the ICF/IID before 80632
the effective date of the involuntary termination. 80633

Sec. 5124.37. The department of developmental disabilities 80634
shall make its best efforts each year to determine ICFs/IID's 80635
medicaid payment rates under this chapter in time to pay the rates 80636
by August fifteenth of each fiscal year. If the department is 80637
unable to calculate the rates so that they can be paid by that 80638

date, the department shall pay each provider the rate calculated 80639
for the provider's ICFs/IID under those sections at the end of the 80640
previous fiscal year. If the department also is unable to 80641
calculate the rates to make the payments due by the fifteenth day 80642
of September and the fifteenth day of October, the department 80643
shall pay the previous fiscal year's rate to make those payments. 80644
The department may increase by five per cent the previous fiscal 80645
year's rate paid for any ICF/IID pursuant to this section at the 80646
request of the provider. The department shall use rates calculated 80647
for the current fiscal year to make the payments due by the 80648
fifteenth day of November. 80649

If an ICF/IID's medicaid payment rate paid under this section 80650
is lower than the rate calculated for it for the current fiscal 80651
year, the department shall pay the provider the difference between 80652
the two rates for the number of days for which the provider is 80653
paid the lower rate. If an ICF/IID's medicaid payment rate paid 80654
under this section is higher than the rate calculated for it for 80655
the current fiscal year, the provider shall refund to the 80656
department the difference between the two rates for the number of 80657
days for which the provider is paid the higher rate. 80658

Sec. 5124.38. (A) The director of developmental disabilities 80659
shall establish a process under which an ICF/IID provider, or a 80660
group or association of ICF/IID providers, may seek 80661
reconsideration of medicaid payment rates established under this 80662
chapter, including a rate for direct care costs redetermined 80663
before the effective date of the rate as a result of an exception 80664
review conducted under section 5124.193 of the Revised Code. 80665
Except as provided in divisions (B) to (D) of this section, the 80666
only issue that a provider, group, or association may raise in the 80667
rate reconsideration is whether the rate was calculated in 80668
accordance with this chapter and the rules adopted under section 80669

5124.03 of the Revised Code. The provider, group, or association may submit written arguments or other materials that support its position. The provider, group, or association and department shall take actions regarding the rate reconsideration within time frames specified in rules authorized by this section. 80670
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If the department determines, as a result of the rate reconsideration, that the rate established for one or more ICFs/IID is less than the rate to which the ICF/IID is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider of the ICF/IID the difference between the amount the provider was paid for that period for the ICF/IID and the amount the provider should have been paid for the ICF/IID. 80675
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(B)(1) The department, through the rate reconsideration process, may increase during a fiscal year the medicaid payment rate determined for an ICF/IID under this chapter if the provider demonstrates that the ICF/IID's actual, allowable costs have increased because of any of the following extreme circumstances: 80683
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(a) A natural disaster; 80688

(b) A nonextensive renovation approved under division (D) of section 5124.17 of the Revised Code; 80689
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(c) If the ICF/IID has an appropriate claims management program, an increase in the ICF/IID's workers' compensation experience rating of greater than five per cent; 80691
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(d) If the ICF/IID is an inner-city ICF/IID, increased security costs; 80694
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(e) A change of ownership that results from bankruptcy, foreclosure, or findings by the department of health of violations of medicaid certification requirements; 80696
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(f) Other extreme circumstances specified in rules authorized 80699

by this section. 80700

(2) An ICF/IID may qualify for a rate increase under this division only if its per diem, actual, allowable costs have increased to a level that exceeds its total rate. An increase under this division is subject to any rate limitations or maximum rates established by this chapter for specific cost centers. Any rate increase granted under this division shall take effect on the first day of the first month after the department receives the request. 80701
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(C) The department, through the rate reconsideration process, may increase an ICF/IID's rate as determined under this chapter if the department, in the department's sole discretion, determines that the rate as determined under those sections works an extreme hardship on the ICF/IID. 80709
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(D) When beds certified for the medicaid program are added to an existing ICF/IID or replaced at the same site, the department, through the rate reconsideration process, shall increase the ICF/IID's rate for capital costs proportionately, as limited by any applicable limitation under section 5124.17 of the Revised Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under this division after June 30, 1993, shall remain in effect until the effective date of a rate for capital costs determined under section 5124.17 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The ICF/IID shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under this division, if the 80714
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ICF/IID is operated by the same provider, the provider shall 80732
subtract from the interest costs it reports on its cost report an 80733
amount equal to the difference between the following: 80734

(1) The actual, allowable interest costs for the loan during 80735
the calendar year for which the costs are being reported; 80736

(2) The actual, allowable interest costs attributable to the 80737
loan that were used to calculate the rates paid to the provider 80738
for the ICF/IID during the same calendar year. 80739

(E) The department's decision at the conclusion of the 80740
reconsideration process is not subject to any administrative 80741
proceedings under Chapter 119. or any other provision of the 80742
Revised Code. 80743

(F) The director of developmental disabilities shall adopt 80744
rules under section 5124.03 of the Revised Code as necessary to 80745
implement this section. 80746

Sec. 5124.40. If an ICF/IID provider properly amends a cost 80747
report for an ICF/IID under section 5124.107 of the Revised Code 80748
and the amended report shows that the provider received a lower 80749
medicaid payment rate under the original cost report than the 80750
provider was entitled to receive, the department of developmental 80751
disabilities shall adjust the provider's rate for the ICF/IID 80752
prospectively to reflect the corrected information. The department 80753
shall pay the adjusted rate beginning two months after the first 80754
day of the month after the provider files the amended cost report. 80755

If the department finds, from an exception review of resident 80756
assessment data conducted pursuant to section 5124.193 of the 80757
Revised Code after the effective date of an ICF/IID's rate for 80758
direct care costs that is based on the resident assessment data, 80759
that inaccurate resident assessment data resulted in the provider 80760
receiving a lower rate for the ICF/IID than the provider was 80761

entitled to receive, the department prospectively shall adjust the 80762
provider's rate for the ICF/IID accordingly. The department shall 80763
make payments to the provider using the adjusted rate for the 80764
remainder of the calendar quarter for which the resident 80765
assessment data is used to determine the rate, beginning one month 80766
after the first day of the month after the exception review is 80767
completed. 80768

Sec. 5124.41. (A) The department of developmental 80769
disabilities shall redetermine a provider's medicaid payment rate 80770
for an ICF/IID using revised information if any of the following 80771
results in a determination that the provider received a higher 80772
medicaid payment rate for the ICF/IID than the provider was 80773
entitled to receive: 80774

(1) The provider properly amends a cost report for the 80775
ICF/IID under section 5124.107 of the Revised Code; 80776

(2) The department makes a finding based on an audit under 80777
section 5124.109 of the Revised Code; 80778

(3) The department makes a finding based on an exception 80779
review of resident assessment data conducted under section 80780
5124.193 of the Revised Code after the effective date of the 80781
ICF/IID's rate for direct care costs that is based on the resident 80782
assessment data. 80783

(B) The department shall apply the redetermined rate to the 80784
periods when the provider received the incorrect rate to determine 80785
the amount of the overpayment. The provider shall refund the 80786
amount of the overpayment. The department may charge the provider 80787
the following amount of interest from the time the overpayment was 80788
made: 80789

(1) If the overpayment resulted from costs reported for 80790
calendar year 1993, the interest shall be not greater than one and 80791

one-half times the current average bank prime rate. 80792

(2) If the overpayment resulted from costs reported for a subsequent calendar year: 80793
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(a) The interest shall be not greater than two times the current average bank prime rate if the overpayment was not more than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to determine a rate. 80795
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(b) The interest shall be not greater than two and one-half times the current average bank prime rate if the overpayment was more than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to determine a rate. 80800
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Sec. 5124.42. In addition to the other penalties authorized by this chapter, the department of developmental disabilities may impose the following penalties on an ICF/IID provider: 80805
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(A) If the provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, a fine of not more than the greater of the following: 80808
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(1) One thousand dollars per audit; 80812

(2) Twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to determine a rate. 80813
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(B) If an exiting operator or owner fails to provide notice of a facility closure or voluntary termination as required by section 5124.50 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5124.51 of the Revised Code, a 80817
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fine of not more than the current average bank prime rate plus 80822
four per cent of the last two monthly payments. 80823

Sec. 5124.43. For the purposes of sections 5124.41 and 80824
5124.42 of the Revised Code, the department of developmental 80825
disabilities shall determine the current average bank prime rate 80826
using statistical release H.15, "selected interest rates," a 80827
weekly publication of the federal reserve board, or any successor 80828
publication. If statistical release H.15, or its successor, ceases 80829
to contain the bank prime rate information or ceases to be 80830
published, the department shall request a written statement of the 80831
average bank prime rate from the federal reserve bank of Cleveland 80832
or the federal reserve board. 80833

Sec. 5124.44. (A) Except as provided in division (B) of this 80834
section, the department of developmental disabilities shall deduct 80835
the following from the next available medicaid payment the 80836
department makes to an ICF/IID provider who continues to 80837
participate in medicaid: 80838

(1) Any amount the provider is required to refund, and any 80839
interest charged, under section 5124.41 of the Revised Code; 80840

(2) The amount of any penalty imposed on the provider under 80841
section 5124.42 of the Revised Code. 80842

(B) The department and an ICF/IID provider may enter into an 80843
agreement under which a deduction required by division (A) of this 80844
section is taken in installments from payments the department 80845
makes to the provider. 80846

Sec. 5124.45. The department of developmental disabilities 80847
shall transmit to the treasurer of state for deposit in the 80848
general revenue fund amounts collected from the following: 80849

(A) Refunds required by, and interest charged under, section 80850

<u>5124.41 of the Revised Code;</u>	80851
<u>(B) Amounts collected from penalties imposed under section</u>	80852
<u>5124.42 of the Revised Code.</u>	80853
<u>Sec. 5124.46. All of the following are subject to an</u>	80854
<u>adjudication conducted in accordance with Chapter 119. of the</u>	80855
<u>Revised Code:</u>	80856
<u>(A) Any audit disallowance that the department of</u>	80857
<u>developmental disabilities makes as the result of an audit under</u>	80858
<u>section 5124.109 of the Revised Code;</u>	80859
<u>(B) Any adverse finding that results from an exception review</u>	80860
<u>of resident assessment data conducted for an ICF/IID under section</u>	80861
<u>5124.193 of the Revised Code after the effective date of the</u>	80862
<u>ICF/IID's medicaid payment rate for direct care costs that is</u>	80863
<u>based on the resident assessment data;</u>	80864
<u>(C) Any medicaid payment deemed an overpayment under section</u>	80865
<u>5124.523 of the Revised Code;</u>	80866
<u>(D) Any penalty the department imposes under section 5124.42</u>	80867
<u>of the Revised Code or section 5124.523 of the Revised Code.</u>	80868
<u>Sec. 5124.50. An exiting operator or owner of an ICF/IID</u>	80869
<u>participating in the medicaid program shall provide the department</u>	80870
<u>of developmental disabilities and department of medicaid written</u>	80871
<u>notice of a facility closure or voluntary termination not less</u>	80872
<u>than ninety days before the effective date of the facility closure</u>	80873
<u>or voluntary termination. The written notice shall be provided to</u>	80874
<u>the department of developmental disabilities and department of</u>	80875
<u>medicaid in accordance with the method specified in rules</u>	80876
<u>authorized by section 5124.53 of the Revised Code.</u>	80877
<u>The written notice shall include all of the following:</u>	80878
<u>(A) The name of the exiting operator and, if any, the exiting</u>	80879

<u>operator's authorized agent;</u>	80880
<u>(B) The name of the ICF/IID that is the subject of the written notice;</u>	80881
<u>(C) The exiting operator's medicaid provider agreement number for the ICF/IID that is the subject of the written notice;</u>	80883
<u>(D) The effective date of the facility closure or voluntary termination;</u>	80884
<u>(E) The signature of the exiting operator's or owner's representative.</u>	80885
<u>Sec. 5124.51. (A) An exiting operator or owner and entering operator shall provide the department of developmental disabilities and department of medicaid written notice of a change of operator if the ICF/IID participates in the medicaid program and the entering operator seeks to continue the ICF/IID's participation. The written notice shall be provided to the department of developmental disabilities and department of medicaid in accordance with the method specified in rules authorized by section 5124.53 of the Revised Code. The written notice shall be provided to the department of developmental disabilities and department of medicaid not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department of developmental disabilities and department of medicaid not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents.</u>	80886
<u>The written notice shall include all of the following:</u>	80887
<u>(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;</u>	80888
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<u>(2) The name of the ICF/IID that is the subject of the change of operator;</u>	80910
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<u>(3) The exiting operator's seven-digit medicaid legacy number and ten-digit national provider identifier number for the ICF/IID that is the subject of the change of operator;</u>	80912
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<u>(4) The name of the entering operator;</u>	80915
<u>(5) The effective date of the change of operator;</u>	80916
<u>(6) The manner in which the entering operator becomes the ICF/IID's operator, including through sale, lease, merger, or other action;</u>	80917
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<u>(7) If the manner in which the entering operator becomes the ICF/IID's operator involves more than one step, a description of each step;</u>	80920
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<u>(8) Written authorization from the exiting operator or owner and entering operator for the department of medicaid to process a provider agreement for the entering operator;</u>	80923
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<u>(9) The names and addresses of the persons to whom the department of developmental disabilities and department of medicaid should send initial correspondence regarding the change of operator;</u>	80926
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<u>(10) The signature of the exiting operator's or owner's representative.</u>	80930
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<u>(B) An exiting operator or owner and entering operator immediately shall provide the department of developmental disabilities and department of medicaid notice of any changes to information included in a written notice of a change of operator that occur after that notice is provided to the department of developmental disabilities and department of medicaid. The notice of the changes shall be provided to the department of developmental disabilities and department of medicaid in</u>	80932
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accordance with the method specified in rules authorized by 80940
section 5124.53 of the Revised Code. 80941

Sec. 5124.511. The department of medicaid may enter into a 80942
provider agreement with an entering operator that goes into effect 80943
at 12:01 a.m. on the effective date of the change of operator if 80944
all of the following requirements are met: 80945

(A) The department receives a properly completed written 80946
notice required by section 5124.51 of the Revised Code on or 80947
before the date required by that section. 80948

(B) The department receives both of the following in 80949
accordance with the method specified in rules authorized by 80950
section 5124.53 of the Revised Code and not later than ten days 80951
after the effective date of the change of operator: 80952

(1) From the entering operator, a completed application for a 80953
provider agreement and all other forms and documents specified in 80954
rules authorized by section 5124.53 of the Revised Code; 80955

(2) From the exiting operator or owner, all forms and 80956
documents specified in rules authorized by section 5124.53 of the 80957
Revised Code. 80958

(C) The entering operator is eligible to enter into a 80959
provider agreement for the ICF/IID as provided in section 5124.06 80960
of the Revised Code. 80961

Sec. 5124.512. (A) The department of medicaid may enter into 80962
a provider agreement with an entering operator that goes into 80963
effect at 12:01 a.m. on the date determined under division (B) of 80964
this section if all of the following are the case: 80965

(1) The department receives a properly completed written 80966
notice required by section 5124.51 of the Revised Code. 80967

(2) The department receives, from the entering operator and 80968

in accordance with the method specified in rules authorized by 80969
section 5124.53 of the Revised Code, a completed application for a 80970
provider agreement and all other forms and documents specified in 80971
rules adopted under that section. 80972

(3) The department receives, from the exiting operator or 80973
owner and in accordance with the method specified in rules 80974
authorized by section 5124.53 of the Revised Code, all forms and 80975
documents specified in rules adopted under that section. 80976

(4) One or more of the following apply: 80977

(a) The requirement of division (A)(1) of this section is met 80978
after the time required by section 5124.51 of the Revised Code; 80979

(b) The requirement of division (A)(2) of this section is met 80980
more than ten days after the effective date of the change of 80981
operator; 80982

(c) The requirement of division (A)(3) of this section is met 80983
more than ten days after the effective date of the change of 80984
operator. 80985

(5) The entering operator is eligible to enter into a 80986
provider agreement for the ICF/IID as provided in section 5124.06 80987
of the Revised Code. 80988

(B) The department shall determine the date a provider 80989
agreement entered into under this section is to go into effect as 80990
follows: 80991

(1) The effective date shall give the department sufficient 80992
time to process the change of operator and give the department 80993
sufficient time to assure no duplicate payments are made and make 80994
the withholding required by section 5124.521 of the Revised Code. 80995

(2) The effective date shall be not earlier than the latest 80996
of the following: 80997

(a) The effective date of the change of operator; 80998

<u>(b) The date that the entering operator complies with section 5124.51 of the Revised Code and division (A)(2) of this section;</u>	80999 81000
<u>(c) The date that the exiting operator or owner complies with section 5124.51 of the Revised Code and division (A)(3) of this section.</u>	81001 81002 81003
<u>(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section:</u>	81004 81005 81006
<u>(a) Forty-five days if the change of operator does not entail the relocation of residents;</u>	81007 81008
<u>(b) Ninety days if the change of operator entails the relocation of residents.</u>	81009 81010
<u>Sec. 5124.513. A provider that enters into a provider agreement with the department of medicaid under section 5124.511 or 5124.512 of the Revised Code shall do all of the following:</u>	81011 81012 81013
<u>(A) Comply with all applicable federal statutes and regulations;</u>	81014 81015
<u>(B) Comply with section 5124.07 of the Revised Code and all other applicable state statutes and rules;</u>	81016 81017
<u>(C) Comply with all the terms and conditions of the exiting operator's provider agreement, including all of the following:</u>	81018 81019
<u>(1) Any plan of correction;</u>	81020
<u>(2) Compliance with health and safety standards;</u>	81021
<u>(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	81022 81023
<u>(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;</u>	81024 81025
<u>(5) Compliance with additional requirements imposed by the</u>	81026

department; 81027

(6) Any sanctions relating to remedies for violation of the 81028
provider agreement, including deficiencies, compliance periods, 81029
accountability periods, monetary penalties, notification for 81030
correction of contract violations, and history of deficiencies. 81031

Sec. 5124.514. In the case of a change of operator, the 81032
exiting operator shall be considered to be the operator of the 81033
ICF/IID for purposes of the medicaid program, including medicaid 81034
payments, until the effective date of the entering operator's 81035
provider agreement if the provider agreement is entered into under 81036
section 5124.511 or 5124.512 of the Revised Code. 81037

Sec. 5124.515. The department of medicaid may enter into a 81038
provider agreement as provided in section 5124.07 of the Revised 81039
Code, rather than section 5124.511 or 5124.512 of the Revised 81040
Code, with an entering operator if the entering operator does not 81041
agree to a provider agreement that satisfies the requirements of 81042
division (C) of section 5124.513 of the Revised Code. The 81043
department may not enter into the provider agreement unless the 81044
department of health certifies the ICF/IID under Title XIX. The 81045
effective date of the provider agreement shall not precede any of 81046
the following: 81047

(A) The date that the department of health certifies the 81048
ICF/IID; 81049

(B) The effective date of the change of operator; 81050

(C) The date the requirement of section 5124.51 of the 81051
Revised Code is satisfied. 81052

Sec. 5124.516. The director of developmental disabilities may 81053
adopt rules under section 5124.03 of the Revised Code governing 81054
adjustments to the medicaid reimbursement rate for an ICF/IID that 81055

undergoes a change of operator. No rate adjustment resulting from 81056
a change of operator shall be effective before the effective date 81057
of the entering operator's provider agreement. This is the case 81058
regardless of whether the provider agreement is entered into under 81059
section 5124.511, section 5124.512, or, pursuant to section 81060
5124.515, section 5124.07 of the Revised Code. 81061

Sec. 5124.517. The department of developmental disabilities' 81062
determination that a change of operator has or has not occurred 81063
for purposes of licensure under section 5123.19 of the Revised 81064
Code shall affect either of the following: 81065

(A) A determination by the department of developmental 81066
disabilities or department of medicaid of whether or when a change 81067
of operator occurs; 81068

(B) The department of medicaid's determination of the 81069
effective date of an entering operator's provider agreement under 81070
section 5124.511, section 5124.512, or, pursuant to section 81071
5124.515, section 5124.07 of the Revised Code. 81072

Sec. 5124.52. (A) On receipt of a written notice under 81073
section 5124.50 of the Revised Code of a facility closure or 81074
voluntary termination, on receipt of a written notice under 81075
section 5124.51 of the Revised Code of a change of operator, or on 81076
the effective date of an involuntary termination, the department 81077
of developmental disabilities shall estimate the amount of any 81078
overpayments made under the medicaid program to the exiting 81079
operator, including overpayments the exiting operator disputes, 81080
and other actual and potential debts the exiting operator owes or 81081
may owe to the department and United States centers for medicare 81082
and medicaid services under the medicaid program, including a 81083
franchise permit fee. 81084

(B) In estimating the exiting operator's other actual and 81085

potential debts to the department and the United States centers 81086
for medicare and medicaid services under the medicaid program, the 81087
department shall use a debt estimation methodology the director of 81088
developmental disabilities shall establish in rules authorized by 81089
section 5124.53 of the Revised Code. The methodology shall provide 81090
for estimating all of the following that the department determines 81091
are applicable: 81092

(1) Refunds due the department under section 5124.41 of the 81093
Revised Code; 81094

(2) Interest owed to the department and United States centers 81095
for medicare and medicaid services; 81096

(3) Final civil monetary and other penalties for which all 81097
right of appeal has been exhausted; 81098

(4) Money owed the department and United States centers for 81099
medicare and medicaid services from any outstanding final fiscal 81100
audit, including a final fiscal audit for the last fiscal year or 81101
portion thereof in which the exiting operator participated in the 81102
medicaid program; 81103

(5) Other amounts the department determines are applicable. 81104

(C) The department shall provide the exiting operator written 81105
notice of the department's estimate under division (A) of this 81106
section not later than thirty days after the department receives 81107
the notice under section 5124.50 of the Revised Code of the 81108
facility closure or voluntary termination; the department receives 81109
the notice under section 5124.51 of the Revised Code of the change 81110
of operator; or the effective date of the involuntary termination. 81111
The department's written notice shall include the basis for the 81112
estimate. 81113

Sec. 5124.521. (A) Except as provided in divisions (B), (C), 81114
and (D) of this section, the department of developmental 81115

disabilities may withhold from payment due an exiting operator 81116
under the medicaid program the total amount specified in the 81117
notice provided under division (C) of section 5124.52 of the 81118
Revised Code that the exiting operator owes or may owe to the 81119
department and United States centers for medicare and medicaid 81120
services under the medicaid program. 81121

(B) In the case of a change of operator and subject to 81122
division (E) of this section, the following shall apply regarding 81123
a withholding under division (A) of this section if the exiting 81124
operator or entering operator or an affiliated operator executes a 81125
successor liability agreement meeting the requirements of division 81126
(F) of this section: 81127

(1) If the exiting operator, entering operator, or affiliated 81128
operator assumes liability for the total, actual amount of debt 81129
the exiting operator owes the department and the United States 81130
centers for medicare and medicaid services under the medicaid 81131
program as determined under section 5124.525 of the Revised Code, 81132
the department shall not make the withholding. 81133

(2) If the exiting operator, entering operator, or affiliated 81134
operator assumes liability for only the portion of the amount 81135
specified in division (B)(1) of this section that represents the 81136
franchise permit fee the exiting operator owes, the department 81137
shall withhold not more than the difference between the total 81138
amount specified in the notice provided under division (C) of 81139
section 5124.52 of the Revised Code and the amount for which the 81140
exiting operator, entering operator, or affiliated operator 81141
assumes liability. 81142

(C) In the case of a voluntary termination or facility 81143
closure and subject to division (E) of this section, the following 81144
shall apply regarding a withholding under division (A) of this 81145
section if the exiting operator or an affiliated operator executes 81146

a successor liability agreement meeting the requirements of 81147
division (F) of this section: 81148

(1) If the exiting operator or affiliated operator assumes 81149
liability for the total, actual amount of debt the exiting 81150
operator owes the department and the United States centers for 81151
medicare and medicaid services under the medicaid program as 81152
determined under section 5124.525 of the Revised Code, the 81153
department shall not make the withholding. 81154

(2) If the exiting operator or affiliated operator assumes 81155
liability for only the portion of the amount specified in division 81156
(C)(1) of this section that represents the franchise permit fee 81157
the exiting operator owes, the department shall withhold not more 81158
than the difference between the total amount specified in the 81159
notice provided under division (C) of section 5124.52 of the 81160
Revised Code and the amount for which the exiting operator or 81161
affiliated operator assumes liability. 81162

(D) In the case of an involuntary termination and subject to 81163
division (E) of this section, the following shall apply regarding 81164
a withholding under division (A) of this section if the exiting 81165
operator, the entering operator, or an affiliated operator 81166
executes a successor liability agreement meeting the requirements 81167
of division (F) of this section and the department approves the 81168
successor liability agreement: 81169

(1) If the exiting operator, entering operator, or affiliated 81170
operator assumes liability for the total, actual amount of debt 81171
the exiting operator owes the department and the United States 81172
centers for medicare and medicaid services under the medicaid 81173
program as determined under section 5124.525 of the Revised Code, 81174
the department shall not make the withholding. 81175

(2) If the exiting operator, entering operator, or affiliated 81176
operator assumes liability for only the portion of the amount 81177

specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5124.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B), (C), or (D) of this section, both of the following must apply:

(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the ICF/IID that is the subject of the involuntary termination, voluntary termination, facility closure, or change of operator;

(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary termination or facility closure under section 5124.50 of the Revised Code or the notice of the change of operator under section 5124.51 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the ICF/IID that is the subject of the involuntary termination, voluntary termination, facility closure, or change of operator, must equal at least ninety per cent of the sum of the following:

(a) The average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement for the ICF/IID that is the subject of the involuntary termination, voluntary termination, facility closure, or change of operator;

<u>(b) Whichever of the following apply:</u>	81210
<u>(i) If the exiting operator or affiliated operator has assumed liability under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;</u>	81211 81212 81213 81214 81215
<u>(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.</u>	81216 81217 81218
<u>(F) A successor liability agreement executed under this section must comply with all of the following:</u>	81219 81220
<u>(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:</u>	81221 81222 81223
<u>(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code;</u>	81224 81225 81226 81227
<u>(b) The portion of the amount specified in division (F)(1)(a) of this section that represents the franchise permit fee the exiting operator owes.</u>	81228 81229 81230
<u>(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.</u>	81231 81232
<u>(3) It must provide that the department, after determining under section 5124.525 of the Revised Code the actual amount of debt the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:</u>	81233 81234 81235 81236 81237 81238 81239

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5124.525 of the Revised Code; 81240
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(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement. 81244
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(4) It must provide that the deductions authorized by division (F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state. 81247
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(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division (F)(3) of this section are to be made, the operator who executes the successor liability agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division (H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund. 81256
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(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5124.52 of the Revised Code. 81265
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(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or 81269
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agents of the attorney general or by special counsel appointed 81271
pursuant to section 109.08 of the Revised Code, collects under a 81272
successor liability agreement, other than the additional amount 81273
the operator who executes the agreement is required by division 81274
(F)(5) of this section to pay, shall be paid to the department of 81275
developmental disabilities for deposit into the appropriate fund. 81276
The additional amount that the operator is required to pay shall 81277
be paid into the state treasury to the credit of the attorney 81278
general claims fund created under section 109.081 of the Revised 81279
Code. 81280

Sec. 5124.522. (A) Except as provided in division (B) of this 81281
section, an exiting operator shall file with the department of 81282
developmental disabilities a cost report not later than ninety 81283
days after the last day the exiting operator's provider agreement 81284
is in effect. The cost report shall cover the period that begins 81285
with the day after the last day covered by the operator's most 81286
recent previous cost report filed under section 5124.10 or 81287
5124.101 of the Revised Code and ends on the last day the exiting 81288
operator's provider agreement is in effect. The cost report shall 81289
include, as applicable, all of the following: 81290

(1) The sale price of the ICF/IID; 81291

(2) A final depreciation schedule that shows which assets are 81292
transferred to the buyer and which assets are not transferred to 81293
the buyer; 81294

(3) Any other information the department requires. 81295

(B) The department, at its sole discretion, may waive the 81296
requirement that an exiting operator file a cost report in 81297
accordance with division (A) of this section. 81298

Sec. 5124.523. If an exiting operator required by section 81299
5124.522 of the Revised Code to file a cost report with the 81300

department of developmental disabilities fails to file the cost report in accordance with that section, all payments under the medicaid program for the period the cost report is required to cover are deemed overpayments until the date the department receives the properly completed cost report. The department may impose on the exiting operator a penalty of one hundred dollars for each calendar day the properly completed cost report is late. 81301
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Sec. 5124.524. The department of developmental disabilities may not provide an exiting operator final payment under the medicaid program until the department receives all properly completed cost reports the exiting operator is required to file under sections 5124.10 and 5124.522 of the Revised Code. 81308
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Sec. 5124.525. The department of developmental disabilities shall determine the actual amount of debt an exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue an initial debt summary report on this matter not later than sixty days after the date the exiting operator files the properly completed cost report required by section 5124.522 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, sixty days after the date the department waives the cost report requirement. The initial debt summary report becomes the final debt summary report thirty-one days after the department issues the initial debt summary report unless the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, requests a review before that date. 81313
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The exiting operator, and an affiliated operator who executes a successor liability agreement under section 5124.521 of the Revised Code, may request a review to contest any of the department's findings included in the initial debt summary report. The request for the review must be submitted to the department not later than thirty days after the date the department issues the initial debt summary report. The department shall conduct the review on receipt of a timely request and issue a revised debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section 5124.521 of the Revised Code, the department shall issue the revised debt summary report not later than ninety days after the date the department receives the timely request for the review unless the department and exiting operator or affiliated operator agree to a later date. The exiting operator or affiliated operator may submit information to the department explaining what the operator contests before and during the review, including documentation of the amount of any debt the department owes the operator. The exiting operator or affiliated operator may submit additional information to the department not later than thirty days after the department issues the revised debt summary report. The revised debt summary report becomes the final debt summary report thirty-one days after the department issues the revised debt summary report unless the exiting operator or affiliated operator timely submits additional information to the department. If the exiting operator or affiliated operator timely submits additional information to the department, the department shall consider the additional information and issue a final debt summary report not later than sixty days after the department issues the revised debt summary report unless the department and exiting operator or affiliated operator agree to a later date.

Each debt summary report the department issues under this section shall include the department's findings and the amount of

debt the department determines the exiting operator owes the 81364
department and United States centers for medicare and medicaid 81365
services under the medicaid program. The department shall explain 81366
its findings and determination in each debt summary report. 81367

The exiting operator, and an affiliated operator who executes 81368
a successor liability agreement under section 5124.521 of the 81369
Revised Code, may request, in accordance with Chapter 119. of the 81370
Revised Code, an adjudication regarding a finding in a final debt 81371
summary report that pertains to an audit or alleged overpayment 81372
made under the medicaid program to the exiting operator. The 81373
adjudication shall be consolidated with any other uncompleted 81374
adjudication that concerns a matter addressed in the final debt 81375
summary report. 81376

Sec. 5124.526. The department of developmental disabilities 81377
shall release the actual amount withheld under division (A) of 81378
section 5124.521 of the Revised Code, less any amount the exiting 81379
operator owes the department and United States centers for 81380
medicare and medicaid services under the medicaid program, as 81381
follows: 81382

(A) Unless the department issues the initial debt summary 81383
report required by section 5124.525 of the Revised Code not later 81384
than sixty days after the date the exiting operator files the 81385
properly completed cost report required by section 5124.522 of the 81386
Revised Code, sixty-one days after the date the exiting operator 81387
files the properly completed cost report; 81388

(B) If the department issues the initial debt summary report 81389
required by section 5124.525 of the Revised Code not later than 81390
sixty days after the date the exiting operator files a properly 81391
completed cost report required by section 5124.522 of the Revised 81392
Code, not later than the following: 81393

(1) Thirty days after the deadline for requesting an 81394

adjudication under section 5124.525 of the Revised Code regarding 81395
the final debt summary report if the exiting operator, and an 81396
affiliated operator who executes a successor liability agreement 81397
under section 5124.521 of the Revised Code, fail to request the 81398
adjudication on or before the deadline; 81399

(2) Thirty days after the completion of an adjudication of 81400
the final debt summary report if the exiting operator, or an 81401
affiliated operator who executes a successor liability agreement 81402
under section 5124.521 of the Revised Code, requests the 81403
adjudication on or before the deadline for requesting the 81404
adjudication. 81405

(C) Unless the department issues the initial debt summary 81406
report required by section 5124.525 of the Revised Code not later 81407
than sixty days after the date the department waives the cost 81408
report requirement of section 5124.522 of the Revised Code, 81409
sixty-one days after the date the department waives the cost 81410
report requirement; 81411

(D) If the department issues the initial debt summary report 81412
required by section 5124.525 of the Revised Code not later than 81413
sixty days after the date the department waives the cost report 81414
requirement of section 5124.522 of the Revised Code, not later 81415
than the following: 81416

(1) Thirty days after the deadline for requesting an 81417
adjudication under section 5124.525 of the Revised Code regarding 81418
the final debt summary report if the exiting operator, and an 81419
affiliated operator who executes a successor liability agreement 81420
under section 5124.521 of the Revised Code, fail to request the 81421
adjudication on or before the deadline; 81422

(2) Thirty days after the completion of an adjudication of 81423
the final debt summary report if the exiting operator, or an 81424
affiliated operator who executes a successor liability agreement 81425

under section 5124.521 of the Revised Code, requests the 81426
adjudication on or before the deadline for requesting the 81427
adjudication. 81428

Sec. 5124.527. The department of developmental disabilities, 81429
at its sole discretion, may release the amount withheld under 81430
division (A) of section 5124.521 of the Revised Code if the 81431
exiting operator submits to the department written notice of a 81432
postponement of a change of operator, facility closure, or 81433
voluntary termination and the transactions leading to the change 81434
of operator, facility closure, or voluntary termination are 81435
postponed for at least thirty days but less than ninety days after 81436
the date originally proposed for the change of operator, facility 81437
closure, or voluntary termination as reported in the written 81438
notice required by section 5124.50 or 5124.51 of the Revised Code. 81439
The department shall release the amount withheld if the exiting 81440
operator submits to the department written notice of a 81441
cancellation or postponement of a change of operator, facility 81442
closure, or voluntary termination and the transactions leading to 81443
the change of operator, facility closure, or voluntary termination 81444
are canceled or postponed for more than ninety days after the date 81445
originally proposed for the change of operator, facility closure, 81446
or voluntary termination as reported in the written notice 81447
required by section 5124.50 or 5124.51 of the Revised Code. A 81448
written notice shall be provided to the department in accordance 81449
with the method specified in rules authorized by section 5124.53 81450
of the Revised Code. 81451

After the department receives a written notice regarding a 81452
cancellation or postponement of a facility closure or voluntary 81453
termination, the exiting operator or owner shall provide new 81454
written notice to the department under section 5124.50 of the 81455
Revised Code regarding any transactions leading to a facility 81456
closure or voluntary termination at a future time. After the 81457

department receives a written notice regarding a cancellation or 81458
postponement of a change of operator, the exiting operator or 81459
owner and entering operator shall provide new written notice to 81460
the department under section 5124.51 of the Revised Code regarding 81461
any transactions leading to a change of operator at a future time. 81462

Sec. 5124.528. (A) All amounts withheld under section 81463
5124.521 of the Revised Code from payment due an exiting operator 81464
under the medicaid program shall be deposited into the medicaid 81465
payment withholding fund created by the controlling board pursuant 81466
to section 131.35 of the Revised Code. Money in the fund shall be 81467
used as follows: 81468

(1) To pay an exiting operator when a withholding is released 81469
to the exiting operator under section 5124.526 or 5124.527 of the 81470
Revised Code; 81471

(2) To pay the department of medicaid or department of 81472
developmental disabilities, and United States centers for medicare 81473
and medicaid services, the amount an exiting operator owes the 81474
department of medicaid or department of developmental disabilities 81475
and United States centers under the medicaid program. 81476

(B) Amounts paid from the medicaid payment withholding fund 81477
pursuant to division (A)(2) of this section shall be deposited 81478
into the appropriate fund. 81479

Sec. 5124.53. The director of developmental disabilities 81480
shall adopt rules under section 5124.03 of the Revised Code to 81481
implement sections 5124.50 to 5124.53 of the Revised Code. The 81482
rules shall specify all of the following: 81483

(A) The method by which written notices to the department 81484
required by sections 5124.50 to 5124.53 of the Revised Code are to 81485
be provided; 81486

(B) The forms and documents that are to be provided to the 81487

department under sections 5124.511 and 5124.512 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

~~Sec. 5111.874 5124.60. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:~~

~~"Home and community based services" has the same meaning as in section 5123.01 of the Revised Code.~~

~~"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid covered intermediate care facility for the mentally retarded services.~~

~~"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.~~

~~"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.~~

~~(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 5124.63 and 5111.878 5124.64 of the Revised~~

Code, the operator of an ~~intermediate care facility for the~~ 81518
~~mentally retarded~~ ICF/IID may convert some or all of the beds in 81519
the ~~facility~~ ICF/IID from providing ~~ICF/MR~~ ICF/IID services to 81520
providing home and community-based services if all of the 81521
following requirements are met: 81522

(1) The operator provides the directors of health and 81523
developmental disabilities at least ninety days' notice of the 81524
operator's intent to make the conversion. 81525

(2) The operator complies with the requirements of sections 81526
~~5111.65~~ 5124.50 to ~~5111.689~~ 5124.53 of the Revised Code regarding 81527
a voluntary termination ~~as defined in section 5111.65 of the~~ 81528
~~Revised Code~~ if those requirements are applicable. 81529

(3) If the operator intends to convert all of the ~~facility's~~ 81530
ICF/IID's beds, the operator notifies each of the ~~facility's~~ 81531
ICF/IID's residents that the ~~facility~~ ICF/IID is to cease 81532
providing ~~ICF/MR~~ ICF/IID services and inform each resident that 81533
the resident may do either of the following: 81534

(a) Continue to receive ~~ICF/MR~~ ICF/IID services by 81535
transferring to another ~~facility~~ ICF/IID that is an ~~intermediate~~ 81536
~~care facility for the mentally retarded~~ willing and able to accept 81537
the resident if the resident continues to qualify for ~~ICF/MR~~ 81538
ICF/IID services; 81539

(b) Begin to receive home and community-based services 81540
instead of ~~ICF/MR~~ ICF/IID services from any provider of home and 81541
community-based services that is willing and able to provide the 81542
services to the resident if the resident is eligible for the 81543
services and a slot for the services is available to the resident. 81544

(4) If the operator intends to convert some but not all of 81545
the ~~facility's~~ ICF/IID's beds, the operator notifies each of the 81546
~~facility's~~ ICF/IID's residents that the ~~facility~~ ICF/IID is to 81547
convert some of its beds from providing ~~ICF/MR~~ ICF/IID services to 81548

providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ~~ICF/MR~~ ICF/IID services from any ~~provider of ICF/MR services~~ ICF/IID that is willing and able to provide the services to the resident if the resident continues to qualify for ~~ICF/MR~~ ICF/IID services;

(b) Begin to receive home and community-based services instead of ~~ICF/MR~~ ICF/IID services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's license as a residential facility under section 5123.19 of the Revised Code.

(6) The director of developmental disabilities approves the conversion.

~~(C)~~(B) A decision by the director of developmental disabilities to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the director shall consider all of the following:

(1) The fiscal impact on the ~~facility~~ ICF/IID if some but not all of the beds are converted;

(2) The fiscal impact on the ~~medical assistance~~ medicaid program;

(3) The availability of home and community-based services. 81579

~~(D)~~(C) The notice provided to the directors under division 81580
~~(B)~~(A)(1) of this section shall specify whether some or all of the 81581
~~facility's~~ ICF/IID's beds are to be converted. If some but not all 81582
of the beds are to be converted, the notice shall specify how many 81583
of the ~~facility's~~ ICF/IID's beds are to be converted and how many 81584
of the beds are to continue to provide ~~ICF/MR~~ ICF/IID services. 81585
The notice to the director of developmental disabilities shall 81586
specify whether the operator wishes to surrender the ~~facility's~~ 81587
ICF/IID's license as a residential facility under section 5123.19 81588
of the Revised Code. 81589

~~(E)~~(D)(1) If the director of developmental disabilities 81590
approves a conversion under division ~~(C)~~(B) of this section, the 81591
director of health shall do the following: 81592

(a) Terminate the ICF/IID's medicaid certification ~~of the~~ 81593
~~intermediate care facility for the mentally retarded~~ if the notice 81594
specifies that all of the ~~facility's~~ ICF/IID's beds are to be 81595
converted; 81596

(b) Reduce the ~~facility's~~ certified ICF/IID's 81597
medicaid-certified capacity by the number of beds being converted 81598
if the notice specifies that some but not all of the beds are to 81599
be converted. 81600

(2) The director of health shall notify the medicaid director 81601
~~of job and family services~~ of the termination or reduction. On 81602
receipt of the ~~director of health's~~ notice, the medicaid director 81603
~~of job and family services~~ shall do the following: 81604

(a) Terminate the operator's medicaid provider agreement that 81605
authorizes the operator to provide ~~ICF/MR~~ ICF/IID services at the 81606
~~facility~~ ICF/IID if the ~~facility's~~ ICF/IID's certification was 81607
terminated; 81608

(b) Amend the operator's medicaid provider agreement to 81609

reflect the ~~facility's~~ ICF/IID's reduced ~~certified~~ 81610
medicaid-certified capacity if the ~~facility's certified~~ ICF/IID's 81611
medicaid-certified capacity is reduced. 81612

(3) In the case of action taken under division ~~(E)~~(D)(2)(a) 81613
of this section, the operator is not entitled to notice or a 81614
hearing under Chapter 119. of the Revised Code before the medicaid 81615
~~director of job and family services~~ terminates the medicaid 81616
provider agreement. 81617

Sec. ~~5111.875~~ 5124.61. (A) For the purpose of increasing the 81618
number of slots available for home and community-based services 81619
and subject to sections ~~5111.877~~ 5124.63 and ~~5111.878~~ 5124.64 of 81620
the Revised Code, a person who acquires, through a request for 81621
proposals issued by the director of developmental disabilities, a 81622
~~residential facility that is an intermediate care facility for the~~ 81623
~~mentally retarded and~~ an ICF/IID for which ~~the~~ a residential 81624
facility license ~~as a residential facility~~ was previously 81625
surrendered or revoked may convert some or all of the ~~facility's~~ 81626
ICF/IID's beds from providing ~~ICF/MR~~ ICF/IID services to providing 81627
home and community-based services if all of the following 81628
requirements are met: 81629

(1) The person provides the directors of health, ~~job and~~ 81630
~~family services~~, and developmental disabilities and medicaid 81631
director at least ninety days' notice of the person's intent to 81632
make the conversion. 81633

(2) The person complies with the requirements of sections 81634
~~5111.65~~ 5124.50 to ~~5111.689~~ 5124.53 of the Revised Code regarding 81635
a voluntary termination ~~as defined in section 5111.65 of the~~ 81636
~~Revised Code~~ if those requirements are applicable. 81637

(3) If the person intends to convert all of the ~~facility's~~ 81638
ICF/IID's beds, the person notifies each of the ~~facility's~~ 81639
ICF/IID's residents that the ~~facility~~ ICF/IID is to cease 81640

providing ~~ICF/MR~~ ICF/IID services and informs each resident that 81641
the resident may do either of the following: 81642

(a) Continue to receive ~~ICF/MR~~ ICF/IID services by 81643
transferring to another ~~facility that is an intermediate care~~ 81644
~~facility for the mentally retarded~~ ICF/IID willing and able to 81645
accept the resident if the resident continues to qualify for 81646
~~ICF/MR~~ ICF/IID services; 81647

(b) Begin to receive home and community-based services 81648
instead of ~~ICF/MR~~ ICF/IID services from any provider of home and 81649
community-based services that is willing and able to provide the 81650
services to the resident if the resident is eligible for the 81651
services and a slot for the services is available to the resident. 81652

(4) If the person intends to convert some but not all of the 81653
~~facility's~~ ICF/IID's beds, the person notifies each of the 81654
~~facility's~~ ICF/IID's residents that the ~~facility~~ ICF/IID is to 81655
convert some of its beds from providing ~~ICF/MR~~ ICF/IID services to 81656
providing home and community-based services and inform each 81657
resident that the resident may do either of the following: 81658

(a) Continue to receive ~~ICF/MR~~ ICF/IID services from any 81659
~~provider of ICF/MR services~~ ICF/IID that is willing and able to 81660
provide the services to the resident if the resident continues to 81661
qualify for ~~ICF/MR~~ ICF/IID services; 81662

(b) Begin to receive home and community-based services 81663
instead of ~~ICF/MR~~ ICF/IID services from any provider of home and 81664
community-based services that is willing and able to provide the 81665
services to the resident if the resident is eligible for the 81666
services and a slot for the services is available to the resident. 81667

(5) The person meets the requirements for providing home and 81668
community-based services at a residential facility. 81669

(B) The notice provided to the directors under division 81670
(A)(1) of this section shall specify whether some or all of the 81671

~~facility's~~ ICF/IID's beds are to be converted. If some but not all 81672
of the beds are to be converted, the notice shall specify how many 81673
of the ~~facility's~~ ICF/IID's beds are to be converted and how many 81674
of the beds are to continue to provide ~~ICF/MR~~ ICF/IID services. 81675

(C) On receipt of a notice under division (A)(1) of this 81676
section, the director of health shall do the following: 81677

(1) Terminate the ICF/IID's medicaid certification ~~of the~~ 81678
~~intermediate care facility for the mentally retarded~~ if the notice 81679
specifies that all of the facility's beds are to be converted; 81680

(2) Reduce the ~~facility's certified~~ ICF/IID's 81681
medicaid-certified capacity by the number of beds being converted 81682
if the notice specifies that some but not all of the beds are to 81683
be converted. 81684

(D) The director of health shall notify the medicaid director 81685
~~of job and family services~~ of the termination or reduction under 81686
division (C) of this section. On receipt of the director of 81687
health's notice, the medicaid director ~~of job and family services~~ 81688
shall do the following: 81689

(1) Terminate the person's medicaid provider agreement that 81690
authorizes the person to provide ~~ICF/MR~~ ICF/IID services at the 81691
~~facility~~ ICF/IID if the ~~facility's~~ ICF/IID's medicaid 81692
certification was terminated; 81693

(2) Amend the person's medicaid provider agreement to reflect 81694
the ~~facility's~~ ICF/IID's reduced ~~certified~~ medicaid-certified 81695
capacity if the ~~facility's certified~~ ICF/IID's medicaid-certified 81696
capacity is reduced. 81697

The person is not entitled to notice or a hearing under 81698
Chapter 119. of the Revised Code before the medicaid director ~~of~~ 81699
~~job and family services~~ terminates or amends the medicaid provider 81700
agreement. 81701

Sec. ~~5111.876~~ 5124.62. Subject to section ~~5111.877~~ 5124.63 of 81702
the Revised Code, the director of developmental disabilities may 81703
request that the medicaid director ~~of job and family services~~ seek 81704
the approval of the United States secretary of health and human 81705
services to increase the number of slots available for home and 81706
community-based services by a number not exceeding the number of 81707
beds that were part of the licensed capacity of a residential 81708
facility that had its license revoked or surrendered under section 81709
5123.19 of the Revised Code if the residential facility was an 81710
~~intermediate care facility for the mentally retarded~~ ICF/IID at 81711
the time of the license revocation or surrender. The revocation or 81712
surrender may have occurred before, or may occur on or after, June 81713
24, 2008. The request may include beds the director of 81714
developmental disabilities removed from such a residential 81715
facility's licensed capacity before transferring ownership or 81716
operation of the residential facility pursuant to a request for 81717
proposals. 81718

Sec. ~~5111.877~~ 5124.63. The medicaid director ~~of job and~~ 81719
~~family services~~ may seek approval from the United States secretary 81720
of health and human services for not more than a total of five 81721
hundred slots for home and community-based services for the 81722
purposes of sections ~~5111.874~~ 5124.60, ~~5111.875~~ 5124.61, and 81723
~~5111.876~~ 5124.62 of the Revised Code. 81724

Sec. ~~5111.878~~ 5124.64. Not more than a total of five hundred 81725
beds may be converted from providing ~~ICF/MR~~ ICF/IID services to 81726
providing home and community-based services under sections 81727
~~5111.874~~ 5124.60 and ~~5111.875~~ 5124.61 of the Revised Code. 81728

Sec. ~~5111.879~~ 5124.65. No person or government entity may 81729
reconvert a bed to be used for ~~ICF/MR~~ ICF/IID services if the bed 81730
was converted to use for home and community-based services under 81731

section ~~5111.874~~ 5124.60 or ~~5111.875~~ 5124.61 of the Revised Code. 81732

This prohibition applies regardless of either of the following: 81733

(A) The bed is part of the licensed capacity of a residential 81734
facility. 81735

(B) The bed has been sold, leased, or otherwise transferred 81736
to another person or government entity. 81737

Sec. 5124.99. Whoever violates section 5124.102 or division 81738
(E) of section 5124.08 of the Revised Code shall be fined not less 81739
than five hundred dollars nor more than one thousand dollars for 81740
the first offense and not less than one thousand dollars nor more 81741
than five thousand dollars for each subsequent offense. 81742

Fines paid under this section shall be deposited in the state 81743
treasury to the credit of the general revenue fund. 81744

Sec. 5126.01. As used in this chapter: 81745

(A) As used in this division, "adult" means an individual who 81746
is eighteen years of age or over and not enrolled in a program or 81747
service under Chapter 3323. of the Revised Code and an individual 81748
sixteen or seventeen years of age who is eligible for adult 81749
services under rules adopted by the director of developmental 81750
disabilities pursuant to Chapter 119. of the Revised Code. 81751

(1) "Adult services" means services provided to an adult 81752
outside the home, except when they are provided within the home 81753
according to an individual's assessed needs and identified in an 81754
individual service plan, that support learning and assistance in 81755
the area of self-care, sensory and motor development, 81756
socialization, daily living skills, communication, community 81757
living, social skills, or vocational skills. 81758

(2) "Adult services" includes all of the following: 81759

(a) Adult day habilitation services;	81760
(b) Adult day care;	81761
(c) Prevocational services;	81762
(d) Sheltered employment;	81763
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	81764 81765 81766 81767 81768 81769 81770
(f) Community employment services and supported employment services.	81771 81772
(B)(1) "Adult day habilitation services" means adult services that do the following:	81773 81774
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	81775 81776 81777 81778 81779 81780 81781 81782
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	81783 81784 81785 81786
(2) "Adult day habilitation services" includes all of the following:	81787 81788
(a) Personal care services needed to ensure an individual's	81789

ability to experience and participate in vocational services, 81790
educational services, community activities, and any other adult 81791
day habilitation services; 81792

(b) Skilled services provided while receiving adult day 81793
habilitation services, including such skilled services as behavior 81794
management intervention, occupational therapy, speech and language 81795
therapy, physical therapy, and nursing services; 81796

(c) Training and education in self-determination designed to 81797
help the individual do one or more of the following: develop 81798
self-advocacy skills, exercise the individual's civil rights, 81799
acquire skills that enable the individual to exercise control and 81800
responsibility over the services received, and acquire skills that 81801
enable the individual to become more independent, integrated, or 81802
productive in the community; 81803

(d) Recreational and leisure activities identified in the 81804
individual's service plan as therapeutic in nature or assistive in 81805
developing or maintaining social supports; 81806

(e) Counseling and assistance provided to obtain housing, 81807
including such counseling as identifying options for either rental 81808
or purchase, identifying financial resources, assessing needs for 81809
environmental modifications, locating housing, and planning for 81810
ongoing management and maintenance of the housing selected; 81811

(f) Transportation necessary to access adult day habilitation 81812
services; 81813

(g) Habilitation management, as described in section 5126.14 81814
of the Revised Code. 81815

(3) "Adult day habilitation services" does not include 81816
activities that are components of the provision of residential 81817
services, family support services, or supported living services. 81818

(C) "Appointing authority" means the following: 81819

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners; 81820
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(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge. 81823
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(D) "Community employment," "competitive employment," and "integrated setting" have the same meanings as in section 5123.022 of the Revised Code. 81826
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(E) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following: 81829
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(1) Job training resulting in the attainment of ~~competitive work~~ community employment, supported work in a typical work environment, or self-employment; 81834
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(2) Supervised work experience through an employer paid to provide the supervised work experience; 81837
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(3) ~~Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities~~ community employment; 81839
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(4) Ongoing supervision by an employer paid to provide the supervision. 81842
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~~(E)~~(F) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code. 81844
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"Developmental disability" means a severe, chronic disability that is characterized by all of the following: 81848
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(1) It is attributable to a mental or physical impairment or 81850
a combination of mental and physical impairments, other than a 81851
mental or physical impairment solely caused by mental illness as 81852
defined in division (A) of section 5122.01 of the Revised Code; 81853

(2) It is manifested before age twenty-two; 81854

(3) It is likely to continue indefinitely; 81855

(4) It results in one of the following: 81856

(a) In the case of a person under age three, at least one 81857
developmental delay or an established risk; 81858

(b) In the case of a person at least age three but under age 81859
six, at least two developmental delays or an established risk; 81860

(c) In the case of a person age six or older, a substantial 81861
functional limitation in at least three of the following areas of 81862
major life activity, as appropriate for the person's age: 81863
self-care, receptive and expressive language, learning, mobility, 81864
self-direction, capacity for independent living, and, if the 81865
person is at least age sixteen, capacity for economic 81866
self-sufficiency. 81867

(5) It causes the person to need a combination and sequence 81868
of special, interdisciplinary, or other type of care, treatment, 81869
or provision of services for an extended period of time that is 81870
individually planned and coordinated for the person. 81871

~~(F)~~(G) "Early childhood services" means a planned program of 81872
habilitation designed to meet the needs of individuals with mental 81873
retardation or other developmental disabilities who have not 81874
attained compulsory school age. 81875

~~(G)~~(H)(1) "Environmental modifications" means the physical 81876
adaptations to an individual's home, specified in the individual's 81877
service plan, that are necessary to ensure the individual's 81878
health, safety, and welfare or that enable the individual to 81879

function with greater independence in the home, and without which 81880
the individual would require institutionalization. 81881

(2) "Environmental modifications" includes such adaptations 81882
as installation of ramps and grab-bars, widening of doorways, 81883
modification of bathroom facilities, and installation of 81884
specialized electric and plumbing systems necessary to accommodate 81885
the individual's medical equipment and supplies. 81886

(3) "Environmental modifications" does not include physical 81887
adaptations or improvements to the home that are of general 81888
utility or not of direct medical or remedial benefit to the 81889
individual, including such adaptations or improvements as 81890
carpeting, roof repair, and central air conditioning. 81891

~~(H)~~(I) "Family support services" means the services provided 81892
under a family support services program operated under section 81893
5126.11 of the Revised Code. 81894

~~(I)~~(J) "Habilitation" means the process by which the staff of 81895
the facility or agency assists an individual with mental 81896
retardation or other developmental disability in acquiring and 81897
maintaining those life skills that enable the individual to cope 81898
more effectively with the demands of the individual's own person 81899
and environment, and in raising the level of the individual's 81900
personal, physical, mental, social, and vocational efficiency. 81901
Habilitation includes, but is not limited to, programs of formal, 81902
structured education and training. 81903

~~(J)~~(K) "Home and community-based services" ~~means~~ 81904
~~medicaid funded home and community based services specified in~~ 81905
~~division (B)(1) of section 5111.87 of the Revised Code and~~ 81906
~~provided under the medicaid waiver components the department of~~ 81907
~~developmental disabilities administers pursuant to~~ has the same 81908
meaning as in section 5111.871 5123.01 of the Revised Code. 81909
~~However, home and community based services provided under the~~ 81910

~~medicaid waiver component known as the transitions developmental 81911
disabilities waiver are to be considered to be home and 81912
community based services for the purposes of this chapter only to 81913
the extent, if any, provided by the contract required by section 81914
5111.871 of the Revised Code regarding the waiver. 81915~~

~~(K)(L) "ICF/IID" has the same meaning as in section 5124.01 81916
of the Revised Code. 81917~~

~~(M) "Immediate family" means parents, grandparents, brothers, 81918
sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, 81919
fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and 81920
daughters-in-law. 81921~~

~~(L) "Medicaid" has the same meaning as in section 5111.01 of 81922
the Revised Code. 81923~~

~~(M)(N) "Medicaid case management services" means case 81924
management services provided to an individual with mental 81925
retardation or other developmental disability that the state 81926
medicaid plan requires. 81927~~

~~(N)(O) "Mental retardation" means a mental impairment 81928
manifested during the developmental period characterized by 81929
significantly subaverage general intellectual functioning existing 81930
concurrently with deficiencies in the effectiveness or degree with 81931
which an individual meets the standards of personal independence 81932
and social responsibility expected of the individual's age and 81933
cultural group. 81934~~

~~(O)(P) "Residential services" means services to individuals 81935
with mental retardation or other developmental disabilities to 81936
provide housing, food, clothing, habilitation, staff support, and 81937
related support services necessary for the health, safety, and 81938
welfare of the individuals and the advancement of their quality of 81939
life. "Residential services" includes program management, as 81940
described in section 5126.14 of the Revised Code. 81941~~

~~(P)~~(Q) "Resources" means available capital and other assets, 81942
including moneys received from the federal, state, and local 81943
governments, private grants, and donations; appropriately 81944
qualified personnel; and appropriate capital facilities and 81945
equipment. 81946

~~(Q)~~(R) "Senior probate judge" means the current probate judge 81947
of a county who has served as probate judge of that county longer 81948
than any of the other current probate judges of that county. If a 81949
county has only one probate judge, "senior probate judge" means 81950
that probate judge. 81951

~~(R)~~(S) "Service and support administration" means the duties 81952
performed by a service and support administrator pursuant to 81953
section 5126.15 of the Revised Code. 81954

~~(S)~~(T)(1) "Specialized medical, adaptive, and assistive 81955
equipment, supplies, and supports" means equipment, supplies, and 81956
supports that enable an individual to increase the ability to 81957
perform activities of daily living or to perceive, control, or 81958
communicate within the environment. 81959

(2) "Specialized medical, adaptive, and assistive equipment, 81960
supplies, and supports" includes the following: 81961

(a) Eating utensils, adaptive feeding dishes, plate guards, 81962
mylatex straps, hand splints, reaches, feeder seats, adjustable 81963
pointer sticks, interpreter services, telecommunication devices 81964
for the deaf, computerized communications boards, other 81965
communication devices, support animals, veterinary care for 81966
support animals, adaptive beds, supine boards, prone boards, 81967
wedges, sand bags, sidelayers, bolsters, adaptive electrical 81968
switches, hand-held shower heads, air conditioners, humidifiers, 81969
emergency response systems, folding shopping carts, vehicle lifts, 81970
vehicle hand controls, other adaptations of vehicles for 81971
accessibility, and repair of the equipment received. 81972

(b) Nondisposable items not covered by medicaid that are 81973
intended to assist an individual in activities of daily living or 81974
instrumental activities of daily living. 81975

~~(T)~~(U) "Supportive home services" means a range of services 81976
to families of individuals with mental retardation or other 81977
developmental disabilities to develop and maintain increased 81978
acceptance and understanding of such persons, increased ability of 81979
family members to teach the person, better coordination between 81980
school and home, skills in performing specific therapeutic and 81981
management techniques, and ability to cope with specific 81982
situations. 81983

~~(U)~~(V)(1) "Supported living" means services provided for as 81984
long as twenty-four hours a day to an individual with mental 81985
retardation or other developmental disability through any public 81986
or private resources, including moneys from the individual, that 81987
enhance the individual's reputation in community life and advance 81988
the individual's quality of life by doing the following: 81989

(a) Providing the support necessary to enable an individual 81990
to live in a residence of the individual's choice, with any number 81991
of individuals who are not disabled, or with not more than three 81992
individuals with mental retardation and developmental disabilities 81993
unless the individuals are related by blood or marriage; 81994

(b) Encouraging the individual's participation in the 81995
community; 81996

(c) Promoting the individual's rights and autonomy; 81997

(d) Assisting the individual in acquiring, retaining, and 81998
improving the skills and competence necessary to live successfully 81999
in the individual's residence. 82000

(2) "Supported living" includes the provision of all of the 82001
following: 82002

(a) Housing, food, clothing, habilitation, staff support, 82003
professional services, and any related support services necessary 82004
to ensure the health, safety, and welfare of the individual 82005
receiving the services; 82006

(b) A combination of lifelong or extended-duration 82007
supervision, training, and other services essential to daily 82008
living, including assessment and evaluation and assistance with 82009
the cost of training materials, transportation, fees, and 82010
supplies; 82011

(c) Personal care services and homemaker services; 82012

(d) Household maintenance that does not include modifications 82013
to the physical structure of the residence; 82014

(e) Respite care services; 82015

(f) Program management, as described in section 5126.14 of 82016
the Revised Code. 82017

Sec. 5126.05. (A) Subject to the rules established by the 82018
director of developmental disabilities pursuant to Chapter 119. of 82019
the Revised Code for programs and services offered pursuant to 82020
this chapter, and subject to the rules established by the state 82021
board of education pursuant to Chapter 119. of the Revised Code 82022
for programs and services offered pursuant to Chapter 3323. of the 82023
Revised Code, the county board of developmental disabilities 82024
shall: 82025

(1) Administer and operate facilities, programs, and services 82026
as provided by this chapter and Chapter 3323. of the Revised Code 82027
and establish policies for their administration and operation; 82028

(2) Coordinate, monitor, and evaluate existing services and 82029
facilities available to individuals with mental retardation and 82030
developmental disabilities; 82031

(3) Provide early childhood services, supportive home 82032

services, and adult services, according to the plan and priorities 82033
developed under section 5126.04 of the Revised Code; 82034

(4) Provide or contract for special education services 82035
pursuant to Chapters 3317. and 3323. of the Revised Code and 82036
ensure that related services, as defined in section 3323.01 of the 82037
Revised Code, are available according to the plan and priorities 82038
developed under section 5126.04 of the Revised Code; 82039

(5) Adopt a budget, authorize expenditures for the purposes 82040
specified in this chapter and do so in accordance with section 82041
319.16 of the Revised Code, approve attendance of board members 82042
and employees at professional meetings and approve expenditures 82043
for attendance, and exercise such powers and duties as are 82044
prescribed by the director; 82045

(6) Submit annual reports of its work and expenditures, 82046
pursuant to sections 3323.09 and 5126.12 of the Revised Code, to 82047
the director, the superintendent of public instruction, and the 82048
board of county commissioners at the close of the fiscal year and 82049
at such other times as may reasonably be requested; 82050

(7) Authorize all positions of employment, establish 82051
compensation, including but not limited to salary schedules and 82052
fringe benefits for all board employees, approve contracts of 82053
employment for management employees that are for a term of more 82054
than one year, employ legal counsel under section 309.10 of the 82055
Revised Code, and contract for employee benefits; 82056

(8) Provide service and support administration in accordance 82057
with section 5126.15 of the Revised Code; 82058

(9) Certify respite care homes pursuant to rules adopted 82059
under section 5123.171 of the Revised Code by the director of 82060
developmental disabilities; 82061

(10) Implement an employment first policy that clearly 82062
identifies community employment as the desired outcome for every 82063

<u>individual of working age who receives services from the board;</u>	82064
<u>(11) Set benchmarks for improving community employment outcomes;</u>	82065
<u>(12) Establish a list of services, from least to most integrated, that improve community employment outcomes.</u>	82066
(B) To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, they shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.	82067
(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.	82068
(D) A county board may combine transportation for children and adults enrolled in programs and services offered under Chapter 5126. of the Revised Code with transportation for children enrolled in classes funded under section <u>sections 3317.0213 and 3317.20</u> or units approved under section 3317.05 of the Revised Code.	82069
(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing arrangements.	82070
(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the	82071
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purposes for which the board is established and hold, apply, and 82095
dispose of the moneys, lands, and property according to the terms 82096
of the gift, grant, devise, or bequest. All money received by 82097
gift, grant, bequest, or disposition of lands or property received 82098
by gift, grant, devise, or bequest shall be deposited in the 82099
county treasury to the credit of such board and shall be available 82100
for use by the board for purposes determined or stated by the 82101
donor or grantor, but may not be used for personal expenses of the 82102
board members. Any interest or earnings accruing from such gift, 82103
grant, devise, or bequest shall be treated in the same manner and 82104
subject to the same provisions as such gift, grant, devise, or 82105
bequest. 82106

(G) The board of county commissioners shall levy taxes and 82107
make appropriations sufficient to enable the county board of 82108
developmental disabilities to perform its functions and duties, 82109
and may utilize any available local, state, and federal funds for 82110
such purpose. 82111

Sec. 5126.051. (A) To the extent that resources are 82112
available, a county board of developmental disabilities shall 82113
provide for or arrange residential services and supported living 82114
for individuals with mental retardation and developmental 82115
disabilities. 82116

A county board may acquire, convey, lease, or sell property 82117
for residential services and supported living and enter into loan 82118
agreements, including mortgages, for the acquisition of such 82119
property. A county board is not required to comply with provisions 82120
of Chapter 307. of the Revised Code providing for competitive 82121
bidding or sheriff sales in the acquisition, lease, conveyance, or 82122
sale of property under this division, but the acquisition, lease, 82123
conveyance, or sale must be at fair market value determined by 82124
appraisal of one or more disinterested persons appointed by the 82125

board. 82126

Any action taken by a county board under this division that 82127
will incur debt on the part of the county shall be taken in 82128
accordance with Chapter 133. of the Revised Code. A county board 82129
shall not incur any debt on the part of the county without the 82130
prior approval of the board of county commissioners. 82131

(B)(1) To the extent that resources are available, ~~in~~ 82132
~~addition to sheltered employment and work activities provided as a~~ 82133
county board shall provide or arrange for the provision of adult 82134
services pursuant to division (A)(3) of section 5126.05 of the 82135
Revised Code, ~~a county board of developmental disabilities may~~ 82136
~~provide or arrange for~~ including job training, vocational 82137
evaluation, and community employment services to ~~mentally retarded~~ 82138
~~and developmentally disabled~~ individuals who are age eighteen and 82139
older and not enrolled in a program or service under Chapter 3323. 82140
of the Revised Code or age sixteen or seventeen and eligible for 82141
adult services under rules adopted by the director of 82142
developmental disabilities under Chapter 119. of the Revised Code. 82143
These services shall be provided in accordance with the 82144
individual's individual service or habilitation plan and shall 82145
include support services specified in the plan. 82146

(2) A county board may, in cooperation with the ~~Ohio~~ 82147
~~rehabilitation services commission~~ opportunities for Ohioans with 82148
disabilities agency, seek federal funds for job training and 82149
community employment services. 82150

(3) A county board may contract with any agency, board, or 82151
other entity that is accredited by the commission on accreditation 82152
of rehabilitation facilities to provide services. A county board 82153
that is accredited by the commission on accreditation of 82154
rehabilitation facilities may provide services for which it is 82155
certified by the commission. 82156

(C) To the extent that resources are available, a county board may provide services to an individual with mental retardation or other developmental disability in addition to those provided pursuant to this section, section 5126.05 of the Revised Code, or any other section of this chapter. The services shall be provided in accordance with the individual's habilitation or service plan and may be provided in collaboration with other entities of state or local government.

Sec. 5126.054. (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an ~~intermediate care facility for the mentally retarded~~ ICF/IID, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A preliminary implementation component that specifies the

number of individuals to be provided, during the first year that 82187
the plan is in effect, home and community-based services pursuant 82188
to the waiting list priority given to them under section 5126.042 82189
of the Revised Code and the types of home and community-based 82190
services the individuals are to receive; 82191

(3) A component that provides for the implementation of 82192
medicaid case management services and home and community-based 82193
services for individuals who begin to receive the services on or 82194
after the date the plan is approved under section 5123.046 of the 82195
Revised Code. A county board shall include all of the following in 82196
the component: 82197

(a) If the department of developmental disabilities or 82198
department of ~~job and family services~~ medicaid requires, an 82199
agreement to pay the nonfederal share of medicaid expenditures 82200
that the county board is required by sections 5126.059 and 82201
5126.0510 of the Revised Code to pay; 82202

(b) How the services are to be phased in over the period the 82203
plan covers, including how the county board will serve individuals 82204
who have priority on a waiting list established under section 82205
5126.042 of the Revised Code; 82206

(c) Any agreement or commitment regarding the county board's 82207
funding of home and community-based services that the county board 82208
has with the department at the time the county board develops the 82209
component; 82210

(d) Assurances adequate to the department that the county 82211
board will comply with all of the following requirements: 82212

(i) To provide the types of home and community-based services 82213
specified in the preliminary implementation component required by 82214
division (A)(2) of this section to at least the number of 82215
individuals specified in that component; 82216

(ii) To use any additional funds the county board receives 82217

for the services to improve the county board's resource 82218
capabilities for supporting such services available in the county 82219
at the time the component is developed and to expand the services 82220
to accommodate the unmet need for those services in the county; 82221

(iii) To employ or contract with a business manager or enter 82222
into an agreement with another county board of developmental 82223
disabilities that employs or contracts with a business manager to 82224
have the business manager serve both county boards. No 82225
superintendent of a county board may serve as the county board's 82226
business manager. 82227

(iv) To employ or contract with a medicaid services manager 82228
or enter into an agreement with another county board of 82229
developmental disabilities that employs or contracts with a 82230
medicaid services manager to have the medicaid services manager 82231
serve both county boards. No superintendent of a county board may 82232
serve as the county board's medicaid services manager. 82233

(e) Programmatic and financial accountability measures and 82234
projected outcomes expected from the implementation of the plan; 82235

(f) Any other applicable information or conditions that the 82236
department requires as a condition of approving the component 82237
under section 5123.046 of the Revised Code. 82238

(B) A county board whose plan developed under division (A) of 82239
this section is approved by the department under section 5123.046 82240
of the Revised Code shall update and renew the plan in accordance 82241
with a schedule the department shall develop. 82242

Sec. 5126.055. (A) Except as provided in section 5126.056 of 82243
the Revised Code, a county board of developmental disabilities has 82244
medicaid local administrative authority to, and shall, do all of 82245
the following for an individual with mental retardation or other 82246
developmental disability who resides in the county that the county 82247

board serves and seeks or receives home and community-based 82248
services: 82249

(1) Perform assessments and evaluations of the individual. As 82250
part of the assessment and evaluation process, the county board 82251
shall do all of the following: 82252

(a) Make a recommendation to the department of developmental 82253
disabilities on whether the department should approve or deny the 82254
individual's application for the services, including on the basis 82255
of whether the individual needs the level of care an ~~intermediate~~ 82256
~~care facility for the mentally retarded~~ ICF/IID provides; 82257

(b) If the individual's application is denied because of the 82258
county board's recommendation and the individual ~~requests a~~ 82259
~~hearing under~~ appeals pursuant to section 5101.35 5160.31 of the 82260
Revised Code, present, with the department of developmental 82261
disabilities or department of ~~job and family services~~ medicaid, 82262
whichever denies the application, the reasons for the 82263
recommendation and denial at the hearing; 82264

(c) If the individual's application is approved, recommend to 82265
the departments of developmental disabilities and ~~job and family~~ 82266
~~services~~ medicaid the services that should be included in the 82267
individual's individualized service plan and, if either department 82268
approves, reduces, denies, or terminates a service included in the 82269
individual's individualized service plan under section ~~5111.871~~ 82270
5166.20 of the Revised Code because of the county board's 82271
recommendation, present, with the department that made the 82272
approval, reduction, denial, or termination, the reasons for the 82273
recommendation and approval, reduction, denial, or termination at 82274
a hearing held pursuant to an appeal made under section ~~5101.35~~ 82275
5160.31 of the Revised Code. 82276

(2) Perform any duties assigned to the county board in rules 82277
adopted under section 5126.046 of the Revised Code regarding the 82278

individual's right to choose a qualified and willing provider of 82279
the services and, at a hearing held pursuant to an appeal made 82280
under section ~~5101.35~~ 5160.31 of the Revised Code, present 82281
evidence of the process for appropriate assistance in choosing 82282
providers; 82283

(3) If the county board is certified under section 5123.161 82284
of the Revised Code to provide the services and agrees to provide 82285
the services to the individual and the individual chooses the 82286
county board to provide the services, furnish, in accordance with 82287
the county board's medicaid provider agreement and for the 82288
authorized reimbursement rate, the services the individual 82289
requires; 82290

(4) Monitor the services provided to the individual and 82291
ensure the individual's health, safety, and welfare. The 82292
monitoring shall include quality assurance activities. If the 82293
county board provides the services, the department of 82294
developmental disabilities shall also monitor the services. 82295

(5) Develop, with the individual and the provider of the 82296
individual's services, an effective individualized service plan 82297
that includes coordination of services, recommend that the 82298
departments of developmental disabilities and ~~job and family~~ 82299
~~services~~ medicaid approve the plan, and implement the plan unless 82300
either department disapproves it. The individualized service plan 82301
shall include a summary page, agreed to by the county board, 82302
provider, and individual receiving services, that clearly outlines 82303
the amount, duration, and scope of services to be provided under 82304
the plan. 82305

(6) Have an investigative agent conduct investigations under 82306
section 5126.313 of the Revised Code that concern the individual; 82307

(7) Have a service and support administrator perform the 82308
duties under division (B)(9) of section 5126.15 of the Revised 82309

Code that concern the individual. 82310

(B) A county board shall perform its medicaid local 82311
administrative authority under this section in accordance with all 82312
of the following: 82313

(1) The county board's plan that the department of 82314
developmental disabilities approves under section 5123.046 of the 82315
Revised Code; 82316

(2) All applicable federal and state laws; 82317

(3) All applicable policies of the departments of 82318
developmental disabilities and ~~job and family services~~ medicaid 82319
and the United States department of health and human services; 82320

(4) The department of ~~job and family services'~~ medicaid's 82321
supervision under its authority ~~under section 5111.01 of the~~ 82322
~~Revised Code to act~~ as the single state medicaid agency; 82323

(5) The department of developmental disabilities' oversight. 82324

(C) The departments of developmental disabilities and ~~job and~~ 82325
~~family services~~ medicaid shall communicate with and provide 82326
training to county boards regarding medicaid local administrative 82327
authority granted by this section. The communication and training 82328
shall include issues regarding audit protocols and other standards 82329
established by the United States department of health and human 82330
services that the departments determine appropriate for 82331
communication and training. County boards shall participate in the 82332
training. The departments shall assess the county board's 82333
compliance against uniform standards that the departments shall 82334
establish. 82335

(D) A county board may not delegate its medicaid local 82336
administrative authority granted under this section but may 82337
contract with a person or government entity, including a council 82338
of governments, for assistance with its medicaid local 82339

administrative authority. A county board that enters into such a 82340
contract shall notify the director of developmental disabilities. 82341
The notice shall include the tasks and responsibilities that the 82342
contract gives to the person or government entity. The person or 82343
government entity shall comply in full with all requirements to 82344
which the county board is subject regarding the person or 82345
government entity's tasks and responsibilities under the contract. 82346
The county board remains ultimately responsible for the tasks and 82347
responsibilities. 82348

(E) A county board that has medicaid local administrative 82349
authority under this section shall, through the departments of 82350
developmental disabilities and ~~job and family services~~ medicaid, 82351
reply to, and cooperate in arranging compliance with, a program or 82352
fiscal audit or program violation exception that a state or 82353
federal audit or review discovers. The department of ~~job and~~ 82354
~~family services~~ medicaid shall timely notify the department of 82355
developmental disabilities and the county board of any adverse 82356
findings. After receiving the notice, the county board, in 82357
conjunction with the department of developmental disabilities, 82358
shall cooperate fully with the department of ~~job and family~~ 82359
~~services~~ medicaid and timely prepare and send to the department a 82360
written plan of correction or response to the adverse findings. 82361
The county board is liable for any adverse findings that result 82362
from an action it takes or fails to take in its implementation of 82363
medicaid local administrative authority. 82364

(F) If the department of developmental disabilities or 82365
department of ~~job and family services~~ medicaid determines that a 82366
county board's implementation of its medicaid local administrative 82367
authority under this section is deficient, the department that 82368
makes the determination shall require that county board do the 82369
following: 82370

(1) If the deficiency affects the health, safety, or welfare 82371

of an individual with mental retardation or other developmental disability, correct the deficiency within twenty-four hours; 82372
82373

(2) If the deficiency does not affect the health, safety, or welfare of an individual with mental retardation or other developmental disability, receive technical assistance from the department or submit a plan of correction to the department that is acceptable to the department within sixty days and correct the deficiency within the time required by the plan of correction. 82374
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Sec. 5126.131. (A)(1) Each regional council established under section 5126.13 of the Revised Code shall file with the department of developmental disabilities an annual cost report detailing the regional council's income and expenditures. 82380
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(2) Each county board of developmental disabilities shall file with the department an annual cost report detailing the board's income and expenditures. 82384
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(B)(1)(a) Unless the department establishes a later date for all regional council cost reports, each council shall file its cost report not later than the last day of April. At the written request of a regional council, the department may grant a fourteen-day extension for filing the cost report. 82387
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(b) Unless the department establishes a later date for all county board cost reports, each board shall file its cost report not later than the last day of May. At the written request of a board, the department may grant a fourteen-day extension for filing the board's cost report. 82392
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(2) The cost report shall contain information on the previous calendar year's income and expenditures. Once filed by a regional council or board, no changes may be made to the cost report, including the submission of additional documentation, except as otherwise provided in this section. 82397
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(C) Each cost report filed under this section by a regional council or board shall be audited by the department or an entity designated by the department. The department or designated entity shall notify the regional council or board of the date on which the audit is to begin. The department may permit a regional council or board to submit changes to the cost report before the audit begins. 82402
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If the department or designated entity determines that a filed cost report is not auditable, it shall provide written notification to the regional council or board of the cost report's deficiencies and may request additional documentation. If the department or designated entity requests additional documentation, the regional council or board shall be given sixty days after the request is made to provide the additional documentation. After sixty days, the department or designated entity shall determine whether the cost report is auditable with any additional documentation provided and shall notify the regional council or board of its determination. The determination of the department or designated entity is final. 82409
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(D) The department or designated entity shall certify its audit as complete and file a copy of the certified audit in the office of the clerk of the governing body, executive officer of the governing body, and chief fiscal officer of the audited regional council or board. Changes may not be made to a cost report once the department or designated entity files the certified audit. The cost report is not a public record under section 149.43 of the Revised Code until copies of the cost report are filed pursuant to this section. 82421
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(E) The department may withhold any funds that it distributes to a regional council or board as subsidy payments if either of the following is the case: 82430
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(1) The cost report is not timely filed by the regional 82433

council or board with the department in accordance with division (B) of this section. 82434
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(2) The cost report is determined not auditable under division (C) of this section after the department or designated entity gives the regional council or board sixty days to provide additional documentation. 82436
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(F) Cost reports shall be retained by regional councils and boards for seven years. The department shall provide annual training to regional council and board employees regarding cost reports required by this section. 82440
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(G) The department, in accordance with Chapter 119. of the Revised Code, may adopt any rules necessary to implement this section. 82444
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Sec. 5126.24. (A) As used in this section: 82447

(1) "License" means an educator license issued by the state board of education under section 3319.22 of the Revised Code or a certificate issued by the department of developmental disabilities. 82448
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(2) "Teacher" means a person employed by a county board of developmental disabilities in a position that requires a license. 82452
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(3) "Nonteaching employee" means a person employed by a county board of developmental disabilities in a position that does not require a license. 82454
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(4) "Years of service" includes all service described in division (A) of section ~~3317.13~~ 3317.14 of the Revised Code. 82457
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(B) Subject to rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of developmental disabilities shall annually adopt separate salary schedules for teachers and nonteaching employees. 82459
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(C) The teachers' salary schedule shall provide for 82464
increments based on training and years of service. The board may 82465
establish its own service requirements ~~provided no teacher~~ 82466
~~receives less than the salary the teacher would be paid under~~ 82467
~~section 3317.13 of the Revised Code if the teacher were employed~~ 82468
~~by a school district board of education and~~ provided full credit 82469
for a minimum of five years of actual teaching and military 82470
experience as defined in division (A) of such section is given to 82471
each teacher. 82472

Each teacher who has completed training that would qualify 82473
the teacher for a higher salary bracket pursuant to this section 82474
shall file by the fifteenth day of September with the fiscal 82475
officer of the board, satisfactory evidence of the completion of 82476
such additional training. The fiscal officer shall then 82477
immediately place the teacher, pursuant to this section, in the 82478
proper salary bracket in accordance with training and years of 82479
service. ~~No teacher shall be paid less than the salary to which~~ 82480
~~the teacher would be entitled under section 3317.13 of the Revised~~ 82481
~~Code if the teacher were employed by a school district board of~~ 82482
~~education.~~ 82483

The superintendent of each county board, on or before the 82484
fifteenth day of October of each year, shall certify to the state 82485
board of education the name of each teacher employed, on an annual 82486
salary, in each special education program operated pursuant to 82487
section 3323.09 of the Revised Code during the first full school 82488
week of October. The superintendent further shall certify, for 82489
each teacher, the number of years of training completed at a 82490
recognized college, the degrees earned from a college recognized 82491
by the state board, the type of license held, the number of months 82492
employed by the board, the annual salary, and other information 82493
that the state board may request. 82494

(D) The nonteaching employees' salary schedule established by 82495

the board shall be based on training, experience, and 82496
qualifications with initial salaries no less than salaries in 82497
effect on July 1, 1985. Each board shall prepare and may amend 82498
from time to time, specifications descriptive of duties, 82499
responsibilities, requirements, and desirable qualifications of 82500
the classifications of employees required to perform the duties 82501
specified in the salary schedule. All nonteaching employees shall 82502
be notified of the position classification to which they are 82503
assigned and the salary for the classification. The compensation 82504
of all nonteaching employees working for a particular board shall 82505
be uniform for like positions except as compensation would be 82506
affected by salary increments based upon length of service. 82507

On the fifteenth day of October of each year the nonteaching 82508
employees' salary schedule and list of job classifications and 82509
salaries in effect on that date shall be filed by each board with 82510
the superintendent of public instruction. If such salary schedule 82511
and classification plan is not filed, the superintendent of public 82512
instruction shall order the board to file such schedule and list 82513
forthwith. If this condition is not corrected within ten days 82514
after receipt of the order from the superintendent, no money shall 82515
be distributed to the board under Chapter 3317. of the Revised 82516
Code until the superintendent has satisfactory evidence of the 82517
board's full compliance with such order. 82518

Sec. 5139.03. The department of youth services shall control 82519
and manage all state institutions or facilities established or 82520
created for the training or rehabilitation of delinquent children 82521
committed to the department, except where the control and 82522
management of an institution or facility is vested by law in 82523
another agency. The department shall employ, in addition to other 82524
personnel authorized under Chapter 5139. of the Revised Code, 82525
sufficient personnel to maintain food service and buildings and 82526
grounds operations. 82527

The department of youth services shall, insofar as 82528
practicable, purchase foods and other commodities incident to food 82529
service operations from the department of ~~mental health~~ mental 82530
health and addiction services. The department of youth services 82531
may enter into agreements with the department of ~~mental health~~ 82532
mental health and addiction services providing for assistance and 82533
consultation in the construction of, or major modifications to, 82534
capital facilities of the department of youth services. 82535

The directors of ~~mental health~~ mental health and addiction 82536
services and of youth services shall enter into written agreements 82537
to implement this section. Such directors may, from time to time, 82538
amend any agreements entered into under this section for the 82539
purposes of making more efficient use of personnel, taking 82540
advantage of economies in quantity purchasing, or for any other 82541
purpose which is mutually advantageous to both the department of 82542
youth services and the department of ~~mental health~~ mental health 82543
and addiction services. 82544

The department of youth services may transfer any of its 82545
excess or surplus supplies to a community corrections facility. 82546
These supplies shall remain the property of the department for a 82547
period of five years from the date of the transfer. After the 82548
five-year period, the supplies shall become the property of the 82549
facility. 82550

Sec. 5139.04. The department of youth services shall do all 82551
of the following: 82552

(A) Support service districts through a central 82553
administrative office that shall have as its administrative head a 82554
deputy director who shall be appointed by the director of the 82555
department. When a vacancy occurs in the office of that deputy 82556
director, an assistant deputy director shall act as that deputy 82557
director until the vacancy is filled. The position of deputy 82558

director and assistant deputy director described in this division 82559
shall be in the unclassified civil service of the state. 82560

(B) Receive custody of all children committed to it under 82561
Chapter 2152. of the Revised Code, cause a study to be made of 82562
those children, and issue any orders, as it considers best suited 82563
to the needs of any of those children and the interest of the 82564
public, for the treatment of each of those children; 82565

(C) Obtain personnel necessary for the performance of its 82566
duties; 82567

(D) Adopt rules that regulate its organization and operation, 82568
that implement sections 5139.34 and 5139.41 to 5139.43 of the 82569
Revised Code, and that pertain to the administration of other 82570
sections of this chapter; 82571

(E) Submit reports of its operations to the governor and the 82572
general assembly by the thirty-first day of January of each 82573
odd-numbered year; 82574

(F) Conduct a program of research in diagnosis, training, and 82575
treatment of delinquent children to evaluate the effectiveness of 82576
the department's services and to develop more adequate methods; 82577

(G) Develop a standard form for the disposition investigation 82578
report that a juvenile court is required pursuant to section 82579
2152.18 of the Revised Code to complete and provide to the 82580
department when the court commits a child to the legal custody of 82581
the department; 82582

(H) Allow the state public defender the access authorized 82583
under division (I) of section 120.06 of the Revised Code in order 82584
to fulfill the department's constitutional obligation to provide 82585
juveniles who have been committed to the department's care access 82586
to the courts. 82587

(I) Do all other acts necessary or desirable to carry out 82588

this chapter. 82589

Sec. 5139.08. The department of youth services may enter into 82590
an agreement with the director of rehabilitation and correction 82591
pursuant to which the department of youth services, in accordance 82592
with division (C)(2) of section 5139.06 and section 5120.162 of 82593
the Revised Code, may transfer to a correctional medical center 82594
established by the department of rehabilitation and correction, 82595
children who are within its custody for diagnosis or treatment of 82596
an illness, physical condition, or other medical problem. The 82597
department of youth services may enter into any other agreements 82598
with the director of job and family services, the director of 82599
~~mental health~~ mental health and addiction services, the director 82600
of developmental disabilities, the director of rehabilitation and 82601
correction, with the courts having probation officers or other 82602
public officials, and with private agencies or institutions for 82603
separate care or special treatment of children subject to the 82604
control of the department of youth services. The department of 82605
youth services may, upon the request of a juvenile court not 82606
having a regular probation officer, provide probation services for 82607
such court. 82608

Upon request by the department of youth services, any public 82609
agency or group care facility established or administered by the 82610
state for the care and treatment of children and youth shall, 82611
consistent with its functions, accept and care for any child whose 82612
custody is vested in the department in the same manner as it would 82613
be required to do if custody had been vested by a court in such 82614
agency or group care facility. If the department has reasonable 82615
grounds to believe that any child or youth whose custody is vested 82616
in it is mentally ill or mentally retarded, the department may 82617
file an affidavit under section 5122.11 or 5123.76 of the Revised 82618
Code. The department's affidavit for admission of a child or youth 82619
to such institution shall be filed with the probate court of the 82620

county from which the child was committed to the department. Such 82621
court may request the probate court of the county in which the 82622
child is held to conduct the hearing on the application, in which 82623
case the court making such request shall bear the expenses of the 82624
proceeding. If the department files such an affidavit, the child 82625
or youth may be kept in such institution until a final decision on 82626
the affidavit is made by the appropriate court. 82627

Sec. 5139.34. (A) Funds may be appropriated to the department 82628
of youth services for the purpose of granting state subsidies to 82629
counties. A county or the juvenile court that serves a county 82630
shall use state subsidies granted to the county pursuant to this 82631
section only in accordance with divisions (B)(2)(a) and (3)(a) of 82632
section 5139.43 of the Revised Code and the rules pertaining to 82633
the state subsidy funds that the department adopts pursuant to 82634
division (D) of section 5139.04 of the Revised Code. The 82635
department shall not grant financial assistance pursuant to this 82636
section for the provision of care and services for children in a 82637
placement facility unless the facility has been certified, 82638
licensed, or approved by a state or national agency with 82639
certification, licensure, or approval authority, including, but 82640
not limited to, the department of job and family services, 82641
department of education, department of ~~mental health~~ mental health 82642
and addiction services, department of developmental disabilities, 82643
or American correctional association. For the purposes of this 82644
section, placement facilities do not include a state institution 82645
or a county or district children's home. 82646

The department also shall not grant financial assistance 82647
pursuant to this section for the provision of care and services 82648
for children, including, but not limited to, care and services in 82649
a detention facility, in another facility, or in out-of-home 82650
placement, unless the minimum standards applicable to the care and 82651
services that the department prescribes in rules adopted pursuant 82652

to division (D) of section 5139.04 of the Revised Code have been 82653
satisfied. 82654

(B) The department of youth services shall apply the 82655
following formula to determine the amount of the annual grant that 82656
each county is to receive pursuant to division (A) of this 82657
section, subject to the appropriation for this purpose to the 82658
department made by the general assembly: 82659

(1) Each county shall receive a basic annual grant of fifty 82660
thousand dollars. 82661

(2) The sum of the basic annual grants provided under 82662
division (B)(1) of this section shall be subtracted from the total 82663
amount of funds appropriated to the department of youth services 82664
for the purpose of making grants pursuant to division (A) of this 82665
section to determine the remaining portion of the funds 82666
appropriated. The remaining portion of the funds appropriated 82667
shall be distributed on a per capita basis to each county that has 82668
a population of more than twenty-five thousand for that portion of 82669
the population of the county that exceeds twenty-five thousand. 82670

(C)(1) Prior to a county's receipt of an annual grant 82671
pursuant to this section, the juvenile court that serves the 82672
county shall prepare, submit, and file in accordance with division 82673
(B)(3)(a) of section 5139.43 of the Revised Code an annual grant 82674
agreement and application for funding that is for the combined 82675
purposes of, and that satisfies the requirements of, this section 82676
and section 5139.43 of the Revised Code. In addition to the 82677
subject matters described in division (B)(3)(a) of section 5139.43 82678
of the Revised Code or in the rules that the department adopts to 82679
implement that division, the annual grant agreement and 82680
application for funding shall address fiscal accountability and 82681
performance matters pertaining to the programs, care, and services 82682
that are specified in the agreement and application and for which 82683
state subsidy funds granted pursuant to this section will be used. 82684

(2) The county treasurer of each county that receives an 82685
annual grant pursuant to this section shall deposit the state 82686
subsidy funds so received into the county's felony delinquent care 82687
and custody fund created pursuant to division (B)(1) of section 82688
5139.43 of the Revised Code. Subject to exceptions prescribed in 82689
section 5139.43 of the Revised Code that may apply to the 82690
disbursement, the department shall disburse the state subsidy 82691
funds to which a county is entitled in a lump sum payment that 82692
shall be made in July of each calendar year. 82693

(3) Upon an order of the juvenile court that serves a county 82694
and subject to appropriation by the board of county commissioners 82695
of that county, a county treasurer shall disburse from the 82696
county's felony delinquent care and custody fund the state subsidy 82697
funds granted to the county pursuant to this section for use only 82698
in accordance with this section, the applicable provisions of 82699
section 5139.43 of the Revised Code, and the county's approved 82700
annual grant agreement and application for funding. 82701

(4) The moneys in a county's felony delinquent care and 82702
custody fund that represent state subsidy funds granted pursuant 82703
to this section are subject to appropriation by the board of 82704
county commissioners of the county; shall be disbursed by the 82705
county treasurer as required by division (C)(3) of this section; 82706
shall be used in the manners referred to in division (C)(3) of 82707
this section; shall not revert to the county general fund at the 82708
end of any fiscal year; shall carry over in the felony delinquent 82709
care and custody fund from the end of any fiscal year to the next 82710
fiscal year; shall be in addition to, and shall not be used to 82711
reduce, any usual annual increase in county funding that the 82712
juvenile court is eligible to receive or the current level of 82713
county funding of the juvenile court and of any programs, care, or 82714
services for alleged or adjudicated delinquent children, unruly 82715
children, or juvenile traffic offenders or for children who are at 82716

risk of becoming delinquent children, unruly children, or juvenile 82717
traffic offenders; and shall not be used to pay for the care and 82718
custody of felony ~~delinquents~~ delinquents who are in the care and 82719
custody of an institution pursuant to a commitment, recommitment, 82720
or revocation of a release on parole by the juvenile court of that 82721
county or who are in the care and custody of a community 82722
corrections facility pursuant to a placement by the department 82723
with the consent of the juvenile court as described in division 82724
(E) of section 5139.36 of the Revised Code. 82725

(5) As a condition of the continued receipt of state subsidy 82726
funds pursuant to this section, each county and the juvenile court 82727
that serves each county that receives an annual grant pursuant to 82728
this section shall comply with divisions (B)(3)(b), (c), and (d) 82729
of section 5139.43 of the Revised Code. 82730

Sec. 5145.162. (A) There is hereby created the office of 82731
enterprise development advisory council of directors for prison 82732
labor-consisting board to advise and assist the department of 82733
rehabilitation and correction with the creation of training 82734
programs and jobs for inmates and releasees through partnerships 82735
with private sector businesses. The board shall consist of at 82736
least five appointed members and the executive director of the 82737
office of the correctional institution inspection committee, who 82738
shall serve as an ex officio member. Each member shall have 82739
experience in labor relations, marketing, business management, or 82740
business. The members and chairperson shall be appointed by the 82741
governor director of the department of rehabilitation and 82742
correction. Within thirty days after April 9, 1981, the governor 82743
shall make the initial appointments to the council of directors. 82744
Of the initial appointments made to the council of directors, two 82745
shall be for a term ending one year after April 9, 1981, two shall 82746
be for a term ending two years after that date, and one shall be 82747
for a term ending three years after that date. After the 82748

~~expiration of the initial terms, the terms of office for the 82749
members shall be for three years, each term ending on the same day 82750
of the same month of the year as did the term that it succeeds. 82751
Each member shall hold office from the date of appointment until 82752
the end of the term for which the member was appointed. Any 82753
vacancy on the advisory council shall be filled by the governor. 82754
Any member appointed to fill a vacancy occurring prior to the 82755
expiration of the term for which the member's predecessor was 82756
appointed shall hold office for the remainder of the predecessor's 82757
term. Any member shall continue in office subsequent to the 82758
expiration date of the member's term until a successor takes 82759
office, or until a period of sixty days has elapsed, whichever 82760
occurs first. 82761~~

~~(B) Each member of the advisory council, while engaged in the 82762
performance of the business of the advisory council, board shall 82763
receive no compensation but may be reimbursed for expenses 82764
actually and necessarily incurred in the performance of official 82765
duties of the board. Members of the board who are state employees 82766
shall be reimbursed for expenses pursuant to travel rules 82767
promulgated by the office of budget and management. 82768~~

~~(C) The advisory ~~council~~ board shall adopt procedures for the 82769
conduct of the board's meetings. The board shall meet ~~within two~~ 82770
~~weeks after the initial members have been appointed at a time and~~ 82771
~~place determined by the governor. At its first meeting, the~~ 82772
~~advisory council shall elect a chairperson and shall adopt rules~~ 82773
~~for its procedures. The advisory council shall elect a new~~ 82774
~~chairperson annually at its January meeting. The advisory council~~ 82775
~~shall meet at least once every January and at least once every two~~ 82776
~~months thereafter~~ quarter, and otherwise shall meet at the call of 82777
the chairperson or ~~upon the written request of at least a quorum~~ 82778
~~of the members. Three~~ director of the department of rehabilitation 82779
and correction. Sixty per cent of the members ~~constitutes~~ shall 82780~~

constitute a quorum, and no action. No transaction of the board's 82781
business shall be taken without the concurrence of a quorum of the 82782
members. The board may have committees with persons who are not 82783
members of the board but whose experience and expertise is 82784
relevant and useful to the work of the committee. 82785

(D) ~~The advisory council~~ board shall ~~advise and assist the~~ 82786
~~department of rehabilitation and correction when the department~~ 82787
~~adopts rules pursuant to division (B) of section 5145.03 of the~~ 82788
~~Revised Code, establishes prices for goods, products, services, or~~ 82789
~~labor produced or supplied by prisoners, and otherwise establishes~~ 82790
~~and administers the program for employment of prisoners~~ 82791
~~established by the department pursuant to division (A) of section~~ 82792
~~5145.16 of the Revised Code. The department shall consider the~~ 82793
~~advice and assistance of the advisory council that is provided~~ 82794
~~pursuant to this section, and shall cooperate with the advisory~~ 82795
~~council. The advisory council may recommend~~ have the following 82796
duties: 82797

(1) Solicit business proposals offering job training, 82798
apprenticeship, education programs, and employment opportunities 82799
for inmates and releasees; 82800

(2) Provide information and input to the office of enterprise 82801
development to support the job training and employment program of 82802
inmates and releasees and any additional, related duties as 82803
requested by the director of the department of rehabilitation and 82804
correction; 82805

(3) Recommend to the ~~general assembly~~ office of enterprise 82806
development any further legislation, administrative rule, or 82807
department policy change that ~~it~~ the board believes is necessary 82808
to implement the department's program ~~of employment of prisoners;~~ 82809

(4) Promote public awareness of the office of enterprise 82810
development and the office's employment program; 82811

<u>(5) Familiarize itself and the public with avenues to access</u>	82812
<u>the office of enterprise development on employment program</u>	82813
<u>concerns;</u>	82814
<u>(6) Advocate for the needs and concerns of the office of</u>	82815
<u>enterprise development in local communities, counties, and the</u>	82816
<u>state;</u>	82817
<u>(7) Play an active role in the office of enterprise</u>	82818
<u>development's efforts to reduce recidivism in the state by doing</u>	82819
<u>all of the following:</u>	82820
<u>(a) Providing input and making recommendations for the</u>	82821
<u>office's consideration in monitoring employment program compliance</u>	82822
<u>and effectiveness;</u>	82823
<u>(b) Making suggestions on the appropriate priorities for the</u>	82824
<u>office's grant award criteria;</u>	82825
<u>(c) Being a liaison between the office and constituents of</u>	82826
<u>the board's members;</u>	82827
<u>(d) Working to develop constituent groups interested in</u>	82828
<u>employment program issues;</u>	82829
<u>(8) Aid in the employment program development process by</u>	82830
<u>playing a leadership role in professional associations by</u>	82831
<u>discussing employment program issues.</u>	82832
<u>(E) The department of rehabilitation and correction shall</u>	82833
<u>initially screen each proposal obtained under division (D)(1) of</u>	82834
<u>this section to ensure that the proposal is a viable venture to</u>	82835
<u>pursue. If the department determines that a proposal is a viable</u>	82836
<u>venture to pursue, the department shall submit the proposal to the</u>	82837
<u>board for objective review against established guidelines. The</u>	82838
<u>board shall determine whether to recommend the implementation of</u>	82839
<u>the program to the department.</u>	82840
Sec. 5145.18. Any printing or binding performed in a state	82841

correctional institution may be performed for the use of the 82842
institution, the departments of ~~mental health~~ mental health and 82843
addiction services, developmental disabilities, and rehabilitation 82844
and correction, the department of public safety in connection with 82845
the registration of motor vehicles, and for any other purpose 82846
authorized by division (B) of section 5145.03 and by sections 82847
5145.16 and 5145.161 of the Revised Code. 82848

Sec. 5153.16. (A) Except as provided in section 2151.422 of 82849
the Revised Code, in accordance with rules adopted under section 82850
5153.166 of the Revised Code, and on behalf of children in the 82851
county whom the public children services agency considers to be in 82852
need of public care or protective services, the public children 82853
services agency shall do all of the following: 82854

(1) Make an investigation concerning any child alleged to be 82855
an abused, neglected, or dependent child; 82856

(2) Enter into agreements with the parent, guardian, or other 82857
person having legal custody of any child, or with the department 82858
of job and family services, department of ~~mental health~~ mental 82859
health and addiction services, department of developmental 82860
disabilities, other department, any certified organization within 82861
or outside the county, or any agency or institution outside the 82862
state, having legal custody of any child, with respect to the 82863
custody, care, or placement of any child, or with respect to any 82864
matter, in the interests of the child, provided the permanent 82865
custody of a child shall not be transferred by a parent to the 82866
public children services agency without the consent of the 82867
juvenile court; 82868

(3) Accept custody of children committed to the public 82869
children services agency by a court exercising juvenile 82870
jurisdiction; 82871

(4) Provide such care as the public children services agency 82872

considers to be in the best interests of any child adjudicated to 82873
be an abused, neglected, or dependent child the agency finds to be 82874
in need of public care or service; 82875

(5) Provide social services to any unmarried girl adjudicated 82876
to be an abused, neglected, or dependent child who is pregnant 82877
with or has been delivered of a child; 82878

(6) Make available to the bureau for children with medical 82879
handicaps of the department of health at its request any 82880
information concerning a crippled child found to be in need of 82881
treatment under sections 3701.021 to 3701.028 of the Revised Code 82882
who is receiving services from the public children services 82883
agency; 82884

(7) Provide temporary emergency care for any child considered 82885
by the public children services agency to be in need of such care, 82886
without agreement or commitment; 82887

(8) Find certified foster homes, within or outside the 82888
county, for the care of children, including handicapped children 82889
from other counties attending special schools in the county; 82890

(9) Subject to the approval of the board of county 82891
commissioners and the state department of job and family services, 82892
establish and operate a training school or enter into an agreement 82893
with any municipal corporation or other political subdivision of 82894
the county respecting the operation, acquisition, or maintenance 82895
of any children's home, training school, or other institution for 82896
the care of children maintained by such municipal corporation or 82897
political subdivision; 82898

(10) Acquire and operate a county children's home, establish, 82899
maintain, and operate a receiving home for the temporary care of 82900
children, or procure certified foster homes for this purpose; 82901

(11) Enter into an agreement with the trustees of any 82902
district children's home, respecting the operation of the district 82903

children's home in cooperation with the other county boards in the 82904
district; 82905

(12) Cooperate with, make its services available to, and act 82906
as the agent of persons, courts, the department of job and family 82907
services, the department of health, and other organizations within 82908
and outside the state, in matters relating to the welfare of 82909
children, except that the public children services agency shall 82910
not be required to provide supervision of or other services 82911
related to the exercise of parenting time rights granted pursuant 82912
to section 3109.051 or 3109.12 of the Revised Code or 82913
companionship or visitation rights granted pursuant to section 82914
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 82915
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 82916
a common pleas court, pursuant to division (E)(6) of section 82917
3113.31 of the Revised Code, requires the provision of supervision 82918
or other services related to the exercise of the parenting time 82919
rights or companionship or visitation rights; 82920

(13) Make investigations at the request of any superintendent 82921
of schools in the county or the principal of any school concerning 82922
the application of any child adjudicated to be an abused, 82923
neglected, or dependent child for release from school, where such 82924
service is not provided through a school attendance department; 82925

(14) Administer funds provided under Title IV-E of the 82926
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 82927
amended, in accordance with rules adopted under section 5101.141 82928
of the Revised Code; 82929

(15) In addition to administering Title IV-E adoption 82930
assistance funds, enter into agreements to make adoption 82931
assistance payments under section 5153.163 of the Revised Code; 82932

(16) Implement a system of safety and risk assessment, in 82933
accordance with rules adopted by the director of job and family 82934

services, to assist the public children services agency in 82935
determining the risk of abuse or neglect to a child; 82936

(17) Enter into a plan of cooperation with the board of 82937
county commissioners under section 307.983 of the Revised Code and 82938
comply with each fiscal agreement the board enters into under 82939
section 307.98 of the Revised Code that include family services 82940
duties of public children services agencies and contracts the 82941
board enters into under sections 307.981 and 307.982 of the 82942
Revised Code that affect the public children services agency; 82943

(18) Make reasonable efforts to prevent the removal of an 82944
alleged or adjudicated abused, neglected, or dependent child from 82945
the child's home, eliminate the continued removal of the child 82946
from the child's home, or make it possible for the child to return 82947
home safely, except that reasonable efforts of that nature are not 82948
required when a court has made a determination under division 82949
(A)(2) of section 2151.419 of the Revised Code; 82950

(19) Make reasonable efforts to place the child in a timely 82951
manner in accordance with the permanency plan approved under 82952
division (E) of section 2151.417 of the Revised Code and to 82953
complete whatever steps are necessary to finalize the permanent 82954
placement of the child; 82955

(20) Administer a Title IV-A program identified under 82956
division (A)(4)(c) or (f) of section 5101.80 of the Revised Code 82957
that the department of job and family services provides for the 82958
public children services agency to administer under the 82959
department's supervision pursuant to section 5101.801 of the 82960
Revised Code; 82961

(21) Administer the kinship permanency incentive program 82962
created under section 5101.802 of the Revised Code under the 82963
supervision of the director of job and family services; 82964

(22) Provide independent living services pursuant to sections 82965

2151.81 to 2151.84 of the Revised Code;	82966
(23) File a missing child report with a local law enforcement agency upon becoming aware that a child in the custody of the public children services agency is or may be missing.	82967 82968 82969
(B) The public children services agency shall use the system implemented pursuant to division (A)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code to assess both of the following:	82970 82971 82972 82973 82974
(1) The ongoing safety of the child;	82975
(2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.	82976 82977 82978
(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:	82979 82980 82981 82982 82983 82984
(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;	82985 82986 82987 82988
(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:	82989 82990 82991
(i) County departments of job and family services;	82992
(ii) Boards of alcohol, drug addiction, and mental health services;	82993 82994
(iii) County boards of developmental disabilities;	82995

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;	82996 82997
(v) Private and government providers of services;	82998
(vi) Managed care organizations and prepaid health plans.	82999
(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.	83000 83001 83002 83003 83004
(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.	83005 83006 83007 83008 83009 83010 83011 83012
<u>Sec. 5160.01. As used in this chapter:</u>	83013
<u>(A) "Dual eligible individual" has the same meaning as in the "Social Security Act," section 1915(h)(2)(B), 42 U.S.C. 1396n(h)(2)(B). A dual eligible individual is a medicare-medicaid enrollee (MME).</u>	83014 83015 83016 83017
<u>(B) "Exchange" has the same meaning as in 45 C.F.R. 155.20.</u>	83018
<u>(C) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a medical assistance program.</u>	83019 83020 83021
<u>(D) "Medical assistance program" means all of the following:</u>	83022
<u>(1) The medicaid program;</u>	83023
<u>(2) The children's health insurance program;</u>	83024

<u>(3) The refugee medical assistance program;</u>	83025
<u>(4) Any other program that provides medical assistance and state statutes authorize the department of medicaid to administer.</u>	83026 83027
<u>(E) "Medical assistance recipient" means a recipient of a medical assistance program. To the extent appropriate in the context, "medical assistance recipient" includes an individual applying for a medical assistance program, a former medical assistance recipient, or both.</u>	83028 83029 83030 83031 83032
<u>(F) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.</u>	83033 83034
<u>(G) "Refugee medical assistance program" means the program that the department of medicaid administers pursuant to section 5160.50 of the Revised Code.</u>	83035 83036 83037
<u>Sec. 5160.011. References to the department or director of public welfare, department or director of human services, department or director of job and family services, office of medical assistance, or medical assistance director in any statute, rule, contract, grant, or other document is deemed to refer to the department of medicaid or medicaid director, as the case may be, to the extent the reference is about a duty or authority of the department of medicaid or medicaid director regarding a medical assistance program.</u>	83038 83039 83040 83041 83042 83043 83044 83045 83046
<u>Sec. 5160.02. The medicaid director shall adopt rules as necessary to implement this chapter.</u>	83047 83048
<u>Sec. 5160.021. (A) When the medicaid director is authorized by a statute to adopt a rule, the director shall adopt the rule in accordance with the following:</u>	83049 83050 83051
<u>(1) Chapter 119. of the Revised Code if either of the following applies:</u>	83052 83053

(a) The statute authorizing the rule requires that the rule be adopted in accordance with Chapter 119. of the Revised Code. 83054
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(b) Unless division (A)(2)(b) of this section applies, the statute authorizing the rule does not specify the procedure for the rule's adoption. 83056
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(2) Section 111.15 of the Revised Code, excluding divisions (D) and (E) of that section, if either of the following applies: 83059
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(a) The statute authorizing the rule requires that the rule be adopted in accordance with section 111.15 of the Revised Code and, by the terms of division (D) of that section, division (D) of that section does not apply to the rule. 83061
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(b) The statute authorizing the rule does not specify the procedure for the rule's adoption and the rule concerns the day-to-day staff procedures and operations of the department of medicaid or financial and operational matters between the department and a person or government entity receiving a grant from the department. 83065
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(3) Section 111.15 of the Revised Code, including divisions (D) and (E) of that section, if the statute authorizing the rule requires that the rule be adopted in accordance with that section and the rule is not exempt from the application of division (D) of that section. 83071
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(B) Except as otherwise required by a statute, the adoption of a rule in accordance with Chapter 119. of the Revised Code does not make the department of medicaid subject to the notice, hearing, or other requirements of sections 119.06 to 119.13 of the Revised Code. 83076
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Sec. 5160.03. The medicaid director is the executive head of the department of medicaid. All duties conferred on the department by law or order of the director are under the director's control 83081
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and shall be performed in accordance with rules the director 83084
adopts. 83085

Sec. 5160.04. The medicaid director shall appoint one 83086
assistant director for the department of medicaid. The assistant 83087
director shall exercise powers, and perform duties, as ordered by 83088
the medicaid director. The assistant director shall act as the 83089
medicaid director in the medicaid director's absence or disability 83090
and when the position of medicaid director is vacant. 83091

Sec. 5160.05. The medicaid director may appoint such 83092
employees as are necessary for the efficient operation of the 83093
department of medicaid. The director may prescribe the title and 83094
duties of the employees. 83095

Sec. 5160.051. If the medicaid director determines that a 83096
position with the department of medicaid can best be filled in 83097
accordance with division (A)(2) of section 124.30 of the Revised 83098
Code or without regard to a residency requirement established by a 83099
rule adopted by the director of administrative services, the 83100
medicaid director shall provide the director of administrative 83101
services certification of the determination. 83102

Sec. 5160.052. The department of medicaid shall collaborate 83103
with the superintendent of the bureau of criminal identification 83104
and investigation to develop procedures and formats necessary to 83105
produce the notices described in division (C) of section 109.5721 83106
of the Revised Code in a format that is acceptable for use by the 83107
department. The medicaid director may adopt rules under section 83108
5160.02 of the Revised Code necessary for such collaboration. Any 83109
such rules shall be adopted in accordance with section 111.15 of 83110
the Revised Code as if they were internal management rules. 83111

The medicaid director may adopt rules under section 5160.02 of the Revised Code necessary for utilizing the information received pursuant to section 109.5721 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 83112
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Sec. 5160.06. The medicaid director may require any of the employees of the department of medicaid who may be charged with custody or control of any public money or property or who is required to give bond, to give a bond, properly conditioned, in a sum to be fixed by the director which when approved by the director, shall be filed in the office of the secretary of state. The cost of such bonds, when approved by the director, shall be paid from funds available for the department. The bonds required or authorized by this section may, in the discretion of the director, be individual, schedule, or blanket bonds. 83117
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Sec. 5160.10. The medicaid director may expend funds appropriated or available to the department of medicaid from persons and government entities. For purposes of this section, the director may enter into contracts or agreements with persons and government entities and make grants to persons and government entities. To the extent permitted by federal law, the director may advance funds to a grantee when necessary for the grantee to perform duties under the grant as specified by the director. 83127
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The director may adopt rules under section 5160.02 of the Revised Code as necessary to define terms and adopt procedures and other provisions necessary to implement this section. 83135
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Sec. 5160.11. The state health care grants fund is hereby created in the state treasury. Money the department of medicaid receives from private foundations in support of pilot projects that promote exemplary programs that enhance programs the 83138
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department administers shall be credited to the fund. The 83142
department may expend the money on such projects, may use the 83143
money, to the extent allowable, to match federal financial 83144
participation in support of such projects, and shall comply with 83145
requirements the foundations have stipulated in their agreements 83146
with the department as to the purposes for which the money may be 83147
expended. 83148

Sec. 5160.12. (A) As used in this section, "entity" includes 83149
an agency, board, commission, or department of the state or a 83150
political subdivision of the state; a private, nonprofit entity; a 83151
school district; a private school; or a public or private 83152
institution of higher education. 83153

(B) This section does not apply to contracts entered into 83154
under section 5162.32 or 5162.35 of the Revised Code. 83155

(C) At the request of any public entity having authority to 83156
implement a program administered by the department of medicaid or 83157
any private entity under contract with a public entity to 83158
implement a program administered by the department, the department 83159
may seek to obtain federal financial participation for costs 83160
incurred by the entity. Federal financial participation may be 83161
sought from programs operated pursuant to Title XIX of the "Social 83162
Security Act," 42 U.S.C. 1396, et seq., and any other statute or 83163
regulation under which federal financial participation may be 83164
available, except that federal financial participation may be 83165
sought only for expenditures made with funds for which federal 83166
financial participation is available under federal law. 83167

(D) All funds collected by the department pursuant to 83168
division (C) of this section shall be distributed to the entities 83169
that incurred the costs. 83170

(E) In distributing federal financial participation pursuant 83171

to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules authorized by division (H) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following: 83172
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(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program; 83178
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(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures; 83180
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(3) Require the entity to certify to the department the availability of sufficient unencumbered funds to match the federal financial participation the entity receives under this section; 83185
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(4) Establish the length of the agreement, which may be for a fixed or a continuing period of time; 83188
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(5) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement. 83190
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(F) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department for the use of the funds to improve and expand the program. 83193
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(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code. 83198
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(H) The medicaid director may adopt rules under section 83201

5160.02 of the Revised Code as necessary to implement this 83202
section, including rules for the distribution of federal financial 83203
participation pursuant to this section. The rules shall be adopted 83204
in accordance with Chapter 119. of the Revised Code. 83205

Sec. 5160.13. The department of medicaid may enter into 83206
contracts with private entities to maximize federal revenue 83207
without the expenditure of state money. In selecting private 83208
entities with which to contract, the department shall engage in a 83209
request for proposals process. The department, subject to the 83210
approval of the controlling board, may also directly enter into 83211
contracts with public entities providing revenue maximization 83212
services. 83213

Sec. 5160.16. The department of medicaid may appoint and 83214
commission any competent person to serve as a special agent, 83215
investigator, or representative to perform a designated duty for 83216
and on behalf of the department. Specific credentials shall be 83217
given by the department to each person so designated, and each 83218
credential shall state the following: 83219

(A) The person's name; 83220

(B) The agency with which the person is connected; 83221

(C) The purpose of the appointment; 83222

(D) The date the appointment expires, if appropriate; 83223

(E) Such information as the department considers proper. 83224

Sec. 5160.20. (A) The department of medicaid may conduct any 83225
audits or investigations that are necessary in the performance of 83226
the department's duties, and to that end, the department has the 83227
same power as a judge of a county court to administer oaths and to 83228
enforce the attendance and testimony of witnesses and the 83229
production of books or papers. 83230

The department shall keep a record of the department's audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and the department's conclusions. 83231
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Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. 83234
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(B) Any judge of any division of the court of common pleas, on application of the department, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before those courts. 83236
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(C) Until an audit report is formally released by the department, the audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code. 83241
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(D) The medicaid director may adopt rules under section 5160.02 of the Revised Code as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. 83246
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Sec. 5160.21. On the request of the medicaid director, the auditor of state may conduct an audit of any medical assistance recipient. If the auditor decides to conduct an audit under this section, the auditor shall enter into an interagency agreement with the department of medicaid that specifies that the auditor agrees to comply with section 5160.45 of the Revised Code with respect to any information the auditor receives pursuant to the audit. 83251
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Sec. 5160.22. (A) The auditor of state and attorney general, or their designees, may examine any records, whether in computer 83259
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or printed format, in the possession of the medicaid director or any county director of job and family services, regarding medical assistance programs. The auditor of state and attorney general shall do both of the following regarding the records: 83261
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(1) Provide safeguards that restrict access to the records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs; 83265
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(2) Comply, and ensure that their designees comply, with section 5160.45 of the Revised Code and rules of the medicaid director restricting the disclosure of information regarding medical assistance recipients. 83269
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(B) Any person who fails to comply with the restriction specified in division (A) of this section is disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency. 83273
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Sec. 5160.23. The auditor of state is responsible for the costs the auditor incurs in carrying out the auditor's duties under sections 5160.21 and 5160.22 of the Revised Code. 83278
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Sec. 5160.30. (A) Except as provided in divisions (B) and (C) of this section, the department of medicaid may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for medical assistance programs. 83281
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(B) The department may enter into agreements with one or more agencies of the federal government, the state, other states, and local governments of this or other states to accept applications, determine eligibility, redetermine eligibility, and perform 83286
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related administrative activities on behalf of the department with 83290
respect to medical assistance programs. 83291

(C) If federal law requires a face-to-face interview to 83292
complete an eligibility determination for a medical assistance 83293
program, the department shall not conduct the face-to-face 83294
interview. 83295

(D) Subject to division (C) of this section, if the 83296
department elects to accept applications, determine eligibility, 83297
redetermine eligibility, and perform related administrative 83298
activities for a medical assistance program, both of the following 83299
apply: 83300

(1) An individual may apply for the medical assistance 83301
program to the department or an agency authorized by an agreement 83302
entered into under division (B) of this section to accept the 83303
individual's application; 83304

(2) The department is subject to federal statutes and 83305
regulations and state statutes and rules that require, permit, or 83306
prohibit an action regarding accepting applications, determining 83307
or redetermining eligibility, and performing related 83308
administrative activities for the medical assistance program. 83309

Sec. 5160.31. (A) A medical assistance recipient may appeal a 83310
decision regarding the recipient's eligibility for a medical 83311
assistance program or services available to the recipient under a 83312
medical assistance program. 83313

(B) Regarding appeals authorized by this section, the 83314
department of medicaid shall do one or more of the following: 83315

(1) Administer an appeals process similar to the appeals 83316
process established under section 5101.35 of the Revised Code; 83317

(2) Contract with the department of job and family services 83318
pursuant to section 5162.35 of the Revised Code to provide for the 83319

department of job and family services to hear the appeals in 83320
accordance with section 5101.35 of the Revised Code; 83321

(3) Delegate authority to hear appeals to an exchange or 83322
exchange appeals entity. 83323

(C) If a medical assistance recipient files an appeal as 83324
authorized by this section, the department of medicaid may do 83325
either or both of the following: 83326

(1) Take corrective action regarding the matter being 83327
appealed before a hearing decision regarding the matter is issued; 83328

(2) If a hearing decision, administrative appeal decision, or 83329
court ruling is against the recipient, take action in favor of the 83330
recipient despite the contrary decision or ruling, unless, in the 83331
case of a court's ruling, the ruling prohibits the department from 83332
taking the action. 83333

Sec. ~~5101.571~~ 5160.35. As used in sections ~~5101.571~~ 5160.35 83334
to ~~5101.591~~ 5160.43 of the Revised Code: 83335

(A) "Information" means all of the following: 83336

(1) An individual's name, address, date of birth, and social 83337
security number; 83338

(2) The group or plan number, or other identifier, assigned 83339
by a third party to a policy held by an individual or a plan in 83340
which the individual participates and the nature of the coverage; 83341

(3) Any other data the medicaid director ~~of job and family~~ 83342
~~services~~ specifies in rules ~~adopted under~~ authorized by section 83343
~~5101.591~~ 5160.43 of the Revised Code. 83344

(B) ~~"Medical assistance" means medical items or services~~ 83345
~~provided under any of the following:~~ 83346

~~(1) Medicaid, as defined in section 5111.01 of the Revised~~ 83347
~~Code;~~ 83348

~~(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code.~~ 83349
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~~(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.~~ 83352
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~~(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.~~ 83355
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~~(E)(C)(1)~~ Subject to division ~~(E)(C)(2)~~ of this section, and except as provided in division ~~(E)(C)(3)~~ of this section, "third party" means all of the following: 83358
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(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code; 83361
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(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis; 83363
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(c) A health insuring corporation as defined in section 1751.01 of the Revised Code; 83366
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(d) A group health plan as defined in 29 U.S.C. 1167; 83368

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25); 83369
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(f) A managed care organization; 83371

(g) A pharmacy benefit manager; 83372

(h) A third party administrator; 83373

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public medical assistance recipient ~~or participant~~. 83374
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(2) Except when otherwise provided by the "Social Security Act," section 1862(b), 42 U.S.C. 1395y(b), a person or governmental entity listed in division ~~(E)~~(C)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.

Sec. 5160.36. Enrollment in a medical assistance program gives a right of subrogation to the department of medicaid for any workers' compensation benefits payable to a person who is subject to a support order, as defined in section 3119.01 of the Revised Code, on behalf of the medical assistance recipient, to the extent of any payments made under the medical assistance program on the recipient's behalf. If the department, in consultation with a child support enforcement agency and the administrator of the bureau of workers' compensation, determines that a person responsible for support payments to a medical assistance recipient is receiving workers' compensation, the department shall notify the administrator of the amount of the benefit to be paid to the department.

Sec. ~~5101.58~~ 5160.37. (A) ~~The acceptance of public~~ A medical assistance recipient's enrollment in a medical assistance program gives an automatic right of recovery to the department of ~~job and family services~~ medicaid and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the ~~public assistance~~ recipient ~~or participant~~. When an action or claim is brought against a third party by a ~~public~~ medical assistance recipient ~~or participant~~, any payment, settlement or compromise of the action

or claim, or any court award or judgment, is subject to the 83409
recovery right of the department of ~~job and family services~~ 83410
medicaid or county department of ~~job and family services~~. Except 83411
in the case of a medical assistance recipient ~~or participant~~ who 83412
receives medical assistance through a medicaid managed care 83413
organization, the department's or county department's claim shall 83414
not exceed the amount of medical assistance paid by a the 83415
department or county department on behalf of the recipient ~~or~~ 83416
~~participant~~. A payment, settlement, compromise, judgment, or award 83417
that excludes the cost of medical assistance paid for by a the 83418
department or county department shall not preclude a department 83419
from enforcing its rights under this section. 83420

(B) In the case of a medical assistance recipient ~~or~~ 83421
~~participant~~ who receives medical assistance through a medicaid 83422
managed care organization, the amount of the department's or 83423
county department's claim shall be the amount the medicaid managed 83424
care organization pays for medical assistance rendered to the 83425
recipient ~~or participant~~, even if that amount is more than the 83426
amount a the department or county department pays to the medicaid 83427
managed care organization for the recipient's ~~or participant's~~ 83428
medical assistance. 83429

(C) A medical assistance recipient ~~or participant~~, and the 83430
recipient's ~~or participant's~~ attorney, if any, shall cooperate 83431
with the departments. In furtherance of this requirement, the 83432
medical assistance recipient ~~or participant~~, or the recipient's ~~or~~ 83433
~~participant's~~ attorney, if any, shall, not later than thirty days 83434
after initiating informal recovery activity or filing a legal 83435
recovery action against a third party, provide written notice of 83436
the activity or action to the department of ~~job and family~~ 83437
~~services when~~ medicaid or county department if it has paid for 83438
medical assistance under ~~medicaid has been paid~~ a medical 83439
assistance program. 83440

(D) The written notice that must be given under division (C) 83441
of this section shall disclose the identity and address of any 83442
third party against whom the medical assistance recipient ~~or~~ 83443
~~participant~~ has or may have a right of recovery. 83444

(E) No settlement, compromise, judgment, or award or any 83445
recovery in any action or claim by a medical assistance recipient 83446
~~or participant~~ where the ~~departments have~~ department or county 83447
department has a right of recovery shall be made final without 83448
first giving the ~~appropriate departments~~ department or county 83449
department written notice as described in division (C) of this 83450
section and a reasonable opportunity to perfect ~~their~~ its rights 83451
of recovery. If the ~~departments are~~ department or county 83452
department is not given the appropriate written notice, the 83453
medical assistance recipient ~~or participant~~ and, if there is one, 83454
the recipient's ~~or participant's~~ attorney, are liable to reimburse 83455
the ~~departments~~ department or county department for the recovery 83456
received to the extent of medical assistance payments made by the 83457
~~departments~~ department or county department. 83458

(F) The ~~departments~~ department or county department shall be 83459
permitted to enforce ~~their~~ its recovery rights against the third 83460
party even though ~~they~~ it accepted prior payments in discharge of 83461
~~their~~ its rights under this section if, at the time the 83462
~~departments~~ department or county department received such 83463
payments, ~~they were~~ it was not aware that additional medical 83464
expenses had been incurred but had not yet been paid by the 83465
~~departments~~ department or county department. The third party 83466
becomes liable to the department ~~of job and family services~~ or 83467
county department ~~of job and family services~~ as soon as the third 83468
party is notified in writing of the valid claims for recovery 83469
under this section. 83470

(G)(1) Subject to division (G)(2) of this section, the right 83471
of recovery of a the department or county department does not 83472

apply to that portion of any judgment, award, settlement, or 83473
compromise of a claim, to the extent of attorneys' fees, costs, or 83474
other expenses incurred by a medical assistance recipient ~~or~~ 83475
~~participant~~ in securing the judgment, award, settlement, or 83476
compromise, or to the extent of medical, surgical, and hospital 83477
expenses paid by such recipient ~~or participant~~ from the 83478
recipient's ~~or participant's~~ own resources. 83479

(2) Reasonable attorneys' fees, not to exceed one-third of 83480
the total judgment, award, settlement, or compromise, plus costs 83481
and other expenses incurred by the medical assistance recipient ~~or~~ 83482
~~participant~~ in securing the judgment, award, settlement, or 83483
compromise, shall first be deducted from the total judgment, 83484
award, settlement, or compromise. After fees, costs, and other 83485
expenses are deducted from the total judgment, award, settlement, 83486
or compromise, the department of ~~job and family services~~ medicaid 83487
or ~~appropriate~~ county department of ~~job and family services~~ shall 83488
receive no less than one-half of the remaining amount, or the 83489
actual amount of medical assistance paid, whichever is less. 83490

(H) A right of recovery created by this section may be 83491
enforced separately or jointly by the department of ~~job and family~~ 83492
~~services~~ medicaid or the ~~appropriate~~ county department of ~~job and~~ 83493
~~family services~~. To enforce ~~their~~ its recovery rights, the 83494
~~departments~~ department or county department may do any of the 83495
following: 83496

(1) Intervene or join in any action or proceeding brought by 83497
the medical assistance recipient ~~or participant~~ or on the 83498
recipient's ~~or participant's~~ behalf against any third party who 83499
may be liable for the cost of medical assistance paid; 83500

(2) Institute and pursue legal proceedings against any third 83501
party who may be liable for the cost of medical assistance paid; 83502

(3) Initiate legal proceedings in conjunction with any 83503

injured, diseased, or disabled medical assistance recipient ~~or~~ 83504
~~participant~~ or the recipient's ~~or participant's~~ attorney or 83505
representative. 83506

(I) A medical assistance recipient ~~or participant~~ shall not 83507
assess attorney fees, costs, or other expenses against the 83508
department of ~~job and family services~~ medicaid or a county 83509
department ~~of job and family services~~ when the department or 83510
county department enforces its right of recovery created by this 83511
section. 83512

(J) The right of recovery given to the department under this 83513
section ~~does not include rights to support from any other person~~ 83514
~~assigned to the state under sections 5107.20 and 5115.07 of the~~ 83515
~~Revised Code, but~~ includes payments made by a third party under 83516
contract with a person having a duty to support. 83517

(K) The department of medicaid may assign to a medical 83518
assistance provider the right of recovery given to the department 83519
under this section with respect to any claim for which the 83520
department has notified the provider that the department intends 83521
to recoup the department's prior payment for the claim. 83522

Sec. 5160.371. In addition to the requirement of division (C) 83523
of section 5160.37 of the Revised Code to cooperate with the 83524
department of medicaid and county department of job and family 83525
services, a medical assistance recipient and the recipient's 83526
attorney, if any, shall cooperate with each medical provider of 83527
the recipient. Cooperation with a medical provider shall consist 83528
of disclosing to the provider all information the recipient and 83529
attorney, if any, possess that would assist the provider in 83530
determining each third party that is responsible for the payment 83531
or processing of a claim for medical assistance provided to the 83532
recipient. If disclosure is not made in accordance with this 83533
section, the recipient and the recipient's attorney, if any, are 83534

liable to reimburse the department or county department for the 83535
amount that would have been paid by a third party had the third 83536
party been disclosed to the provider by the recipient or the 83537
recipient's attorney. 83538

Sec. ~~5101.59~~ 5160.38. (A) The application for, or acceptance 83539
of enrollment in, public a medical assistance program constitutes 83540
an automatic assignment of ~~certain~~ rights specified in division 83541
(B) of this section to the department of ~~job and family services~~ 83542
medicaid. This assignment includes the rights of the ~~applicant,~~ 83543
medical assistance recipient, ~~or participant~~ and also the rights 83544
of any other member of the assistance group for whom the 83545
~~applicant, recipient, or participant~~ can legally make an 83546
assignment. 83547

(B) Pursuant to this section, ~~the applicant, a medical~~ 83548
assistance recipient, or participant assigns to the department any 83549
rights to medical support available to the ~~applicant, recipient,~~ 83550
~~or participant~~ or ~~for~~ other members of the recipient's assistance 83551
group under an order of a court or administrative agency, and any 83552
rights to payments by a liable third party for the cost of medical 83553
assistance paid on behalf of a ~~public assistance~~ the recipient ~~or~~ 83554
~~participant~~ or other members of the assistance group. The 83555
recipient ~~or participant~~ shall cooperate with the department in 83556
obtaining such payments. 83557

Medicare benefits shall not be assigned pursuant to this 83558
section. Benefits assigned to the department by operation of this 83559
section are directly reimbursable to the department by liable 83560
third parties. 83561

(C) Refusal by ~~the applicant~~ a medical assistance, recipient, 83562
~~or participant~~ to cooperate in obtaining medical assistance paid 83563
for self or any other member of the recipient's assistance group 83564

renders the ~~applicant, recipient, or participant~~ ineligible for 83565
~~public a medical~~ assistance program, unless cooperation is waived 83566
by the department. Eligibility shall continue for any individual 83567
who cannot legally assign the individual's own rights and who 83568
would have been eligible for ~~public a medical~~ assistance program 83569
but for the refusal to assign the individual's rights or to 83570
cooperate as required by this section by another person legally 83571
able to assign the individual's rights. 83572

(D) If ~~the applicant, a medical assistance~~ recipient, ~~or~~ 83573
~~participant~~ or any member of the recipient's assistance group 83574
becomes ineligible for ~~public a medical~~ assistance program, the 83575
department shall restore to the ~~applicant, recipient, participant,~~ 83576
or ~~member of the~~ assistance group member any future rights to 83577
benefits assigned under this section. 83578

~~(E) The rights of assignment given to the department under~~ 83579
~~this section do not include rights to support assigned under~~ 83580
~~section 5107.20 or 5115.07 of the Revised Code.~~ 83581

Sec. ~~5101.572~~ 5160.39. (A) A third party shall cooperate with 83582
the department of ~~job and family services~~ medicaid in identifying 83583
individuals for the purpose of establishing third party liability 83584
~~pursuant to Title XIX of the Social Security Act, as amended~~ 83585
regarding medical assistance programs. 83586

(B) In furtherance of the requirement in division (A) of this 83587
section and to allow the department to determine any period that 83588
the individual or the individual's spouse or dependent may have 83589
been covered by the third party and the nature of the coverage, a 83590
third party shall provide, as the department so chooses, 83591
information or access to information, or both, in the third 83592
party's electronic data system on the department's request and in 83593
accordance with division (C) of this section. 83594

(C)(1) If the department chooses to receive information 83595

directly, the third party shall provide the information under all 83596
of the following circumstances: 83597

(a) In a medium, format, and manner prescribed ~~by the~~ 83598
~~director of job and family services~~ in rules ~~adopted under~~ 83599
authorized by section 5101.591 5160.43 of the Revised Code; 83600

(b) Free of charge; 83601

(c) Not later than the end of the thirtieth day after the 83602
department makes its request, unless a different time is agreed to 83603
by the director in writing. 83604

(2) If the department chooses to receive access to 83605
information, the third party shall provide access by a method 83606
prescribed ~~by the director of job and family services~~ in rules 83607
~~adopted under~~ authorized by section ~~5101.591~~ 5160.43 of the 83608
Revised Code. In facilitating access, the department may enter 83609
into a trading partner agreement with the third party to permit 83610
the exchange of information via "ASC X 12N 270/271 Health Care 83611
Eligibility Benefit Inquiry and Response" transactions. 83612

(D) All of the following apply with respect to information 83613
provided by a third party to the department under this section: 83614

(1) The information is confidential and not a public record 83615
under section 149.43 of the Revised Code. 83616

(2) The release of information to the department is not to be 83617
considered a violation of any right of confidentiality or contract 83618
that the third party may have with covered persons including, but 83619
not limited to, contractees, beneficiaries, heirs, assignees, and 83620
subscribers. 83621

(3) The third party is immune from any liability that it may 83622
otherwise incur through its release of information to the 83623
department. 83624

The department ~~of job and family services~~ shall limit its use 83625

of information gained from third parties to purposes directly 83626
connected with the administration of the medicaid program and the 83627
child support program authorized by Title IV-D of the "Social 83628
Security Act," 42 U.S.C. 651 et seq. 83629

(E) No third party shall disclose to other parties or make 83630
use of any information regarding medical assistance recipients ~~of~~ 83631
~~aid under Chapter 5107. or 5111. of the Revised Code~~ that it 83632
obtains from the department, except in the manner provided ~~for by~~ 83633
~~the director of job and family services~~ in administrative rules 83634
authorized by section 5160.43 of the Revised Code. 83635

Sec. ~~5101.573~~ 5160.40. (A) Subject to divisions (B) and (C) 83636
of this section, a third party shall do all of the following: 83637

(1) Accept the department of ~~job and family services'~~ 83638
medicaid's right of recovery under section ~~5101.58~~ 5160.37 of the 83639
Revised Code and the assignment of rights to the department that 83640
are described in section ~~5101.59~~ 5160.38 of the Revised Code; 83641

(2) Respond to an inquiry by the department regarding a claim 83642
for payment of a medical item or service that was submitted to the 83643
third party not later than six years after the date of the 83644
provision of such medical item or service; 83645

(3) Not charge a fee to do either of the following for a 83646
claim described in division (A)(2) of this section: 83647

(a) Determine whether the claim should be paid; 83648

(b) Process the claim. 83649

(4) Pay a claim described in division (A)(2) of this section; 83650

(5) Not deny a claim submitted by the department solely on 83651
the basis of the date of submission of the claim, type or format 83652
of the claim form, or a failure by the medical assistance 83653
recipient who is the subject of the claim to present proper 83654
documentation of coverage at the time of service, if both of the 83655

following ~~are true~~ have occurred: 83656

(a) The claim was submitted by the department not later than 83657
six years after the date of the provision of the medical item or 83658
service. 83659

(b) An action by the department to enforce its right of 83660
recovery under section ~~5101.58~~ 5160.37 of the Revised Code on the 83661
claim was commenced not later than six years after the 83662
department's submission of the claim. 83663

(6) Consider the department's payment of a claim for a 83664
medical item or service to be the equivalent of the medical 83665
assistance recipient having obtained prior authorization for the 83666
item or service from the third party; 83667

(7) Not deny a claim described in division (A)(6) of this 83668
section that is submitted by the department solely on the basis of 83669
the medical assistance recipient's failure to obtain prior 83670
authorization for the medical item or service. 83671

(B) For purposes of the requirements in division (A) of this 83672
section, a third party shall treat a medicaid managed care 83673
organization as the department for a claim ~~in which both of the~~ 83674
~~following are true~~: 83675

~~(1) The~~ if the individual who is the subject of the claim 83676
received a medical item or service through a medicaid managed care 83677
organization ~~that has entered into a contract with the department~~ 83678
~~of job and family services under section 5111.17 of the Revised~~ 83679
~~Code~~: 83680

~~(2) The~~ and the department has assigned its right of recovery 83681
for the claim to the medicaid managed care organization. 83682

(C) If the department of medicaid, as permitted by division 83683
(K) of section 5160.37 of the Revised Code, assigns to a medical 83684
assistance provider the department's right of recovery for a claim 83685

for which it has notified the provider that it intends to recoup 83686
its prior payment for a claim, a third party shall treat the 83687
provider as the department and shall pay the provider the greater 83688
of the following: 83689

(1) The amount the department intends to recoup from the 83690
provider for the claim. 83691

(2) If the third party and the provider have an agreement 83692
that requires the third party to pay the provider at the time the 83693
provider presents the claim to the third party, the amount that is 83694
to be paid under that agreement. 83695

(D) The time limitations associated with the requirements in 83696
divisions (A)(2) and (5) of this section apply only to submissions 83697
of claims to, and payments of claims by, a health insurer to which 83698
the "Social Security Act," section 1902(a)(25)(I), 42 U.S.C. 83699
1396a(a)(25)(I), applies. 83700

Sec. ~~5101.574~~ 5160.41. No third party shall consider whether 83701
an individual is eligible for or ~~receives~~ enrolled in a medical 83702
assistance program when either of the following applies: 83703

(A) The individual seeks to obtain a policy or enroll in a 83704
plan or program operated or administered by the third party; 83705

(B) The individual, or a person or governmental entity on the 83706
individual's behalf, seeks payment for a medical item or service 83707
provided to the individual. 83708

Sec. ~~5101.575~~ 5160.42. (A) If a third party violates section 83709
~~5101.572~~ 5160.39, ~~5101.573~~ 5160.40, or ~~5101.574~~ 5160.41 of the 83710
Revised Code, a governmental entity that is responsible for 83711
issuing a license, certificate of authority, registration, or 83712
approval that authorizes the third party to do business in this 83713
state may impose a fine against the third party or deny, revoke, 83714
or terminate the third party's license, certificate, registration, 83715

or approval to do business in this state. The governmental entity 83716
shall determine which sanction is to be imposed. All actions to 83717
impose the sanction shall be taken in accordance with Chapter 119. 83718
of the Revised Code. 83719

(B) In addition to the sanctions that may be imposed under 83720
division (A) of this section for a violation of section ~~5101.572~~ 83721
5160.39, ~~5101.573~~ 5160.40, or ~~5101.574~~ 5160.41 of the Revised 83722
Code, the attorney general may petition a court of common pleas to 83723
enjoin the violation. 83724

Sec. ~~5101.591~~ 5160.43. (A) ~~Except as provided in division (B)~~ 83725
~~of this section, the The medicaid~~ director of job and family 83726
~~services~~ may adopt rules ~~in accordance with Chapter 119. under~~ 83727
section 5160.02 of the Revised Code to implement sections ~~5101.571~~ 83728
5160.35 to ~~5101.59~~ 5160.43 of the Revised Code, including rules 83729
that specify what constitutes cooperating with efforts to obtain 83730
support or payments, or medical assistance payments, and when 83731
cooperation may be waived. 83732

(B) The department shall adopt rules ~~in accordance with~~ 83733
~~Chapter 119. under section 5160.02~~ of the Revised Code to do all 83734
of the following: 83735

(1) For purposes of the definition of "information" in 83736
division (A) of section ~~5101.571~~ 5160.35 of the Revised Code, any 83737
data other than the data specified in that division that should be 83738
included in the definition. 83739

(2) For purposes of division (C)(1)(a) of section ~~5101.572~~ 83740
5160.39 of the Revised Code, the medium, format, and manner in 83741
which a third party must provide information to the department. 83742

(3) For purposes of division (C)(2) of section ~~5101.572~~ 83743
5160.39 of the Revised Code, the method by which a third party 83744
must provide the department with access to information. 83745

(C) Rules authorized by division (A) of this section may be 83746
adopted in accordance with section 111.15 of the Revised Code. 83747
Rules authorized by division (B) of this section shall be adopted 83748
in accordance with Chapter 119. of the Revised Code. 83749

Sec. ~~5101.271~~ 5160.45. (A) As used in sections 5160.45 to 83750
5160.481 of the Revised Code, "information" means all of the 83751
following: 83752

(1) Records, as defined in section 149.011 of the Revised 83753
Code; 83754

(2) Any other documents in any format; 83755

(3) Data derived from records and documents that are 83756
generated, acquired, or maintained by the department of medicaid, 83757
a county department of job and family services, or an entity 83758
performing duties on behalf of the department or a county 83759
department. 83760

(B) Except as permitted by this section, section ~~5101.273~~ 83761
5160.47, or rules ~~adopted under~~ authorized by section ~~5101.30~~ 83762
5160.48 or 5160.481 of the Revised Code, or when required by 83763
federal law, no person or government entity shall use or disclose 83764
information regarding a medical assistance recipient for any 83765
purpose not directly connected with the administration of ~~the a~~ 83766
medical assistance program. 83767

~~(B)~~(C) Both of the following shall be considered to be 83768
purposes directly connected with the administration of ~~the a~~ 83769
medical assistance program: 83770

(1) Treatment, payment, or other operations or activities 83771
authorized by 42 C.F.R. Chapter IV; 83772

(2) Any administrative function or duty the department of ~~job~~ 83773
and ~~family services~~ medicaid performs alone or jointly with a 83774
federal government entity, another state government entity, or a 83775

local government entity implementing a provision of federal law. 83776

~~(C)~~(D) The department or a county ~~agency~~ department of job 83777
and family services may disclose information regarding a medical 83778
assistance recipient to any of the following: 83779

(1) The recipient or the recipient's authorized 83780
representative; 83781

(2) The recipient's legal guardian in accordance with 83782
division (C) of section 2111.13 of the Revised Code; 83783

(3) The attorney of the recipient, if the department or 83784
county ~~agency~~ department has obtained authorization from the 83785
recipient, or the recipient's authorized representative, ~~or the~~ 83786
~~recipient's~~ legal guardian that meets all requirements of the 83787
Health Insurance Portability and Accountability Act of 1996, ~~Pub-~~ 83788
~~L. 104-191, 110 Stat. 1955,~~ 42 U.S.C. 1320d et seq., ~~as amended,~~ 83789
regulations promulgated by the United States department of health 83790
and human services to implement the act, section ~~5101.272~~ 5160.46 83791
of the Revised Code, and any rules ~~the director of job and family~~ 83792
~~services adopts under~~ authorized by section ~~5101.30~~ 5160.48 of the 83793
Revised Code; 83794

(4) A health information or health records management entity 83795
that has executed with the department a business associate 83796
agreement required by 45 C.F.R 164.502(e)(2) and has been 83797
authorized by the recipient, or the recipient's authorized 83798
representative, ~~or the recipient's~~ legal guardian to receive the 83799
recipient's electronic health records in accordance with rules ~~the~~ 83800
~~director of job and family services adopts under~~ authorized by 83801
section ~~5101.30~~ 5160.48 of the Revised Code; 83802

(5) A court if pursuant to a written order of the court. 83803

~~(D)~~(E) The department may receive from county departments of 83804
job and family services information regarding any medical 83805
assistance recipient for purposes of training and verifying the 83806

accuracy of eligibility determinations for a medical assistance program. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

~~(E)~~(F) The department shall notify courts in this state regarding its authority, under division ~~(C)~~(D)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

Sec. 5160.46. (A) For the purposes of section 5160.45 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or government entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed

pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure; 83837
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(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed; 83839
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(8) If signed by an authorized representative, a description of the representative's authority to act for the individual; 83842
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(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with either of the following: 83844
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(a) A description of how the individual or authorized representative may revoke the authorization; 83847
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(b) If the department of medicaid has established a privacy notice that contains a description of how the individual or authorized representative may revoke the authorization, a reference to the privacy notice. 83849
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(10) A statement that treatment, payment, enrollment, or eligibility for a medical assistance program cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the program. 83853
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(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division (D)(3) of section 5160.45 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules authorized by section 5160.48 or 5160.481 of the Revised Code. 83857
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(C) When an individual requests information pursuant to section 5160.45 of the Revised Code regarding the individual's enrollment in a medical assistance program and does not wish to 83864
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provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section. 83867
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Sec. 5160.47. The department of medicaid shall enter into any necessary agreements with the United States department of health and human services and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a medical assistance recipient to the extent necessary to participate as an active member in the system. 83870
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Sec. 5160.48. (A) The medicaid director shall adopt rules under section 5160.02 of the Revised Code implementing sections 5160.45 to 5160.481 of the Revised Code and governing the custody, use, disclosure, and preservation of the information generated or received by the department of medicaid, county departments of job and family services, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of medical assistance programs. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may define who is an "authorized representative" for purposes of sections 5160.45 and 5160.46 of the Revised Code. The rules shall specify conditions and procedures for the release of information, which may include both of the following: 83877
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(1) Permitting a provider of a service under a medical assistance program limited access to information that is essential for the provider to render the service or to bill for the service rendered; 83890
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(2) Permitting a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or 83894
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other duties on behalf of the department or a county department. 83897

(B) The department of aging, when investigating a complaint 83898
under section 173.20 of the Revised Code, shall be granted any 83899
limited access permitted in the rules authorized by division 83900
(A)(1) of this section. 83901

A contractor, grantee, or entity given access to information 83902
pursuant to the rules authorized by division (A)(2) of this 83903
section is bound by the director's rules. Disclosure of the 83904
information by the contractor, grantee, or entity in a manner not 83905
authorized by the rules is a violation of section 5160.45 of the 83906
Revised Code. 83907

Sec. 5160.481. Whenever names, addresses, or other 83908
information relating to medical assistance recipients is held by 83909
any agency other than the department of medicaid or a county 83910
department of job and family services, that other agency shall 83911
adopt rules consistent with sections 5160.45 to 5160.481 of the 83912
Revised Code to prevent the publication or disclosure of names, 83913
lists, or other information concerning those recipients. 83914

Sec. 5160.50. The department of medicaid shall administer the 83915
refugee medical assistance program authorized by the "Immigration 83916
and Nationality Act," section 412(e), 42 U.S.C. 1522(e). 83917
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Sec. 5160.52. The medicaid director may provide for the 83919
department of medicaid to develop, participate in the development 83920
of, negotiate, and enter into one or more interstate compacts on 83921
behalf of this state with agencies of any other states, for the 83922
provision of medical assistance to children in relation to whom 83923
all of the following apply: 83924

(A) They have special needs. 83925

(B) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf. 83926
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(C) They move into this state from another state or move out of this state to another state. 83929
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Sec. 5160.99. Whoever violates division (B) of section 5160.45 of the Revised Code is guilty of a misdemeanor of the first degree. 83931
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Sec. 5161.01. (A) As used in the Revised Code, "children's health insurance program" and, when used as an acronym for the children's health insurance program, "CHIP" mean the program of child health assistance authorized by Title XXI of the "Social Security Act," 42 U.S.C. 1397aa et seq. CHIP part I, CHIP part II, and CHIP part III, as authorized by this chapter, are components of CHIP. Any reference in statute enacted by the general assembly to medicaid or the medicaid program also means CHIP to the extent, if any, that CHIP is provided under the medicaid program. 83934
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(B) As used in this chapter, "federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2). 83943
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Sec. ~~5101.502~~ 5161.02. The medicaid director of ~~job and family services~~ may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of the children's health insurance program ~~part I~~, including rules that establish all of the following: 83950
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(A) The conditions under which ~~health assistance services~~ the 83955
program will be reimbursed pay for health benefits coverage; 83956

(B) The method of ~~reimbursement applicable to services~~ 83957
~~reimbursable under the program~~ payment; 83958

(C) The amount of ~~reimbursement~~ payment, or the method by 83959
which the amount is to be determined, for each ~~reimbursable~~ 83960
service included in the health benefits coverage. 83961

Sec. ~~5101.50~~ 5161.05. ~~(A) As used in sections 5101.50 to~~ 83962
~~5101.529 of the Revised Code:~~ 83963

~~(1) "Children's health insurance program" means the program~~ 83964
~~authorized by Title XXI of the "Social Security Act," 111 Stat.~~ 83965
~~552 (1997), 42 U.S.C.A. 1397aa.~~ 83966

~~(2) "Federal poverty guidelines" has the same meaning as in~~ 83967
~~section 5101.46 of the Revised Code.~~ 83968

~~(B) The~~ medicaid ~~director of job and family services~~ may 83969
continue to operate the component of the children's health 83970
insurance program initially authorized by an executive order 83971
issued under section 107.17 of the Revised Code as long as federal 83972
financial participation is available for the program. If operated, 83973
the ~~program~~ component shall ~~provide health assistance to pay for~~ 83974
part or all of the cost of health benefits coverage for uninsured 83975
individuals under nineteen years of age with family incomes not 83976
exceeding one hundred fifty per cent of the federal poverty 83977
guidelines line. ~~In accordance with 42 U.S.C.A. 1397aa, the~~ 83978
~~director may provide for the health assistance to meet the~~ 83979
~~requirements of 42 U.S.C.A. 1397cc, to be provided under the~~ 83980
~~medicaid program established under Chapter 5111. of the Revised~~ 83981
~~Code, or to be a combination of both.~~ 83982

Sec. ~~5101.501~~ 5161.06. ~~Health assistance provided under~~ The 83983
component of the children's health insurance program authorized by 83984

section ~~5101.50~~ 5161.05 of the Revised Code shall be known as ~~the~~ 83985
~~children's health insurance program~~ CHIP part I. 83986

Sec. ~~5101.51~~ 5161.10. In accordance with federal law 83987
governing the children's health insurance program, the medicaid 83988
~~director of job and family services~~ may submit a state child 83989
health plan to the United States secretary of health and human 83990
services to ~~provide pay~~, except as provided in section ~~5101.516~~ 83991
5161.22 of the Revised Code, ~~health assistance to~~ for part or all 83992
of the cost of health benefits coverage for uninsured individuals 83993
under nineteen years of age with family incomes above one hundred 83994
fifty per cent of the federal poverty ~~guidelines~~ line but not 83995
exceeding two hundred per cent of the federal poverty ~~guidelines~~ 83996
line. If the director submits the plan, the director shall ~~include~~ 83997
~~both of the following~~ stipulate in the plan: 83998

~~(A) The health assistance will not begin before January 1,~~ 83999
~~2000.~~ 84000

~~(B) The health assistance that the payments will be available~~ 84001
~~only while federal financial participation is available for it~~ 84002
~~them.~~ 84003

Sec. ~~5101.511~~ 5161.11. ~~Health assistance provided under~~ The 84004
component of the children's health insurance program authorized by 84005
section ~~5101.51~~ 5161.10 of the Revised Code shall be known as ~~the~~ 84006
~~children's health insurance program~~ CHIP part II. 84007

Sec. ~~5101.512~~ 5161.12. If the medicaid director ~~of job and~~ 84008
~~family services~~ submits a state child health plan to the United 84009
States secretary of health and human services under section 84010
~~5101.51~~ 5161.10 of the Revised Code and the secretary approves the 84011
plan, the director shall implement ~~the children's health insurance~~ 84012
~~program~~ CHIP part II in accordance with the plan. ~~The director may~~ 84013
~~adopt rules in accordance with Chapter 119. of the Revised Code as~~ 84014

necessary for the efficient administration of the program, 84015
including rules that establish all of the following: 84016

(A) The conditions under which health assistance services 84017
will be reimbursed; 84018

(B) The method of reimbursement applicable to services 84019
reimbursable under the program; 84020

(C) The amount of reimbursement, or the method by which the 84021
amount is to be determined, for each reimbursable service. 84022

Sec. ~~5101.52~~ 5161.15. In accordance with federal law 84023
governing the children's health insurance program, the medicaid 84024
~~director of job and family services~~ may submit a request for a 84025
federal waiver to the United States secretary of health and human 84026
services to ~~provide pay~~, except as provided in section ~~5101.526~~ 84027
5161.22 of the Revised Code, ~~health assistance to~~ for part or all 84028
of the cost of health benefits coverage for individuals under 84029
nineteen years of age with family incomes above two hundred per 84030
cent of the federal poverty ~~guidelines~~ line but not exceeding 84031
three hundred per cent of the federal poverty ~~guidelines~~ line. If 84032
the director submits the ~~plan waiver request~~, the director shall 84033
stipulate in the ~~plan request~~ that the ~~health assistance payments~~ 84034
will be available only while federal financial participation is 84035
available for ~~it and that health assistance shall not begin before~~ 84036
January 1, 2008 ~~them~~. 84037

Sec. ~~5101.521~~ 5161.16. Health assistance provided under The 84038
component of the children's health insurance program authorized by 84039
section ~~5101.52~~ 5161.15 of the Revised Code shall be known as ~~the~~ 84040
~~children's health insurance program~~ CHIP part III. 84041

Sec. ~~5101.522~~ 5161.17. If the medicaid director ~~of job and~~ 84042
~~family services~~ submits a waiver request to the United States 84043

secretary of health and human services under section ~~5101.52~~ 84044
~~5161.15~~ of the Revised Code and the secretary grants the waiver, 84045
the director shall implement ~~the children's health insurance~~ 84046
~~program~~ CHIP part III in accordance with the waiver. ~~The director~~ 84047
may adopt rules in accordance with Chapter 119. of the Revised 84048
Code as necessary for the efficient administration of the program, 84049
including rules that establish all of the following: 84050

(A) ~~The conditions under which health assistance services~~ 84051
~~will be reimbursed;~~ 84052

(B) ~~The method of reimbursement applicable to services~~ 84053
~~reimbursable under the program;~~ 84054

(C) ~~The amount of reimbursement, or the method by which the~~ 84055
~~amount is to be determined, for each reimbursable service.~~ 84056

Sec. ~~5101.524~~ 5161.20. In accordance with the "Social 84057
Security Act," section 2101, 42 U.S.C. 1397aa, ~~the director of job~~ 84058
~~and family services shall provide for health assistance under the~~ 84059
children's health insurance program ~~part III to meet~~ shall provide 84060
payments for obtaining health benefits coverage through any of the 84061
following: 84062

(A) Obtaining coverage that meets the requirements the 84063
"Social Security Act," section 2103, of 42 U.S.C. 1397cc, ~~to be~~ 84064
~~provided;~~ 84065

(B) Providing benefits under the medicaid program ~~established~~ 84066
~~under Chapter 5111. of the Revised Code, or to be a;~~ 84067

(C) A combination of both divisions (A) and (B) of this 84068
section. 84069

Sec. ~~5101.516~~ 5161.22. If the medicaid director ~~of job and~~ 84070
~~family services~~ determines that federal financial participation 84071
for ~~the children's health insurance program~~ CHIP part II, part 84072

III, or both parts is insufficient to ~~provide health assistance to~~ 84073
pay for part or all of the costs of health benefits coverage for 84074
all the individuals the director anticipates are eligible for the 84075
~~program part or parts~~, the director may refuse to accept new 84076
applications for the ~~program~~ part or parts or may make the 84077
~~program's~~ eligibility requirements more restrictive for the part 84078
or parts. 84079

Sec. ~~5101.517~~ 5161.24. To the extent permitted by the "Social 84080
Security Act," section 2103(e), 42 U.S.C.A. 1397cc(e), the 84081
medicaid director ~~of job and family services~~ may require an 84082
individual ~~receiving health assistance under the children's health~~ 84083
insurance program seeking to enroll, or who is enrolled, in CHIP 84084
part II to pay a premium, deductible, coinsurance payment, or 84085
other cost-sharing expense. 84086

Sec. ~~5101.527~~ 5161.25. To the extent permitted by the "Social 84087
Security Act," section 2103(e), 42 U.S.C. 1397cc(e), the medicaid 84088
director ~~of job and family services~~ shall require an individual 84089
~~receiving health assistance under the children's health insurance~~ 84090
program seeking to enroll, or who is enrolled, in CHIP part III to 84091
pay the following as a term of ~~participation in the program~~ 84092
enrollment: 84093

(A) A premium of not less than forty dollars per month for a 84094
family with one individual ~~receiving health assistance under~~ 84095
seeking to enroll, or who is enrolled, in the program part; 84096

(B) A premium of not less than eighty dollars per month for a 84097
family with two individuals ~~receiving health assistance under~~ 84098
seeking to enroll, or who is enrolled, in the program part; 84099

(C) A premium of not less than one hundred twenty dollars per 84100
month for a family with three or more individuals ~~receiving health~~ 84101
assistance under seeking to enroll, or who are enrolled, in the 84102

~~program part.~~ 84103

Sec. ~~5101.519~~ 5161.27. A completed application for ~~medical~~ 84104
~~assistance under Chapter 5111. of the Revised Code~~ medicaid shall 84105
be treated as an application for ~~health assistance under~~ the 84106
children's health insurance program ~~part II~~ if the application is 84107
for an assistance group that includes a child under nineteen years 84108
of age and is denied. 84109

Sec. ~~5101.513~~ 5161.30. The medicaid director ~~of job and~~ 84110
~~family services~~ may contract with a government entity or person to 84111
perform the director's administrative duties regarding ~~the~~ 84112
~~children's health insurance program~~ CHIP part I, part II, part 84113
III, two of the parts, or all three parts, other than the duty to 84114
submit a state child health plan to the United States secretary of 84115
health and human services under section ~~5101.51~~ 5161.10 of the 84116
Revised Code, the duty to submit a waiver request under section 84117
5161.15 of the Revised Code, and the duty to adopt rules under 84118
section ~~5101.512~~ 5161.02 of the Revised Code. 84119

Sec. ~~5101.5110~~ 5161.35. (A) The medicaid director ~~of job and~~ 84120
~~family services~~ may submit a waiver request to the United States 84121
secretary of health and human services to provide health 84122
assistance to any individual who meets all of the following 84123
requirements: 84124

(1) Is the parent of a child who is under nineteen years of 84125
age ~~who,~~ resides with the parent, and is ~~eligible for health~~ 84126
~~assistance under~~ enrolled in the children's health insurance 84127
program part I or II or the medicaid program ~~established under~~ 84128
~~Chapter 5111. of the Revised Code;~~ 84129

(2) Is uninsured; 84130

(3) Has a family income that does not exceed one hundred per 84131

cent of the federal poverty ~~guidelines~~ line. 84132

(B) A waiver request the director submits under division (A) 84133
of this section may seek federal funds allotted to the state under 84134
~~Title XXI of the "Social Security Act," 111 Stat. 558 (1997)~~ 84135
section 2104, 42 U.S.C.A. 1397dd, as amended, that are not 84136
otherwise used to fund the children's health insurance program 84137
parts I and II. 84138

~~(C) If a waiver request the director submits under division 84139
(A) of this section is granted, the director may adopt rules in 84140
accordance with Chapter 119. of the Revised Code as necessary for 84141
the efficient administration of the program authorization by the 84142
waiver. 84143~~

Sec. 5162.01. (A) As used in the Revised Code: 84144

(1) "Medicaid" and "medicaid program" mean the program of 84145
medical assistance established by Title XIX of the "Social 84146
Security Act," 42 U.S.C. 1396 et seq., including any medical 84147
assistance provided under the medicaid state plan or a federal 84148
medicaid waiver granted by the United States secretary of health 84149
and human services. 84150

(2) "Medicare" and "medicare program" mean the federal health 84151
insurance program established by Title XVIII of the "Social 84152
Security Act," 42 U.S.C. 1395 et seq. 84153

(B) As used in this chapter: 84154

(1) "Dual eligible individual" has the same meaning as in 84155
section 5160.01 of the Revised Code. 84156

(2) "Federal financial participation" has the same meaning as 84157
in section 5160.01 of the Revised Code. 84158

(3) "Federal poverty line" means the official poverty line 84159
defined by the United States office of management and budget based 84160
on the most recent data available from the United States bureau of 84161

the census and revised by the United States secretary of health 84162
and human services pursuant to the "Omnibus Budget Reconciliation 84163
Act of 1981," section 673(2), 42 U.S.C. 9902(2). 84164

(4) "Healthy start component" means the component of the 84165
medicaid program that covers pregnant women and children and is 84166
identified in rules adopted under section 5162.02 of the Revised 84167
Code as the healthy start component. 84168

(5) "ICF/IID" has the same meaning as in section 5124.01 of 84169
the Revised Code. 84170

(6) "Medicaid managed care organization" has the same meaning 84171
as in section 5167.01 of the Revised Code. 84172

(7) "Medicaid provider" has the same meaning as in section 84173
5164.01 of the Revised Code. 84174

(8) "Medicaid services" has the same meaning as in section 84175
5164.01 of the Revised Code. 84176

(9) "Nursing facility" has the same meaning as in section 84177
5165.01 of the Revised Code. 84178

(10) "Political subdivision" means a municipal corporation, 84179
township, county, school district, or other body corporate and 84180
politic responsible for governmental activities only in a 84181
geographical area smaller than that of the state. 84182

(11) "Provider agreement" has the same meaning as in section 84183
5164.01 of the Revised Code. 84184

(12) "Qualified medicaid school provider" means the board of 84185
education of a city, local, or exempted village school district, 84186
the governing authority of a community school established under 84187
Chapter 3314. of the Revised Code, the state school for the deaf, 84188
and the state school for the blind to which both of the following 84189
apply: 84190

(a) It holds a valid provider agreement. 84191

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code. 84192
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(13) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government. 84195
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(14) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider. 84199
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Sec. 5162.02. The medicaid director shall adopt rules as necessary to implement this chapter. 84202
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Sec. 5162.021. The medicaid director shall adopt rules under sections 5160.02, 5162.02, 5163.03, 5164.04, 5165.05, 5166.02, and 5167.02 of the Revised Code as necessary to authorize the directors of other state agencies to adopt rules regarding medicaid components, or aspects of medicaid components, the other state agencies administer pursuant to contracts entered into under section 5162.35 of the Revised Code. 84204
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Sec. 5162.022. The medicaid director's rules governing medicaid are binding on other state agencies and political subdivisions that administer one or more components of the medicaid program, or one or more aspects of a component, pursuant to contracts entered into under section 5162.35 of the Revised Code. No state agency or political subdivision may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the director. 84211
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Sec. ~~5111.01~~ 5162.03. (A) As used in this chapter: 84220

~~"Children's health insurance program" means the children's health insurance program part I, children's health insurance program part II, and children's health insurance program part III authorized by sections 5101.50 to 5101.529 of the Revised Code.~~

~~"Medical assistance program" or "medicaid" means the program that is authorized by this chapter and provided by the office of medical assistance under this chapter, Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, et seq., as amended, and the waivers of Title XIX requirements granted to the office by the centers for medicare and medicaid services of the United States department of health and human services.~~

~~(B) There is hereby established the office of medical assistance as a work unit within the department of job and family services. The chief of the office shall hold the title of medical assistance director. Notwithstanding section 5101.06 of the Revised Code, the governor shall appoint the medical assistance director and the medical assistance director shall serve at the governor's pleasure. The medical assistance director is not an assistant director of the department of job and family services for purposes of section 121.05 or 5101.03 of the Revised Code or any other purpose.~~

~~Subject to appropriations for the medicaid program and children's health insurance program, the department of job and family services shall provide staff and support services as necessary for the operation of the office of medical assistance.~~

~~If a statute, rule, contract, or other legal authority requires the director of job and family services or department of job and family services to take an action regarding the medicaid program or children's health insurance program, the medical assistance director or office of medical assistance shall take the action in place of the director of job and family services or department of job and family services. If a statute, rule,~~

~~contract, or other legal authority permits the director of job and family services or department of job and family services to take an action regarding the medicaid program or children's health insurance program, the medical assistance director or office of medical assistance shall take the action in place of the director of job and family services or department of job and family services if the action is to be taken.~~

~~The office~~ For the purpose of the "Social Security Act," ~~section 1902(a)(5), 42 U.S.C. 1396a(a)(5), the department of medical assistance~~ medicaid shall act as the single state agency to supervise the administration of the medicaid program. As the single state agency, the ~~office~~ department shall comply with 42 C.F.R. 431.10(e) and all other federal requirements applicable to the single state agency. ~~The office's rules governing medicaid are binding on other agencies that administer components of the medicaid program. No agency may establish, by rule or otherwise, a policy governing medicaid that is inconsistent with a medicaid policy established, in rule or otherwise, by the medical assistance director.~~

~~(C) The office of medical assistance may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:~~

~~(1) Families with children that meet either of the following conditions:~~

~~(a) The family meets the income, resource, and family composition requirements in effect on July 16, 1996, for the former aid to dependent children program as those requirements were established by Chapter 5107. of the Revised Code, federal waivers granted pursuant to requests made under former section 5101.09 of the Revised Code, and rules adopted by the department or any changes the department makes to those requirements in accordance with paragraph (a)(2) of section 114 of the "Personal~~

~~Responsibility and Work Opportunity Reconciliation Act of 1996," 84285
110 Stat. 2177, 42 U.S.C.A. 1396u-1, for the purpose of 84286
implementing section 5111.0120 of the Revised Code. An adult loses 84287
eligibility for medicaid under division (C)(1)(a) of this section 84288
pursuant to division (E) of section 5107.16 of the Revised Code. 84289~~

~~(b) The family does not meet the requirements specified in 84290
division (C)(1)(a) of this section but is eligible for medicaid 84291
pursuant to section 5101.18 of the Revised Code. 84292~~

~~(2) Aged, blind, and disabled persons who meet the following 84293
conditions: 84294~~

~~(a) Receive federal aid under Title XVI of the "Social 84295
Security Act," or are eligible for but are not receiving such aid, 84296
provided that the income from all other sources for individuals 84297
with independent living arrangements shall not exceed one hundred 84298
seventy five dollars per month. The income standards hereby 84299
established shall be adjusted annually at the rate that is used by 84300
the United States department of health and human services to 84301
adjust the amounts payable under Title XVI. 84302~~

~~(b) Do not receive aid under Title XVI, but meet any of the 84303
following criteria: 84304~~

~~(i) Would be eligible to receive such aid, except that their 84305
income, other than that excluded from consideration as income 84306
under Title XVI, exceeds the maximum under division (C)(2)(a) of 84307
this section, and incurred expenses for medical care, as 84308
determined under federal regulations applicable to section 209(b) 84309
of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 84310
U.S.C. 1396a(f), as amended, equal or exceed the amount by which 84311
their income exceeds the maximum under division (C)(2)(a) of this 84312
section: 84313~~

~~(ii) Received aid for the aged, aid to the blind, or aid for 84314
the permanently and totally disabled prior to January 1, 1974, and 84315~~

~~continue to meet all the same eligibility requirements;~~ 84316

~~(iii) Are eligible for medicaid pursuant to section 5101.18 of the Revised Code.~~ 84317
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~~(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medicaid be provided;~~ 84319
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~~(4) Persons under age twenty one who meet the income requirements for the Ohio works first program established under Chapter 5107. of the Revised Code but do not meet other eligibility requirements for the program. The medical assistance director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying which Ohio works first requirements shall be waived for the purpose of providing medicaid eligibility under division (C)(4) of this section.~~ 84322
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~~(D) If sufficient funds are appropriated for the medicaid program, the office of medical assistance may provide medical assistance under the medicaid program to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.~~ 84330
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~~(E) The office of medical assistance may expand eligibility for the medicaid program to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guidelines, except that the eligibility expansion shall not occur unless the office receives the approval of the federal government. The office may implement the eligibility expansion authorized under this division on any date selected by the office, but not sooner than January 1, 1998.~~ 84335
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~~(F) In addition to any other authority or requirement to adopt rules under this chapter, the medical assistance director may adopt rules in accordance with section 111.15 of the Revised Code as the director considers necessary to establish standards,~~ 84343
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~~procedures, and other requirements regarding the provision of 84347
medical assistance under the medicaid program. The rules may 84348
establish requirements to be followed in applying for medicaid, 84349
making determinations of eligibility for medicaid, and verifying 84350
eligibility for medicaid. The rules may include special conditions 84351
as the office determines appropriate for making applications, 84352
determining eligibility, and verifying eligibility for any medical 84353
assistance that the office may provide under the medicaid program 84354
pursuant to division (E) of this section and section 5111.014 or 84355
5111.0120 of the Revised Code. 84356~~

Sec. ~~5111.98~~ 5162.031. (A) The medicaid director ~~of job and 84357
family services~~ may do all of the following as necessary for the 84358
department of ~~job and family services~~ medicaid to fulfill the 84359
duties it has, as the single state agency for the medicaid 84360
program, under the "Medicare Prescription Drug, Improvement, and 84361
Modernization Act of 2003" Pub. L. No. 108-173, ~~117 Stat. 2066:~~ 84362

(1) Adopt rules in accordance with division (B) of this 84363
section; 84364

(2) Assign duties to county departments of job and family 84365
services; 84366

(3) Make payments to the United States department of health 84367
and human services from appropriations made to the department of 84368
~~job and family services~~ medicaid for this purpose. 84369

(B) Rules ~~adopted under~~ authorized by division (A)(1) of this 84370
section shall be adopted as follows: 84371

(1) If the rules concern the department's duties regarding 84372
~~service~~ medicaid providers, ~~in accordance with Chapter 119. under~~ 84373
sections 5164.02 and 5165.02 of the Revised Code, as appropriate; 84374

(2) If the rules concern the department's duties concerning 84375
individuals' eligibility for medicaid services, ~~in accordance with~~ 84376

under section ~~111.15~~ 5163.02 of the Revised Code; 84377

(3) If the rules concern the department's duties concerning 84378
financial and operational matters between the department and 84379
county departments of job and family services, ~~in accordance with~~ 84380
under section ~~111.15~~ 5162.02 of the Revised Code ~~as if the rules~~ 84381
~~were internal management rules.~~ 84382

Sec. ~~5111.102~~ 5162.04. As used in this section, "state 84383
agency" has the same meaning as in section 9.23 of the Revised 84384
Code. 84385

No provision of Title LI of the Revised Code or any other law 84386
of this state that incorporates any provision of federal ~~Medicaid~~ 84387
medicaid law, ~~Title XIX of the Social Security Act, 79 Stat. 286~~ 84388
~~(1965), 42 U.S.C. 1396,~~ or that may be construed as requiring the 84389
state, a state agency, or any state official or employee to comply 84390
with that federal provision, shall be construed as creating a 84391
cause of action to enforce such state law beyond the causes of 84392
action available under federal law for enforcement of the 84393
provision of federal law. 84394

Sec. 5162.05. The medicaid program shall be implemented in 84395
accordance with all of the following: 84396

(A) The medicaid state plan approved by the United States 84397
secretary of health and human services, including amendments to 84398
the plan approved by the United States secretary; 84399

(B) Federal medicaid waivers granted by the United States 84400
secretary, including amendments to waivers approved by the United 84401
States secretary; 84402

(C) Other types of federal approval, including demonstration 84403
grants, that establish requirements for components of the medicaid 84404
program; 84405

(D) Except as otherwise authorized by a federal medicaid waiver granted by the United States secretary, all applicable federal statutes, regulations, and policy guidances; 84406
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(E) All applicable state statutes. 84409

Sec. 5162.06. (A) Notwithstanding any other state statute, no component, or aspect of a component, of the medicaid program shall be implemented without all of the following: 84410
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(1) Subject to division (B) of this section, if the component, or aspect of the component, requires federal approval, receipt of the federal approval; 84413
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(2) Sufficient federal financial participation for the component or aspect of the component; 84416
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(3) Sufficient nonfederal funds for the component or aspect of the component that qualify as funds needed to obtain the federal financial participation. 84418
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(B) A component, or aspect of a component, of the medicaid program that requires federal approval may begin to be implemented before receipt of the federal approval if federal law authorizes implementation to begin before receipt of the federal approval. Implementation shall cease if the federal approval is ultimately denied. 84421
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Sec. 5162.07. The medicaid director shall seek federal approval for all components, and aspects of components, of the medicaid program for which federal approval is needed, except that the director is permitted rather than required to seek federal approval for components, and aspects of components, that state statutes permit rather than require be implemented. Federal approval shall be sought in the following forms as appropriate: 84427
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(A) The medicaid state plan; 84434

<u>(B) Amendments to the medicaid state plan;</u>	84435
<u>(C) Federal medicaid waivers;</u>	84436
<u>(D) Amendments to federal medicaid waivers;</u>	84437
<u>(E) Other types of federal approval, including demonstration grants.</u>	84438 84439
Sec. 5111.10 <u>5162.10</u>. The <u>medicaid</u> director of job and family services may conduct reviews of the medicaid program. The reviews may include physical inspections of records and sites where medicaid-funded <u>medicaid</u> services are provided and interviews of <u>medicaid</u> providers and <u>medicaid</u> recipients of the services . If the director determines pursuant to a review that a person or government entity has violated a rule governing the medicaid program, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules governing the medicaid program <u>adopted under section 5162.02 of the Revised Code</u> .	84440 84441 84442 84443 84444 84445 84446 84447 84448 84449 84450 84451
Sec. 5111.915 <u>5162.11</u>. (A) The department of job and family services <u>medicaid</u> shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.07 of the Revised Code with a vendor to perform an assessment of the data collection and data warehouse functions of the medicaid data warehouse system, including the ability to link the data sets of all agencies serving medicaid recipients.	84452 84453 84454 84455 84456 84457 84458 84459 84460
The assessment of the data system shall include functions related to fraud and abuse detection, program management and budgeting, and performance measurement capabilities of all agencies serving medicaid recipients, including the departments of	84461 84462 84463 84464

aging, alcohol and drug addiction services, health, job and family 84465
services, medicaid, mental health mental health and addiction 84466
services, and developmental disabilities. 84467

~~The department of administrative services shall enter into 84468
this contract within thirty days after September 29, 2005. The 84469
contract shall require the vendor to complete the assessment 84470
within ninety days after September 29, 2005. 84471~~

A qualified vendor with whom the department of administrative 84472
services contracts to assess the data system shall also assist the 84473
medicaid agencies in the definition of the requirements for an 84474
enhanced data system or a new data system and assist the 84475
department of administrative services in the preparation of a 84476
request for proposal to enhance or develop a data system. 84477

(B) Based on the assessment performed pursuant to division 84478
(A) of this section, the department of administrative services 84479
shall seek a qualified vendor through competitive selection 84480
pursuant to section 125.07 of the Revised Code to develop or 84481
enhance a data collection and data warehouse system for the 84482
department of ~~job and family services~~ medicaid and all agencies 84483
serving medicaid recipients. 84484

~~Within ninety days after September 29, 2005, the The 84485
department of ~~job and family services~~ medicaid shall seek enhanced 84486
federal ~~funding~~ financial participation for ninety per cent of the 84487
funds required to establish or enhance the data system. The 84488
department of administrative services shall not award a contract 84489
for establishing or enhancing the data system until the department 84490
of ~~job and family services~~ medicaid receives approval from the 84491
~~secretary of the~~ United States ~~department~~ secretary of health and 84492
human services for the ninety per cent federal ~~match~~ financial 84493
participation. 84494~~

Sec. 5162.12. (A) The medicaid director may enter into a 84495

contract with one or more persons to receive and process, on the 84496
director's behalf, requests for medicaid recipient or claims 84497
payment data, data from reports of audits conducted under section 84498
5165.109 of the Revised Code, or extracts or analyses of any of 84499
the foregoing data made by persons who intend to use the items for 84500
commercial or academic purposes. 84501

(B) At a minimum, a contract entered into under this section 84502
shall do both of the following: 84503

(1) Authorize the contracting person to engage in the 84504
activities described in division (A) of this section for 84505
compensation, which must be stated as a percentage of the fees 84506
paid by persons who are provided the items; 84507

(2) Specify the schedule of fees the contracting person is to 84508
charge for the items. 84509

(C) Except as required by federal or state law and subject to 84510
division (E) of this section, both of the following conditions 84511
apply with respect to a request for data described in division (A) 84512
of this section: 84513

(1) The request shall be made through a person who has 84514
entered into a contract with the medicaid director under this 84515
section. 84516

(2) An item prepared pursuant to the request may be provided 84517
to the department of medicaid and is confidential and not subject 84518
to disclosure under section 149.43 or 1347.08 of the Revised Code. 84519

(D) The medicaid director shall use fees the director 84520
receives pursuant to a contract entered into under this section to 84521
pay obligations specified in contracts entered under this section. 84522
Any money remaining after the obligations are paid shall be 84523
deposited in the health care services administration fund created 84524
under section 5162.54 of the Revised Code. 84525

(E) This section does not apply to requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data that are for any of the following purposes: 84526
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(1) Treatment of medicaid recipients; 84531

(2) Payment of medicaid claims; 84532

(3) Establishment or management of medicaid third party liability pursuant to sections 5160.35 to 5160.43 of the Revised Code; 84533
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(4) Compliance with the terms of an agreement the medicaid director enters into for purposes of administering the medicaid program; 84536
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(5) Compliance with an operating protocol the executive director of the office of health transformation or the executive director's designee adopts under division (D) of section 191.06 of the Revised Code. 84539
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Sec. ~~5111.09~~ 5162.13. On or before the first day of January 84543
of each year, the department of ~~job and family services~~ medicaid 84544
shall submit to the speaker and minority leader of the house of 84545
representatives and the president and minority leader of the 84546
senate, and shall make available to the public, a report on the 84547
effectiveness of the ~~Ohio works first program established under~~ 84548
~~Chapter 5107. of the Revised Code and the medical assistance~~ 84549
medicaid program established under this chapter in meeting the 84550
health care needs of low-income pregnant women, infants, and 84551
children. The report shall include: the estimated number of 84552
~~persons eligible for health care services to pregnant women,~~ 84553
infants, and children ~~under the programs~~ eligible for the program; 84554
the actual number of eligible persons ~~served~~ enrolled in the 84555

program; the number of prenatal, postpartum, and child health 84556
visits; a report on birth outcomes, including a comparison of 84557
low-birthweight births and infant mortality rates of ~~program~~ 84558
~~participants~~ medicaid recipients with the general female 84559
child-bearing and infant population in this state; and a 84560
comparison of the prenatal, delivery, and child health costs of 84561
the ~~programs~~ program with such costs of similar programs in other 84562
states, where available. 84563

Sec. ~~5111.091~~ 5162.131. Semiannually, the medicaid director 84564
~~of job and family services~~ shall submit to the president and 84565
minority leader of the senate, speaker and minority leader of the 84566
house of representatives, and the chairpersons of the standing 84567
committees of the senate and house of representatives with primary 84568
responsibility for legislation making biennial appropriations a 84569
report on the establishment and implementation of programs 84570
designed to control the increase of the cost of the medicaid 84571
program, increase the efficiency of the medicaid program, and 84572
promote better health outcomes. In each calendar year, one report 84573
shall be submitted not later than the last day of June and the 84574
subsequent report shall be submitted not later than the last day 84575
of December. 84576

Sec. ~~5111.092~~ 5162.132. ~~(A) Not later than January 1, 2010,~~ 84577
~~and each year thereafter~~ Annually, the department of ~~job and~~ 84578
~~family services~~ medicaid shall prepare a report on the 84579
department's efforts to minimize fraud, waste, and abuse in the 84580
medicaid program. 84581

~~(B)~~ Each report shall be made available on the department's 84582
web site. The department shall submit a copy of each report to the 84583
governor and, in accordance with section 101.68 of the Revised 84584
Code, the general assembly. Copies of the report also shall be 84585
made available to the public on request. 84586

Sec. ~~5111.101~~ 5162.15. (A) As used in this section; 84587

"Agent" and "contractor" include any agent, contractor, 84588
subcontractor, or other person who, on behalf of an entity, 84589
furnishes or authorizes the furnishing of ~~health care items or~~ 84590
medicaid services ~~under the medicaid program~~, performs billing or 84591
coding functions, or is involved in monitoring of health care that 84592
an entity provides. 84593

"Employee" includes any officer or employee (including 84594
management employees) of an entity. 84595

"Entity" includes a governmental entity or an organization, 84596
unit, corporation, partnership, or other business arrangement, 84597
including any medicaid managed care organization, irrespective of 84598
the form of business structure or arrangement by which it exists, 84599
whether for-profit or not-for-profit. "Entity" does not include a 84600
government entity that administers one or more components of the 84601
medicaid program, unless the government entity receives medicaid 84602
payments for providing ~~items or~~ medicaid services. 84603

"Federal health care programs" has the same meaning as in the 84604
"Social Security Act," section 1128B, 42 U.S.C. 1320a-7b(f). 84605

(B) Each entity that receives or makes in a federal fiscal 84606
year payments under the medicaid program, either through the 84607
medicaid state ~~medicaid~~ plan or a federal medicaid waiver, 84608
totaling at least five million dollars shall, as a condition of 84609
receiving such payments, do all of the following not later than 84610
the first day of the succeeding calendar year: 84611

(1) Establish written policies for all of the entity's 84612
employees, contractors, and agents that provide detailed 84613
information about the role of all of the following in preventing 84614
and detecting fraud, waste, and abuse in federal health care 84615
programs: 84616

(a) Federal false claims law under 31 U.S.C. 3729 to 3733;	84617
(b) Federal administrative remedies for false claims and statements available under 31 U.S.C. 3801 to 3812;	84618 84619
(c) Sections 124.341, 2913.40, 2913.401, and 2921.13 of the Revised Code and any other state laws pertaining to civil or criminal penalties for false claims and statements;	84620 84621 84622
(d) Whistleblower protections under the laws specified in divisions (B)(1)(a) to (c) of this section.	84623 84624
(2) Include as part of the written policies required by division (B)(1) of this section detailed provisions regarding the entity's policies and procedures for preventing and detecting fraud, waste, and abuse.	84625 84626 84627 84628
(3) Disseminate the written policies required by division (B)(1) of this section to each of the entity's employees, contractors, and agents in a paper or electronic form and make the written policies readily available to the entity's employees, contractors, and agents.	84629 84630 84631 84632 84633
(4) If the entity has an employee handbook, include in the employee handbook a specific discussion of the laws specified in division (B)(1) of this section, the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for preventing and detecting fraud, waste, and abuse.	84634 84635 84636 84637 84638
(5) Require the entity's contractors and agents to adopt the entity's written policies required by division (B)(1) of this section.	84639 84640 84641
(C) An entity that furnishes items or <u>medicaid</u> services at multiple locations or under multiple contractual or other payment arrangements is required to comply with division (B) of this section if the entity receives in a federal fiscal year medicaid payments totaling in the aggregate at least five million dollars.	84642 84643 84644 84645 84646

This applies regardless of whether the entity submits claims for
medicaid payments using multiple provider identification or tax
identification numbers.

Sec. ~~5111.0112~~ 5162.20. (A) The ~~director~~ department of job
~~and family services~~ medicaid shall institute a cost-sharing
~~program under requirements for~~ the medicaid program. ~~In~~
~~instituting the cost sharing program, the director shall comply~~
~~with federal law.~~ The cost-sharing ~~program~~ requirements shall
~~establish~~ include a copayment requirement for at least dental
services, vision services, nonemergency emergency department
services, and prescription drugs, other than generic drugs. The
cost-sharing ~~program~~ requirements also shall ~~establish~~ include
requirements regarding premiums, enrollment fees, deductions, and
similar charges. ~~The director shall adopt rules under section~~
~~5111.02 of the Revised Code governing the cost sharing program.~~

(B) ~~The cost sharing program shall, to the extent permitted~~
~~by federal law, provide for all of the following with regard to~~
~~any providers participating in the medicaid program:~~

(1) No provider shall refuse to provide a service to a
medicaid recipient who is unable to pay a required copayment for
the service.

(2) Division (B)(1) of this section shall not be considered
to do either of the following with regard to a medicaid recipient
who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay
a copayment;

(b) Prohibit the provider from attempting to collect an
unpaid copayment.

~~(3)~~(C) Except as provided in division ~~(C)~~(F) of this section,
no provider shall waive a medicaid recipient's obligation to pay

the provider a copayment. 84677

~~(4)~~(D) No provider or drug manufacturer, including the 84678
manufacturer's representative, employee, independent contractor, 84679
or agent, shall pay any copayment on behalf of a medicaid 84680
recipient. 84681

~~(5)~~(E) If it is the routine business practice of ~~the a~~ 84682
provider to refuse service to any individual who owes an 84683
outstanding debt to the provider, the provider may consider an 84684
unpaid copayment imposed by the cost-sharing ~~program~~ requirements 84685
as an outstanding debt and may refuse service to a medicaid 84686
recipient who owes the provider an outstanding debt. If the 84687
provider intends to refuse service to a medicaid recipient who 84688
owes the provider an outstanding debt, the provider shall notify 84689
the ~~individual~~ recipient of the provider's intent to refuse 84690
~~services~~ service. 84691

~~(C)~~(F) In the case of a provider that is a hospital, the 84692
cost-sharing program shall permit the hospital to take action to 84693
collect a copayment by providing, at the time services are 84694
rendered to a medicaid recipient, notice that a copayment may be 84695
owed. If the hospital provides the notice and chooses not to take 84696
any further action to pursue collection of the copayment, the 84697
prohibition against waiving copayments specified in division 84698
~~(B)~~(3)(C) of this section does not apply. 84699

~~(D)~~(G) The department of ~~job and family services~~ medicaid may 84700
~~work~~ collaborate with a state agency that is administering, 84701
pursuant to a contract entered into under section ~~5111.91~~ 5162.35 84702
of the Revised Code, one or more components ~~of the medicaid~~ 84703
~~program~~, or one or more aspects of a component, of the medicaid 84704
program as necessary for the state agency to apply the 84705
cost-sharing ~~program~~ requirements to the components or aspects of 84706
~~the medicaid program~~ a component that the state agency 84707
administers. 84708

Sec. 5162.201. (A) If the medicaid program covers the group, 84709
or any subgroup of the group, specified in section 5163.04 of the 84710
Revised Code, the cost-sharing requirements instituted under 84711
section 5162.20 of the Revised Code do not apply to any member of 84712
the group or subgroup who has countable income exceeding one 84713
hundred per cent of the federal poverty line. Instead, the 84714
department of medicaid shall institute cost-sharing requirements 84715
for such members of the group or subgroup in accordance with this 84716
section. 84717

(B) In instituting cost-sharing requirements under this 84718
section, all of the following apply: 84719

(1) The requirements shall not apply to any individual exempt 84720
from the requirements pursuant to the "Social Security Act," 84721
sections 1916 and 1916A, 42 U.S.C. 1396o and 1396o-1. 84722

(2) The copayment amounts for drugs shall be not less than 84723
the copayment amounts for drugs established under the cost-sharing 84724
requirements instituted under section 5162.20 of the Revised Code. 84725

(3) The copayment amount for nonemergency emergency 84726
department services shall be higher than the copayment amount for 84727
nonemergency emergency department services established under the 84728
cost-sharing requirements instituted under section 5162.20 of the 84729
Revised Code; 84730

(4) Copayments shall be established for at least all other 84731
types of medicaid services that are subject to copayments included 84732
in the cost-sharing requirements instituted under section 5162.20 84733
of the Revised Code and the copayment amounts for those services 84734
may be higher than the copayment amounts for those services under 84735
the cost-sharing requirements established under that section. 84736

(C) All of the following apply to the cost-sharing 84737
requirements instituted under this section: 84738

(1) Subject to division (C)(2) of this section, a medicaid provider may refuse to provide a medicaid service to a medicaid recipient who fails to pay the copayment for the service if the recipient is subject to the copayment requirement; 84739
84740
84741
84742

(2) Before refusing to provide a medicaid service under division (C)(1) of this section, a medicaid provider shall inform the medicaid recipient whether an alternative medicaid service for which there is no copayment is available; 84743
84744
84745
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(3) A medicaid provider may attempt to collect unpaid copayments; 84747
84748

(4) A medicaid provider shall not waive a medicaid recipient's obligation to pay a copayment; 84749
84750

(5) In the case of a medicaid provider that is a hospital, the provider may take action to collect a copayment by providing, at the time the provider provides hospital services to a medicaid recipient subject to the copayment requirement, notice that a copayment may be owed. 84751
84752
84753
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84755

Sec. ~~5111.11~~ 5162.21. (A) As used in this section and section 84756
~~5111.111~~ 5162.211 of the Revised Code: 84757

(1) "Estate" includes both of the following: 84758

(a) All real and personal property and other assets to be 84759
administered under Title XXI of the Revised Code and property that 84760
would be administered under that title if not for section 2113.03 84761
or 2113.031 of the Revised Code; 84762

(b) Any other real and personal property and other assets in 84763
which an individual had any legal title or interest at the time of 84764
death (to the extent of the interest), including assets conveyed 84765
to a survivor, heir, or assign of the individual through joint 84766
tenancy, tenancy in common, survivorship, life estate, living 84767
trust, or other arrangement. 84768

(2) "Institution" means a nursing facility, ~~intermediate care~~ 84769
~~facility for the mentally retarded ICF/IID~~, or a medical 84770
institution. 84771

(3) ~~"Intermediate care facility for the mentally retarded"~~ 84772
~~and "nursing facility" have the same meanings as in section~~ 84773
~~5111.20 of the Revised Code.~~ 84774

~~(4)~~ "Permanently institutionalized individual" means an 84775
individual to whom all of the following apply: 84776

(a) Is an inpatient in an institution; 84777

(b) Is required, as a condition of the medicaid program 84778
paying for the individual's services in the institution, to spend 84779
for costs of medical or nursing care all of the individual's 84780
income except for an amount for personal needs specified by the 84781
department of ~~job and family services~~ medicaid; 84782

(c) Cannot reasonably be expected to be discharged from the 84783
institution and return home as determined by the department of ~~job~~ 84784
~~and family services~~ medicaid. 84785

~~(5)~~(4) "Qualified state long-term care insurance partnership 84786
program" means the program established under section ~~5111.18~~ 84787
5164.86 of the Revised Code. 84788

~~(6)~~(5) "Time of death" shall not be construed to mean a time 84789
after which a legal title or interest in real or personal property 84790
or other asset may pass by survivorship or other operation of law 84791
due to the death of the decedent or terminate by reason of the 84792
decedent's death. 84793

(B) To the extent permitted by federal law, the department of 84794
~~job and family services~~ medicaid shall institute a medicaid estate 84795
recovery program under which the department shall, except as 84796
provided in divisions (C) and (E) of this section, and subject to 84797
division (D) of this section, do all of the following: 84798

(1) For the costs of medicaid services the medicaid program 84799
correctly paid or will pay on behalf of a permanently 84800
institutionalized individual of any age, seek adjustment or 84801
recovery from the individual's estate or on the sale of property 84802
of the individual or spouse that is subject to a lien imposed 84803
under section ~~5111.111~~ 5162.211 of the Revised Code; 84804

(2) For the costs of medicaid services the medicaid program 84805
correctly paid or will pay on behalf of an individual fifty-five 84806
years of age or older who is not a permanently institutionalized 84807
individual, seek adjustment or recovery from the individual's 84808
estate; 84809

(3) Seek adjustment or recovery from the estate of other 84810
individuals as permitted by federal law. 84811

(C)(1) No adjustment or recovery may be made under division 84812
(B)(1) of this section from a permanently institutionalized 84813
individual's estate or on the sale of property of a permanently 84814
institutionalized individual that is subject to a lien imposed 84815
under section ~~5111.111~~ 5162.211 of the Revised Code or under 84816
division (B)(2) or (3) of this section from an individual's estate 84817
while either of the following are alive: 84818

(a) The spouse of the permanently institutionalized 84819
individual or individual; 84820

(b) The son or daughter of a permanently institutionalized 84821
individual or individual if the son or daughter is under age 84822
twenty-one or, under the "Social Security Act," section 1614, 42 84823
U.S.C. 1382c, is considered blind or disabled. 84824

(2) No adjustment or recovery may be made under division 84825
(B)(1) of this section from a permanently institutionalized 84826
individual's home that is subject to a lien imposed under section 84827
~~5111.111~~ 5162.211 of the Revised Code while either of the 84828
following lawfully reside in the home: 84829

(a) The permanently institutionalized individual's sibling 84830
who resided in the home for at least one year immediately before 84831
the date of the permanently institutionalized individual's 84832
admission to the institution and on a continuous basis since that 84833
time; 84834

(b) The permanently institutionalized individual's son or 84835
daughter who provided care to the permanently institutionalized 84836
individual that delayed the permanently institutionalized 84837
individual's institutionalization and resided in the home for at 84838
least two years immediately before the date of the permanently 84839
institutionalized individual's admission to the institution and on 84840
a continuous basis since that time. 84841

(D) In the case of a participant of the qualified state 84842
long-term care insurance partnership program, adjustment or 84843
recovery required by this section may be reduced in accordance 84844
with rules ~~adopted under~~ authorized by division (G) of this 84845
section. 84846

(E) The department shall, in accordance with procedures and 84847
criteria established in rules ~~adopted under~~ authorized by division 84848
(G) of this section, waive seeking an adjustment or recovery 84849
otherwise required by this section if the medicaid director ~~of job~~ 84850
~~and family services~~ determines that adjustment or recovery would 84851
work an undue hardship. The department may limit the duration of 84852
the waiver to the period during which the undue hardship exists. 84853

(F) For the purpose of determining whether an individual 84854
meets the definition of "permanently institutionalized individual" 84855
established for this section, a rebuttable presumption exists that 84856
the individual cannot reasonably be expected to be discharged from 84857
an institution and return home if either of the following is the 84858
case: 84859

(1) The individual declares that he or she does not intend to 84860

return home. 84861

(2) The individual has been an inpatient in an institution 84862
for at least six months. 84863

(G) ~~The director of job and family services shall adopt rules~~ 84864
~~in accordance with Chapter 119. of the Revised Code regarding the~~ 84865
~~medicaid estate recovery program, including rules that~~ Rules 84866
adopted under section 5162.02 of the Revised Code shall do both of 84867
the following: 84868

(1) For the purpose of division (D) of this section and 84869
consistent with the "Social Security Act," section 1917(b)(1)(C), 84870
42 U.S.C. 1396p(b)(1)(C), provide for reducing an adjustment or 84871
recovery in the case of a participant of the qualified state 84872
long-term care insurance partnership program; 84873

(2) For the purpose of division (E) of this section and 84874
consistent with the standards specified by the United States 84875
secretary of health and human services under the "Social Security 84876
Act," section 1917(b)(3), 42 U.S.C. 1396p(b)(3), establish 84877
procedures and criteria for waiving adjustment or recovery due to 84878
an undue hardship. 84879

Sec. ~~5111.111~~ 5162.211. (A) Except as provided in division 84880
(B) of this section and section ~~5111.12~~ 5162.23 of the Revised 84881
Code, no lien may be imposed against the property of an individual 84882
before the individual's death on account of medicaid services 84883
correctly paid or to be paid on the individual's behalf. 84884

(B) Except as provided in division (C) of this section, the 84885
department of ~~job and family services~~ medicaid may impose a lien 84886
against the real property of a medicaid recipient who is a 84887
permanently institutionalized individual and against the real 84888
property of the recipient's spouse, including any real property 84889
that is jointly held by the recipient and spouse. The lien may be 84890

imposed on account of medicaid paid or to be paid on the 84891
recipient's behalf. 84892

(C) No lien may be imposed under division (B) of this section 84893
against the home of a medicaid recipient if any of the following 84894
lawfully resides in the home: 84895

(1) The recipient's spouse; 84896

(2) The recipient's son or daughter who is under twenty-one 84897
years of age or, under the "Social Security Act," section 1614, 42 84898
U.S.C. 1382c, considered to be blind or disabled; 84899

(3) The recipient's sibling who has an equity interest in the 84900
home and resided in the home for at least one year immediately 84901
before the date of the recipient's admission to the institution. 84902

(D) The medicaid director ~~of job and family services~~ or a 84903
person designated by the director shall sign a certificate to 84904
effectuate a lien required to be imposed under this section. The 84905
county department of job and family services shall file for 84906
recording and indexing the certificate, or a certified copy, in 84907
the real estate mortgage records in the office of the county 84908
recorder in every county in which real property of the recipient 84909
or spouse is situated. From the time of filing the certificate in 84910
the office of the county recorder, the lien attaches to all real 84911
property of the recipient or spouse described in the certificate 84912
for all amounts for which adjustment or recovery may be made under 84913
section ~~5111.11~~ 5162.21 of the Revised Code and, except as 84914
provided in division (E) of this section, shall remain a lien 84915
until satisfied. 84916

Upon filing the certificate in the office of the recorder, 84917
all persons are charged with notice of the lien and the rights of 84918
the department of ~~job and family services~~ medicaid thereunder. 84919

The county recorder shall keep a record of every certificate 84920
filed showing its date, the time of filing, the name and residence 84921

of the recipient or spouse, and any release, waivers, or 84922
satisfaction of the lien. 84923

The priority of the lien shall be established in accordance 84924
with state and federal law. 84925

The department may waive the priority of its lien to provide 84926
for the costs of the last illness as determined by the department, 84927
administration, attorney fees, administrator fees, a sum for the 84928
payment of the costs of burial, which shall be computed by 84929
deducting from five hundred dollars whatever amount is available 84930
for the same purpose from all other sources, and a similar sum for 84931
the spouse of the decedent. 84932

(E) A lien imposed with respect to a medicaid recipient under 84933
this section shall dissolve on the recipient's discharge from the 84934
institution and return home. 84935

Sec. ~~5111.112~~ 5162.212. The department of ~~job and family~~ 84936
~~services~~ medicaid shall certify amounts due under the medicaid 84937
estate recovery program instituted under section ~~5111.11~~ 5162.21 84938
of the Revised Code to the attorney general pursuant to section 84939
131.02 of the Revised Code. The attorney general may enter into a 84940
contract with any person or government entity to collect the 84941
amounts due on behalf of the attorney general. 84942

The attorney general, in entering into a contract under this 84943
section, shall comply with all of the requirements that must be 84944
met for the state to receive federal financial participation for 84945
the costs incurred in entering into the contract and carrying out 84946
actions under the contract. The contract may provide for the 84947
person or government entity with which the attorney general 84948
contracts to be compensated from the property recovered under the 84949
medicaid estate recovery program or may provide for another manner 84950
of compensation agreed to by the parties to the contract. 84951

Regardless of whether the attorney general collects the 84952
amounts due under the medicaid estate recovery program or 84953
contracts with a person or government entity to collect the 84954
amounts due on behalf of the attorney general, the amounts due 84955
shall be collected in accordance with applicable requirements of 84956
federal statutes and regulations and state statutes and rules. 84957

Sec. ~~5111.113~~ 5162.22. (A) As used in this section: 84958

(1) "Commissioner" means a person appointed by a probate 84959
court under division (E) of section 2113.03 of the Revised Code to 84960
act as a commissioner. 84961

(2) "Home" has the same meaning as in section 3721.10 of the 84962
Revised Code. 84963

(3) "Personal needs allowance account" means an account or 84964
petty cash fund that holds the money of a resident of ~~an adult~~ 84965
~~care~~ a residential facility or home and that the facility or home 84966
manages for the resident. 84967

(4) "Residential facility" means a residential facility 84968
licensed under section ~~5119.22~~ 5119.34 of the Revised Code that 84969
provides accommodations, supervision, and personal care services 84970
for three to sixteen unrelated adults. 84971

(B) Except as provided in divisions (C) and (D) of this 84972
section, the owner or operator of a home or residential facility 84973
shall transfer to the department of ~~job and family services~~ 84974
medicaid the money in the personal needs allowance account of a 84975
resident of the home or facility who was a medicaid recipient ~~of~~ 84976
~~the medical assistance program~~ no earlier than sixty days but not 84977
later than ninety days after the resident dies. The home or 84978
facility shall transfer the money even though the owner or 84979
operator of the facility or home has not been issued letters 84980
testamentary or letters of administration concerning the 84981

resident's estate. 84982

(C) If funeral or burial expenses for a resident of a home or 84983
residential facility who has died have not been paid and the only 84984
resource the resident had that could be used to pay for the 84985
expenses is the money in the resident's personal needs allowance 84986
account, or all other resources of the resident are inadequate to 84987
pay the full cost of the expenses, the money in the resident's 84988
personal needs allowance account shall be used to pay for the 84989
expenses rather than being transferred to the department of ~~job~~ 84990
~~and family services~~ medicaid pursuant to division (B) of this 84991
section. 84992

(D) If, not later than sixty days after a resident of a home 84993
or residential facility dies, letters testamentary or letters of 84994
administration are issued, or an application for release from 84995
administration is filed under section 2113.03 of the Revised Code, 84996
concerning the resident's estate, the owner or operator of the 84997
home or facility shall transfer the money in the resident's 84998
personal needs allowance account to the administrator, executor, 84999
commissioner, or person who filed the application for release from 85000
administration. 85001

(E) The transfer or use of money in a resident's personal 85002
needs allowance account in accordance with division (B), (C), or 85003
(D) of this section discharges and releases the home or 85004
residential facility, and the owner or operator of the home, from 85005
any claim for the money from any source. 85006

(F) If, sixty-one or more days after a resident of a home or 85007
residential facility dies, letters testamentary or letters of 85008
administration are issued, or an application for release from 85009
administration under section 2113.03 of the Revised Code is filed, 85010
concerning the resident's estate, the department of ~~job and family~~ 85011
~~services~~ medicaid shall transfer the funds to the administrator, 85012
executor, commissioner, or person who filed the application, 85013

unless the department is entitled to recover the money under the 85014
medicaid estate recovery program instituted under section ~~5111.11~~ 85015
5162.21 of the Revised Code. 85016

Sec. ~~5111.12~~ 5162.23. (A) The medicaid director ~~of job and~~ 85017
~~family services~~ shall ~~establish~~ adopt rules under ~~which~~ section 85018
5162.02 of the Revised Code permitting county departments of job 85019
and family services ~~may~~ to take action to recover benefits 85020
incorrectly paid on behalf of medicaid recipients ~~of medical~~ 85021
~~assistance~~. The rules shall provide for recovery by the following 85022
methods: 85023

(1) Soliciting voluntary payments from recipients or from 85024
persons holding property in which a recipient has a legal or 85025
equitable interest; 85026

(2) Obtaining a lien on property pursuant to division (B) of 85027
this section. 85028

(B) A county department of job and family services may bring 85029
a civil action in a court of common pleas against a medicaid 85030
recipient ~~of medical assistance~~ for the recovery of any ~~medical~~ 85031
~~assistance benefits~~ medicaid payments determined by the court to 85032
have been paid incorrectly on behalf of the recipient. All persons 85033
holding property in which the recipient has a legal or equitable 85034
interest may be joined as parties. The court may issue 85035
pre-judgment orders, including injunctive relief or attachment 85036
under Chapter 2715. of the Revised Code, for the preservation of 85037
real or personal property in which the recipient may have a legal 85038
or equitable interest. If the court determines that ~~benefits~~ 85039
medicaid payments were ~~paid~~ made incorrectly and issues a judgment 85040
to that effect, the county department may obtain a lien upon 85041
property of the recipient in accordance with Chapter 2329. of the 85042
Revised Code. 85043

(C) The county department of job and family services shall 85044

retain fifty per cent of the balance remaining after deduction 85045
from the recovery of the amount required to be returned to the 85046
federal government and shall pay the other fifty per cent of the 85047
balance to the department of ~~job and family services~~ medicaid. 85048

(D) Recovery of ~~medical assistance benefits~~ medicaid payments 85049
incorrectly ~~paid to~~ made on behalf of a medicaid recipient may not 85050
be accomplished by reducing the amount of benefits the recipient 85051
is entitled to receive under another government assistance 85052
program. 85053

(E) The remedies provided pursuant to this section do not 85054
affect any other remedies county departments of job and family 85055
services may have to recover benefits incorrectly paid on behalf 85056
of medicaid recipients ~~of medical assistance~~. 85057

Sec. ~~5111.121~~ 5162.24. (A) As used in this section, "third 85058
party" has the same meaning as in section ~~5101.571~~ 5160.35 of the 85059
Revised Code. 85060

(B) In addition to the authority granted under section 85061
~~5101.59~~ 5160.38 of the Revised Code, the department of ~~job and~~ 85062
~~family services~~ medicaid may, to the extent necessary to reimburse 85063
its costs, garnish the wages, salary, or other employment income 85064
of, and withhold amounts from state tax refunds to, any person to 85065
whom both of the following apply: 85066

(1) The person is required by a court or administrative order 85067
to provide coverage of the cost of health care services to a child 85068
eligible for ~~medical assistance under this chapter~~ medicaid. 85069

(2) The person has received payment from a third party for 85070
the costs of such services but has not used the payment to 85071
reimburse either the other parent or guardian of the child or the 85072
provider of the services. 85073

(C) Claims for current and past due child support shall take 85074

priority over claims under division (B) of this section. 85075

Sec. ~~5111.83~~ 5162.30. (A) ~~Not later than January 1, 2012, the~~ 85076
~~The medicaid~~ director of ~~job and family services~~ shall ~~apply to~~ 85077
~~the United States secretary of health and human services for~~ 85078
~~approval of~~ create a medicaid administrative claiming program 85079
under which federal financial participation is received ~~as~~ 85080
~~reimbursement~~ for the administrative costs incurred by the 85081
department of health and the Arthur G. James cancer hospital and 85082
Richard J. Solove research institute of the Ohio state university 85083
in analyzing and evaluating both of the following pursuant to 85084
sections 3701.261 ~~to 3701.236~~ and 3701.262 of the Revised Code: 85085

(1) Cancer reports under the Ohio cancer incidence 85086
surveillance system; 85087

(2) The incidence, prevalence, costs, and medical 85088
consequences of cancer on medicaid recipients and other low-income 85089
populations. 85090

(B) The medicaid director of ~~job and family services~~ shall 85091
consult with the director of health in ~~seeking approval of~~ 85092
creating the medicaid administrative claiming program. ~~The~~ 85093
~~directors shall cooperate in seeking the approval to the extent~~ 85094
~~they find the approval necessary for the effective and efficient~~ 85095
~~administration of the medicaid program.~~ 85096

Sec. 5162.31. Local funds, whether from public or private 85097
sources, expended by a county department of job and family 85098
services for administration of the healthy start component shall 85099
be considered to have been expended by the state for the purpose 85100
of determining the extent to which the state has complied with any 85101
federal requirement that the state provide funds to match federal 85102
financial participation for the medicaid program. This section 85103
does not affect the amount of funds a county is entitled to 85104

receive under sections 5101.16 and 5101.161 of the Revised Code. 85105

Sec. ~~5111.90~~ 5162.32. ~~(A) As used in sections 5111.90 to~~ 85106
~~5111.93 of the Revised Code:~~ 85107

~~(1) "Political subdivision" means a municipal corporation,~~ 85108
~~township, county, school district, or other body corporate and~~ 85109
~~politic responsible for governmental activities only in a~~ 85110
~~geographical area smaller than that of the state.~~ 85111

~~(2) "State agency" means every organized body, office, or~~ 85112
~~agency, other than the department of job and family services,~~ 85113
~~established by the laws of the state for the exercise of any~~ 85114
~~function of state government.~~ 85115

~~(B) To the extent permitted by Title XIX of the "Social~~ 85116
~~Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended,~~ 85117
~~and regulations adopted under that title, the The department of~~ 85118
~~job and family services medicaid may enter into contracts with~~ 85119
~~political subdivisions to use funds of the political subdivision~~ 85120
~~to pay the nonfederal share of expenditures under the medicaid~~ 85121
~~program. The determination and provision of federal financial~~ 85122
~~reimbursement participation to a subdivision entering into a~~ 85123
~~contract under this section shall be determined by the department,~~ 85124
~~subject to section ~~5111.92~~ 5162.40 of the Revised Code, ~~approval~~~~ 85125
~~by the United States secretary of health and human services, and~~ 85126
~~the availability of federal financial participation.~~ 85127

Sec. ~~5111.91~~ 5162.35. The department of ~~job and family~~ 85128
~~services medicaid may enter into contracts with one or more other~~ 85129
~~state agencies or political subdivisions to have the state agency~~ 85130
~~or political subdivision administer one or more components of the~~ 85131
~~medicaid program, or one or more aspects of a component, under the~~ 85132
~~department's supervision. A state agency or political subdivision~~ 85133
~~that enters into such a contract shall comply with the terms of~~ 85134

the contract and any rules the medicaid director of ~~job and family~~ 85135
~~services~~ has adopted governing the component, or aspect of the 85136
component, that the state agency or political subdivision is to 85137
administer, including any rules establishing review, audit, and 85138
corrective action plan requirements. A contract with a state 85139
agency shall be in the form of an interagency agreement. 85140

A state agency or political subdivision that enters into a 85141
contract with the department under this section shall reimburse 85142
the department for the nonfederal share of the cost to the 85143
department of performing, or contracting for the performance of, a 85144
fiscal audit of the component of the medicaid program, or aspect 85145
of the component, that the state agency or political subdivision 85146
administers if rules governing the component, or aspect of the 85147
component, require that a fiscal audit be conducted. 85148

~~There is hereby created in the state treasury the medicaid~~ 85149
~~administrative reimbursement fund. The department shall use money~~ 85150
~~in the fund to pay for the nonfederal share of the cost of a~~ 85151
~~fiscal audit for which a state agency or political subdivision is~~ 85152
~~required by this section to reimburse the department. The~~ 85153
~~department shall deposit the reimbursements into the fund.~~ 85154

Sec. ~~5111.71~~ 5162.36. (A) ~~As used in sections 5111.71 to~~ 85155
~~5111.715 of the Revised Code, "qualified medicaid school provider"~~ 85156
~~means the board of education of a city, local, or exempted village~~ 85157
~~school district, the governing authority of a community school~~ 85158
~~established under Chapter 3314. of the Revised Code, the state~~ 85159
~~school for the deaf, and the state school for the blind to which~~ 85160
~~both of the following apply:~~ 85161

~~(1) It holds a valid medicaid provider agreement.~~ 85162

~~(2) It meets all other conditions for participation in the~~ 85163
~~medicaid school component of the medicaid program established in~~ 85164

~~rules adopted under section 5111.715 of the Revised Code.~~ 85165

(B) The medicaid director ~~of job and family services~~ shall 85166
~~submit a state medicaid plan amendment to the United States~~ 85167
~~secretary of health and human services for the purpose of creating~~ 85168
~~create~~, in accordance with sections ~~5111.71~~ 5162.36 to ~~5111.715~~ 85169
5162.364 of the Revised Code, the medicaid school component of the 85170
medicaid program. ~~The director shall create the medicaid school~~ 85171
~~component on receipt of the United States secretary's approval of~~ 85172
~~the amendment.~~ 85173

Sec. ~~5111.711~~ 5162.361. A qualified medicaid school provider 85174
participating in the medicaid school component of the medicaid 85175
program may submit a claim to the department of ~~job and family~~ 85176
~~services~~ medicaid for federal financial participation for 85177
providing, in schools, services covered by the medicaid school 85178
component to medicaid recipients who are eligible for the 85179
services. No qualified medicaid school provider may submit such a 85180
claim before the provider incurs the cost of providing the 85181
service. 85182

The claim shall include certification of the qualified 85183
medicaid school provider's expenditures for the service. The 85184
certification shall show that the money the qualified medicaid 85185
school provider used for the expenditures was nonfederal money the 85186
provider may legally use for providing the service and that the 85187
amount of the expenditures was sufficient to pay the full cost of 85188
the service. 85189

Except as otherwise provided in sections ~~5111.71~~ 5162.36 to 85190
~~5111.715~~ 5162.364 of the Revised Code and rules ~~adopted under~~ 85191
authorized by sections ~~5111.713~~ 5162.363 and ~~5111.715~~ 5162.364 of 85192
the Revised Code, a qualified medicaid school provider is subject 85193
to all conditions of participation in the medicaid program that 85194
generally apply to providers of goods and services under the 85195

medicaid program, including conditions regarding audits and 85196
recovery of overpayments. 85197

Sec. ~~5111.712~~ 5162.362. The department of ~~job and family~~ 85198
~~services~~ medicaid shall seek federal financial participation for 85199
each claim a qualified medicaid school provider properly submits 85200
to the department under section ~~5111.711~~ 5162.361 of the Revised 85201
Code. The department shall disburse the federal financial 85202
participation the department receives from the federal government 85203
for such a claim to the qualified medicaid school provider that 85204
submitted the claim. The department may not pay the qualified 85205
medicaid school provider the nonfederal share of the cost of the 85206
services for which the claim was submitted. 85207

Sec. ~~5111.713~~ 5162.363. The department of ~~job and family~~ 85208
~~services~~ medicaid shall enter into an interagency agreement with 85209
the department of education under section ~~5111.91~~ 5162.35 of the 85210
Revised Code that provides for the department of education to 85211
administer the medicaid school component of the medicaid program 85212
other than the aspects of the component that sections ~~5111.71~~ 85213
5162.36 to ~~5111.715~~ 5162.364 of the Revised Code require the 85214
department of ~~job and family services~~ medicaid to administer. The 85215
interagency agreement may include a provision that provides for 85216
the department of education to pay to the department of ~~job and~~ 85217
~~family services~~ medicaid the nonfederal share of a portion of the 85218
administrative expenses the department of ~~job and family services~~ 85219
medicaid incurs in administering the aspects of the component that 85220
the department of ~~job and family services~~ medicaid administers. 85221

~~The~~ To the extent authorized by rules authorized by section 85222
5162.021 of the Revised Code, the department of education shall 85223
establish, in rules adopted under ~~Chapter 119.~~ section 5162.02 of 85224
the Revised Code, a process by which qualified medicaid school 85225
providers participating in the medicaid school component pay to 85226

the department of education the nonfederal share of the 85227
department's expenses incurred in administering the component. The 85228
rules shall be adopted in accordance with Chapter 119. of the 85229
Revised Code. 85230

Sec. ~~5111.715~~ 5162.364. The medicaid director ~~of job and~~ 85231
~~family services~~ shall adopt rules under ~~Chapter 119.~~ section 85232
5162.02 of the Revised Code as necessary to implement the medicaid 85233
school component of the medicaid program, including rules that 85234
establish or specify all of the following: 85235

(A) Conditions a board of education of a city, local, or 85236
exempted school district, governing authority of a community 85237
school established under Chapter 3314. of the Revised Code, the 85238
state school for the deaf, and the state school for the blind must 85239
meet to participate in the component; 85240

(B) Services the component covers; 85241

(C) ~~Reimbursement~~ Payment rates for the services the 85242
component covers. 85243

The rules shall be adopted in accordance with Chapter 119. of 85244
the Revised Code. 85245

Sec. ~~5111.911~~ 5162.37. Any contract the department of ~~job and~~ 85246
~~family services~~ medicaid enters into with the department of ~~mental~~ 85247
~~health or department of alcohol and drug addiction services~~ mental 85248
health and addiction services under section ~~5111.91~~ 5162.35 of the 85249
Revised Code is subject to the approval of the director of budget 85250
and management and shall require or specify all of the following: 85251

(A) ~~In the case of a contract with the department of mental~~ 85252
~~health, that~~ That section ~~5111.912~~ 5162.371 of the Revised Code be 85253
complied with; 85254

(B) ~~In the case of a contract with the department of alcohol~~ 85255

~~and drug addiction services, that section 5111.913 of the Revised Code be complied with;~~ 85256
85257

~~(C)~~ How providers will be paid for providing the services; 85258

~~(D)(C)~~ The ~~department of mental health's or department of alcohol and drug addiction services'~~ responsibilities of the department of mental health and addiction services with regard to 85259
85260
85261
85262 providers, including program oversight and quality assurance.

Sec. ~~5111.912~~ 5162.371. If the department of ~~job and family services~~ medicaid enters into a contract with the department of 85263
85264 ~~mental health~~ mental health and addiction services under section 85265
~~5111.91~~ 5162.35 of the Revised Code, the department of ~~job and family services~~ medicaid shall pay the nonfederal share of any 85266
85267 medicaid payment to a provider for services under the component, 85268
85269 or aspect of the component, the department of ~~mental health~~ mental health and addiction services administers. ~~If necessary, the~~ 85270
85271 ~~director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human~~ 85272
85273 ~~services regarding the department of job and family services' duty under this section.~~ 85274

Sec. ~~5111.92~~ 5162.40. (A)(1) Except as provided in division 85275
85276 (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that 85277
85278 the United States department of health and human services approved, and for which federal financial participation was 85279
85280 initially obtained, prior to January 1, 2002, or administers one or more aspects of such a component, the department of ~~job and~~ 85281
85282 ~~family services~~ medicaid may retain or collect not more than ten per cent of the federal financial participation the state agency 85283
85284 or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the 85285

component. If the department retains or collects a percentage of 85286
such federal financial participation, the percentage the 85287
department retains or collects shall be specified in a contract 85288
the department enters into with the state agency or political 85289
subdivision under section ~~5111.91~~ 5162.35 of the Revised Code. 85290

(2) Except as provided in division (B) of this section, if a 85291
state agency or political subdivision administers one or more 85292
components of the medicaid program that the United States 85293
department of health and human services approved on or after 85294
January 1, 2002, or administers one or more aspects of such a 85295
component, the department of ~~job and family services~~ medicaid 85296
shall retain or collect not less than three and not more than ten 85297
per cent of the federal financial participation the state agency 85298
or political subdivision obtains through an approved, 85299
administrative claim regarding the component or aspect of the 85300
component. The percentage the department retains or collects shall 85301
be specified in a contract the department enters into with the 85302
state agency or political subdivision under section ~~5111.91~~ 85303
5162.35 of the Revised Code. 85304

~~(B) The department of job and family services may retain or 85305
collect a percentage of federal financial participation under 85306
divisions (A)(1) and (2) of this section only to the extent 85307
permitted by federal statutes and regulations. 85308~~

~~(C) All amounts the department retains or collects under this 85309
section shall be deposited into the health care services 85310
administration fund created under section ~~5111.94~~ 5162.54 of the 85311
Revised Code. 85312~~

Sec. ~~5111.93~~ 5162.41. The department of ~~job and family 85313
services~~ medicaid may retain or collect a percentage of the 85314
federal financial participation included in a supplemental 85315

medicaid payment to one or more medicaid providers owned or 85316
operated by a state agency or political subdivision that brings 85317
the payment to such provider or providers to the upper payment 85318
limit established by 42 C.F.R. 447.272. If the department retains 85319
or collects a percentage of that federal financial participation, 85320
the ~~department~~ medicaid director shall adopt a rule under ~~Chapter~~ 85321
~~119.~~ section 5162.02 of the Revised Code specifying the percentage 85322
the department is to retain or collect. All amounts the department 85323
retains or collects under this section shall be deposited into the 85324
health care services administration fund created under section 85325
~~5111.94~~ 5162.54 of the Revised Code. 85326

Sec. ~~5111.943~~ 5162.50. (A) The health care - federal fund is 85327
hereby created in the state treasury. All of the following shall 85328
be credited to the fund: 85329

(1) Funds that division (B) of section ~~5112.18~~ 5168.11 of the 85330
Revised Code requires be credited to the fund; 85331

(2) The federal share of all rebates paid by drug 85332
manufacturers to the department of ~~job and family services~~ 85333
medicaid in accordance with a rebate agreement required by the 85334
"Social Security Act," section 1927, 42 U.S.C. 1396r-8; 85335

(3) The federal share of all supplemental rebates paid by 85336
drug manufacturers to the department of ~~job and family services~~ 85337
medicaid in accordance with the supplemental drug rebate program 85338
established under section ~~5111.081~~ 5164.755 of the Revised Code; 85339

(4) Except as otherwise provided by statute or as authorized 85340
by the controlling board, the federal share of all other 85341
medicaid-related revenues, collections, and recoveries. 85342

(B) All money credited to the health care - federal fund 85343
pursuant to division (B) of section ~~5112.18~~ 5168.11 of the Revised 85344
Code shall be used solely for distributing funds to hospitals 85345

under section ~~5112.08~~ 5168.09 of the Revised Code. The department 85346
of ~~job and family services~~ medicaid shall use all other money 85347
credited to the fund to pay for other medicaid services and 85348
contracts. 85349

Sec. ~~5111.941~~ 5162.52. (A) The health care/medicaid support 85350
and recoveries fund is hereby created in the state treasury. All 85351
of the following shall be credited to the fund: 85352

(1) Except as otherwise provided by statute or as authorized 85353
by the controlling board, the nonfederal share of all 85354
medicaid-related revenues, collections, and recoveries; 85355

(2) Federal reimbursement received for payment adjustments 85356
made pursuant to ~~section 1923 of~~ the "Social Security Act," ~~101~~ 85357
~~Stat. 1330-148 (1987)~~ section 1923, 42 U.S.C. 1396r-4, ~~as amended,~~ 85358
under the medicaid program to state mental health hospitals 85359
maintained and operated by the department of ~~mental health~~ mental 85360
health and addiction services under division (A) of section 85361
~~5119.02~~ 5119.14 of the Revised Code; 85362

(3) Revenues the department of ~~job and family services~~ 85363
medicaid receives from another state agency for medicaid services 85364
pursuant to an interagency agreement, other than such revenues 85365
required to be deposited into the health care services 85366
administration fund created under section ~~5111.94~~ 5162.54 of the 85367
Revised Code; 85368

(4) The first seven hundred fifty thousand dollars the 85369
department receives in a fiscal year for performing eligibility 85370
verification services necessary for compliance with the 85371
independent, certified audit requirement of 42 C.F.R. 455.304; 85372

(5) The nonfederal share of all rebates paid by drug 85373
manufacturers to the department of medicaid in accordance with a 85374
rebate agreement required by the "Social Security Act," section 85375

1927, 42 U.S.C. 1396r-8; 85376

(6) The nonfederal share of all supplemental rebates paid by 85377
drug manufacturers to the department of medicaid in accordance 85378
with the supplemental drug rebate program established under 85379
section 5164.755 of the Revised Code. 85380

(B) The department of ~~job and family services~~ medicaid shall 85381
use money credited to the health care/medicaid support and 85382
recoveries fund to pay for medicaid services and contracts. 85383

Sec. ~~5111.94~~ 5162.54. (A) ~~As used in this section, "vendor~~ 85384
~~offset" means a reduction of a medicaid payment to a medicaid~~ 85385
~~provider to correct a previous, incorrect medicaid payment to that~~ 85386
~~provider.~~ 85387

~~(B)~~ There is hereby created in the state treasury the health 85388
care services administration fund. Except as provided in division 85389
(C) of this section, all the following shall be deposited into the 85390
fund: 85391

(1) Amounts deposited into the fund pursuant to sections 85392
~~5111.92~~ 5162.12, 5162.40, and ~~5111.93~~ 5162.41 of the Revised Code; 85393

(2) The amount of the state share of all money the department 85394
of ~~job and family services, in fiscal year 2003 and each fiscal~~ 85395
~~year thereafter,~~ medicaid recovers each fiscal year pursuant to a 85396
tort action under the department's right of recovery under section 85397
~~5101.58~~ 5160.37 of the Revised Code that exceeds the state share 85398
of all money the department, in fiscal year 2002, recovers 85399
pursuant to a tort action under that right of recovery; 85400

(3) Subject to division ~~(D)~~(B) of this section, the amount of 85401
the state share of all money the department of ~~job and family~~ 85402
~~services~~ medicaid, in fiscal year 2003 and each fiscal year 85403
thereafter, recovers through audits of medicaid providers that 85404
exceeds the state share of all money the department, in fiscal 85405

year 2002, recovers through such audits; 85406

(4) Amounts from assessments on hospitals under section 85407
~~5112.06~~ 5168.06 of the Revised Code and intergovernmental 85408
transfers by governmental hospitals under section ~~5112.07~~ 5168.07 85409
of the Revised Code that are deposited into the fund in accordance 85410
with the law; 85411

(5) Amounts that the department of education pays to the 85412
department of ~~job and family services~~ medicaid, if any, pursuant 85413
to an interagency agreement ~~entered into under~~ authorized by 85414
section ~~5111.713~~ 5162.363 of the Revised Code; 85415

(6) The application fees charged to providers under section 85416
~~5111.063~~ 5164.31 of the Revised Code; 85417

(7) The fines collected under section ~~5111.271~~ 5165.1010 of 85418
the Revised Code; 85419

(8) Money the department receives in a fiscal year for 85420
performing eligibility verification services necessary for 85421
compliance with the independent, certified audit requirement of 42 85422
C.F.R. 455.304, other than the amounts of such money that are to 85423
be credited to the health care/medicaid support and recoveries 85424
fund under section 5162.52 of the Revised Code. 85425

~~(C) No funds shall be deposited into the health care services 85426
administration fund in violation of federal statutes or 85427
regulations. 85428~~

~~(D)~~(B) In determining under division ~~(B)~~(A)(3) of this 85429
section the amount of money the department, in a fiscal year, 85430
recovers through audits of medicaid providers, the amount 85431
recovered in the form of vendor offset shall be excluded. 85432

~~(E)~~(C) The ~~director~~ department of ~~job and family services~~ 85433
medicaid shall use funds available in the health care services 85434
administration fund to pay for costs associated with the 85435

administration of the medicaid program. 85436

Sec. ~~5111.945~~ 5162.56. There is created in the state treasury 85437
the health care special activities fund. The department of ~~job and~~ 85438
~~family services~~ medicaid shall deposit all funds it receives 85439
pursuant to the administration of the medicaid program into the 85440
fund, other than any such funds that are required by law to be 85441
deposited into another fund. The department shall use the money in 85442
the fund to pay for expenses related to the services provided 85443
under, and the administration of, the medicaid program. 85444

Sec. ~~5111.944~~ 5162.58. ~~(A) As used in this section:~~ 85445

~~"Dual eligible individual" has the same meaning as in section~~ 85446
~~1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010),~~ 85447
~~42 U.S.C. 1396n(h)(2)(B).~~ 85448

~~"Dual eligible integrated care demonstration project" means~~ 85449
~~the demonstration project authorized by section 5111.981 of the~~ 85450
~~Revised Code.~~ 85451

~~"Medicare program" means the program created under Title~~ 85452
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.~~ 85453
~~1395, as amended.~~ 85454

~~(B)~~ There is created in the state treasury the integrated 85455
care delivery systems fund. If the terms of the federal approval 85456
for the dual eligible integrated care demonstration project 85457
authorized by section 5164.91 of the Revised Code provide for the 85458
state to receive a portion of the amounts that the demonstration 85459
project saves the medicare program, such amounts shall be 85460
deposited into the fund. The department of ~~job and family services~~ 85461
medicaid shall use the money in the fund to further develop 85462
integrated delivery systems and improved care coordination for 85463
dual eligible individuals. 85464

Sec. 5162.60. (A) There is hereby created in the state treasury the managed care performance payment fund. The fund shall consist of all of the following: 85465
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(1) Amounts transferred to it by the director of budget and management for the purpose of the managed care performance payment program established under section 5167.30 of the Revised Code; 85468
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(2) All fines imposed on and collected from medicaid managed care organizations for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code; 85471
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(3) All investment earnings of the fund. 85475

(B) Amounts in the fund may be used for the following: 85476

(1) To make performance payments to medicaid managed care organizations in accordance with section 5167.30 of the Revised Code; 85477
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(2) To meet obligations specified in the provider agreements; 85480

(3) To pay for medicaid services provided by a medicaid managed care organization; 85481
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(4) To reimburse a medicaid managed care organization that has paid a fine for failure to meet performance standards or other requirements specified in provider agreements or rules adopted under section 5167.02 of the Revised Code if that organization comes into compliance with those standards or requirements. 85483
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Sec. 5162.62. There is hereby created in the state treasury the medicaid administrative reimbursement fund. The department of medicaid shall use money in the fund to pay for the nonfederal share of the cost of a fiscal audit for which a state agency or political subdivision is required by section 5162.35 of the Revised Code to reimburse the department. The department shall 85488
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deposit the reimbursements into the fund. 85494

Sec. ~~5111.714~~ 5162.64. (A) There is hereby created in the 85495
state treasury the medicaid school program administrative fund. 85496

(B) Both of the following shall be deposited into the 85497
medicaid school program administrative fund: 85498

(1) The federal funds the department of education receives 85499
for the expenses the department incurs in administering the 85500
medicaid school component of the medicaid program created under 85501
section 5162.36 of the Revised Code; 85502

(2) The money the department collects from qualified medicaid 85503
school providers in the process established in rules ~~adopted under~~ 85504
authorized by section ~~5111.713~~ 5162.363 of the Revised Code. 85505

(C) ~~No funds shall be deposited into the medicaid school~~ 85506
~~program administrative fund in violation of federal statutes or~~ 85507
~~regulations.~~ 85508

~~(D)~~ The department of education shall use money in the 85509
medicaid school program administrative fund for both of the 85510
following purposes: 85511

(1) Paying for the expenses the department incurs in 85512
administering the medicaid school component of the medicaid 85513
program; 85514

(2) Paying a qualified medicaid school provider a refund for 85515
any overpayment the provider makes to the department under the 85516
process established in rules ~~adopted under~~ authorized by section 85517
~~5111.713~~ 5162.363 of the Revised Code if the process results in an 85518
overpayment. 85519

Sec. ~~5111.62~~ 5162.66. The As used in this section, 85520
"deficiency" has the same meaning as in section 5165.60 of the 85521

Revised Code. 85522

The proceeds of all fines, including interest, collected 85523
under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised 85524
Code shall be deposited in the state treasury to the credit of the 85525
residents protection fund, which is hereby created. The proceeds 85526
of all fines, including interest, collected under section 173.42 85527
of the Revised Code shall be deposited in the state treasury to 85528
the credit of the residents protection fund. 85529

Money in the fund shall be used for the protection of the 85530
health or property of residents of nursing facilities in which the 85531
department of health finds deficiencies, including payment for the 85532
costs of relocation of residents to other facilities, maintenance 85533
of operation of a facility pending correction of deficiencies or 85534
closure, and reimbursement of residents for the loss of money 85535
managed by the facility under section 3721.15 of the Revised Code. 85536
Money in the fund may also be used to make payments under section 85537
~~5111.511~~ 5165.78 of the Revised Code. 85538

The fund shall be maintained and administered by the 85539
department of ~~job and family services~~ medicaid under rules 85540
developed in consultation with the departments of health and aging 85541
and adopted ~~by the director of job and family services~~ under 85542
~~Chapter 119.~~ section 5162.02 of the Revised Code. The rules shall 85543
be adopted in accordance with Chapter 119. of the Revised Code. 85544

Sec. 5163.01. As used in this chapter: 85545

"Federal financial participation" has the same meaning as in 85546
section 5160.01 of the Revised Code. 85547

"Healthy start component" has the same meaning as in section 85548
5162.01 of the Revised Code. 85549

"Intermediate care facility for individuals with intellectual 85550
disabilities" and "ICF/IID" have the same meanings as in section 85551

5124.01 of the Revised Code. 85552

"Mandatory eligibility groups" means the groups of 85553
individuals that must be covered by the medicaid state plan as a 85554
condition of the state receiving federal financial participation 85555
for the medicaid program. 85556

"Medicaid services" has the same meaning as in section 85557
5164.01 of the Revised Code. 85558

"Nursing facility" and "nursing facility services" have the 85559
same meanings as in section 5165.01 of the Revised Code. 85560

"Optional eligibility groups" means the groups of individuals 85561
who may be covered by the medicaid state plan or a federal 85562
medicaid waiver and for whom the medicaid program receives federal 85563
financial participation. 85564

"Other medicaid-funded long-term care services" has the 85565
meaning specified in rules adopted under section 5163.02 of the 85566
Revised Code. 85567

"Supplemental security income program" means the program 85568
established by Title XVI of the "Social Security Act," 42 U.S.C. 85569
1381 et seq. 85570

Sec. ~~5111.011~~ 5163.02. ~~(A) The medicaid director of job and~~ 85571
~~family services shall adopt rules establishing as necessary to~~ 85572
~~implement this chapter. The rules shall establish eligibility~~ 85573
~~requirements for the medicaid program. The rules may establish~~ 85574
~~requirements for applying for medicaid and determining and~~ 85575
~~verifying eligibility for medicaid. The rules shall be adopted~~ 85576
~~pursuant to in accordance with section 111.15 of the Revised Code~~ 85577
~~and shall be consistent with federal and state law. The rules~~ 85578
~~shall include rules that do all of the following:~~ 85579

~~(1) Establish standards consistent with federal law for~~ 85580
~~allocating income and resources as income and resources of the~~ 85581

~~spouse, children, parents, or stepparents of a recipient of or
applicant for medicaid;~~ 85582
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~~(2) Define the term "resources" as used in division (A)(1) of
this section;~~ 85584
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~~(3) Specify the number of months that is to be used for the
purpose of the term "look back date" used in section 5111.0116 of
the Revised Code;~~ 85586
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~~(4) Establish processes to be used to determine both of the
following;~~ 85589
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~~(a) The date an institutionalized individual's ineligibility
for services under section 5111.0116 of the Revised Code is to
begin;~~ 85591
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~~(b) The number of months an institutionalized individual's
ineligibility for such services is to continue.~~ 85594
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~~(5) For the purpose of division (C) of section 5111.0116 of
the Revised Code, establish procedures for granting waivers of all
or a portion of the period of ineligibility that an
institutionalized individual would otherwise be subject to under
that section and additional reasons for which such waivers may be
granted;~~ 85596
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~~(6) Define the term "other medicaid funded long term care
services" as used in sections 5111.0117 and 5111.0118 of the
Revised Code;~~ 85602
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~~(7) For the purpose of division (C)(2)(c) of section
5111.0117 of the Revised Code, establish the process to determine
whether the child of an aged, blind, or disabled individual is
financially dependent on the individual for housing.~~ 85605
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~~(B) Notwithstanding any provision of state law, including
statutes, administrative rules, common law, and court rules,
regarding real or personal property or domestic relations, the~~ 85609
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standards established under rules adopted under ~~division (A)(1) of~~ 85612
this section shall be used to determine eligibility for medicaid. 85613

Sec. 5163.03. (A) Subject to sections 5163.04 and 5163.05 of 85614
the Revised Code, the medicaid program shall cover all mandatory 85615
eligibility groups. 85616

(B) The medicaid program may cover optional eligibility 85617
groups. 85618

Sec. 5163.04. Subject to section 5163.041 of the Revised 85619
Code, the medicaid program may cover the group, or one or more 85620
subgroups of the group, described in the "Social Security Act," 85621
section 1902(a)(10)(A)(i)(VIII), 42 U.S.C. 85622
1396a(a)(10)(A)(i)(VIII), if the federal medical assistance 85623
percentage for expenditures for medicaid services provided to the 85624
group or subgroup is at least the amount specified in the "Social 85625
Security Act," section 1905(y), 42 U.S.C. 1396d(y), as of March 85626
30, 2010. 85627

Sec. 5163.041. (A) The medicaid program shall cease to cover 85628
the group, and any subgroup of the group, specified in section 85629
5163.04 of the Revised Code if the federal medical assistance 85630
percentage for expenditures for medicaid services provided to the 85631
group or subgroup is lowered to an amount below the amount 85632
specified in the "Social Security Act," section 1905(y), 42 U.S.C. 85633
1396d(y), as of March 30, 2010. If the medicaid program ceases to 85634
cover the group, or any subgroup of the group pursuant to this 85635
division, each individual enrolled in medicaid as part of the 85636
group or subgroup shall be disenrolled from medicaid on the first 85637
day of the month following the effective date of the federal 85638
medical assistance percentage's reduction unless the individual 85639
meets the eligibility requirements for another eligibility group 85640
or subgroup. 85641

(B)(1) If federal law or the United States department of health and human services requires the state to reduce or eliminate any tax, the medicaid director may do either of the following regarding the eligibility group, and any subgroup of the group, specified in section 5163.04 of the Revised Code: 85642
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(a) Terminate the medicaid program's coverage of the eligibility group or subgroup; 85647
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(b) Alter the eligibility requirements for the group or subgroup in a manner that causes fewer individuals to meet the eligibility requirements. 85649
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(2) If the medicaid director terminates the medicaid program's coverage of the group or subgroup pursuant to division (B)(1)(a) of this section, each individual enrolled in medicaid as part of the group or subgroup shall be disenrolled from medicaid on a date the director specifies unless the individual meets the eligibility requirements for another eligibility group or subgroup. 85652
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(3) If the medicaid director alters the group's or subgroup's eligibility requirements pursuant to division (B)(1)(b) of this section, each individual enrolled in medicaid as part of the group or subgroup shall be disenrolled from medicaid on a date the director specifies unless the individual meets the altered eligibility requirements or meets the eligibility requirements for another eligibility group or subgroup. 85659
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(C) Notwithstanding section 5160.31 of the Revised Code, an individual's disenrollment from medicaid pursuant to this section is not subject to appeal under that section. 85666
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Sec. 5163.05. The medicaid program's eligibility requirements for aged, blind, and disabled individuals may be more restrictive than the eligibility requirements for the supplemental security 85669
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income program. Any such more restrictive eligibility requirements 85672
shall be consistent with the 209(b) option described in the 85673
"Social Security Act," section 1902(f), 42 U.S.C. 1396a(f). 85674

Sec. 5163.06. Beginning January 1, 2014, the medicaid 85675
director may alter the eligibility requirements for, and terminate 85676
the medicaid program's coverage of, one or more optional 85677
eligibility groups or subgroups, including the following: 85678

(A) Children placed with adoptive parents who may be covered 85679
by medicaid pursuant to the "Social Security Act," section 85680
1902(a)(10)(A)(ii)(VIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(VIII); 85681

(B) Low income women and children who may be covered by 85682
medicaid pursuant to the "Social Security Act," section 85683
1902(a)(10)(A)(ii)(IX), 42 U.S.C. 1396a(a)(10)(A)(ii)(IX); 85684

(C) Employed individuals with disabilities who may be covered 85685
by medicaid pursuant to the "Social Security Act," section 85686
1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV); 85687

(D) Employed individuals with medically improved disabilities 85688
who may be covered by medicaid pursuant to the "Social Security 85689
Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 85690
1396a(a)(10)(A)(ii)(XVI); 85691

(E) Independent foster care adolescents who may be covered by 85692
medicaid pursuant to the "Social Security Act," section 85693
1902(a)(10)(A)(ii)(XVII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVII); 85694

(F) Women in need of treatment for breast or cervical cancer 85695
who may be covered by medicaid pursuant to the "Social Security 85696
Act," section 1902(a)(10)(A)(ii)(XVIII), 42 U.S.C. 85697
1396a(a)(10)(A)(ii)(XVIII); 85698

(G) Low income, nonpregnant individuals who may receive 85699
family planning services and supplies under medicaid pursuant to 85700

the "Social Security Act," section 1902(a)(10)(A)(ii)(XXI), 42 85701
U.S.C. 1396a(a)(10)(A)(ii)(XXI); 85702

(H) Pregnant women who may be determined presumptively 85703
eligible for medicaid pursuant to the "Social Security Act," 85704
section 1920, 42 U.S.C. 1396r-1; 85705

(I) Children who may be determined presumptively eligible for 85706
medicaid pursuant to the "Social Security Act," section 1920A, 42 85707
U.S.C. 1396r-1a; 85708

(J) Low income parents who may be covered by medicaid 85709
pursuant to the "Social Security Act," section 1931, 42 U.S.C. 85710
1396u-1. 85711

Sec. 5163.061. If the medicaid director alters the 85712
eligibility requirements for, or terminates the medicaid program's 85713
coverage of, an optional eligibility group or subgroup pursuant to 85714
section 5163.06 of the Revised Code, all of the following apply: 85715

(A) In the case of an optional eligibility group or subgroup 85716
for which the eligibility requirements are altered: 85717

(1) No individual enrolled, before the effective date of the 85718
altered eligibility requirements, in medicaid as part of the group 85719
or subgroup shall remain enrolled in medicaid on and after that 85720
effective date unless the individual meets the altered eligibility 85721
requirements for the group or subgroup or meets the eligibility 85722
requirements for another eligibility group or subgroup. 85723

(2) Beginning on the effective date of the altered 85724
eligibility requirements, no individual may enroll in medicaid as 85725
part of the group or subgroup unless the individual meets the 85726
altered eligibility requirements for the group or subgroup or 85727
meets the eligibility requirements for another eligibility group 85728
or subgroup. 85729

(B) In the case of an optional eligibility group or subgroup 85730

whose medicaid coverage is terminated: 85731

(1) No individual enrolled, before the effective date of the termination, in medicaid as part of the group or subgroup shall remain enrolled in medicaid on and after that effective date unless the individual meets the eligibility requirements for another eligibility group or subgroup. 85732
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(2) Beginning on the effective date of the termination, no individual may enroll in medicaid as part of the group or subgroup but may enroll in medicaid as part of another group or subgroup for which the individual meets the eligibility requirements. 85737
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(C) The department of medicaid shall take actions as the department determines necessary, including requiring actions from county departments of job and family services, to do both of the following: 85741
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(1) Inform medicaid recipients about the altered eligibility requirements or termination of the medicaid program's coverage of the group or subgroup; 85745
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(2) In the case of medicaid recipients who will cease to be eligible for medicaid as part of the group or subgroup because of the altered eligibility requirements or termination of the group's or subgroup's coverage, offer to assist the recipients with the following: 85748
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(a) To continue to be enrolled in medicaid as part of another eligibility group or subgroup for which they meet the eligibility requirements; 85753
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(b) Transition to other health coverage options available to them. 85756
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(D) Regarding appeals authorized by section 5160.31 of the Revised Code: 85758
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(1) No individual may appeal a denial of medicaid eligibility 85760

as part of a group or subgroup whose medicaid coverage is 85761
terminated if the denial is for medicaid eligibility that would 85762
begin or continue on or after the effective date of the 85763
termination. 85764

(2) An individual may initiate or continue, on or after the 85765
effective date of the termination, an appeal concerning the 85766
individual's eligibility for medicaid as part of the group or 85767
subgroup if the decision being appealed concerns the individual's 85768
eligibility for medicaid as part of the group or subgroup before 85769
the effective date of the termination. 85770

(3) An appeal initiated or continued pursuant to division 85771
(D)(2) of this section may not result in the appellant being 85772
enrolled, or continuing to be enrolled, in medicaid as part of the 85773
group or subgroup on or after the effective date of the 85774
termination. 85775

(E) The altered eligibility requirements or termination of 85776
the medicaid program's coverage of the group or subgroup has no 85777
effect on either of the following: 85778

(1) An automatic right of recovery given under section 85779
5160.37 of the Revised Code; 85780

(2) An automatic assignment of rights under section 5160.38 85781
of the Revised Code. 85782

(F) All rules, standards, guidelines, or orders regarding the 85783
group or subgroup issued by the medicaid director before the 85784
effective date of the altered eligibility requirements or 85785
termination of the medicaid program's coverage of the group or 85786
subgroup shall be used for the purpose of determining the state's 85787
legal obligations for claims related to the group or subgroup that 85788
arise from any of the following: 85789

(1) Eligibility determinations regarding enrollment in 85790
medicaid before that effective date; 85791

(2) Claims for payment for medicaid services provided before 85792
that effective date; 85793

(3) Recoveries of erroneous medicaid payments. 85794

Sec. ~~5111.15~~ 5163.20. If a medicaid recipient ~~of medical~~ 85795
~~assistance~~ is the beneficiary of a trust created pursuant to 85796
section 5815.28 of the Revised Code, then, notwithstanding any 85797
contrary provision of this chapter or of a rule adopted ~~pursuant~~ 85798
~~to this chapter~~ under section 5163.02 of the Revised Code, 85799
divisions (C) and (D) of that section shall apply in determining 85800
the assets or resources of the recipient, the recipient's estate, 85801
the settlor, or the settlor's estate and to claims arising under 85802
this chapter against the recipient, the recipient's estate, the 85803
settlor, or the settlor's estate. 85804

Sec. ~~5111.151~~ 5163.21. (A)(1) This section applies only to 85805
either of the following: 85806

(a) Initial eligibility determinations for the medicaid 85807
program ~~made by the department of job and family services pursuant~~ 85808
~~to section 5101.47 of the Revised Code or by a county department~~ 85809
~~of job and family services pursuant to section 5111.012 of the~~ 85810
~~Revised Code;~~ 85811

(b) An appeal from ~~a~~ an initial eligibility determination 85812
~~described in division (A)(1)(a) of this section~~ pursuant to 85813
section ~~5101.35~~ 5160.31 of the Revised Code. 85814

(2)(a) Except as provided in division (A)(2)(b) of this 85815
section, this section shall not be used by a court to determine 85816
the effect of a trust on an individual's initial eligibility for 85817
the medicaid program. 85818

(b) The prohibition in division (A)(2)(a) of this section 85819
does not apply to an appeal described in division (A)(1)(b) of 85820
this section. 85821

(B) As used in this section:	85822
(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.	85823 85824 85825 85826 85827
(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:	85828 85829 85830 85831 85832
(a) The property in the trust is held, managed, retained, or administered by a trustee.	85833 85834
(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.	85835 85836 85837
(c) The trustee holds identifiable property for the beneficiary.	85838 85839
(3) "Grantor" is a person who creates a trust, including all of the following:	85840 85841
(a) An individual;	85842
(b) An individual's spouse;	85843
(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;	85844 85845 85846
(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.	85847 85848 85849
(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.	85850 85851

- (5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries. 85852
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- (6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association. 85854
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- (7) "Applicant" is an individual who applies for medicaid or the individual's spouse. 85857
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- (8) "Recipient" is an individual who receives medicaid or the individual's spouse. 85859
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- (9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable: 85861
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- (a) A trust that provides that the trust can be terminated only by a court; 85864
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- (b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee. 85866
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- (10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor. 85869
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- (11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property. 85873
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- (12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient. 85876
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- (13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust. 85879
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(C)(1) If an applicant or recipient is a beneficiary of a trust, the applicant or recipient shall submit a complete copy of the trust instrument to the county department of job and family services and the department of medicaid. A copy shall be considered complete if it contains all pages of the trust instrument and all schedules, attachments, and accounting statements referenced in or associated with the trust. The copy is confidential and is not subject to disclosure under section 149.43 of the Revised Code. 85882
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(2) On receipt of a copy of a trust instrument or otherwise determining that an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted ~~by the department of job and family services under section 5163.02 of the Revised Code~~ governing trusts. The county department of job and family services may determine that any of the following is the case regarding the trust or portion of the trust: 85891
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(a) ~~Is~~ It is a resource available to the applicant or recipient; 85901
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(b) ~~Contains~~ It contains income available to the applicant or recipient; 85903
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(c) ~~Constitutes both items described in divisions~~ Divisions (C)~~(1)~~(2)(a) and (b) of this section are both applicable; 85905
85906

(d) ~~Is neither an item described in~~ Neither division (C)~~(1)~~(2)(a) nor ~~(C)(1)(b)~~ of this section is applicable. 85907
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~~(2)~~(3) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of 85909
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determining medicaid eligibility. 85913

(D)(1) A trust or legal instrument or device similar to a 85914
trust shall be considered a medicaid qualifying trust if all of 85915
the following apply: 85916

(a) The trust was established on or prior to August 10, 1993. 85917

(b) The trust was not established by a will. 85918

(c) The trust was established by an applicant or recipient. 85919

(d) The applicant or recipient is or may become the 85920
beneficiary of all or part of the trust. 85921

(e) Payment from the trust is determined by one or more 85922
trustees who are permitted to exercise any discretion with respect 85923
to the distribution to the applicant or recipient. 85924

(2) If a trust meets the requirement of division (D)(1) of 85925
this section, the amount of the trust that is considered by the 85926
county department of job and family services to be a resource 85927
available to the applicant or recipient shall be the maximum 85928
amount of payments permitted under the terms of the trust to be 85929
distributed to the applicant or recipient, assuming the full 85930
exercise of discretion by the trustee or trustees. The maximum 85931
amount shall include only amounts that are permitted to be 85932
distributed but are not distributed from either the income or 85933
principal of the trust. 85934

(3) Amounts that are actually distributed from a medicaid 85935
qualifying trust to a beneficiary for any purpose shall be treated 85936
in accordance with rules adopted ~~by the department of job and~~ 85937
~~family services~~ under section 5163.02 of the Revised Code 85938
governing income. 85939

(4) Availability of a medicaid qualifying trust shall be 85940
considered without regard to any of the following: 85941

(a) Whether or not the trust is irrevocable or was 85942

established for purposes other than to enable a grantor to qualify 85943
for medicaid, ~~medical assistance for covered families and~~ 85944
~~children, or as a qualified medicare beneficiary, specified~~ 85945
~~low income medicare beneficiary, qualifying individual 1, or~~ 85946
~~qualifying individual 2;~~ 85947

(b) Whether or not the trustee actually exercises discretion. 85948

(5) If any real or personal property is transferred to a 85949
medicaid qualifying trust that is not distributable to the 85950
applicant or recipient, the transfer shall be considered an 85951
improper disposition of assets and shall be subject to section 85952
~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that 85953
section adopted under section ~~5111.011~~ 5163.02 of the Revised 85954
Code. 85955

(6) The baseline date for the look-back period for 85956
disposition of assets involving a medicaid qualifying trust shall 85957
be the date on which the applicant or recipient is both 85958
institutionalized and first applies for medicaid. 85959

(E)(1) A trust or legal instrument or device similar to a 85960
trust shall be considered a self-settled trust if all of the 85961
following apply: 85962

(a) The trust was established on or after August 11, 1993. 85963

(b) The trust was not established by a will. 85964

(c) The trust was established by an applicant or recipient, 85965
spouse of an applicant or recipient, or a person, including a 85966
court or administrative body, with legal authority to act in place 85967
of or on behalf of an applicant, recipient, or spouse, or acting 85968
at the direction or on request of an applicant, recipient, or 85969
spouse. 85970

(2) A trust that meets the requirements of division (E)(1) of 85971
this section and is a revocable trust shall be treated by the 85972

county department of job and family services as follows: 85973

(a) The corpus of the trust shall be considered a resource 85974
available to the applicant or recipient. 85975

(b) Payments from the trust to or for the benefit of the 85976
applicant or recipient shall be considered unearned income of the 85977
applicant or recipient. 85978

(c) Any other payments from the trust shall be considered an 85979
improper disposition of assets and shall be subject to section 85980
~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that 85981
section adopted under section ~~5111.011~~ 5163.02 of the Revised 85982
Code. 85983

(3) A trust that meets the requirements of division (E)(1) of 85984
this section and is an irrevocable trust shall be treated by the 85985
county department of job and family services as follows: 85986

(a) If there are any circumstances under which payment from 85987
the trust could be made to or for the benefit of the applicant or 85988
recipient, including a payment that can be made only in the 85989
future, the portion from which payments could be made shall be 85990
considered a resource available to the applicant or recipient. The 85991
county department of job and family services shall not take into 85992
account when payments can be made. 85993

(b) Any payment that is actually made to or for the benefit 85994
of the applicant or recipient from either the corpus or income 85995
shall be considered unearned income. 85996

(c) If a payment is made to someone other than to the 85997
applicant or recipient and the payment is not for the benefit of 85998
the applicant or recipient, the payment shall be considered an 85999
improper disposition of assets and shall be subject to section 86000
~~5111.0116~~ 5163.30 of the Revised Code and rules to implement that 86001
section adopted under section ~~5111.011~~ 5163.02 of the Revised 86002
Code. 86003

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event. 86004
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(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed. 86007
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(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust. 86010
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86012

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value. 86013
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(h) Any addition of assets after the foreclosure date shall be considered a separate disposition. 86017
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(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted ~~by the department of job and family services~~ under section 5163.02 of the Revised Code governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient. 86019
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(5) The availability of a self-settled trust shall be considered without regard to any of the following: 86025
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(a) The purpose for which the trust is established; 86027

(b) Whether the trustees have exercised or may exercise discretion under the trust; 86028
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(c) Any restrictions on when or whether distributions may be made from the trust; 86030
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(d) Any restrictions on the use of distributions from the trust. 86032
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(6) The baseline date for the look-back period for 86034
dispositions of assets involving a self-settled trust shall be the 86035
date on which the applicant or recipient is both institutionalized 86036
and first applies for medicaid. 86037

(F) The principal or income from any of the following shall 86038
not be a resource available to the applicant or recipient: 86039

(1)(a) A special needs trust that meets all of the following 86040
requirements: 86041

(i) The trust contains assets of an applicant or recipient 86042
under sixty-five years of age and may contain the assets of other 86043
individuals. 86044

(ii) The applicant or recipient is disabled as defined in 86045
rules adopted ~~by the department of job and family services~~ under 86046
section 5163.02 of the Revised Code. 86047

(iii) The trust is established for the benefit of the 86048
applicant or recipient by a parent, grandparent, legal guardian, 86049
or a court. 86050

(iv) The trust requires that on the death of the applicant or 86051
recipient the state will receive all amounts remaining in the 86052
trust up to an amount equal to the total amount of medicaid ~~paid~~ 86053
payments made on behalf of the applicant or recipient. 86054

(b) If a special needs trust meets the requirements of 86055
division (F)(1)(a) of this section and has been established for a 86056
disabled applicant or recipient under sixty-five years of age, the 86057
exemption for the trust granted pursuant to division (F) of this 86058
section shall continue after the disabled applicant or recipient 86059
becomes sixty-five years of age if the applicant or recipient 86060
continues to be disabled as defined in rules adopted ~~by the~~ 86061
~~department of job and family services~~ under section 5163.02 of the 86062
Revised Code. Except for income earned by the trust, the grantor 86063
shall not add to or otherwise augment the trust after the 86064

applicant or recipient attains sixty-five years of age. An 86065
addition or augmentation of the trust by the applicant or 86066
recipient with the applicant's own assets after the applicant or 86067
recipient attains sixty-five years of age shall be treated as an 86068
improper disposition of assets. 86069

(c) Cash distributions to the applicant or recipient shall be 86070
counted as unearned income. All other distributions from the trust 86071
shall be treated as provided in rules adopted ~~by the department of~~ 86072
~~job and family services~~ under section 5163.02 of the Revised Code 86073
governing in-kind income. 86074

(d) Transfers of assets to a special needs trust shall not be 86075
treated as an improper transfer of resources. An asset held prior 86076
to the transfer to the trust shall be considered as a resource 86077
available to the applicant or recipient, income available to the 86078
applicant or recipient, or both a resource and income available to 86079
the individual. 86080

(2)(a) A qualifying income trust that meets all of the 86081
following requirements: 86082

(i) The trust is composed only of pension, social security, 86083
and other income to the applicant or recipient, including 86084
accumulated interest in the trust. 86085

(ii) The income is received by the individual and the right 86086
to receive the income is not assigned or transferred to the trust. 86087

(iii) The trust requires that on the death of the applicant 86088
or recipient the state will receive all amounts remaining in the 86089
trust up to an amount equal to the total amount of medicaid ~~paid~~ 86090
payments made on behalf of the applicant or recipient. 86091

(b) No resources shall be used to establish or augment the 86092
trust. 86093

(c) If an applicant or recipient has irrevocably transferred 86094

or assigned the applicant's or recipient's right to receive income 86095
to the trust, the trust shall not be considered a qualifying 86096
income trust by the county department of job and family services. 86097

(d) Income placed in a qualifying income trust shall not be 86098
counted in determining an applicant's or recipient's eligibility 86099
for medicaid. The recipient of the funds may place any income 86100
directly into a qualifying income trust without those funds 86101
adversely affecting the applicant's or recipient's eligibility for 86102
medicaid. Income generated by the trust that remains in the trust 86103
shall not be considered as income to the applicant or recipient. 86104

(e) All income placed in a qualifying income trust shall be 86105
combined with any income available to the individual that is not 86106
placed in the trust to arrive at a base income figure to be used 86107
for spend down calculations. 86108

(f) The base income figure shall be used for post-eligibility 86109
deductions, including personal needs allowance, monthly income 86110
allowance, family allowance, and medical expenses not subject to 86111
third party payment. Any income remaining shall be used toward 86112
payment of patient liability. Payments made from a qualifying 86113
income trust shall not be combined with the base income figure for 86114
post-eligibility calculations. 86115

(g) The base income figure shall be used when determining the 86116
spend down budget for the applicant or recipient. Any income 86117
remaining after allowable deductions are permitted as provided 86118
under rules adopted ~~by the department of job and family services~~ 86119
under section 5163.02 of the Revised Code shall be considered the 86120
applicant's or recipient's spend down liability. 86121

(3)(a) A pooled trust that meets all of the following 86122
requirements: 86123

(i) The trust contains the assets of the applicant or 86124
recipient of any age who is disabled as defined in rules adopted 86125

~~by the department of job and family services under section 5163.02~~ 86126
~~of the Revised Code.~~ 86127

(ii) The trust is established and managed by a nonprofit 86128
organization. 86129

(iii) A separate account is maintained for each beneficiary 86130
of the trust but, for purposes of investment and management of 86131
funds, the trust pools the funds in these accounts. 86132

(iv) Accounts in the trust are established by the applicant 86133
or recipient, the applicant's or recipient's parent, grandparent, 86134
or legal guardian, or a court solely for the benefit of 86135
individuals who are disabled. 86136

(v) The trust requires that, to the extent that any amounts 86137
remaining in the beneficiary's account on the death of the 86138
beneficiary are not retained by the trust, the trust pay to the 86139
state the amounts remaining in the trust up to an amount equal to 86140
the total amount of medicaid ~~paid~~ payments made on behalf of the 86141
beneficiary. 86142

(b) Cash distributions to the applicant or recipient shall be 86143
counted as unearned income. All other distributions from the trust 86144
shall be treated as provided in rules adopted ~~by the department of~~ 86145
~~job and family services under section 5163.02 of the Revised Code~~ 86146
governing in-kind income. 86147

(c) Transfers of assets to a pooled trust shall not be 86148
treated as an improper disposition of assets. An asset held prior 86149
to the transfer to the trust shall be considered as a resource 86150
available to the applicant or recipient, income available to the 86151
applicant or recipient, or both a resource and income available to 86152
the applicant or recipient. 86153

(4) A supplemental services trust that meets the requirements 86154
of section 5815.28 of the Revised Code and to which all of the 86155
following apply: 86156

(a) A person may establish a supplemental services trust 86157
pursuant to section 5815.28 of the Revised Code only for another 86158
person who is eligible to receive services through one of the 86159
following agencies: 86160

(i) The department of developmental disabilities; 86161

(ii) A county board of developmental disabilities; 86162

(iii) The department of ~~mental health~~ mental health and 86163
addiction services; 86164

(iv) A board of alcohol, drug addiction, and mental health 86165
services. 86166

(b) A county department of job and family services shall not 86167
determine eligibility for another agency's program. An applicant 86168
or recipient shall do one of the following: 86169

(i) Provide documentation from one of the agencies listed in 86170
division (F)(4)(a) of this section that establishes that the 86171
applicant or recipient was determined to be eligible for services 86172
from the agency at the time of the creation of the trust; 86173

(ii) Provide an order from a court of competent jurisdiction 86174
that states that the applicant or recipient was eligible for 86175
services from one of the agencies listed in division (F)(4)(a) of 86176
this section at the time of the creation of the trust. 86177

(c) At the time the trust is created, the trust principal 86178
does not exceed the maximum amount permitted. The maximum amount 86179
permitted in calendar year 2006 is two hundred twenty-two thousand 86180
dollars. Each year thereafter, the maximum amount permitted is the 86181
prior year's amount plus two thousand dollars. 86182

(d) A county department of job and family services shall 86183
review the trust to determine whether it complies with the 86184
provisions of section 5815.28 of the Revised Code. 86185

(e) Payments from supplemental services trusts shall be 86186

exempt as long as the payments are for supplemental services as 86187
defined in rules adopted ~~by the department of job and family~~ 86188
~~services under section 5163.02 of the Revised Code.~~ All 86189
supplemental services shall be purchased by the trustee and shall 86190
not be purchased through direct cash payments to the beneficiary. 86191

(f) If a trust is represented as a supplemental services 86192
trust and a county department of job and family services 86193
determines that the trust does not meet the requirements provided 86194
in division (F)(4) of this section and section 5815.28 of the 86195
Revised Code, the county department of job and family services 86196
shall not consider it an exempt trust. 86197

(G)(1) A trust or legal instrument or device similar to a 86198
trust shall be considered a trust established by an individual for 86199
the benefit of the applicant or recipient if all of the following 86200
apply: 86201

(a) The trust is created by a person other than the applicant 86202
or recipient. 86203

(b) The trust names the applicant or recipient as a 86204
beneficiary. 86205

(c) The trust is funded with assets or property in which the 86206
applicant or recipient has never held an ownership interest prior 86207
to the establishment of the trust. 86208

(2) Any portion of a trust that meets the requirements of 86209
division (G)(1) of this section shall be a resource available to 86210
the applicant or recipient only if the trust permits the trustee 86211
to expend principal, corpus, or assets of the trust for the 86212
applicant's or recipient's medical care, care, comfort, 86213
maintenance, health, welfare, general well being, or any 86214
combination of these purposes. 86215

(3) A trust that meets the requirements of division (G)(1) of 86216
this section shall be considered a resource available to the 86217

applicant or recipient even if the trust contains any of the 86218
following types of provisions: 86219

(a) A provision that prohibits the trustee from making 86220
payments that would supplant or replace medicaid or other public 86221
assistance; 86222

(b) A provision that prohibits the trustee from making 86223
payments that would impact or have an effect on the applicant's or 86224
recipient's right, ability, or opportunity to receive medicaid or 86225
other public assistance; 86226

(c) A provision that attempts to prevent the trust or its 86227
corpus or principal from being a resource available to the 86228
applicant or recipient. 86229

(4) A trust that meets the requirements of division (G)(1) of 86230
this section shall not be counted as a resource available to the 86231
applicant or recipient if at least one of the following 86232
circumstances applies: 86233

(a) If a trust contains a clear statement requiring the 86234
trustee to preserve a portion of the trust for another beneficiary 86235
or remainderman, that portion of the trust shall not be counted as 86236
a resource available to the applicant or recipient. Terms of a 86237
trust that grant discretion to preserve a portion of the trust 86238
shall not qualify as a clear statement requiring the trustee to 86239
preserve a portion of the trust. 86240

(b) If a trust contains a clear statement requiring the 86241
trustee to use a portion of the trust for a purpose other than 86242
medical care, care, comfort, maintenance, welfare, or general well 86243
being of the applicant or recipient, that portion of the trust 86244
shall not be counted as a resource available to the applicant or 86245
recipient. Terms of a trust that grant discretion to limit the use 86246
of a portion of the trust shall not qualify as a clear statement 86247
requiring the trustee to use a portion of the trust for a 86248

particular purpose. 86249

(c) If a trust contains a clear statement limiting the 86250
trustee to making fixed periodic payments, the trust shall not be 86251
counted as a resource available to the applicant or recipient and 86252
payments shall be treated in accordance with rules adopted ~~by the~~ 86253
~~department of job and family services under section 5163.02 of the~~ 86254
Revised Code governing income. Terms of a trust that grant 86255
discretion to limit payments shall not qualify as a clear 86256
statement requiring the trustee to make fixed periodic payments. 86257

(d) If a trust contains a clear statement that requires the 86258
trustee to terminate the trust if it is counted as a resource 86259
available to the applicant or recipient, the trust shall not be 86260
counted as such. Terms of a trust that grant discretion to 86261
terminate the trust do not qualify as a clear statement requiring 86262
the trustee to terminate the trust. 86263

(e) If a person obtains a judgment from a court of competent 86264
jurisdiction that expressly prevents the trustee from using part 86265
or all of the trust for the medical care, care, comfort, 86266
maintenance, welfare, or general well being of the applicant or 86267
recipient, the trust or that portion of the trust subject to the 86268
court order shall not be counted as a resource available to the 86269
applicant or recipient. 86270

(f) If a trust is specifically exempt from being counted as a 86271
resource available to the applicant or recipient by a provision of 86272
the Revised Code, rules, or federal law, the trust shall not be 86273
counted as such. 86274

(g) If an applicant or recipient presents a final judgment 86275
from a court demonstrating that the applicant or recipient was 86276
unsuccessful in a civil action against the trustee to compel 86277
payments from the trust, the trust shall not be counted as a 86278
resource available to the applicant or recipient. 86279

(h) If an applicant or recipient presents a final judgment 86280
from a court demonstrating that in a civil action against the 86281
trustee the applicant or recipient was only able to compel limited 86282
or periodic payments, the trust shall not be counted as a resource 86283
available to the applicant or recipient and payments shall be 86284
treated in accordance with rules adopted ~~by the department of job~~ 86285
~~and family services~~ under section 5163.02 of the Revised Code 86286
governing income. 86287

(i) If an applicant or recipient provides written 86288
documentation showing that the cost of a civil action brought to 86289
compel payments from the trust would be cost prohibitive, the 86290
trust shall not be counted as a resource available to the 86291
applicant or recipient. 86292

(5) Any actual payments to the applicant or recipient from a 86293
trust that meet the requirements of division (G)(1) of this 86294
section, including trusts that are not counted as a resource 86295
available to the applicant or recipient, shall be treated as 86296
provided in rules adopted ~~by the department of job and family~~ 86297
~~services~~ under section 5163.02 of the Revised Code governing 86298
income. Payments to any person other than the applicant or 86299
recipient shall not be considered income to the applicant or 86300
recipient. Payments from the trust to a person other than the 86301
applicant or recipient shall not be considered an improper 86302
disposition of assets. 86303

Sec. ~~5111.181~~ 5163.22. (A) The general assembly hereby finds 86304
that the state has an insurable interest in ~~medical assistance~~ 86305
medicaid recipients because of the state's statutory right to 86306
recover from the estate of a recipient state funds used to provide 86307
the recipient with ~~medical care and~~ medicaid services. 86308

(B) As used in this section: 86309

(1) "Beneficiary" means the person or entity designated in a 86310

life insurance policy to receive the proceeds of the policy on the 86311
death of the insured or maturity of the policy. 86312

(2) "Owner" means the person who has the right to designate 86313
the beneficiary of a life insurance policy and to change the 86314
designation. 86315

(C) ~~Notwithstanding section 5111.011 of the Revised Code, the~~ 86316
The value of a life insurance policy that would otherwise be 86317
considered a resource in determining eligibility for the ~~medical~~ 86318
~~assistance~~ medicaid program shall be excluded from any 86319
determination of a person's eligibility for the ~~medical-assistance~~ 86320
medicaid program if the owner designates the department of ~~job and~~ 86321
~~family services~~ medicaid as beneficiary of the policy. The 86322
department may pay premiums to keep the policy in force. Premiums 86323
paid by the department are ~~medical-assistance~~ medicaid payments 86324
correctly paid on behalf of a ~~medical-assistance~~ medicaid 86325
recipient and subject to recovery under section ~~5111.11~~ 5162.21 of 86326
the Revised Code. 86327

(D) The medicaid director ~~of job and family services~~ shall 86328
deposit the proceeds of a life insurance policy that do not exceed 86329
the amount the department may recover against the property and 86330
estate of the owner under section ~~5111.11~~ 5162.21 of the Revised 86331
Code into the general revenue fund. The director shall pay any 86332
remaining proceeds to the person designated by the owner. If the 86333
owner failed to designate a person, the director shall pay the 86334
remaining proceeds to the surviving spouse, or, if there is no 86335
surviving spouse, to the estate of the owner. 86336

(E) If the owner designates the department of ~~job and family~~ 86337
~~services~~ medicaid as the policy's beneficiary, the department 86338
shall notify the owner that the owner may designate a person to 86339
receive proceeds of the policy that exceed the amount the 86340
department may recover against the owner's property and estate 86341
under section ~~5111.11~~ 5162.21 of the Revised Code. The designation 86342

shall be made on a form provided by the department. 86343

~~(F) The department of job and family services shall not 86344
implement this section if implementation would violate any federal 86345
requirement unless the department receives a waiver of the 86346
requirement from the United States department of health and human 86347
services. 86348~~

Sec. ~~5111.0116~~ 5163.30. (A) As used in this section: 86349

(1) "Assets" include all of an individual's income and 86350
resources and those of the individual's spouse, including any 86351
income or resources the individual or spouse is entitled to but 86352
does not receive because of action by any of the following: 86353

(a) The individual or spouse; 86354

(b) A person or government entity, including a court or 86355
administrative agency, with legal authority to act in place of or 86356
on behalf of the individual or spouse; 86357

(c) A person or government entity, including a court or 86358
administrative agency, acting at the direction or on the request 86359
of the individual or spouse. 86360

(2) "Home and community-based services" means home and 86361
community-based services furnished under a medicaid waiver granted 86362
by the United States secretary of health and human services under 86363
the "Social Security Act," section 1915(c) or (d), 42 U.S.C. 86364
1396n(c) or (d). 86365

(3) "Institutionalized individual" means a resident of a 86366
nursing facility, an inpatient in a medical institution for whom a 86367
payment is made based on a level of care provided in a nursing 86368
facility, or an individual described in the "Social Security Act," 86369
section 1902(a)(10)(A)(ii)(VI), 42 U.S.C. 1396a(a)(10)(A)(ii)(VI). 86370

(4) "Look-back date" means the date that is a number of 86371
months specified in rules adopted under section ~~5111.011~~ 5163.02 86372

of the Revised Code immediately before either of the following: 86373

(a) The date an individual becomes an institutionalized 86374
individual if the individual is eligible for medicaid on that 86375
date; 86376

(b) The date an individual applies for medicaid while an 86377
institutionalized individual. 86378

(5) ~~"Nursing facility" has the same meaning as in section 86379
5111.20 of the Revised Code.~~ 86380

~~(6)~~ "Nursing facility equivalent services" means services 86381
that are covered by the medicaid program, equivalent to nursing 86382
facility services, provided by an institution that provides the 86383
same level of care as a nursing facility, and provided to an 86384
inpatient of the institution who is a medicaid recipient eligible 86385
for medicaid-covered nursing facility equivalent services. 86386

~~(7) "Nursing facility services" means nursing facility 86387
services covered by the medicaid program that a nursing facility 86388
provides to a resident of the nursing facility who is a medicaid 86389
recipient eligible for medicaid covered nursing facility services.~~ 86390

~~(8)~~(6) "Undue hardship" means being deprived of either of the 86391
following: 86392

(a) Medical care such that an individual's health or life is 86393
endangered; 86394

(b) Food, clothing, shelter, or other necessities of life. 86395

(B) Except as provided in division (C) of this section and 86396
rules adopted under section ~~5111.011~~ 5163.02 of the Revised Code, 86397
an institutionalized individual is ineligible for nursing facility 86398
services, nursing facility equivalent services, and home and 86399
community-based services if the individual or individual's spouse 86400
disposes of assets for less than fair market value on or after the 86401
look-back date. The institutionalized individual's ineligibility 86402

shall begin on a date determined in accordance with rules adopted 86403
under section ~~5111.011~~ 5163.02 of the Revised Code and shall 86404
continue for a number of months determined in accordance with such 86405
rules. 86406

(C) An institutionalized individual may be granted a waiver 86407
of all or a portion of the period of ineligibility to which the 86408
individual would otherwise be subjected under division (B) of this 86409
section if the ineligibility would cause an undue hardship for the 86410
individual. An institutionalized individual shall be granted a 86411
waiver of all or a portion of the period of ineligibility if the 86412
administrator of the nursing facility in which the individual 86413
resides has notified the individual of a proposed transfer or 86414
discharge under section 3721.16 of the Revised Code due to failure 86415
to pay for the care the nursing facility has provided to the 86416
individual, the individual or the individual's sponsor requests a 86417
hearing on the proposed transfer or discharge in accordance with 86418
section 3721.161 of the Revised Code, and the transfer or 86419
discharge is upheld by a final determination that is not subject 86420
to further appeal. Waivers shall be granted in accordance with 86421
rules adopted under section 5111.011 of the Revised Code. 86422

(D) To secure compliance with this section, the medicaid 86423
director ~~of job and family services~~ may require an individual, as 86424
a condition of initial or continued eligibility for medicaid, to 86425
provide documentation of the individual's assets up to five years 86426
before the date the individual becomes an institutionalized 86427
individual if the individual is eligible for medicaid on that date 86428
or the date the individual applies for medicaid while an 86429
institutionalized individual. Documentation may include tax 86430
returns, records from financial institutions, and real property 86431
records. 86432

Sec. ~~5111.0117~~ 5163.31. (A) ~~As used in this section and~~ 86433

~~section 5111.0118 of the Revised Code.~~ 86434

~~(1) "ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid covered intermediate care facility for the mentally retarded services.~~ 86435
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~~(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~ 86441
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~~(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 86443
86444

~~(4) "Nursing facility services" means nursing facility services covered by the medicaid program that a nursing facility provides to a resident of the nursing facility who is a medicaid recipient eligible for medicaid covered nursing facility services.~~ 86445
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~~(5) "Other medicaid funded long term care services" has the meaning specified in rules adopted under section 5111.011 of the Revised Code.~~ 86449
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~~(B)~~ Except as provided by division ~~(C)~~(A) of this section and for the purpose of determining whether an aged, blind, or disabled individual is eligible for nursing facility services, ~~ICF/MR~~ ICF/IID services, or other medicaid-funded long-term care services, the medicaid director ~~of job and family services~~ may consider an aged, blind, or disabled individual's real property to not be the individual's homestead or principal place of residence once the individual has resided in a nursing facility, ~~intermediate care facility for the mentally retarded~~ ICF/IID, or other medical institution for at least thirteen months. 86452
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~~(C)~~(B) Division ~~(B)~~(A) of this section does not apply to an individual if any of the following reside in the individual's real 86462
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property that, because of this division, continues to be 86464
considered the individual's homestead or principal place of 86465
residence: 86466

(1) The individual's spouse; 86467

(2) The individual's child if any of the following apply: 86468

(a) The child is under twenty-one years of age. 86469

(b) The child is considered blind or disabled under the 86470
"Social Security Act," section 1614, 42 U.S.C. 1382c. 86471

(c) The child is financially dependent on the individual for 86472
housing as determined in accordance with rules adopted under 86473
section ~~5111.011~~ 5163.02 of the Revised Code. 86474

(3) The individual's sibling if the sibling has a verified 86475
equity interest in the real property and resided in the real 86476
property for at least one year immediately before the date the 86477
individual was admitted to the nursing facility, ~~intermediate-care~~ 86478
~~facility for the mentally retarded~~ ICF/IID, or other medical 86479
institution. 86480

Sec. ~~5111.0118~~ 5163.32. (A) Except as otherwise provided by 86481
this section, no individual shall qualify for nursing facility 86482
services or other medicaid-funded long-term care services if the 86483
individual's equity interest in the individual's home exceeds five 86484
hundred thousand dollars. The medicaid director ~~of job and family~~ 86485
~~services~~ shall increase this amount effective January 1, 2011, and 86486
the first day of each year thereafter, by the percentage increase 86487
in the consumer price index for all urban consumers (all items; 86488
United States city average), rounded to the nearest one thousand 86489
dollars. 86490

(B) This section does not apply to an individual if either of 86491
the following applies: 86492

(1) Either of the following lawfully reside in the 86493

individual's home: 86494

(a) The individual's spouse; 86495

(b) The individual's child if the child is under twenty-one 86496
years of age or, under the "Social Security Act," section 1614, 42 86497
U.S.C. 1382c, considered blind or disabled. 86498

(2) The individual qualifies, pursuant to the process 86499
established under division (C) of this section, for a waiver of 86500
this section due to a demonstrated hardship. 86501

(C) The director shall establish a process by which 86502
individuals may obtain a waiver of this section due to a 86503
demonstrated hardship. The process shall be consistent with the 86504
process for such waivers established by the United States 86505
secretary of health and human services under the "Social Security 86506
Act," section 1917(f)(4), 42 U.S.C. 1396p(f)(4). 86507

(D) Nothing in this section shall be construed as preventing 86508
an individual from using a reverse mortgage or home equity loan to 86509
reduce the individual's total equity interest in the home. 86510

Sec. ~~5111.114~~ 5163.33. ~~As used in this section, "nursing 86511
facility" and "intermediate care facility for the mentally 86512
retarded" have the same meanings as in section 5111.20 of the 86513
Revised Code.~~ 86514

(A) In determining the amount of income that a medicaid 86515
recipient ~~of medical assistance~~ must apply monthly toward payment 86516
of the cost of care in a nursing facility or ~~intermediate care 86517
facility for the mentally retarded~~ ICF/IID, the a county 86518
department of job and family services shall deduct from the 86519
recipient's monthly income a monthly personal needs allowance in 86520
accordance with ~~section 1902~~ of the "Social Security Act," ~~49 86521
Stat. 620 (1935)~~ section 1902(q), 42 U.S.C.A. ~~1396a~~, as amended 86522
1396a(q). 86523

~~For (B) In the case of a resident of a nursing facility, the~~ 86524
monthly personal needs allowance shall be as follows: 86525

(1) Prior to January 1, 2014, not less than forty dollars for 86526
an individual resident and not less than eighty dollars for a 86527
married couple if both spouses are residents of a nursing facility 86528
and their incomes are considered available to each other in 86529
determining eligibility; 86530

(2) For calendar year 2014, not less than forty-five dollars 86531
for an individual resident and not less than ninety dollars for a 86532
married couple if both spouses are residents of a nursing facility 86533
and their incomes are considered available to each other in 86534
determining eligibility; 86535

(3) For calendar year 2015 and each calendar year thereafter, 86536
not less than fifty dollars for an individual resident and not 86537
less than one hundred dollars for a married couple if both spouses 86538
are residents of a nursing facility and their incomes are 86539
considered available to each other in determining eligibility. 86540

~~For (C) In the case of a resident of an intermediate care~~ 86541
~~facility for the mentally retarded ICF/IID, the monthly personal~~ 86542
needs allowance shall be forty dollars unless the resident has 86543
earned income, in which case the monthly personal needs allowance 86544
shall be determined by the ~~state~~ department of ~~job and family~~ 86545
~~services~~ medicaid, or the department's designee, but shall not 86546
exceed one hundred five dollars. 86547

Sec. 5111.013 5163.40. (A) ~~The provision of medical~~ 86548
~~assistance to pregnant women and young children who are eligible~~ 86549
~~for medical assistance under division (C)(3) of section 5111.01 of~~ 86550
~~the Revised Code, but who are not otherwise eligible for medical~~ 86551
~~assistance under that section, shall be known as the healthy start~~ 86552
~~program.~~ 86553

(B) The department of ~~job and family services~~ medicaid shall 86554
do all of the following with regard to the application procedures 86555
for the healthy start component of the medicaid program: 86556

(1) Establish a short application form for the ~~program~~ 86557
component that requires the applicant to provide no more 86558
information than is necessary for making determinations of 86559
eligibility for the ~~healthy start program~~ component, except that 86560
the form may require applicants to provide their social security 86561
numbers. The form shall include a statement, which must be signed 86562
by the applicant, indicating that she does not choose at the time 86563
of making application for the ~~program~~ component to apply for 86564
assistance provided under any other program administered by the 86565
department or the department of job and family services and that 86566
she understands that she is permitted at any other time to apply 86567
at the county department of job and family services of the county 86568
in which she resides for ~~any~~ other assistance administered by the 86569
department or the department of job and family services. 86570

(2) ~~To the extent permitted by federal law, do~~ Do one or both 86571
of the following: 86572

(a) Distribute the application form for the ~~program~~ component 86573
to each public or private entity that serves as a women, infants, 86574
and children clinic or as a child and family health clinic and to 86575
each administrative body for such clinics and train employees of 86576
each such ~~agency~~ clinic or ~~entity~~ administrative body to provide 86577
applicants assistance in completing the form; 86578

(b) In cooperation with the department of health, develop 86579
arrangements under which employees of county departments of job 86580
and family services are stationed at public or private ~~agencies or~~ 86581
entities selected by the department of ~~job and family services~~ 86582
medicaid that serve as women, infants, and children clinics; child 86583
and family health clinics; or administrative bodies for such 86584
clinics for the purpose both of assisting applicants for the 86585

~~program component~~ in completing the application form and of making 86586
determinations at that location of eligibility for the ~~program~~ 86587
component. 86588

(3) Establish performance standards by which a county 86589
department of job and family services' level of enrollment of 86590
persons potentially eligible for the ~~program component~~ can be 86591
measured, and establish acceptable levels of enrollment for each 86592
county department. 86593

(4) Direct any county department of job and family services 86594
whose rate of enrollment of potentially eligible enrollees in the 86595
~~program component~~ is below acceptable levels established under 86596
division ~~(B)~~(A)(3) of this section to implement corrective action. 86597
Corrective action may include but is not limited to any one or 86598
more of the following ~~to the extent permitted by federal law:~~ 86599

(a) Establishing formal referral and outreach methods with 86601
local health departments and local entities receiving funding 86602
through the bureau of maternal and child health; 86603

(b) Designating a specialized intake unit within the county 86604
department for healthy start applicants; 86605

(c) Establishing abbreviated timeliness requirements to 86606
shorten the time between receipt of an application and the 86607
scheduling of an initial application interview; 86608

(d) Establishing a system for telephone scheduling of intake 86609
interviews for applicants; 86610

(e) Establishing procedures to minimize the time an applicant 86611
must spend in completing the application and eligibility 86612
determination process, including permitting applicants to complete 86613
the process at times other than the regular business hours of the 86614
county department and at locations other than the offices of the 86615
county department. 86616

~~(C) To the extent permitted by federal law, local funds, whether from public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.~~

~~(D)~~(B) A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start ~~program~~ component at all of those locations.

~~(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.~~

Sec. 5111.0119 5163.45. (A)(1) As used in this section, subject to division (A)(2) of this section, "state or local correctional facility" means any of the following:

(a) A "state correctional institution," as defined in section 2967.01 of the Revised Code;

(b) A "local correctional facility," as defined in section 2903.13 of the Revised Code;

(c) A correctional facility that is privately operated and managed pursuant to section 9.06 of the Revised Code.

(2) "State or local correctional facility" does not include any facility operated directly by or at the direction of the department of youth services.

(B) If a person who is confined in a state or local correctional facility was a medicaid recipient immediately prior

to being confined in the facility, all of the following apply: 86647

(1) The person's eligibility for medicaid while so confined 86648
shall be suspended due to the confinement. 86649

(2) No medicaid payment shall be made for any care, services, 86650
or supplies provided to the person during the suspension described 86651
in division (B)(1) of this section. 86652

(3) The suspension described in division (B)(1) of this 86653
section shall end upon the release of the person from the 86654
confinement. 86655

(4) Except as provided in division (C) of this section, the 86656
person shall not be required to reapply or undergo a 86657
redetermination of eligibility for medicaid when the suspension 86658
described in division (B)(1) of this section ends. 86659

(C) A person may be disenrolled from medicaid any time after 86660
the suspension described in division (B)(1) of this section ends 86661
if the person is no longer eligible for medicaid. A person may be 86662
required to undergo a redetermination of eligibility for medicaid 86663
any time after the suspension described in division (B)(1) of this 86664
section ends if it is time or past time for the person's 86665
eligibility redetermination or the person's circumstances have 86666
changed in a manner warranting a redetermination. 86667

~~(D) The department of job and family services shall take the 86668
steps necessary to begin implementation of this section not later 86669
than September 1, 2009. 86670~~

Sec. 5164.01. As used in this chapter: 86671

(A) "Early and periodic screening, diagnostic, and treatment 86672
services" has the same meaning as in the "Social Security Act," 86673
section 1905(r), 42 U.S.C. 1396d(r). 86674

(B) "Federal financial participation" has the same meaning as 86675
in section 5160.01 of the Revised Code. 86676

(C) "Healthcheck" means the component of the medicaid program that provides early and periodic screening, diagnostic, and treatment services. 86677
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(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code. 86680
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(E) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 86683
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(F) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code. 86685
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(G) "Mandatory services" means the medical services and items that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program. 86687
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(H) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code. 86691
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(I) "Medicaid provider" means a person or government entity with a valid provider agreement to provide medicaid services to medicaid recipients. To the extent appropriate in the context, "medicaid provider" includes a person or government entity applying for a provider agreement, a former medicaid provider, or both. 86693
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(J) "Medicaid services" means either or both of the following: 86699
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(1) Mandatory services; 86701

(2) Optional services that the medicaid program covers. 86702

(K) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code. 86703
86704

(L) "Optional services" means the medical services and items that may be covered by the medicaid state plan or a federal 86705
86706

medicaid waiver and for which the medicaid program receives 86707
federal financial participation. 86708

(M) "Provider agreement" means an agreement to which all of 86709
the following apply: 86710

(1) It is between a medicaid provider and the department of 86711
medicaid; 86712

(2) It provides for the medicaid provider to provide medicaid 86713
services to medicaid recipients; 86714

(3) It complies with 42 C.F.R. 431.107(b). 86715

Sec. ~~5111.02~~ 5164.02. (A) The director of job and family 86716
services shall adopt, and may amend or rescind, rules under 86717
medicaid director shall adopt rules as necessary to implement this 86718
chapter. The rules shall be adopted in accordance with Chapter 86719
119. of the Revised Code establishing the amount, duration, and 86720
scope of medicaid services. The rules shall be consistent with 86721
federal and state law. The rules may be different for different 86722
medicaid services. The 86723

(B) The rules shall establish all of the following: 86724

~~(A) The conditions under which the medicaid program shall~~ 86725
~~cover and reimburse medicaid services;~~ 86726

~~(B) The method of reimbursement applicable to each medicaid~~ 86727
~~service~~ (1) The amount, duration, and scope of the medicaid 86728
services covered by the medicaid program; 86729

~~(C)~~ (2) The payment amount of reimbursement for each medicaid 86730
service or, in lieu of amounts the payment amount, methods the 86731
method by which amounts are the payment amount is to be determined 86732
for each medicaid service; 86733

~~(D)~~ (3) Procedures for enforcing the rules adopted under this 86734
section that provide due process protections, including procedures 86735

for corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules.

(C) The rules may be different for different medicaid services.

(D) The medicaid director is not required to adopt a rule establishing the payment amount for a medicaid service if the director adopts a rule establishing the method by which the payment amount is to be determined for the medicaid service and makes the payment amount available on the internet web site maintained by the department of medicaid.

Sec. 5164.03. (A) The medicaid program shall cover all mandatory services.

(B) The medicaid program shall cover all of the optional services that state statutes require the medicaid program to cover.

(C) The medicaid program may cover any of the optional services to which either of the following applies:

(1) State statutes expressly permit the medicaid program to cover the optional service;

(2) State statutes do not address whether the medicaid program may cover the optional service.

(D) The medicaid program shall not cover any optional services that state statutes prohibit the medicaid program from covering.

Sec. ~~5111.04~~ 5164.05. (A) As used in this section:

(1) "Outpatient health facility" means a facility that provides comprehensive primary health services by or under the direction of a physician at least five days per week on a

forty-hour per week basis to outpatients, is operated by the board 86765
of health of a city or general health district or another public 86766
agency or by a nonprofit private agency or organization under the 86767
direction and control of a governing board that has no 86768
health-related responsibilities other than the direction and 86769
control of one or more such outpatient health facilities, and 86770
receives at least seventy-five per cent of its operating funds 86771
from public sources, except that it does not include an outpatient 86772
hospital facility or a federally qualified health center as 86773
defined in Sec. 1905(1) (2)(B) of the "Social Security Act," ~~103~~ 86774
~~Stat. 2264 (1989)~~ section 1905(1)(2)(B), 42 U.S.C.A. 86775
1396d(1)(2)(B). 86776

(2) "Comprehensive primary health services" means preventive, 86777
diagnostic, therapeutic, rehabilitative, or palliative items or 86778
services that include all of the following: 86779

(a) Services of physicians, physician assistants, and 86780
certified nurse practitioners; 86781

(b) Diagnostic laboratory and radiological services; 86782

(c) Preventive health services, such as children's eye and 86783
ear examinations, perinatal services, well child services, and 86784
family planning services; 86785

(d) Arrangements for emergency medical services; 86786

(e) Transportation services. 86787

(3) "Certified nurse practitioner" has the same meaning as in 86788
section 4723.01 of the Revised Code. 86789

(B) ~~Outpatient~~ Subject to division (C) of this section, the 86790
medicaid program shall cover comprehensive primary health services 86791
provided by outpatient health facilities are a separate category 86792
of medical care provider under the rules governing the 86793
administration of the medical assistance program established under 86794

~~section 5111.01 of the Revised Code with valid provider~~ 86795
~~agreements. Rates of reimbursement for items and services provided~~ 86796
~~by an outpatient health facility under this section shall be~~ 86797
~~prospectively determined by the~~ The department of job and family 86798
~~services~~ medicaid shall prospectively determine the medicaid 86799
payment rates for such comprehensive primary health services not 86800
less often than once each year~~7~~. The rates shall not be subject to 86801
retroactive adjustment based on actual costs incurred,~~and. The~~ 86802
rates shall not exceed the maximum fee schedule or rates of 86803
payment, limitations based on reasonable costs or customary 86804
charges, and limitations based on combined payments received for 86805
furnishing comparable services, as are applicable to outpatient 86806
hospital facilities under ~~Title XVIII of the "Social Security Act~~ 86807
medicare program." In determining ~~rates of reimbursement an~~ 86808
outpatient health facility's rate prospectively, the department 86809
shall take into account the historic expenses of the facility, the 86810
operating requirements and services offered by the facility, and 86811
the geographical location of the facility, shall provide 86812
incentives for the efficient and economical utilization of the 86813
facility's resources, and shall ensure that the facility does not 86814
discriminate between classes of persons for whom or by whom 86815
payment for ~~items and the~~ services is made. 86816

(C) ~~A~~ An outpatient health facility does not qualify for 86817
~~classification as an outpatient health facility~~ medicaid payments 86818
under this section unless it: 86819

(1) Has health and medical care policies developed with the 86820
advice of and subject to review by an advisory committee of 86821
professional personnel, including one or more physicians, one or 86822
more dentists if dental care is provided, and one or more 86823
registered nurses; 86824

(2) Has a medical director, a dental director, if dental care 86825
is provided, and a nursing director responsible for the execution 86826

of such policies, and has physicians, dentists, nursing, and 86827
ancillary staff appropriate to the scope of services provided; 86828

(3) Requires that the care of every patient be under the 86829
supervision of a physician, provides for medical care in case of 86830
emergency, has in effect a written agreement with one or more 86831
hospitals and one or more other outpatient facilities, and has an 86832
established system for the referral of patients to other resources 86833
and a utilization review plan and program; 86834

(4) Maintains clinical records on all patients; 86835

(5) Provides nursing services and other therapeutic services 86836
in compliance with applicable laws and rules and under the 86837
supervision of a registered nurse, and has a registered nurse on 86838
duty at all times when the facility is in operation; 86839

(6) Follows approved methods and procedures for the 86840
dispensing and administration of drugs and biologicals; 86841

(7) Maintains the accounting and record-keeping system 86842
required under federal laws and regulations for the determination 86843
of reasonable and allowable costs. 86844

Sec. ~~5111.029~~ 5164.06. The medicaid program shall cover 86845
occupational therapy services provided by an occupational 86846
therapist licensed under section 4755.08 of the Revised Code. 86847
Coverage shall not be limited to services provided in a hospital 86848
or nursing facility. Any licensed occupational therapist may enter 86849
into a ~~medicaid~~ provider agreement with the department of ~~job and~~ 86850
~~family services~~ medicaid to provide occupational therapy services 86851
under the medicaid program. 86852

Sec. ~~5111.018~~ 5164.07. (A) The ~~provision of medical~~ 86853
~~assistance under this chapter~~ medicaid program shall include 86854
coverage of inpatient care and follow-up care for a mother and her 86855
newborn as follows: 86856

(1) The ~~medical assistance~~ medicaid program shall cover a 86857
minimum of forty-eight hours of inpatient care following a normal 86858
vaginal delivery and a minimum of ninety-six hours of inpatient 86859
care following a cesarean delivery. Services covered as inpatient 86860
care shall include medical, educational, and any other services 86861
that are consistent with the inpatient care recommended in the 86862
protocols and guidelines developed by national organizations that 86863
represent pediatric, obstetric, and nursing professionals. 86864

(2) The ~~medical assistance~~ medicaid program shall cover a 86865
physician-directed source of follow-up care. Services covered as 86866
follow-up care shall include physical assessment of the mother and 86867
newborn, parent education, assistance and training in breast or 86868
bottle feeding, assessment of the home support system, performance 86869
of any medically necessary and appropriate clinical tests, and any 86870
other services that are consistent with the follow-up care 86871
recommended in the protocols and guidelines developed by national 86872
organizations that represent pediatric, obstetric, and nursing 86873
professionals. The coverage shall apply to services provided in a 86874
medical setting or through home health care visits. The coverage 86875
shall apply to a home health care visit only if the health care 86876
professional who conducts the visit is knowledgeable and 86877
experienced in maternity and newborn care. 86878

When a decision is made in accordance with division (B) of 86879
this section to discharge a mother or newborn prior to the 86880
expiration of the applicable number of hours of inpatient care 86881
required to be covered, the coverage of follow-up care shall apply 86882
to all follow-up care that is provided within forty-eight hours 86883
after discharge. When a mother or newborn receives at least the 86884
number of hours of inpatient care required to be covered, the 86885
coverage of follow-up care shall apply to follow-up care that is 86886
determined to be medically necessary by the health care 86887
professionals responsible for discharging the mother or newborn. 86888

(B) Any decision to shorten the length of inpatient stay to 86889
less than that specified under division (A)(1) of this section 86890
shall be made by the physician attending the mother or newborn, 86891
except that if a nurse-midwife is attending the mother in 86892
collaboration with a physician, the decision may be made by the 86893
nurse-midwife. Decisions regarding early discharge shall be made 86894
only after conferring with the mother or a person responsible for 86895
the mother or newborn. For purposes of this division, a person 86896
responsible for the mother or newborn may include a parent, 86897
guardian, or any other person with authority to make medical 86898
decisions for the mother or newborn. 86899

(C) The department of ~~job and family services~~ medicaid, in 86900
administering the ~~medical assistance~~ medicaid program, may not do 86901
either of the following: 86902

(1) Terminate the ~~participation~~ provider agreement of a 86903
health care professional or health care facility ~~as a provider~~ 86904
~~under the program~~ solely for making recommendations for inpatient 86905
or follow-up care for a particular mother or newborn that are 86906
consistent with the care required to be covered by this section; 86907

(2) Establish or offer monetary or other financial incentives 86908
for the purpose of encouraging a person to decline the inpatient 86909
or follow-up care required to be covered by this section. 86910

(D) This section does not do any of the following: 86911

(1) Require the ~~medical assistance~~ medicaid program to cover 86912
inpatient or follow-up care that is not received in accordance 86913
with the program's terms pertaining to the health care 86914
professionals and facilities from which ~~an individual~~ a medicaid 86915
recipient is authorized to receive health care services. 86916

(2) Require a mother or newborn to stay in a hospital or 86917
other inpatient setting for a fixed period of time following 86918
delivery; 86919

(3) Require a child to be delivered in a hospital or other inpatient setting; 86920
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(4) Authorize a nurse-midwife to practice beyond the authority to practice nurse-midwifery in accordance with Chapter 4723. of the Revised Code; 86922
86923
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(5) Establish minimum standards of medical diagnosis, care, or treatment for inpatient or follow-up care for a mother or newborn. A deviation from the care required to be covered under this section shall not, on the basis of this section, give rise to a medical claim or derivative medical claim, as those terms are defined in section 2305.113 of the Revised Code. 86925
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Sec. ~~5111.024~~ 5164.08. (A) As used in this section, "screening mammography" means a radiologic examination utilized to detect unsuspected breast cancer at an early stage in asymptomatic women and includes the x-ray examination of the breast using equipment that is dedicated specifically for mammography, including the x-ray tube, filter, compression device, screens, film, and cassettes, and that has an average radiation exposure delivery of less than one rad mid-breast. "Screening mammography" includes two views for each breast. The term also includes the professional interpretation of the film. 86931
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"Screening mammography" does not include diagnostic mammography. 86941
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(B) ~~In addition to any other services required to be included in the program or for which federal approval is received, the medical assistance~~ The medicaid program shall include cover both of the following ~~if approval for use of federal funds is granted to the department by the federal agency responsible for distributing funds under Title XIX of the "Social Security Act,"~~ 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended: 86943
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(1) ~~Effective July 1, 1993, screening~~ Screening mammography to detect the presence of breast cancer in adult women; 86950
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(2) ~~Effective January 1, 1993, cytologic~~ Cytologic screening for the presence of cervical cancer. 86952
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(C) ~~The service provided under~~ medicaid program's coverage of screening mammography pursuant to division (B)(1) of this section shall be provided in accordance with all of the following: 86954
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(1) If a woman is at least thirty-five years of age but under forty years of age, one screening mammography; 86957
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(2) If a woman is at least forty years of age but under fifty years of age, either of the following: 86959
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(a) One screening mammography every two years; 86961

(b) If a licensed physician has determined that the woman has risk factors to breast cancer, one screening mammography every year. 86962
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(3) If a woman is at least fifty years of age but under sixty-five years of age, one screening mammography every year. 86965
86966

(D) ~~The service provided under~~ medicaid program's coverage of screening mammographies pursuant to division (B)(1) of this section shall be provided only for screening mammographies that are performed in a facility or mobile mammography screening unit that is accredited under the American college of radiology mammography accreditation program or in a hospital as defined in section 3727.01 of the Revised Code. 86967
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(E) ~~The service provided under~~ medicaid program's coverage of cytologic screenings pursuant to division (B)(2) of this section shall be provided only for cytologic screenings that are processed and interpreted in a laboratory certified by the college of American pathologists or in a hospital as defined in section 3727.01 of the Revised Code. 86974
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Sec. ~~5111.023~~ 5164.15. (A) As used in this section: 86980

(1) "Community mental health ~~agency~~ services provider or 86981
facility" means a community mental health ~~agency~~ services provider 86982
or facility that has its community mental health services 86983
certified by the department of ~~mental health~~ mental health and 86984
addiction services under section ~~5119.611~~ 5119.36 of the Revised 86985
Code or by the department of job and family services under section 86986
5103.03 of the Revised Code. 86987

(2) "Mental health professional" means a person qualified to 86988
work with mentally ill persons under the standards established by 86989
the director of ~~mental health~~ mental health and addiction services 86990
pursuant to section ~~5119.611~~ 5119.36 of the Revised Code. 86991

(B) The ~~state~~ medicaid plan program may ~~include provision of~~ 86992
cover the following mental health services when provided by 86993
community mental health agencies or facilities: 86994

(1) Outpatient mental health services, including, but not 86995
limited to, preventive, diagnostic, therapeutic, rehabilitative, 86996
and palliative interventions rendered to individuals in an 86997
individual or group setting by a mental health professional in 86998
accordance with a plan of treatment appropriately established, 86999
monitored, and reviewed; 87000

(2) Partial-hospitalization mental health services rendered 87001
by persons directly supervised by a mental health professional; 87002

(3) Unscheduled, emergency mental health services of a kind 87003
ordinarily provided to persons in crisis when rendered by persons 87004
supervised by a mental health professional; 87005

(4) ~~Subject to receipt of federal approval, assertive~~ 87006
Assertive community treatment and intensive home-based mental 87007
health services. 87008

(C) The department of ~~job and family services~~ medicaid shall 87009

enter into a separate contract with the department of ~~mental~~ 87010
~~health~~ mental health and addiction services under section ~~5111.91~~ 87011
5162.35 of the Revised Code with regard to the ~~component of~~ mental 87012
health services the medicaid program ~~provided for by~~ covers 87013
pursuant to this section. 87014

Sec. ~~5111.027~~ 5164.20. ~~If the medicaid program provides~~ 87015
~~prescription drug services to medicaid recipients, the~~ The 87016
medicaid program shall not ~~provide reimbursement for~~ cover 87017
prescription drugs for treatment of erectile dysfunction. 87018

Sec. ~~5111.042~~ 5164.25. The departments of developmental 87019
disabilities and ~~job and family services~~ medicaid may approve, 87020
reduce, deny, or terminate a medicaid service included in the 87021
individualized service plan developed for a medicaid recipient 87022
with mental retardation or other developmental disability who is 87023
eligible for medicaid case management services. If either 87024
department approves, reduces, denies, or terminates a service, 87025
that department shall timely notify the medicaid recipient that 87026
the recipient may ~~request a hearing under~~ appeal pursuant to 87027
section ~~5101.35~~ 5160.31 of the Revised Code. 87028

Sec. ~~5111.016~~ 5164.26. ~~(A) As used in this section,~~ 87029
~~"healthcheck" has the same meaning as in section 3313.714 of the~~ 87030
~~Revised Code.~~ 87031

~~(B) The department of job and family services~~ medicaid shall 87032
~~adopt rules in accordance with Chapter 119. of the Revised Code~~ 87033
~~establishing~~ establish a combination of written and oral methods 87034
designed to provide information about healthcheck to all persons 87035
eligible for the program or their parents or guardians. The 87036
department shall ensure that its methods of providing information 87037
are effective. ~~The methods shall comply with federal law and~~ 87038
~~regulations.~~ 87039

~~Each county department of job and family services or other~~ 87040
~~entity that distributes or accepts applications for medical~~ 87041
~~assistance~~ medicaid shall prominently display a notice that 87042
complies with the ~~rules adopted~~ methods of providing information 87043
about healthcheck established under this division section. 87044

Sec. 5164.30. No person or government entity may participate 87045
in the medicaid program as a medicaid provider without a valid 87046
provider agreement with the department of medicaid. 87047

~~Sec. 5111.053~~ 5164.301. (A) As used in this section, "group 87048
practice" has the same meaning as in section 4731.65 of the 87049
Revised Code. 87050

(B) The department of ~~job and family services~~ medicaid shall 87051
establish a process by which a physician assistant may enter into 87052
a ~~medicaid~~ provider agreement. 87053

(C)(1) Subject to division (C)(2) of this section, a claim 87054
for ~~reimbursement~~ medicaid payment for a medicaid service provided 87055
by a physician assistant to a medicaid recipient may be submitted 87056
by the physician assistant who provided the service or the 87057
physician, group practice, clinic, or other health care facility 87058
that employs the physician assistant. 87059

(2) A claim for ~~reimbursement~~ medicaid payment may be 87060
submitted by the physician assistant who provided the service only 87061
if the physician assistant has a valid provider agreement. When 87062
submitting the claim, the physician assistant shall use only the 87063
medicaid provider number the department has assigned to the 87064
physician assistant. 87065

~~(D) The director of job and family services may adopt rules~~ 87066
~~under section 5111.02 of the Revised Code to implement this~~ 87067
~~section.~~ 87068

~~Sec. 5111.063~~ 5164.31. (A) For the purpose of raising funds 87069
necessary to pay the expenses of implementing the provider 87070
screening requirements of subpart E of 42 C.F.R. Part 455 and 87071
except as provided in division (B) of this section, the department 87072
of ~~job and family services~~ medicaid shall ~~charge~~ collect an 87073
application fee ~~to~~ from a medicaid provider ~~seeking to enter into~~ 87074
~~or renew a medicaid provider agreement,~~ unless the provider is 87075
~~exempt from paying the application fee under 42 C.F.R. 455.460(a)~~ 87076
before doing any of the following: 87077

(1) Entering into a provider agreement with a medicaid 87078
provider that seeks initial enrollment as a provider; 87079

(2) Entering into a provider agreement with a former medicaid 87080
provider that seeks re-enrollment as a provider; 87081

(3) Revalidating a medicaid provider's continued enrollment 87082
as a provider. The 87083

(B) The department is not to collect an application fee from 87084
a medicaid provider that is exempt from paying the fee under 42 87085
C.F.R. 455.460(a). 87086

(C) The application fees shall be deposited into the health 87087
care services administration fund created under section ~~5111.94~~ 87088
5162.54 of the Revised Code. Application fees are nonrefundable 87089
when collected in accordance with 42 C.F.R. 455.460(a). 87090

(D) The medicaid director ~~of job and family services~~ shall 87091
adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 87092
of the Revised Code as necessary to implement this section, 87093
including a rule establishing the amount of the application fee 87094
that is ~~charged~~ to be collected under this section. The amount of 87095
the application fee shall not be set at an amount that is more 87096
than necessary to pay for the expenses of implementing the 87097
provider screening requirements. 87098

~~Sec. 5111.028 5164.32. (A) Pursuant to section 5111.02 of the Revised Code, the director of job and family services shall adopt rules establishing procedures for the use of time limited provider agreements under the medicaid program. Except as provided in division (E) of this section, all provider agreements shall be time limited in accordance with the procedures established in the rules.~~

~~The department of job and family services shall phase in the use of time limited provider agreements pursuant to this section during a period commencing not later than January 1, 2008, and ending January 1, 2015.~~

~~(B) In the use of time limited provider agreements pursuant to this section, all of the following apply:~~

~~(1) Each medicaid provider agreement shall expire not later than seven five years from the its effective date of the agreement.~~

~~(2) During the phase in period specified in division (A) of this section, the department may provide for the conversion of. If a provider agreement without a time limit entered into before the effective date of this amendment does not have a time limit, the department of medicaid shall convert the agreement to a provider agreement with a time limit. ~~The department may take an action to convert the provider agreement by sending a notice by regular mail to the address of the provider on record with the department advising the provider of the conversion.~~~~

~~(3) The department may make the effective date of a provider agreement retroactive for a period not to exceed one year from the date of the provider's application for the agreement, as long as the provider met all medicaid program requirements during that period.~~

~~(C)~~(B) The medicaid director shall adopt rules under section 5164.02 of the Revised Code as necessary to implement this section. The rules ~~for use of time limited provider agreements pursuant to this section~~ shall be consistent with subpart E of 42 C.F.R. Part 455 and include a process for re-enrollment of providers revalidating medicaid providers' continued enrollments as providers. All of the following apply to the ~~re-enrollment revalidation~~ process:

(1) ~~The department of job and family services may terminate a time limited provider agreement or deny re-enrollment shall refuse to revalidate a provider's provider agreement when a the provider fails to file an~~ do either of the following:

(a) File a complete application for re-enrollment revalidation within the time and in the manner required under the re-enrollment revalidation process;

(b) Provide required supporting documentation not later than thirty days after the date the provider timely applies for revalidation.

(2) If a provider files an application for ~~re-enrollment revalidation~~ within the time and in the manner required under the ~~re-enrollment revalidation~~ process and timely provides required supporting documentation, but the provider agreement expires before the department acts on the application or before the effective date of the department's decision on the application, the provider, subject to division (B)(3) of this section, may continue operating under the terms of the expired provider agreement until the effective date of the department's decision.

(3) ~~A decision by the department to approve an application for re-enrollment becomes effective on the date of the department's decision. A decision by the department to deny re-enrollment shall take effect not sooner than thirty days after~~

~~the date the department mails written notice of the decision to 87160
the provider. The department shall specify in the notice the date 87161
on which the provider is required to cease operating under the 87162
provider agreement If a provider continues operating under the 87163
terms of an expired provider agreement pursuant to division (B)(2)
of this section and the department denies the provider's 87164
application for revalidation, medicaid payments shall not be made 87165
for services or items the provider provides during the period 87166
beginning on the date the provider agreement expired and ending on 87167
the effective date of a subsequent provider agreement, if any, the 87168
department enters into with the provider. 87169
87170~~

~~(D) Pursuant to section 5111.06 of the Revised Code, the 87171
department is not required to take the actions specified in 87172
division (C)(1) of this section by issuing an order pursuant to an 87173
adjudication conducted in accordance with Chapter 119. of the 87174
Revised Code. 87175~~

~~(E) The use of time limited provider agreements pursuant to 87176
this section does not apply to provider agreements issued to the 87177
following, including any provider agreements issued to the 87178
following that are otherwise time limited under the medicaid 87179
program. 87180~~

~~(1) A managed care organization under contract with the 87181
department pursuant to section 5111.17 of the Revised Code; 87182~~

~~(2) A nursing facility, as defined in section 5111.20 of the 87183
Revised Code; 87184~~

~~(3) An intermediate care facility for the mentally retarded, 87185
as defined in section 5111.20 of the Revised Code; 87186~~

~~(4) A hospital. 87187~~

Sec. 5164.33. (A) The medicaid director may do the following 87188
for any reason permitted or required by federal law: 87189

<u>(1) Deny or terminate a provider agreement;</u>	87190
<u>(2) Exclude an individual, provider of services or goods, or other entity from participation in the medicaid program.</u>	87191 87192
<u>(B) No individual, provider, or entity excluded from participation in the medicaid program under this section shall do any of the following:</u>	87193 87194 87195
<u>(1) Own, or provide services to, any other medicaid provider or risk contractor;</u>	87196 87197
<u>(2) Arrange for, render, or order services for medicaid recipients during the period of exclusion;</u>	87198 87199
<u>(3) During the period of exclusion, receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.</u>	87200 87201 87202 87203 87204
<u>(C) An individual, provider, or entity excluded from participation in the medicaid program under this section may request a reconsideration of the exclusion. The director shall adopt rules under section 5164.02 of the Revised Code governing the process for requesting a reconsideration.</u>	87205 87206 87207 87208 87209
<u>(D) Nothing in this section limits the applicability of section 5164.38 of the Revised Code to a medicaid provider.</u>	87210 87211
Sec. 5111.032 5164.34. (A) As used in this section:	87212
(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	87213 87214
(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	87215 87216 87217
(3) "Owner" means a person who has an ownership interest in a	87218

~~medicaid~~ provider ~~or applicant to be a provider~~ in an amount 87219
designated in rules ~~adopted under~~ authorized by this section. 87220

(4) "Person subject to the criminal records check 87221
requirement" means the following: 87222

(a) A medicaid provider ~~or applicant to be a provider~~ who is 87223
notified under division (E)(1) of this section that the provider 87224
~~or applicant~~ is subject to a criminal records check; 87225

(b) An owner or prospective owner, officer or prospective 87226
officer, or board member or prospective board member of a medicaid 87227
provider ~~or applicant to be a provider~~ if, pursuant to division 87228
(E)(1)(a) of this section, the owner or prospective owner, officer 87229
or prospective officer, or board member or prospective board 87230
member is specified in information given to the provider ~~or~~ 87231
~~applicant~~ under division (E)(1) of this section; 87232

(c) An employee or prospective employee of a medicaid 87233
provider ~~or applicant to be a provider~~ if both of the following 87234
apply: 87235

(i) The employee or prospective employee is specified, 87236
pursuant to division (E)(1)(b) of this section, in information 87237
given to the provider ~~or applicant~~ under division (E)(1) of this 87238
section. 87239

(ii) The provider ~~or applicant~~ is not prohibited by division 87240
(D)(3)(b) of this section from employing the employee or 87241
prospective employee. 87242

(5) ~~"Provider" means a person, institution, or entity that~~ 87243
~~has a medicaid provider agreement with the department of job and~~ 87244
~~family services.~~ 87245

~~(6)~~ "Responsible entity" means the following: 87246

(a) With respect to a criminal records check required under 87247
this section for a medicaid provider ~~or applicant to be a~~ 87248

~~provider~~, the department of ~~job and family services~~ medicaid or 87249
the department's designee; 87250

(b) With respect to a criminal records check required under 87251
this section for an owner or prospective owner, officer or 87252
prospective officer, board member or prospective board member, or 87253
employee or prospective employee of a medicaid provider ~~or~~ 87254
~~applicant to be a provider~~, the provider ~~or applicant~~. 87255

(B) This section does not apply to any individual who is 87256
subject to a criminal records check under section 3712.09, 87257
3721.121, ~~5111.034~~, 5123.081, ~~or~~ 5123.169, or 5164.341 of the 87258
Revised Code or any individual who is subject to a database review 87259
or criminal records check under section ~~173.394~~ 173.38, 3701.881, 87260
or ~~5111.033~~ 5164.342 of the Revised Code. 87261

(C) The department of ~~job and family services~~ medicaid may do 87262
any of the following: 87263

(1) Require that any medicaid provider ~~or applicant to be a~~ 87264
~~provider~~ submit to a criminal records check as a condition of 87265
~~having~~ obtaining or maintaining a ~~medicaid~~ provider agreement; 87266

(2) Require that any medicaid provider ~~or applicant to be a~~ 87267
~~provider~~ require an owner or prospective owner, officer or 87268
prospective officer, or board member or prospective board member 87269
of the provider ~~or applicant~~ submit to a criminal records check as 87270
a condition of being an owner, officer, or board member of the 87271
provider ~~or applicant~~; 87272

(3) Require that any medicaid provider ~~or applicant to be a~~ 87273
~~provider~~ do the following: 87274

(a) If so required by rules ~~adopted under~~ authorized by this 87275
section, determine pursuant to a database review conducted under 87276
division (F)(1)(a) of this section whether any employee or 87277
prospective employee of the provider ~~or applicant~~ is included in a 87278
database; 87279

(b) Unless the provider ~~or applicant~~ is prohibited by 87280
division (D)(3)(b) of this section from employing the employee or 87281
prospective employee, require the employee or prospective employee 87282
to submit to a criminal records check as a condition of being an 87283
employee of the provider ~~or applicant~~. 87284

(D)(1) The department or the department's designee shall deny 87285
or terminate a medicaid provider's ~~medicaid~~ provider agreement ~~or~~ 87286
~~deny an applicant's application for a medicaid provider agreement~~ 87287
if the provider ~~or applicant~~ is a person subject to the criminal 87288
records check requirement and either of the following applies: 87289

(a) The provider ~~or applicant~~ fails to obtain the criminal 87290
records check after being given the information specified in 87291
division (G)(1) of this section. 87292

(b) Except as provided in rules ~~adopted under~~ authorized by 87293
this section, the provider ~~or applicant~~ is found by the criminal 87294
records check to have been convicted of, or have pleaded guilty 87295
to, ~~or been found eligible for intervention in lieu of conviction~~ 87296
~~for~~ a disqualifying offense, regardless of the date of the 87297
conviction, or the date of entry of the guilty plea, ~~or the date~~ 87298
~~the applicant or provider was found eligible for intervention in~~ 87299
~~lieu of conviction~~. 87300

(2) No medicaid provider ~~or applicant~~ ~~to be a provider~~ shall 87301
permit a person to be an owner, officer, or board member of the 87302
provider ~~or applicant~~ if the person is a person subject to the 87303
criminal records check requirement and either of the following 87304
applies: 87305

(a) The person fails to obtain the criminal records check 87306
after being given the information specified in division (G)(1) of 87307
this section. 87308

(b) Except as provided in rules ~~adopted under~~ authorized by 87309
this section, the person is found by the criminal records check to 87310

have been convicted of, or have pleaded guilty to, ~~or been found~~ 87311
~~eligible for intervention in lieu of conviction for a~~ 87312
disqualifying offense, regardless of the date of the conviction, 87313
or the date of entry of the guilty plea, ~~or the date the person~~ 87314
~~was found eligible for intervention in lieu of conviction.~~ 87315

(3) No medicaid provider ~~or applicant to be a provider~~ shall 87316
employ a person if any of the following apply: 87317

(a) The person has been excluded from ~~providing services or~~ 87318
~~items under the~~ being a medicaid ~~program provider,~~ the a medicare 87319
~~program operated pursuant to Title XVIII of the "Social Security~~ 87320
~~Act provider,"~~ or provider for any other federal health care 87321
program. 87322

(b) If the person is subject to a database review conducted 87323
under division (F)(1)(a) of this section, the person is found by 87324
the database review to be included in a database and the rules 87325
~~adopted under~~ authorized by this section regarding the database 87326
review prohibit the provider ~~or applicant~~ from employing a person 87327
included in the database. 87328

(c) If the person is a person subject to the criminal records 87329
check requirement, either of the following applies: 87330

(i) The person fails to obtain the criminal records check 87331
after being given the information specified in division (G)(1) of 87332
this section. 87333

(ii) Except as provided in rules ~~adopted under~~ authorized by 87334
this section, the person is found by the criminal records check to 87335
have been convicted of, or have pleaded guilty to, ~~or been found~~ 87336
~~eligible for intervention in lieu of conviction for a~~ 87337
disqualifying offense, regardless of the date of the conviction, 87338
or the date of entry of the guilty plea, ~~or the date the person~~ 87339
~~was found eligible for intervention in lieu of conviction.~~ 87340

(E)(1) The department or the department's designee shall 87341

inform each medicaid provider ~~or applicant to be a provider~~ 87342
whether the provider ~~or applicant~~ is subject to a criminal records 87343
check. For providers with valid provider agreements, the 87344
information shall be given at times designated in rules ~~adopted~~ 87345
~~under~~ authorized by this section. For ~~applicants~~ providers 87346
applying to be medicaid providers, the information shall be given 87347
at the time of initial application. When the information is given, 87348
the department or the department's designee shall specify the 87349
following: 87350

(a) Which of the provider's ~~or applicant's~~ owners or 87351
prospective owners, officers or prospective officers, or board 87352
members or prospective board members are subject to a criminal 87353
records check; 87354

(b) Which of the provider's ~~or applicant's~~ employees or 87355
prospective employees are subject to division (C)(3) of this 87356
section. 87357

(2) At times designated in rules ~~adopted under~~ authorized by 87358
this section, a medicaid provider ~~or applicant to be a provider~~ 87359
that is a person subject to the criminal records check requirement 87360
shall do the following: 87361

(a) Inform each person specified under division (E)(1)(a) of 87362
this section that the person is required to submit to a criminal 87363
records check as a condition of being an owner, officer, or board 87364
member of the provider ~~or applicant~~; 87365

(b) Inform each person specified under division (E)(1)(b) of 87366
this section that the person is subject to division (C)(3) of this 87367
section. 87368

(F)(1) If a medicaid provider ~~or applicant to be a provider~~ 87369
is a person subject to the criminal records check requirement, the 87370
department or the department's designee shall require the conduct 87371
of a criminal records check by the superintendent of the bureau of 87372

criminal identification and investigation. A medicaid provider ~~or~~ 87373
~~applicant to be a provider~~ shall require the conduct of a criminal 87374
records check by the superintendent with respect to each of the 87375
persons specified under division (E)(1)(a) of this section. With 87376
respect to each employee and prospective employee specified under 87377
division (E)(1)(b) of this section, a medicaid provider ~~or~~ 87378
~~applicant to be a provider~~ shall do the following: 87379

(a) If rules ~~adopted under~~ authorized by this section require 87380
the provider ~~or applicant~~ to conduct a database review to 87381
determine whether the employee or prospective employee is included 87382
in a database, conduct the database review in accordance with the 87383
rules; 87384

(b) Unless the provider ~~or applicant~~ is prohibited by 87385
division (D)(3)(b) of this section from employing the employee or 87386
prospective employee, require the conduct of a criminal records 87387
check of the employee or prospective employee by the 87388
superintendent. 87389

(2) If a person subject to the criminal records check 87390
requirement does not present proof of having been a resident of 87391
this state for the five-year period immediately prior to the date 87392
the criminal records check is requested or provide evidence that 87393
within that five-year period the superintendent has requested 87394
information about the person from the federal bureau of 87395
investigation in a criminal records check, the responsible entity 87396
shall require the person to request that the superintendent obtain 87397
information from the federal bureau of investigation as part of 87398
the criminal records check of the person. Even if the person 87399
presents proof of having been a resident of this state for the 87400
five-year period, the responsible entity may require that the 87401
person request that the superintendent obtain information from the 87402
federal bureau of investigation and include it in the criminal 87403
records check of the person. 87404

(G) Criminal records checks required by this section shall be 87405
obtained as follows: 87406

(1) The responsible entity shall provide each person subject 87407
to the criminal records check requirement information about 87408
accessing and completing the form prescribed pursuant to division 87409
(C)(1) of section 109.572 of the Revised Code and the standard 87410
impression sheet prescribed pursuant to division (C)(2) of that 87411
section. 87412

(2) The person subject to the criminal records check 87413
requirement shall submit the required form and one complete set of 87414
the person's fingerprint impressions directly to the 87415
superintendent for purposes of conducting the criminal records 87416
check using the applicable methods prescribed by division (C) of 87417
section 109.572 of the Revised Code. The person shall pay all fees 87418
associated with obtaining the criminal records check. 87419

(3) The superintendent shall conduct the criminal records 87420
check in accordance with section 109.572 of the Revised Code. The 87421
person subject to the criminal records check requirement shall 87422
instruct the superintendent to submit the report of the criminal 87423
records check directly to the responsible entity. If the 87424
department or the department's designee is not the responsible 87425
entity, the department or designee may require the responsible 87426
entity to submit the report to the department or designee. 87427

(H)(1) A medicaid provider ~~or applicant to be a provider~~ may 87428
employ conditionally a person for whom a criminal records check is 87429
required by this section prior to obtaining the results of the 87430
criminal records check if both of the following apply: 87431

(a) The provider ~~or applicant~~ is not prohibited by division 87432
(D)(3)(b) of this section from employing the person. 87433

(b) The person submits a request for the criminal records 87434
check not later than five business days after the person begins 87435

conditional employment. 87436

(2) A medicaid provider ~~or applicant to be a provider~~ that 87437
employs a person conditionally under division (H)(1) of this 87438
section shall terminate the person's employment if the results of 87439
the criminal records check request are not obtained within the 87440
period ending sixty days after the date the request is made. 87441
Regardless of when the results of the criminal records check are 87442
obtained, if the results indicate that the person has been 87443
convicted of, or has pleaded guilty to, ~~or has been found eligible~~ 87444
~~for intervention in lieu of conviction for~~ a disqualifying 87445
offense, the provider ~~or applicant~~ shall terminate the person's 87446
employment unless circumstances specified in rules ~~adopted under~~ 87447
authorized by this section exist that permit the provider ~~or~~ 87448
~~applicant~~ to employ the person and the provider ~~or applicant~~ 87449
chooses to employ the person. 87450

(I) The report of a criminal records check conducted pursuant 87451
to this section is not a public record for the purposes of section 87452
149.43 of the Revised Code and shall not be made available to any 87453
person other than the following: 87454

(1) The person who is the subject of the criminal records 87455
check or the person's representative; 87456

(2) The medicaid director ~~of job and family services~~ and the 87457
staff of the department who are involved in the administration of 87458
the medicaid program; 87459

(3) The department's designee; 87460

(4) The medicaid provider ~~or applicant to be a provider~~ who 87461
required the person who is the subject of the criminal records 87462
check to submit to the criminal records check; 87463

(5) An individual receiving or deciding whether to receive, 87464
from the subject of the criminal records check, home and 87465
community-based services available under the medicaid state plan; 87466

(6) A court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) The denial or termination of a ~~medicaid~~ provider agreement;

(b) A person's denial of employment, termination of employment, or employment or unemployment benefits;

(c) A civil or criminal action regarding the medicaid program.

(J) The medicaid director ~~of job and family services~~ may adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 of the Revised Code to implement this section. If the director adopts such rules, the rules shall designate the times at which a criminal records check must be conducted under this section. The rules may do any of the following:

(1) Designate the categories of persons who are subject to a criminal records check under this section;

(2) Specify circumstances under which the department or the department's designee may continue a ~~medicaid~~ provider agreement or issue a ~~medicaid~~ provider agreement ~~to an applicant~~ when the medicaid provider ~~or applicant~~ is found by a criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(3) Specify circumstances under which a medicaid provider ~~or applicant to be a provider~~ may permit a person to be an employee, owner, officer, or board member of the provider ~~or applicant~~, when the person is found by a criminal records check conducted pursuant to this section to have been convicted of, or have pleaded guilty to, ~~or been found eligible for intervention in lieu of conviction~~ ~~for~~ a disqualifying offense;

(4) Specify all of the following:	87497
(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a <u>medicaid</u> provider or applicant to be a provider is included in a database;	87498 87499 87500 87501
(b) The procedures for conducting the database review;	87502
(c) The databases that are to be checked;	87503
(d) The circumstances under which a <u>medicaid</u> provider or applicant to be a provider is prohibited from employing a person who is found by the database review to be included in a database.	87504 87505 87506
Sec. 5111.034 <u>5164.341</u>. (A) As used in this section:	87507
"Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after September 26, 2003.	87508 87509 87510
"Applicant" means a person who has applied for a medicaid provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of job and family services <u>medicaid</u> .	87511 87512 87513 87514 87515
"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	87516 87517
"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	87518 87519 87520
"Independent provider" means a person who has a medicaid provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of job and family services <u>medicaid</u> .	87521 87522 87523 87524 87525

~~"Home and community based services medicaid waiver component"~~ 87526
~~has the same meaning as in section 5111.85 of the Revised Code.~~ 87527

(B) The department of ~~job and family services~~ medicaid or the 87528
department's designee shall deny an applicant's application for a 87529
~~medicaid~~ provider agreement and shall terminate an independent 87530
provider's ~~medicaid~~ provider agreement if either of the following 87531
applies: 87532

(1) After the applicant or independent provider is given the 87533
information and notification required by divisions (D)(2)(a) and 87534
(b) of this section, the applicant or independent provider fails 87535
to do either of the following: 87536

(a) Access, complete, or forward to the superintendent of the 87537
bureau of criminal identification and investigation the form 87538
prescribed pursuant to division (C)(1) of section 109.572 of the 87539
Revised Code or the standard impression sheet prescribed pursuant 87540
to division (C)(2) of that section; 87541

(b) Instruct the superintendent to submit the completed 87542
report of the criminal records check required by this section 87543
directly to the department or the department's designee. 87544

(2) Except as provided in rules ~~adopted under~~ authorized by 87545
this section, the applicant or independent provider is found by a 87546
criminal records check required by this section to have been 87547
convicted of, or have pleaded guilty to, ~~or been found eligible~~ 87548
~~for intervention in lieu of conviction for~~ a disqualifying 87549
offense, regardless of the date of the conviction, or the date of 87550
entry of the guilty plea, ~~or the date the applicant or independent~~ 87551
~~provider was found eligible for intervention in lieu of~~ 87552
~~conviction.~~ 87553

(C)(1) The department or the department's designee shall 87554
inform each applicant, at the time of initial application for a 87555
~~medicaid~~ provider agreement, that the applicant is required to 87556

provide a set of the applicant's fingerprint impressions and that 87557
a criminal records check is required to be conducted as a 87558
condition of the department's approving the application. 87559

(2) Beginning on September 26, 2003, the department or the 87560
department's designee shall inform each independent provider on or 87561
before the time of the anniversary date of the ~~medicaid~~ provider 87562
agreement that the independent provider is required to provide a 87563
set of the independent provider's fingerprint impressions and that 87564
a criminal records check is required to be conducted. 87565

(D)(1) The department or the department's designee shall 87566
require an applicant to complete a criminal records check prior to 87567
entering into a ~~medicaid~~ provider agreement with the applicant. 87568
The department or the department's designee shall require an 87569
independent provider to complete a criminal records check at least 87570
annually. If an applicant or independent provider for whom a 87571
criminal records check is required by this section does not 87572
present proof of having been a resident of this state for the 87573
five-year period immediately prior to the date the criminal 87574
records check is requested or provide evidence that within that 87575
five-year period the superintendent of the bureau of criminal 87576
identification and investigation has requested information about 87577
the applicant or independent provider from the federal bureau of 87578
investigation in a criminal records check, the department or the 87579
department's designee shall request that the applicant or 87580
independent provider obtain through the superintendent a criminal 87581
records request from the federal bureau of investigation as part 87582
of the criminal records check of the applicant or independent 87583
provider. Even if an applicant or independent provider for whom a 87584
criminal records check request is required by this section 87585
presents proof of having been a resident of this state for the 87586
five-year period, the department or the department's designee may 87587
request that the applicant or independent provider obtain 87588

information through the superintendent from the federal bureau of 87589
investigation in the criminal records check. 87590

(2) The department or the department's designee shall provide 87591
the following to each applicant and independent provider for whom 87592
a criminal records check is required by this section: 87593

(a) Information about accessing, completing, and forwarding 87594
to the superintendent of the bureau of criminal identification and 87595
investigation the form prescribed pursuant to division (C)(1) of 87596
section 109.572 of the Revised Code and the standard impression 87597
sheet prescribed pursuant to division (C)(2) of that section; 87598

(b) Written notification that the applicant or independent 87599
provider is to instruct the superintendent to submit the completed 87600
report of the criminal records check directly to the department or 87601
the department's designee. 87602

(3) Each applicant and independent provider for whom a 87603
criminal records check is required by this section shall pay to 87604
the bureau of criminal identification and investigation the fee 87605
prescribed pursuant to division (C)(3) of section 109.572 of the 87606
Revised Code for the criminal records check conducted of the 87607
applicant or independent provider. 87608

(E) The report of any criminal records check conducted by the 87609
bureau of criminal identification and investigation in accordance 87610
with section 109.572 of the Revised Code and pursuant to a request 87611
made under this section is not a public record for the purposes of 87612
section 149.43 of the Revised Code and shall not be made available 87613
to any person other than the following: 87614

(1) The person who is the subject of the criminal records 87615
check or the person's representative; 87616

(2) The medicaid director ~~of job and family services~~ and the 87617
staff of the department who are involved in the administration of 87618
the medicaid program; 87619

(3) The department's designee; 87620

(4) An individual ~~who receives~~ receiving or deciding whether 87621
to receive home and community-based services from the person who 87622
is the subject of the criminal records check; 87623

(5) A court, hearing officer, or other necessary individual 87624
involved in a case dealing with either of the following: 87625

(a) A denial or termination of a provider agreement related 87626
to the criminal records check; 87627

(b) A civil or criminal action regarding the medicaid 87628
program. 87629

(F) The medicaid director ~~of job and family services~~ shall 87630
adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 87631
of the Revised Code to implement this section. The rules shall 87632
specify circumstances under which the department or the 87633
department's designee may either approve an applicant's 87634
application or allow an independent provider to maintain an 87635
existing ~~medicaid~~ provider agreement even though the applicant or 87636
independent provider is found by a criminal records check required 87637
by this section to have been convicted of, or have pleaded guilty 87638
to, ~~or been found eligible for intervention in lieu of conviction~~ 87639
~~for~~ a disqualifying offense. 87640

Sec. ~~5111.033~~ 5164.342. (A) As used in this section: 87641

"Applicant" means a person who is under final consideration 87642
for employment with a waiver agency in a full-time, part-time, or 87643
temporary position that involves providing home and 87644
community-based services. 87645

"Community-based long-term care agency provider" ~~has the same~~ 87646
~~meaning~~ means a provider as defined in section 173.39 of the 87647
Revised Code. 87648

"Community-based long-term care subcontractor" means a 87649

subcontractor as defined in section 173.38 of the Revised Code. 87650

"Criminal records check" has the same meaning as in section 87651
109.572 of the Revised Code. 87652

"Disqualifying offense" means any of the offenses listed or 87653
described in divisions (A)(3)(a) to (e) of section 109.572 of the 87654
Revised Code. 87655

"Employee" means a person employed by a waiver agency in a 87656
full-time, part-time, or temporary position that involves 87657
providing home and community-based services. 87658

~~"Home and community based services medicaid waiver component"~~ 87659
~~has the same meaning as in section 5111.85 of the Revised Code.~~ 87660

"Waiver agency" means a person or government entity that 87661
provides home and community-based services under a home and 87662
community-based services medicaid waiver component administered by 87663
the department of ~~job and family services~~ medicaid, other than 87664
such a person or government entity that is certified under the 87665
medicare program. "Waiver agency" does not mean an independent 87666
provider as defined in section ~~5111.034~~ 5164.341 of the Revised 87667
Code. 87668

(B) This section does not apply to any individual who is 87669
subject to a database review or criminal records check under 87670
section 3701.881 of the Revised Code. If a waiver agency also is a 87671
community-based long-term care ~~agency~~ provider or community-based 87672
long-term care subcontractor, the waiver agency may provide for 87673
applicants and employees to undergo database reviews and criminal 87674
records checks in accordance with section ~~173.394~~ 173.38 of the 87675
Revised Code rather than this section. 87676

(C) No waiver agency shall employ an applicant or continue to 87677
employ an employee in a position that involves providing home and 87678
community-based services if any of the following apply: 87679

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules ~~adopted under~~ authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (F)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules ~~adopted under~~ authorized by this section, the applicant or employee is found by a criminal

records check required by this section to have been convicted of, 87711
~~or have pleaded guilty to, or been found eligible for intervention~~ 87712
~~in lieu of conviction for~~ a disqualifying offense, regardless of 87713
the date of the conviction, or date of entry of the guilty plea, 87714
~~or the date the applicant or employee was found eligible for~~ 87715
~~intervention in lieu of conviction.~~ 87716

(D) At the time of each applicant's initial application for 87717
employment in a position that involves providing home and 87718
community-based services, the chief administrator of a waiver 87719
agency shall inform the applicant of both of the following: 87720

(1) That a review of the databases listed in division (E) of 87721
this section will be conducted to determine whether the waiver 87722
agency is prohibited by division (C)(1) of this section from 87723
employing the applicant in the position; 87724

(2) That, unless the database review reveals that the 87725
applicant may not be employed in the position, a criminal records 87726
check of the applicant will be conducted and the applicant is 87727
required to provide a set of the applicant's fingerprint 87728
impressions as part of the criminal records check. 87729

(E) As a condition of employing any applicant in a position 87730
that involves providing home and community-based services, the 87731
chief administrator of a waiver agency shall conduct a database 87732
review of the applicant in accordance with rules ~~adopted under~~ 87733
authorized by this section. If rules ~~adopted under~~ authorized by 87734
this section so require, the chief administrator of a waiver 87735
agency shall conduct a database review of an employee in 87736
accordance with the rules as a condition of continuing to employ 87737
the employee in a position that involves providing home and 87738
community-based services. A database review shall determine 87739
whether the applicant or employee is included in any of the 87740
following: 87741

- (1) The excluded parties list system that is maintained by 87742
the United States general services administration pursuant to 87743
subpart 9.4 of the federal acquisition regulation and available at 87744
the federal web site known as the system for award management; 87745
- (2) The list of excluded individuals and entities maintained 87746
by the office of inspector general in the United States department 87747
of health and human services pursuant to ~~section 1128 of the~~ 87748
"Social Security Act," ~~94 Stat. 2619 (1980)~~ sections 1128 and 87749
1156, 42 U.S.C. 1320a-7, ~~as amended~~, and ~~section 1156 of the~~ 87750
~~"Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as~~ 87751
~~amended;~~ 87752
- (3) The registry of MR/DD employees established under section 87753
5123.52 of the Revised Code; 87754
- (4) The internet-based sex offender and child-victim offender 87755
database established under division (A)(11) of section 2950.13 of 87756
the Revised Code; 87757
- (5) The internet-based database of inmates established under 87758
section 5120.66 of the Revised Code; 87759
- (6) The state nurse aide registry established under section 87760
3721.32 of the Revised Code; 87761
- (7) Any other database, if any, specified in rules ~~adopted~~ 87762
~~under~~ authorized by this section. 87763
- (F)(1) As a condition of employing any applicant in a 87764
position that involves providing home and community-based 87765
services, the chief administrator of a waiver agency shall require 87766
the applicant to request that the superintendent of the bureau of 87767
criminal identification and investigation conduct a criminal 87768
records check of the applicant. If rules ~~adopted under~~ authorized 87769
by this section so require, the chief administrator of a waiver 87770
agency shall require an employee to request that the 87771
superintendent conduct a criminal records check of the employee at 87772

times specified in the rules as a condition of continuing to 87773
employ the employee in a position that involves providing home and 87774
community-based services. However, a criminal records check is not 87775
required for an applicant or employee if the waiver agency is 87776
prohibited by division (C)(1) of this section from employing the 87777
applicant or continuing to employ the employee in a position that 87778
involves providing home and community-based services. If an 87779
applicant or employee for whom a criminal records check request is 87780
required by this section does not present proof of having been a 87781
resident of this state for the five-year period immediately prior 87782
to the date the criminal records check is requested or provide 87783
evidence that within that five-year period the superintendent has 87784
requested information about the applicant or employee from the 87785
federal bureau of investigation in a criminal records check, the 87786
chief administrator shall require the applicant or employee to 87787
request that the superintendent obtain information from the 87788
federal bureau of investigation as part of the criminal records 87789
check. Even if an applicant or employee for whom a criminal 87790
records check request is required by this section presents proof 87791
of having been a resident of this state for the five-year period, 87792
the chief administrator may require the applicant or employee to 87793
request that the superintendent include information from the 87794
federal bureau of investigation in the criminal records check. 87795

(2) The chief administrator shall provide the following to 87796
each applicant and employee for whom a criminal records check is 87797
required by this section: 87798

(a) Information about accessing, completing, and forwarding 87799
to the superintendent of the bureau of criminal identification and 87800
investigation the form prescribed pursuant to division (C)(1) of 87801
section 109.572 of the Revised Code and the standard impression 87802
sheet prescribed pursuant to division (C)(2) of that section; 87803

(b) Written notification that the applicant or employee is to 87804

instruct the superintendent to submit the completed report of the 87805
criminal records check directly to the chief administrator. 87806

(3) A waiver agency shall pay to the bureau of criminal 87807
identification and investigation the fee prescribed pursuant to 87808
division (C)(3) of section 109.572 of the Revised Code for any 87809
criminal records check required by this section. However, a waiver 87810
agency may require an applicant to pay to the bureau the fee for a 87811
criminal records check of the applicant. If the waiver agency pays 87812
the fee for an applicant, it may charge the applicant a fee not 87813
exceeding the amount the waiver agency pays to the bureau under 87814
this section if the waiver agency notifies the applicant at the 87815
time of initial application for employment of the amount of the 87816
fee and that, unless the fee is paid, the applicant will not be 87817
considered for employment. 87818

(G)(1) A waiver agency may employ conditionally an applicant 87819
for whom a criminal records check is required by this section 87820
prior to obtaining the results of the criminal records check if 87821
both of the following apply: 87822

(a) The waiver agency is not prohibited by division (C)(1) of 87823
this section from employing the applicant in a position that 87824
involves providing home and community-based services. 87825

(b) The chief administrator of the waiver agency requires the 87826
applicant to request a criminal records check regarding the 87827
applicant in accordance with division (F)(1) of this section not 87828
later than five business days after the applicant begins 87829
conditional employment. 87830

(2) A waiver agency that employs an applicant conditionally 87831
under division (G)(1) of this section shall terminate the 87832
applicant's employment if the results of the criminal records 87833
check, other than the results of any request for information from 87834
the federal bureau of investigation, are not obtained within the 87835

period ending sixty days after the date the request for the 87836
criminal records check is made. Regardless of when the results of 87837
the criminal records check are obtained, if the results indicate 87838
that the applicant has been convicted of, or has pleaded guilty 87839
to, ~~or has been found eligible for intervention in lieu of~~ 87840
~~conviction for~~ a disqualifying offense, the waiver agency shall 87841
terminate the applicant's employment unless circumstances 87842
specified in rules ~~adopted under~~ authorized by this section exist 87843
that permit the waiver agency to employ the applicant and the 87844
waiver agency chooses to employ the applicant. 87845

(H) The report of any criminal records check conducted 87846
pursuant to a request made under this section is not a public 87847
record for the purposes of section 149.43 of the Revised Code and 87848
shall not be made available to any person other than the 87849
following: 87850

(1) The applicant or employee who is the subject of the 87851
criminal records check or the representative of the applicant or 87852
employee; 87853

(2) The chief administrator of the waiver agency that 87854
requires the applicant or employee to request the criminal records 87855
check or the administrator's representative; 87856

(3) The medicaid director ~~of job and family services~~ and the 87857
staff of the department who are involved in the administration of 87858
the medicaid program; 87859

(4) The director of aging or the director's designee if the 87860
waiver agency also is a community-based long-term care ~~agency~~ 87861
provider or community-based long-term care subcontractor; 87862

(5) An individual receiving or deciding whether to receive 87863
home and community-based services from the subject of the criminal 87864
records check; 87865

(6) A court, hearing officer, or other necessary individual 87866

involved in a case dealing with any of the following: 87867

- (a) A denial of employment of the applicant or employee; 87868
- (b) Employment or unemployment benefits of the applicant or 87869
employee; 87870
- (c) A civil or criminal action regarding the medicaid 87871
program. 87872

(I) The medicaid director ~~of job and family services~~ shall 87873
adopt rules ~~in accordance with Chapter 119.~~ under section 5164.02 87874
of the Revised Code to implement this section. 87875

- (1) The rules may do the following: 87876
 - (a) Require employees to undergo database reviews and 87877
criminal records checks under this section; 87878
 - (b) If the rules require employees to undergo database 87879
reviews and criminal records checks under this section, exempt one 87880
or more classes of employees from the requirements; 87881
 - (c) For the purpose of division (E)(7) of this section, 87882
specify other databases that are to be checked as part of a 87883
database review conducted under this section. 87884
- (2) The rules shall specify all of the following: 87885
 - (a) The procedures for conducting a database review under 87886
this section; 87887
 - (b) If the rules require employees to undergo database 87888
reviews and criminal records checks under this section, the times 87889
at which the database reviews and criminal records checks are to 87890
be conducted; 87891
 - (c) If the rules specify other databases to be checked as 87892
part of a database review, the circumstances under which a waiver 87893
agency is prohibited from employing an applicant or continuing to 87894
employ an employee who is found by the database review to be 87895

included in one or more of those databases; 87896

(d) The circumstances under which a waiver agency may employ 87897
an applicant or employee who is found by a criminal records check 87898
required by this section to have been convicted of, or have 87899
pleaded guilty to, ~~or been found eligible for intervention in lieu~~ 87900
~~of conviction for~~ a disqualifying offense. 87901

(J) The amendments made by H.B. 487 of the 129th general 87902
assembly to this section do not preclude the department of ~~job and~~ 87903
~~family services~~ medicaid from taking action against a person for 87904
failure to comply with former division (H) of this section as that 87905
division existed on the day preceding ~~the effective date of this~~ 87906
~~amendment~~ January 1, 2013. 87907

Sec. ~~5111.03~~ 5164.35. (A) As used in this section, "owner" 87908
means any person having at least five per cent ownership in a 87909
medicaid provider. 87910

(B)(1) ~~No medicaid provider of services or goods contracting~~ 87911
~~with the department of job and family services pursuant to the~~ 87912
~~medicaid program shall, by do any of the following:~~ 87913

(a) By deception, obtain or attempt to obtain payments under 87914
~~this chapter~~ the medicaid program to which the provider is not 87915
entitled pursuant to the provider's provider agreement, or the 87916
rules of the federal government or the ~~department of job and~~ 87917
~~family services~~ medicaid director relating to the program. ~~No~~ 87918
~~provider shall willfully;~~ 87919

(b) Willfully receive payments to which the provider is not 87920
entitled, ~~or willfully;~~ 87921

(c) Willfully receive payments in a greater amount than that 87922
to which the provider is entitled; ~~nor shall any provider falsify~~ 87923

(d) Falsify any report or document required by state or 87924
federal law, rule, or provider agreement relating to medicaid 87925

payments. ~~As used in this section, a~~ 87926

(2) A medicaid provider engages in "deception" for the 87927
purpose of this section when the provider, acting with actual 87928
knowledge of the representation or information involved, acting in 87929
deliberate ignorance of the truth or falsity of the representation 87930
or information involved, or acting in reckless disregard of the 87931
truth or falsity of the representation or information involved, 87932
deceives another or causes another to be deceived by any false or 87933
misleading representation, by withholding information, by 87934
preventing another from acquiring information, or by any other 87935
conduct, act, or omission that creates, confirms, or perpetuates a 87936
false impression in another, including a false impression as to 87937
law, value, state of mind, or other objective or subjective fact. 87938
No proof of specific intent to defraud is required to show, for 87939
purposes of this section, that a medicaid provider has engaged in 87940
deception. 87941

~~(B)~~(C) Any medicaid provider who violates division ~~(A)~~(B) of 87942
this section shall be liable, in addition to any other penalties 87943
provided by law, for all of the following civil penalties: 87944

(1) Payment of interest on the amount of the excess payments 87945
at the maximum interest rate allowable for real estate mortgages 87946
under section 1343.01 of the Revised Code on the date the payment 87947
was made to the provider for the period from the date upon which 87948
payment was made, to the date upon which repayment is made to the 87949
state; 87950

(2) Payment of an amount equal to three times the amount of 87951
any excess payments; 87952

(3) Payment of a sum of not less than five thousand dollars 87953
and not more than ten thousand dollars for each deceptive claim or 87954
falsification; 87955

(4) All reasonable expenses which the court determines have 87956

been necessarily incurred by the state in the enforcement of this 87957
section. 87958

~~(C) As used in this division, "intermediate care facility for 87959
the mentally retarded" and "nursing facility" have the same 87960
meanings given in section 5111.20 of the Revised Code. 87961~~

(D) In addition to the civil penalties provided in division 87962
~~(B)(C)~~ of this section, the medicaid director of job and family 87963
services, upon the conviction of, or the entry of a judgment in 87964
either a criminal or civil action against, a medicaid provider or 87965
its owner, officer, authorized agent, associate, manager, or 87966
employee in an action brought pursuant to section 109.85 of the 87967
Revised Code, shall terminate the provider's provider agreement 87968
~~between the department and the provider~~ and stop reimbursement 87969
payment to the provider for medicaid services rendered from the 87970
date of conviction or entry of judgment. ~~As used in this division,~~ 87971
~~"owner" means any person having at least five per cent ownership~~ 87972
~~in the medicaid provider.~~ No such medicaid provider, owner, 87973
officer, authorized agent, associate, manager, or employee shall 87974
own or provide medicaid services to any other medicaid provider or 87975
risk contractor or arrange for, render, or order medicaid services 87976
for medicaid recipients, nor shall such provider, owner, officer, 87977
authorized agent, associate, manager, or employee receive 87978
~~reimbursement in the form of direct payments from the department~~ 87979
under the medicaid program or indirect payments of medicaid funds 87980
in the form of salary, shared fees, contracts, kickbacks, or 87981
rebates from or through any ~~participating~~ other medicaid provider 87982
or risk contractor. The provider agreement shall not be terminated 87983
~~or reimbursement, and payment shall not be terminated,~~ if the 87984
medicaid provider or owner can demonstrate that the provider or 87985
owner did not directly or indirectly sanction the action of its 87986
authorized agent, associate, manager, or employee that resulted in 87987
the conviction or entry of a judgment in a criminal or civil 87988

action brought pursuant to section 109.85 of the Revised Code. 87989
Nothing in this division prohibits any owner, officer, authorized 87990
agent, associate, manager, or employee of a medicaid provider from 87991
entering into a ~~medicaid~~ provider agreement if the person can 87992
demonstrate that the person had no knowledge of an action of the 87993
medicaid provider the person was formerly associated with that 87994
resulted in the conviction or entry of a judgment in a criminal or 87995
civil action brought pursuant to section 109.85 of the Revised 87996
Code. 87997

Nursing facility ~~or intermediate care facility for the~~ 87998
~~mentally retarded and ICF/IID~~ providers whose provider agreements 87999
are terminated pursuant to this section may continue to receive 88000
~~reimbursement~~ medicaid payments for up to thirty days after the 88001
effective date of the termination if the provider makes reasonable 88002
efforts to transfer medicaid recipients to another facility or to 88003
alternate care and if federal ~~funds are~~ financial participation is 88004
provided for ~~such reimbursement~~ the payments. 88005

~~(D) For any reason permitted or required by federal law, the~~ 88006
~~director of job and family services may deny a provider agreement~~ 88007
~~or terminate a provider agreement.~~ 88008

~~For any reason permitted or required by federal law, the~~ 88009
~~director may exclude an individual, provider of services or goods,~~ 88010
~~or other entity from participation in the medicaid program. No~~ 88011
~~individual, provider, or entity excluded under this division shall~~ 88012
~~own or provide services to any other medicaid provider or risk~~ 88013
~~contractor or arrange for, render, or order services for medicaid~~ 88014
~~recipients during the period of exclusion, nor, during the period~~ 88015
~~of exclusion, shall such individual, provider, or entity receive~~ 88016
~~reimbursement in the form of direct payments from the department~~ 88017
~~or indirect payments of medicaid funds in the form of salary,~~ 88018
~~shared fees, contracts, kickbacks, or rebates from or through any~~ 88019
~~participating provider or risk contractor. An excluded individual,~~ 88020

~~provider, or entity may request a reconsideration of the 88021
exclusion. The director shall adopt rules in accordance with 88022
Chapter 119. of the Revised Code governing the process for 88023
requesting a reconsideration. 88024~~

~~Nothing in this division limits the applicability of section 88025
5111.06 of the Revised Code to a medicaid provider. 88026~~

~~(E) Any provider of services or goods contracting with the 88027
department of job and family services pursuant to Title XIX of the 88028
"Social Security Act," who, without intent, obtains payments under 88029
this chapter in excess of the amount to which the provider is 88030
entitled, thereby becomes liable for payment of interest on the 88031
amount of the excess payments at the maximum real estate mortgage 88032
rate on the date the payment was made to the provider for the 88033
period from the date upon which payment was made to the date upon 88034
which repayment is made to the state. 88035~~

~~(F)(E) The attorney general on behalf of the state may 88036
commence proceedings to enforce this section in any court of 88037
competent jurisdiction; and the attorney general may settle or 88038
compromise any case brought under this section with the approval 88039
of the department of job and family services medicaid. 88040
Notwithstanding any other provision of law providing a shorter 88041
period of limitations, the attorney general may commence a 88042
proceeding to enforce this section at any time within six years 88043
after the conduct in violation of this section terminates. 88044~~

~~(G) The authority, under state and federal law, of the 88045
department of job and family services or a county department of 88046
job and family services to recover excess payments made to a 88047
provider is not limited by the availability of remedies under 88048
sections 5111.11 and 5111.12 of the Revised Code for recovering 88049
benefits paid on behalf of recipients of medical assistance. 88050~~

~~The penalties under this chapter apply to any overpayment, 88051~~

~~billing, or falsification occurring on and after April 24, 1978.~~ 88052

(F) All moneys collected by the state pursuant to this section 88053
shall be deposited in the state treasury to the credit of the 88054
general revenue fund. 88055

Sec. ~~5111.035~~ 5164.36. (A) As used in this section: 88056

(1) "~~Creditable~~ Credible allegation of fraud" has the same 88057
meaning as in 42 C.F.R. 455.2, except that for purposes of this 88058
section any reference in that regulation to the "state" or the 88059
"state medicaid agency" means the department of ~~job and family~~ 88060
~~services~~ medicaid. 88061

(2) "~~Provider~~" has the same meaning as in section ~~5111.032~~ of 88062
~~the Revised Code.~~ 88063

~~(3)~~ "Owner" has the same meaning as in section ~~5111.031~~ 88064
5164.37 of the Revised Code. 88065

(B)(1) Except as provided in division (C) of this section and 88066
in rules ~~adopted~~ authorized by the ~~department of job and family~~ 88067
~~services under division (J)~~ of this section, on determining there 88068
is a ~~creditable~~ credible allegation of fraud for which an 88069
investigation is pending under the medicaid program against a 88070
medicaid provider, the department of medicaid shall suspend the 88071
provider agreement held by the provider. Subject to division (C) 88072
of this section, the department shall also terminate medicaid 88073
~~reimbursement~~ payments to the provider for services rendered. 88074

(2)(a) The suspension shall continue in effect until either 88075
of the following is the case: 88076

(i) The department or a prosecuting authority determines that 88077
there is insufficient evidence of fraud by the medicaid provider; 88078

(ii) The proceedings in any related criminal case are 88079
completed through dismissal of the indictment or through 88080
conviction, entry of a guilty plea, or finding of not guilty. 88081

(b) If the department commences a process to terminate the 88082
suspended provider agreement, the suspension shall also continue 88083
in effect until the termination process is concluded. 88084

~~(3) Pursuant to section 5111.06 of the Revised Code, the 88085
department is not required to take action under division (B)(1) of 88086
this section by issuing an order pursuant to an adjudication in 88087
accordance with Chapter 119. of the Revised Code. 88088~~

~~(4) When subject to a suspension under this section, a 88089
medicaid provider, owner, officer, authorized agent, associate, 88090
manager, or employee shall not own or provide services to any 88091
other medicaid provider or risk contractor or arrange for, render, 88092
or order services to any other medicaid provider or risk 88093
contractor or arrange for, render, or order services for medicaid 88094
recipients during the period of suspension. During the period of 88095
suspension, the provider, owner, officer, authorized agent, 88096
associate, manager, or employee shall not receive ~~reimbursement in 88097
the form of~~ direct payments from the department under the medicaid 88098
program or indirect payments of medicaid funds in the form of 88099
salary, shared fees, contracts, kickbacks, or rebates from or 88100
through any ~~participating~~ other medicaid provider or risk 88101
contractor. 88102~~

(C) The department shall not suspend a provider agreement or 88103
terminate medicaid ~~reimbursement~~ payments under division (B) of 88104
this section if the medicaid provider or owner can demonstrate 88105
through the submission of written evidence that the provider or 88106
owner did not directly or indirectly sanction the action of its 88107
authorized agent, associate, manager, or employee that resulted in 88108
the ~~creditable~~ credible allegation of fraud. 88109

(D) The termination of medicaid ~~reimbursement~~ payment under 88110
division (B) of this section applies only to payments for medicaid 88111
services rendered subsequent to the date on which the notice 88112
required by division (E) of this section is sent. Claims for 88113

~~reimbursement~~ payment of medicaid services rendered by the 88114
medicaid provider prior to the issuance of the notice may be 88115
subject to prepayment review procedures whereby the department 88116
reviews claims to determine whether they are supported by 88117
sufficient documentation, are in compliance with state and federal 88118
statutes and rules, and are otherwise complete. 88119

(E) After suspending a provider agreement under division (B) 88120
of this section, the department shall, as specified in 42 C.F.R. 88121
455.23(b), send notice of the suspension to the affected medicaid 88122
provider or owner in accordance with the following timeframes: 88123

(1) Not later than five days after the suspension, unless a 88124
law enforcement agency makes a written request to temporarily 88125
delay the notice; 88126

(2) If a law enforcement agency makes a written request to 88127
temporarily delay the notice, not later than thirty days after the 88128
suspension occurs subject to the conditions specified in division 88129
(F) of this section. 88130

(F) A written request for a temporary delay described in 88131
division (E)(2) of this section may be renewed in writing by a law 88132
enforcement agency not more than two times except that under no 88133
circumstances shall the notice be issued more than ninety days 88134
after the suspension occurs. 88135

(G) The notice required by division (E) of this section shall 88136
do all of the following: 88137

(1) State that payments are being suspended in accordance 88138
with this section and 42 C.F.R. 455.23; 88139

(2) Set forth the general allegations related to the nature 88140
of the conduct leading to the suspension, except that it is not 88141
necessary to disclose any specific information concerning an 88142
ongoing investigation; 88143

(3) State that the suspension continues to be in effect until 88144
either of the following is the case: 88145

(a) The department or a prosecuting authority determines that 88146
there is insufficient evidence of fraud by the provider; 88147

(b) The proceedings in any related criminal case are 88148
completed through dismissal of the indictment or through 88149
conviction, entry of a guilty plea, or finding of not guilty and, 88150
if the department commences a process to terminate the suspended 88151
provider agreement, until the termination process is concluded. 88152

(4) Specify, if applicable, the type or types of medicaid 88153
claims or business units of the medicaid provider that are 88154
affected by the suspension; 88155

(5) Inform the medicaid provider or owner of the opportunity 88156
to submit to the department, not later than thirty days after 88157
receiving the notice, a request for reconsideration of the 88158
suspension in accordance with division (H) of this section. 88159

(H)(1) Pursuant to the procedure specified in division (H)(2) 88160
of this section, a medicaid provider or owner subject to a 88161
suspension under this section may request a reconsideration of the 88162
suspension. The request shall be made not later than thirty days 88163
after receipt of a notice required by division (E) of this 88164
section. The reconsideration is not subject to an adjudication 88165
hearing pursuant to Chapter 119. of the Revised Code. 88166

(2) In requesting a reconsideration, the medicaid provider or 88167
owner shall submit written information and documents to the 88168
department. The information and documents may pertain to any of 88169
the following issues: 88170

(a) Whether the determination to suspend the provider 88171
agreement was based on a mistake of fact, other than the validity 88172
of an indictment in a related criminal case. 88173

(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section ~~5111.031~~ 5164.37 of the Revised Code.

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case.

(I) The department shall review the information and documents submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

~~(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules~~ Rules adopted under section 5164.02 of the Revised Code may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. ~~5111.031~~ 5164.37. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section ~~5111.034~~ 5164.341 of the Revised Code.

~~(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.~~

~~(3)~~ "Noninstitutional medicaid provider" means any person or

entity with a ~~medicaid~~ provider agreement other than a hospital, 88204
nursing facility, or ~~intermediate care facility for the mentally~~ 88205
~~retarded~~ ICF/IID. 88206

~~(4)~~(3) "Owner" means any person having at least five per cent 88207
ownership in a noninstitutional medicaid provider. 88208

(B) Notwithstanding any provision of this chapter to the 88209
contrary, the department of ~~job and family services~~ medicaid shall 88210
take action under this section against a noninstitutional medicaid 88211
provider or its owner, officer, authorized agent, associate, 88212
manager, or employee. 88213

(C) Except as provided in division (D) of this section and in 88214
rules ~~adopted~~ authorized by the ~~department under division (H) of~~ 88215
this section, on receiving notice and a copy of an indictment that 88216
is issued on or after September 29, 2007, and charges a 88217
noninstitutional medicaid provider or its owner, officer, 88218
authorized agent, associate, manager, or employee with committing 88219
an offense specified in division (E) of this section, the 88220
department shall suspend the provider agreement held by the 88221
noninstitutional medicaid provider. Subject to division (D) of 88222
this section, the department shall also terminate medicaid 88223
~~reimbursement~~ payments to the provider for medicaid services 88224
rendered. 88225

The suspension shall continue in effect until the proceedings 88226
in the criminal case are completed through dismissal of the 88227
indictment or through conviction, entry of a guilty plea, or 88228
finding of not guilty. If the department commences a process to 88229
terminate the suspended provider agreement, the suspension shall 88230
also continue in effect until the termination process is 88231
concluded. 88232

~~Pursuant to section 5111.06 of the Revised Code, the~~ 88233
~~department is not required to take action under this division by~~ 88234

~~issuing an order pursuant to an adjudication conducted in 88235
accordance with Chapter 119. of the Revised Code. 88236~~

When subject to a suspension under this division, a provider, 88237
owner, officer, authorized agent, associate, manager, or employee 88238
shall not own or provide medicaid services to any other medicaid 88239
provider or risk contractor or arrange for, render, or order 88240
medicaid services for medicaid recipients during the period of 88241
suspension. During the period of suspension, the provider, owner, 88242
officer, authorized agent, associate, manager, or employee shall 88243
not receive ~~reimbursement in the form of~~ direct payments ~~from~~ 88244
under the department medicaid program or indirect payments of 88245
medicaid funds in the form of salary, shared fees, contracts, 88246
kickbacks, or rebates from or through any ~~participating other~~ 88247
medicaid provider or risk contractor. 88248

(D)(1) The department shall not suspend a provider agreement 88249
or terminate medicaid ~~reimbursement~~ payments under division (C) of 88250
this section if the provider or owner can demonstrate through the 88251
submission of written evidence that the provider or owner did not 88252
directly or indirectly sanction the action of its authorized 88253
agent, associate, manager, or employee that resulted in the 88254
indictment. 88255

(2) The termination of medicaid ~~reimbursement~~ payments 88256
applies only to payments for medicaid services rendered subsequent 88257
to the date on which the notice required under division (F) of 88258
this section is sent. Claims for ~~reimbursement~~ payment for 88259
medicaid services rendered by the provider prior to the issuance 88260
of the notice may be subject to prepayment review procedures 88261
whereby the department reviews claims to determine whether they 88262
are supported by sufficient documentation, are in compliance with 88263
state and federal statutes and rules, and are otherwise complete. 88264

(E)(1) In the case of a noninstitutional medicaid provider 88265
that is not an independent provider, the suspension of a provider 88266

agreement under division (C) of this section applies when an 88267
indictment charges a person with committing an act that would be a 88268
felony or misdemeanor under the laws of this state and the act 88269
relates to or results from either of the following: 88270

(a) Furnishing or billing for ~~medical care,~~ medicaid 88271
services, ~~or supplies~~ under the medicaid program; 88272

(b) Participating in the performance of management or 88273
administrative services relating to furnishing ~~medical care,~~ 88274
medicaid services, ~~or supplies~~ under the medicaid program. 88275

(2) In the case of a noninstitutional medicaid provider that 88276
is an independent provider, the suspension of a provider agreement 88277
under division (C) of this section applies when an indictment 88278
charges a person with committing an act that would constitute a 88279
disqualifying offense as defined in section ~~5111.032~~ 5164.34 of 88280
the Revised Code. 88281

(F) Not later than five days after suspending a provider 88282
agreement under division (C) of this section, the department shall 88283
send notice of the suspension to the affected provider or owner. 88284
In providing the notice, the department shall do all of the 88285
following: 88286

(1) Describe the indictment that was the cause of the 88287
suspension, without necessarily disclosing specific information 88288
concerning any ongoing civil or criminal investigation; 88289

(2) State that the suspension will continue in effect until 88290
the proceedings in the criminal case are completed through 88291
dismissal of the indictment or through conviction, entry of a 88292
guilty plea, or finding of not guilty and, if the department 88293
commences a process to terminate the suspended provider agreement, 88294
until the termination process is concluded; 88295

(3) Inform the provider or owner of the opportunity to submit 88296
to the department, not later than thirty days after receiving the 88297

notice, a request for a reconsideration pursuant to division (G) 88298
of this section. 88299

(G)(1) Pursuant to the procedure specified in division (G)(2) 88300
of this section, a noninstitutional medicaid provider or owner 88301
subject to a suspension under this section may request a 88302
reconsideration. The request shall be made not later than thirty 88303
days after receipt of the notice provided under division (F) of 88304
this section. The reconsideration is not subject to an 88305
adjudication hearing pursuant to Chapter 119. of the Revised Code. 88306

(2) In requesting a reconsideration, the provider or owner 88307
shall submit written information and documents to the department. 88308
The information and documents may pertain to any of the following 88309
issues: 88310

(a) Whether the determination to suspend the provider 88311
agreement was based on a mistake of fact, other than the validity 88312
of the indictment; 88313

(b) Whether any offense charged in the indictment resulted 88314
from an offense specified in division (E) of this section; 88315

(c) Whether the provider or owner can demonstrate that the 88316
provider or owner did not directly or indirectly sanction the 88317
action of its authorized agent, associate, manager, or employee 88318
that resulted in the indictment. 88319

(3) The department shall review the information and documents 88320
submitted in a request for reconsideration. After the review, the 88321
suspension may be affirmed, reversed, or modified, in whole or in 88322
part. The department shall notify the affected provider or owner 88323
of the results of the review. The review and notification of its 88324
results shall be completed not later than forty-five days after 88325
receiving the information and documents submitted in a request for 88326
reconsideration. 88327

(H) ~~The department may adopt rules in accordance with Chapter~~ 88328

~~119. of the Revised Code to implement this section. The rules~~ 88329
~~Rules adopted under section 5164.02 of the Revised Code may~~ 88330
~~specify circumstances under which the department would not suspend~~ 88331
~~a provider agreement pursuant to this section.~~ 88332

Sec. ~~5111.06~~ 5164.38. (A)~~(1)~~ As used in this section ~~and in~~ 88333
~~sections 5111.061 and 5111.063 of the Revised Code:~~ 88334

~~(a) "Provider" means any person, institution, or entity that~~ 88335
~~furnishes medicaid services under a provider agreement with the~~ 88336
~~department of job and family services pursuant to Title XIX of the~~ 88337
~~"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as~~ 88338
~~amended.~~ 88339

~~(b) "Party" has the same meaning as in division (G) of~~ 88340
~~section 119.01 of the Revised Code.~~ 88341

~~(e)(1)~~ "Adjudication" has the same meaning as in division (D) 88342
of section 119.01 of the Revised Code. 88343

(2) "Party" has the same meaning as in division (G) of 88344
section 119.01 of the Revised Code. 88345

(3) "Revalidate" means to approve a medicaid provider's 88346
continued enrollment as a medicaid provider in accordance with the 88347
revalidation process established in rules authorized by section 88348
5164.32 of the Revised Code. 88349

(B) This section does not apply to either of the following: 88350

~~(a)(1)~~ Any action taken or decision made by the department of 88351
~~job and family services~~ medicaid with respect to entering into or 88352
refusing to enter into a contract with a managed care organization 88353
pursuant to section ~~5111.17~~ 5167.10 of the Revised Code; 88354

~~(b)(2)~~ Any action taken by the department under sections 88355
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. 88356

~~(B)(C)~~ Except as provided in division ~~(D)~~ (E) of this section 88357

and section ~~5111.914~~ 5164.58 of the Revised Code, the department 88358
shall do ~~either~~ any of the following by issuing an order pursuant 88359
to an adjudication conducted in accordance with Chapter 119. of 88360
the Revised Code: 88361

(1) Enter into or refuse to enter into a provider agreement 88362
with a medicaid provider, ~~or suspend;~~ 88363

(2) Revalidate or refuse to revalidate a medicaid provider's 88364
provider agreement; 88365

(3) Suspend or terminate, ~~renew, or refuse to renew an~~ 88366
~~existing a medicaid provider's~~ provider agreement ~~with a provider;~~ 88367

~~(2)~~(4) Take any action based upon a final fiscal audit of a 88368
medicaid provider. 88369

~~(C)~~(D) Any party who is adversely affected by the issuance of 88370
an adjudication order under division ~~(B)~~(C) of this section may 88371
appeal to the court of common pleas of Franklin county in 88372
accordance with section 119.12 of the Revised Code. 88373

~~(D)~~(E) The department is not required to comply with division 88374
~~(B)~~(C)(1), (2), or (3) of this section whenever any of the 88375
following occur: 88376

(1) The terms of a provider agreement require the medicaid 88377
provider to hold a license, permit, or certificate or maintain a 88378
certification issued by an official, board, commission, 88379
department, division, bureau, or other agency of state or federal 88380
government other than the department of ~~job and family services~~ 88381
medicaid, and the license, permit, certificate, or certification 88382
has been denied, revoked, not renewed, suspended, or otherwise 88383
limited. 88384

(2) The terms of a provider agreement require the medicaid 88385
provider to hold a license, permit, or certificate or maintain 88386
certification issued by an official, board, commission, 88387

department, division, bureau, or other agency of state or federal 88388
government other than the department of ~~job and family services~~ 88389
medicaid, and the provider has not obtained the license, permit, 88390
certificate, or certification. 88391

(3) The medicaid provider's application for a provider 88392
agreement is denied, or the provider's provider agreement is 88393
terminated, or not ~~renewed due~~ revalidated, because of or pursuant 88394
to ~~the~~ any of the following: 88395

(a) The termination, refusal to renew, or denial of a 88396
license, permit, certificate, or certification by an official, 88397
board, commission, department, division, bureau, or other agency 88398
of this state other than the department of ~~job and family services~~ 88399
medicaid, notwithstanding the fact that the provider may hold a 88400
license, permit, certificate, or certification from an official, 88401
board, commission, department, division, bureau, or other agency 88402
of another state. 88403

~~(4) The provider agreement is denied, terminated, or not~~ 88404
~~renewed pursuant to division (C);~~ 88405

(b) Division (D) or (F)(E) of section 5111.03 5164.35 of the 88406
Revised Code. 88407

~~(5) The provider agreement is denied, terminated, or not~~ 88408
~~renewed due to the;~~ 88409

(c) The provider's termination, suspension, or exclusion from 88410
the medicare program established under Title XVIII of the "Social 88411
Security Act" or from another state's medicaid program and, in 88412
either case, the termination, suspension, or exclusion is binding 88413
on the provider's participation in the medicaid program in this 88414
state. 88415

~~(6) The provider agreement is denied, terminated, or not~~ 88416
~~renewed due to the;~~ 88417

(d) The provider's pleading guilty to or being convicted of a 88418
criminal activity materially related to either the medicare or 88419
medicaid program;

(e) The provider or its owner, officer, authorized agent, 88421
associate, manager, or employee having been convicted of one of 88422
the offenses that caused the provider's provider agreement to be 88423
suspended pursuant to section 5164.36 of the Revised Code; 88424

(f) The provider's failure to provide the department the 88425
national provider identifier assigned the provider by the national 88426
provider system pursuant to 45 C.F.R. 162.408. 88427

~~(7)(4) The medicaid provider's application for a provider 88428
agreement is denied, or the provider's provider agreement is 88429
terminated, or suspended, as a result of action by the United 88430
States department of health and human services and that action is 88431
binding on the provider's medicaid participation in the medicaid 88432
program. 88433~~

~~(8)(5) Pursuant to either section ~~5111.031~~ 5164.36 or 88434
~~5111.035~~ 5164.37 of the Revised Code, the medicaid provider's 88435
provider agreement is suspended and payments to the provider are 88436
suspended pending indictment of the provider. 88437~~

~~(9) The provider agreement is denied, terminated, or not 88438
renewed because the provider or its owner, officer, authorized 88439
agent, associate, manager, or employee has been convicted of one 88440
of the offenses that caused the provider agreement to be suspended 88441
pursuant to section 5111.031 of the Revised Code. 88442~~

~~(10)(6) The medicaid provider's application for a provider 88443
agreement is denied because the provider's application was not 88444
complete; 88445~~

(7) The medicaid provider's provider agreement is converted 88446
under section ~~5111.028~~ 5164.32 of the Revised Code from a provider 88447
agreement that is not time-limited to a provider agreement that is 88448

time-limited. 88449

~~(11) The provider agreement is terminated or an application~~ 88450
~~for re-enrollment is denied because the provider has failed to~~ 88451
~~apply for re-enrollment within the time or in the manner specified~~ 88452
~~for re-enrollment (8) Unless the medicaid provider is a nursing~~ 88453
~~facility or ICF/IID, the provider's provider agreement is not~~ 88454
~~revalidated pursuant to division (B)(1) of section 5111.028~~ 88455
~~5164.32 of the Revised Code.~~ 88456

~~(12)(9) The medicaid provider's provider agreement is~~ 88457
~~suspended or, terminated, or an application for enrollment or~~ 88458
~~re-enrollment is denied, for any not revalidated because of either~~ 88459
~~of the following:~~ 88460

(a) Any reason authorized or required by one or more of the 88461
following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 88462
455.450- 88463

~~(13) The provider agreement is terminated or not renewed~~ 88464
~~because the;~~ 88465

(b) The provider has not billed or otherwise submitted a 88466
medicaid claim to the department for two years or longer. 88467

~~(14) The provider agreement is denied, terminated, or not~~ 88468
~~renewed because the provider fails to provide to the department~~ 88469
~~the national provider identifier assigned the provider by the~~ 88470
~~national provider system pursuant to 45 C.F.R. 162.408.~~ 88471

(F) In the case of a medicaid provider described in division 88472
~~(D)(13)(E)(3)(f), (6), (7), or (14)(9)(b)~~ of this section, the 88473
department may take its proposed action against a provider 88474
agreement by sending a notice explaining the proposed action to 88475
the provider. The notice shall be sent to the medicaid provider's 88476
address on record with the department. The notice may be sent by 88477
regular mail. 88478

~~(E)(G)~~ The department may withhold payments for medicaid 88479
services rendered by a medicaid provider ~~under the medicaid~~ 88480
~~program~~ during the pendency of proceedings initiated under 88481
division ~~(B)(C)(1), (2), or (3)~~ of this section. If the 88482
proceedings are initiated under division ~~(B)(2)(C)(4)~~ of this 88483
section, the department may withhold payments only to the extent 88484
that they equal amounts determined in a final fiscal audit as 88485
being due the state. This division does not apply if the 88486
department fails to comply with section 119.07 of the Revised 88487
Code, requests a continuance of the hearing, or does not issue a 88488
decision within thirty days after the hearing is completed. This 88489
division does not apply to nursing facilities and ~~intermediate~~ 88490
~~care facilities for the mentally retarded as defined in section~~ 88491
~~5111.20 of the Revised Code~~ ICFs/IID. 88492

Sec. ~~5111.062~~ 5164.39. In any action taken by the department 88493
of ~~job and family services~~ medicaid under section ~~5111.06~~ 5164.38 88494
or ~~5111.061~~ 5164.57 of the Revised Code or any other ~~provision of~~ 88495
~~this chapter~~ state statute governing the medicaid program that 88496
requires the department to give notice of an opportunity for a 88497
hearing in accordance with Chapter 119. of the Revised Code, if 88498
the department gives notice of the opportunity for a hearing but 88499
the medicaid provider or other entity subject to the notice does 88500
not request a hearing or timely request a hearing in accordance 88501
with section 119.07 of the Revised Code, the department is not 88502
required to hold a hearing. The medicaid director ~~of job and~~ 88503
~~family service~~ may proceed by issuing a final adjudication order 88504
in accordance with Chapter 119. of the Revised Code. 88505

Sec. ~~5111.05~~ 5164.45. (A) The department of ~~job and family~~ 88506
~~services~~ medicaid may contract with any person or persons as a 88507
fiscal agent for the examination, processing, and determination of 88508
~~medical assistance~~ medicaid claims ~~under this chapter~~. The 88509

contracting party may provide any of the following services, as 88510
required by the contract: 88511

(1) Design and operate medicaid management information 88512
systems, including the provision of data processing services; 88513

(2) Determine the amounts of payments to be made upon claims 88514
for ~~medical assistance~~ medicaid; 88515

(3) Prepare and furnish to the department lists and computer 88516
tapes of such claims for payment; 88517

(4) In addition to audits which may be conducted by the 88518
department and by the auditor of state, make audits of providers 88519
and the claims of medicaid providers ~~of medical assistance~~ 88520
according to the standards set forth in the contract; 88521

(5) Assist medicaid providers ~~of medical assistance~~ in the 88522
development of procedures relating to utilization practices, make 88523
studies of the effectiveness of such procedures and methods for 88524
their improvement, implement and enforce standards of medical 88525
policy, and assist in the application of safeguards against 88526
unnecessary utilization; 88527

(6) Assist any institution, facility, or agency to qualify as 88528
a medicaid provider ~~of medical assistance~~; 88529

(7) Establish and maintain fiscal records for the ~~medical~~ 88530
~~assistance~~ medicaid program; 88531

(8) Perform statistical and research studies; 88532

(9) Develop and implement programs for ~~medical assistance~~ 88533
medicaid cost containment; 88534

(10) Perform such other duties as are necessary to carry out 88535
the ~~medical assistance~~ medicaid program. 88536

(B) The department ~~of job and family services~~ may contract 88537
with any person or persons as an insuring agent for the 88538
examination, processing, and determination of ~~medical assistance~~ 88539

medicaid claims, as provided in division (A) of this section, and 88540
for the payment of ~~medical assistance~~ medicaid claims through an 88541
underwritten program in which the state pays the insuring agent a 88542
monthly premium and the insuring agent pays for ~~medical~~ medicaid 88543
services ~~authorized under the state's medical assistance program.~~ 88544
The person with whom the department contracts, with respect to the 88545
awarding, provisions, and performance of such contract, shall not 88546
be subject to the provisions of Title XXXIX of the Revised Code or 88547
to regulation by the department of insurance, nor to taxation as 88548
an insurance company pursuant to section 5725.18 or 5729.03 of the 88549
Revised Code. A contract with an insuring agent shall specify the 88550
qualifications, including capital and surplus requirements, and 88551
other conditions with which the insuring agent must comply. 88552

(C) In entering into a contract under this section, the 88553
department, in cooperation with the director of budget and 88554
management, shall determine that the contracting party is 88555
qualified to perform the required services and shall follow 88556
applicable procedures required of the department of administrative 88557
services in sections 125.07 to 125.11 of the Revised Code. A 88558
contract shall be awarded to the bidder who, with due 88559
consideration to the bidder's experience and financial capability, 88560
offers the lowest and best bid to the state for control of the 88561
costs of the ~~medical assistance~~ medicaid program consistent with 88562
meeting the obligations under that program for fair and equitable 88563
treatment of medicaid recipients and medicaid providers ~~of medical~~ 88564
~~services~~. Any arrangement whereby funds are paid to an insuring or 88565
fiscal agent for administrative functions under this section 88566
shall, for the purposes of section 125.081 of the Revised Code, be 88567
deemed to be a contract or purchase by the department of 88568
administrative services; however, money to be used by an insuring 88569
agent to pay for ~~medical~~ medicaid services ~~authorized under the~~ 88570
~~state's medical assistance program~~ shall not be deemed a contract 88571
or purchase within the meaning of such section. 88572

Sec. ~~5111.052~~ 5164.46. (A) As used in this section, 88573
"electronic claims submission process" means any of the following: 88574

(1) Electronic interchange of data; 88575

(2) Direct entry of data through an internet-based mechanism 88576
implemented by the department of ~~job and family services~~ medicaid; 88577

(3) Any other process for the electronic submission of claims 88578
that is specified in rules adopted under ~~this~~ section 5162.02 of 88579
the Revised Code. 88580

(B) Not later than January 1, 2013, and except as provided in 88581
division (C) of this section, each medicaid provider ~~of services~~ 88582
~~to medicaid recipients~~ shall do both of the following: 88583

(1) Use only an electronic claims submission process to 88584
submit to the department of ~~job and family services~~ medicaid 88585
claims for medicaid ~~reimbursement~~ payment for medicaid services 88586
provided to medicaid recipients; 88587

(2) Arrange to receive medicaid ~~reimbursement~~ payment from 88588
the department by means of electronic funds transfer. 88589

(C) Division (B) of this section does not apply to any of the 88590
following: 88591

(1) A nursing facility, ~~as defined in section 5111.20 of the~~ 88592
~~Revised Code~~; 88593

(2) An ~~intermediate care facility for the mentally retarded,~~ 88594
~~as defined in section 5111.20 of the Revised Code~~ ICF/IID; 88595

(3) A medicaid managed care organization ~~under contract with~~ 88596
~~the department pursuant to section 5111.17 of the Revised Code~~; 88597

(4) Any other medicaid provider or type of medicaid provider 88598
designated in rules adopted under ~~this~~ section 5162.02 of the 88599
Revised Code. 88600

(D) The department shall not process a medicaid claim 88601

submitted on or after January 1, 2013, unless the claim is 88602
submitted through an electronic claims submission process in 88603
accordance with this section. 88604

~~(E) The director of job and family services may adopt rules 88605
in accordance with Chapter 119. of the Revised Code as the 88606
director considers necessary to implement this section. 88607~~

Sec. ~~5111.054~~ 5164.47. (A) As used in this section: 88608

~~(1) "Federal financial participation" means the federal 88609
government's share of expenditures made by an entity in 88610
implementing the medicaid program. 88611~~

~~(2),~~ "OCHSPS" means the private, not-for-profit corporation 88612
known as the Ohio children's hospital solutions for patient 88613
safety, which was formed for the purpose of improving pediatric 88614
patient care in this state, which performs functions that are 88615
included within the functions of a peer review committee as 88616
defined in section 2305.25 of the Revised Code, and which consists 88617
of all of the following members: Akron children's hospital, 88618
Cincinnati children's hospital medical center, Cleveland clinic 88619
children's hospital, Dayton children's medical center, mercy 88620
children's hospital, nationwide children's hospital, rainbow 88621
babies & children's hospital, and Toledo children's hospital. 88622

(B) If, as authorized by section ~~5101.10~~ 5160.10 of the 88623
Revised Code, the ~~department of job and family services~~ medicaid 88624
director chooses to contract with a person to perform either or 88625
both of the following services, ~~it~~ the director may contract with 88626
any qualified person, including OCHSPS, to perform the service or 88627
services on ~~the department's~~ behalf of the department of medicaid: 88628

(1) Review and analyze claims for ~~medical assistance made~~ 88629
~~under this chapter~~ medicaid services provided to children in 88630
accordance with all state and federal laws governing the 88631

confidentiality of patient-identifying information; 88632

(2) Perform quality assurance and quality review functions, 88633
other than those described in division (B)(1) of this section, 88634
related to ~~medical assistance made under this chapter~~ medicaid 88635
services provided to children. 88636

The functions specified in division (B)(2) of this section 88637
may include those recommended by the best evidence for advancing 88638
child health in Ohio now (BEACON) council. 88639

(C) If the ~~department~~ director enters into a contract with 88640
OCHSPS for OCHSPS to perform either or both of the services 88641
described in division (B) of this section, OCHSPS shall, only for 88642
purposes of section ~~5101.11~~ 5160.12 of the Revised Code, be 88643
considered a public entity and the ~~department~~ director shall seek 88644
federal financial participation for costs incurred by OCHSPS in 88645
performing the service or services. 88646

Sec. ~~5111.051~~ 5164.48. The medicaid director ~~of job and~~ 88647
~~family services~~ may ~~submit a medicaid state plan amendment or~~ 88648
~~request for a federal waiver to the United States secretary of~~ 88649
~~health and human services as necessary to implement, at the~~ 88650
~~director's discretion,~~ a system under which medicaid payments for 88651
~~medical assistance provided under the~~ medicaid program services 88652
are made to an organization on behalf of ~~the~~ medicaid providers ~~of~~ 88653
~~the medical assistance.~~ The system may not provide for an 88654
organization to receive an amount that exceeds, in aggregate, the 88655
amount the ~~department~~ medicaid program would have paid directly to 88656
~~the~~ medicaid providers if not for this section. 88657

Sec. 5164.55. The department of medicaid may conduct final 88658
fiscal audits of medicaid providers in accordance with the 88659
applicable requirements set forth in federal laws and regulations 88660
and determine any amounts the provider may owe the state. When 88661

conducting final fiscal audits, the department shall consider 88662
generally accepted auditing standards, which include the use of 88663
statistical sampling. 88664

Sec. ~~5111.022~~ 5164.56. Under the medicaid program, any amount 88665
determined to be owed the state by a final fiscal audit conducted 88666
pursuant to ~~division (D) of section 5111.021~~ 5164.55 of the 88667
Revised Code, upon the issuance of an adjudication order pursuant 88668
to Chapter 119. of the Revised Code that contains a finding that 88669
there is a preponderance of the evidence that ~~the~~ a medicaid 88670
provider will liquidate assets or file bankruptcy in order to 88671
prevent payment of the amount determined to be owed the state, 88672
becomes a lien upon the real and personal property of the 88673
provider. Upon failure of the provider to pay the amount to the 88674
state, the medicaid ~~director of job and family services~~ shall file 88675
notice of the lien, for which there shall be no charge, in the 88676
office of the county recorder of the county in which it is 88677
ascertained that the provider owns real or personal property. The 88678
director shall notify the provider by mail of the lien, but 88679
absence of proof that the notice was sent does not affect the 88680
validity of the lien. The lien is not valid as against the claim 88681
of any mortgagee, pledgee, purchaser, judgment creditor, or other 88682
lienholder of record at the time the notice is filed. 88683

If the provider acquires real or personal property after 88684
notice of the lien is filed, the lien shall not be valid as 88685
against the claim of any mortgagee, pledgee, subsequent bona fide 88686
purchaser for value, judgment creditor, or other lienholder of 88687
record to such after-acquired property unless the notice of lien 88688
is refiled after the property is acquired by the provider and 88689
before the competing lien attaches to the after-acquired property 88690
or before the conveyance to the subsequent bona fide purchaser for 88691
value. 88692

When the amount has been paid, the provider may record with 88693
the recorder notice of the payment. For recording such notice of 88694
payment, the recorder shall charge and receive from the provider a 88695
base fee of one dollar for services and a housing trust fund fee 88696
of one dollar pursuant to section 317.36 of the Revised Code. 88697

In the event of a distribution of a the provider's assets 88698
pursuant to an order of any court under the law of this state 88699
including any receivership, assignment for benefit of creditors, 88700
adjudicated insolvency, or similar proceedings, amounts then or 88701
thereafter due the state under ~~this chapter~~ the medicaid program 88702
have the same priority as provided by law for the payment of taxes 88703
due the state and shall be paid out of the receivership trust fund 88704
or other such trust fund in the same manner as provided for claims 88705
for unpaid taxes due the state. 88706

If the attorney general finds after investigation that any 88707
amount due the state under ~~this chapter~~ the medicaid program is 88708
uncollectable, in whole or in part, the attorney general shall 88709
recommend to the director the cancellation of all or part of the 88710
claim. The director may thereupon effect the cancellation. 88711

Sec. ~~5111.061~~ 5164.57. (A) As used in this section, 88712
"adjudication" has the same meaning as in section 119.01 of the 88713
Revised Code. 88714

(B)(1) Except as provided in division ~~(A)~~(B)(2) of this 88715
section, the department of ~~job and family services~~ medicaid may 88716
recover a medicaid payment or portion of a payment made to a 88717
medicaid provider to which the provider is not entitled if the 88718
department notifies the provider of the overpayment during the 88719
five-year period immediately following the end of the state fiscal 88720
year in which the overpayment was made. 88721

(2) In the case of a hospital medicaid provider, if the 88722
department determines as a result of a medicare or medicaid cost 88723

report settlement that the provider received an amount under the 88724
medicaid program to which the provider is not entitled, the 88725
department may recover the overpayment if the department notifies 88726
the provider of the overpayment during the later of the following: 88727

(a) The five-year period immediately following the end of the 88728
state fiscal year in which the overpayment was made; 88729

(b) The one-year period immediately following the date the 88730
department receives from the United States centers for medicare 88731
and medicaid services a completed, audited, medicare cost report 88732
for the provider that applies to the state fiscal year in which 88733
the overpayment was made. 88734

~~(B)~~(C) Among the overpayments that may be recovered under 88735
this section are the following: 88736

(1) Payment for a medicaid service, or a day of service, not 88737
rendered; 88738

(2) Payment for a day of service at a full per diem rate that 88739
should have been paid at a percentage of the full per diem rate; 88740

(3) Payment for a medicaid service, or day of service, that 88741
was paid by, or partially paid by, a third party, as defined in 88742
section ~~5101.571~~ 5160.35 of the Revised Code, and the third 88743
party's payment or partial payment was not offset against the 88744
amount paid by the medicaid program to reduce or eliminate the 88745
amount that was paid by the medicaid program; 88746

(4) Payment when a medicaid recipient's responsibility for 88747
payment was understated and resulted in an overpayment to the 88748
provider. 88749

~~(C)~~(D) The department may recover an overpayment under this 88750
section prior to or after any of the following: 88751

(1) Adjudication of a final fiscal audit that section ~~5111.06~~ 88752
5164.38 of the Revised Code requires to be conducted in accordance 88753

with Chapter 119. of the Revised Code; 88754

(2) Adjudication of a finding under any other provision of 88755
~~this chapter state statutes governing the medicaid program~~ or the 88756
rules adopted under ~~it~~ those statutes; 88757

(3) Expiration of the time to issue a final fiscal audit that 88758
section ~~5111.06~~ 5164.38 of the Revised Code requires to be 88759
conducted in accordance with Chapter 119. of the Revised Code; 88760

(4) Expiration of the time to issue a finding under any other 88761
provision of ~~this chapter state statutes governing the medicaid~~ 88762
program or the rules adopted under ~~it~~ those statutes. 88763

~~(D)~~(E)(1) Subject to division ~~(D)~~(E)(2) of this section, the 88764
recovery of an overpayment under this section does not preclude 88765
the department from subsequently doing the following: 88766

(a) Issuing a final fiscal audit in accordance with Chapter 88767
119. of the Revised Code, as required under section ~~5111.06~~ 88768
5164.38 of the Revised Code; 88769

(b) Issuing a finding under any other provision of ~~this~~ 88770
~~chapter state statutes governing the medicaid program~~ or the rules 88771
adopted under ~~it~~ those statutes. 88772

(2) A final fiscal audit or finding issued subsequent to the 88773
recovery of an overpayment under this section shall be reduced by 88774
the amount of the prior recovery, as appropriate. 88775

~~(E)~~(F) Nothing in this section limits the department's 88776
authority to recover overpayments pursuant to any other provision 88777
of the Revised Code. 88778

Sec. ~~5111.914~~ 5164.58. (A) ~~As used in this section,~~ 88779
~~"provider" has the same meaning as in section 5111.06 of the~~ 88780
~~Revised Code.~~ 88781

~~(B)~~ If a state agency that enters into a contract with the 88782

department of ~~job and family services~~ medicaid under section 88783
~~5111.91~~ 5162.35 of the Revised Code identifies that a medicaid 88784
overpayment has been made to a medicaid provider, the state agency 88785
may commence actions to recover the overpayment on behalf of the 88786
department. 88787

~~(C)~~(B) In recovering an overpayment pursuant to this section, 88788
a state agency shall comply with the following procedures: 88789

(1) The state agency shall attempt to recover the overpayment 88790
by notifying the medicaid provider of the overpayment and 88791
requesting voluntary repayment. Not later than five business days 88792
after notifying the medicaid provider, the state agency shall 88793
notify the department in writing of the overpayment. The state 88794
agency may negotiate a settlement of the overpayment and notify 88795
the department of the settlement. A settlement negotiated by the 88796
state agency is not valid and shall not be implemented until the 88797
department has given its written approval of the settlement. 88798

(2) If the state agency is unable to obtain voluntary 88799
repayment of an overpayment, the agency shall give the medicaid 88800
provider notice of an opportunity for a hearing in accordance with 88801
Chapter 119. of the Revised Code. If the medicaid provider timely 88802
requests a hearing in accordance with section 119.07 of the 88803
Revised Code, the state agency shall conduct the hearing to 88804
determine the legal and factual validity of the overpayment. On 88805
completion of the hearing, the state agency shall submit its 88806
hearing officer's report and recommendation and the complete 88807
record of proceedings, including all transcripts, to the medicaid 88808
director ~~of job and family services~~ for final adjudication. The 88809
director may issue a final adjudication order in accordance with 88810
Chapter 119. of the Revised Code. The state agency shall pay any 88811
attorney's fees imposed under section 119.092 of the Revised Code. 88812
The department of ~~job and family services~~ medicaid shall pay any 88813
attorney's fees imposed under section 2335.39 of the Revised Code. 88814

~~(D)~~(C) In any action taken by a state agency under this 88815
section that requires the agency to give notice of an opportunity 88816
for a hearing in accordance with Chapter 119. of the Revised Code, 88817
if the agency gives notice of the opportunity for a hearing but 88818
the medicaid provider subject to the notice does not request a 88819
hearing or timely request a hearing in accordance with section 88820
119.07 of the Revised Code, the agency is not required to hold a 88821
hearing. The agency may request that the medicaid director ~~of job~~ 88822
~~and family services~~ issue a final adjudication order in accordance 88823
with Chapter 119. of the Revised Code. 88824

~~(E)~~(D) This section does not preclude the department of ~~job~~ 88825
~~and family services~~ medicaid from adjudicating a final fiscal 88826
audit under section ~~5111.06~~ 5164.38 of the Revised Code, 88827
recovering overpayments under section ~~5111.061~~ 5164.57 of the 88828
Revised Code, or making findings or taking other actions 88829
authorized by ~~this chapter~~ state statutes governing the medicaid 88830
program. 88831

Sec. 5164.59. The department of medicaid may deduct from 88832
medicaid payments for medicaid services rendered by a medicaid 88833
provider any amounts the provider owes the state as the result of 88834
incorrect medicaid payments the department has made to the 88835
provider. 88836

Sec. 5164.60. Any medicaid provider who, without intent, 88837
obtains payments under the medicaid program in excess of the 88838
amount to which the provider is entitled is liable for payment of 88839
interest on the amount of the excess payments at the maximum 88840
interest rate allowable for real estate mortgages under section 88841
1343.01 of the Revised Code on the date the payment was made to 88842
the provider for the period from the date on which payment was 88843
made to the date on which repayment is made to the state. 88844

Sec. 5164.61. The authority, under state and federal law, of 88845
the department of medicaid or a county department of job and 88846
family services to recover excess medicaid payments made to a 88847
medicaid provider is not limited by the availability of remedies 88848
under sections 5162.21 and 5162.23 of the Revised Code for 88849
recovering benefits paid on behalf of medicaid recipients. 88850

~~Sec. 5111.021~~ 5164.70. Under the medicaid program: 88851

~~(A)~~ Except as otherwise required by federal statute or 88852
regulation, the department of job and family services shall not 88853
reimburse a medical provider no medicaid payment for any medical 88854
assistance rendered under the program an amount that exceeds 88855
medicaid service shall exceed the following: 88856

~~(1)~~(A) If the medicaid provider is a hospital, nursing 88857
facility, or ~~intermediate care facility for the mentally retarded~~ 88858
ICF/IID, the limits established under Subpart C of 42 C.F.R. Part 88859
447; 88860

~~(2)~~(B) If the medicaid provider is other than a provider 88861
described in division (A)~~(1)~~ of this section, the authorized 88862
~~reimbursement~~ payment limits for the same service under the 88863
medicare program established under Title XVIII of the "Social 88864
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 88865

~~(B)~~ Reimbursement for freestanding medical laboratory charges 88866
shall not exceed the customary and usual fee for laboratory 88867
profiles. 88868

~~(C)~~ The department may deduct from payments for services 88869
rendered by a medicaid provider under the medicaid program any 88870
amounts the provider owes the state as the result of incorrect 88871
medicaid payments the department has made to the provider. 88872

~~(D)~~ The department may conduct final fiscal audits in 88873
accordance with the applicable requirements set forth in federal 88874

~~laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.~~ 88875
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~~(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.~~ 88879
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~~(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.~~ 88889
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Sec. 5164.71. Medicaid payments for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles. 88897
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Sec. 5164.72. The number of days of inpatient hospital care for which a medicaid payment is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the 88900
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recipient's admission to the hospital and ending sixty days after 88905
the termination of that hospital stay, except that the department 88906
of medicaid may make exceptions to this limitation. The limitation 88907
does not apply to children participating in the program for 88908
medically handicapped children established under section 3701.023 88909
of the Revised Code. 88910

Sec. 5164.73. The division of any medicaid payment between a 88911
collaborating physician or podiatrist and a clinical nurse 88912
specialist, certified nurse-midwife, or certified nurse 88913
practitioner for services performed by the nurse shall be 88914
determined and agreed on by the nurse and collaborating physician 88915
or podiatrist. In no case shall the medicaid payment exceed the 88916
medicaid payment that the physician or podiatrist would have 88917
received had the physician or podiatrist provided the entire 88918
service. 88919

Sec. ~~5111.19~~ 5164.74. The medicaid director of job and family 88920
services shall adopt rules under section 5164.02 of the Revised 88921
Code governing the calculation and payment of, and the allocation 88922
of payments for, graduate medical education costs associated with 88923
medicaid services rendered to medicaid recipients after June 30, 88924
1994. Subject to section ~~5111.191~~ 5164.741 of the Revised Code, 88925
the rules shall provide for reimbursement payment of graduate 88926
medical education costs associated with medicaid services rendered 88927
to medicaid recipients, including recipients enrolled in a 88928
medicaid managed care organization under contract with the 88929
department office under section ~~5111.17~~ of the Revised Code, that 88930
the department of medicaid determines are allowable and 88931
reasonable. 88932

If the department requires a managed care organization to pay 88933
a provider for graduate medical education costs associated with 88934

~~the delivery of services to medicaid recipients enrolled in the organization, the department shall include in its payment to the organization an amount sufficient for the organization to pay such costs. If the department does not include in its payments to the managed care organization amounts for graduate medical education costs of providers, all of the following apply:~~

~~(A) Except as provided in section 5111.191 of the Revised Code, the department shall pay the provider for graduate medical education costs associated with the delivery of services to medicaid recipients enrolled in the organization;~~

~~(B) No provider shall seek reimbursement from the organization for such costs;~~

~~(C) The organization is not required to pay providers for such costs.~~

Sec. ~~5111.191~~ 5164.741. (A) Except as provided in division (B) of this section, the department of job and family services medicaid may deny medicaid payment to a hospital for direct graduate medical education costs associated with the delivery of medicaid services to any medicaid recipient if the hospital refuses without good cause to contract with a medicaid managed care organization that ~~serves participants in the care management system established under section 5111.16 of the Revised Code who are required to be enrolled in a managed care organization and the managed care organization~~ serves the area in which the hospital is located.

(B) A hospital is not subject to division (A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a

health insuring corporation. 88965

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section. 88966
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(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation. 88969
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(C) The medicaid director ~~of job and family services~~ shall specify in the rules adopted under section ~~5111.19~~ 5164.02 of the Revised Code what constitutes good cause for a hospital to refuse to contract with a medicaid managed care organization. 88973
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Sec. ~~5111.086~~ 5164.75. As used in this section, "federal upper reimbursement limit" means the limit established pursuant to ~~section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 (1990)~~ section 1927(e), 42 U.S.C. 1396r-8(e), as amended. 88977
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The medicaid payment for a drug that is subject to a federal upper reimbursement limit shall not exceed, in the aggregate, the federal upper reimbursement limit for the drug. ~~The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~ 88981
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Sec. ~~5111.082~~ 5164.751. (A) As used in this section: 88986

(1) "State maximum allowable cost" means the per unit amount the ~~department of job and family services reimburses~~ medicaid program pays a terminal distributor of dangerous drugs for a prescription drug included in the state maximum allowable cost program established under division (B) of this section. "State maximum allowable cost" excludes dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any. 88987
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(2) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code. 88994
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(B) The medicaid director ~~of job and family services~~ shall establish a state maximum allowable cost program for purposes of managing ~~reimbursement~~ medicaid payments to terminal distributors of dangerous drugs for prescription drugs identified by the director pursuant to this division. The director shall do all of the following with respect to the program: 88996
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(1) Identify and create a list of prescription drugs to be included in the program. 89002
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(2) Update the list of prescription drugs described in division (B)(1) of this section on a weekly basis. 89004
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(3) Review the state maximum allowable cost for each drug included on the list described in division (B)(1) of this section on a weekly basis. 89006
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~~(C) The director may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~ 89009
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Sec. ~~5111.07~~ 5164.752. ~~Commencing in (A) As used in this section and section 5164.753 of the Revised Code, "terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.~~ 89011
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~~(B) In July, 1986, and of every second July thereafter even-numbered year, the department of job and family services medicaid shall initiate a private confidential survey of retail pharmacy operations the cost of dispensing drugs incurred by terminal distributors of dangerous drugs in the this state. The survey shall be used as the basis for establishing a current maximum the medicaid program's dispensing fee for licensed pharmacists who are providers of drugs under this chapter. The terminal distributors in accordance with section 5164.753 of the~~ 89015
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Revised Code. The survey shall be completed and its results 89024
published not later than the last day of October of the year in 89025
which it is conducted. 89026

Each terminal distributor that is a provider of drugs under 89027
the medicaid program shall participate in the survey. Except as 89028
necessary to publish the survey's results, a terminal 89029
distributor's responses to the survey are confidential and not a 89030
public record under section 149.43 of the Revised Code. 89031

The survey shall be conducted in conformance with the 89032
requirements set forth in 42 C.F.R. 447.331 through 447.333, as 89033
amended or superseded, and 447.500 to 447.518. The survey shall 89034
include operational data and direct prescription expenses, 89035
professional services and personnel costs, and usual and customary 89036
overhead expenses, and profit data of the retail pharmacies 89037
terminal distributors surveyed. The survey shall be completed and 89038
its results published no later than the last day of October of the 89039
year in which the survey is conducted, and the survey shall 89040
compute and report the cost of dispensing fees on a basis of the 89041
usual and customary charges by retail pharmacies terminal 89042
distributors to their customers for dispensing drugs. The director 89043
of job and family services shall take into account the results of 89044
the survey in establishing a dispensing fee. 89045

Sec. 5111.071 5164.753. Commencing in In December, 1986, and 89046
of every second December thereafter even-numbered year, the 89047
medicaid director of job and family services shall establish a 89048
dispensing fee, effective the following January July, for licensed 89049
pharmacists terminal distributors of dangerous drugs who are 89050
providers of drugs under this chapter the medicaid program. The In 89051
establishing the dispensing fee, the director shall take into 89052
consideration the results of the survey conducted under section 89053
5111.07 5164.752 of the Revised Code and the extent to which each 89054

terminal distributor participates in the medicaid program as a 89055
provider of drugs. 89056

Sec. ~~5111.0114~~ 5164.754. (A) As used in this section, 89057
"dangerous drug" and "manufacturer of dangerous drugs" have the 89058
same meaning as in section 4729.01 of the Revised Code. 89059

(B) The medicaid director ~~of job and family services~~ may 89060
enter into or administer an agreement or cooperative arrangement 89061
with other states to create or join a multiple-state prescription 89062
drug purchasing program for the purpose of negotiating with 89063
manufacturers of dangerous drugs to receive discounts or rebates 89064
for dangerous drugs ~~dispensed under~~ covered by the medicaid 89065
program. 89066

Sec. ~~5111.081~~ 5164.755. The medicaid director ~~of job and~~ 89067
~~family services~~, in rules adopted under section ~~5111.02~~ 5164.02 of 89068
the Revised Code, may establish and implement a supplemental drug 89069
rebate program under which drug manufacturers may be required to 89070
provide the department of ~~job and family services~~ medicaid a 89071
supplemental rebate as a condition of having the drug 89072
manufacturers' drug products covered by the medicaid program 89073
without prior approval. The department may receive a supplemental 89074
rebate negotiated under the program for a drug dispensed to a 89075
medicaid recipient pursuant to a prescription or a drug purchased 89076
by a medicaid provider for administration to a medicaid recipient 89077
in the provider's primary place of business. ~~If necessary, the~~ 89078
~~director may apply to the United States secretary of health and~~ 89079
~~human services for a waiver of federal statutes and regulations to~~ 89080
~~establish the supplemental drug rebate program.~~ 89081

If the director establishes a supplemental drug rebate 89082
program, the director shall consult with drug manufacturers 89083
regarding the establishment and implementation of the program. 89084

Sec. ~~5101.31~~ 5164.756. Any record, data, pricing information, 89085
or other information regarding a drug rebate agreement or a 89086
supplemental drug rebate agreement for the medicaid program 89087
~~established under Chapter 5111. of the Revised Code~~ that the 89088
department of ~~job and family services~~ medicaid receives from a 89089
pharmaceutical manufacturer or creates pursuant to negotiation of 89090
the agreement is not a public record under section 149.43 of the 89091
Revised Code and shall be treated by the department as 89092
confidential information. 89093

Sec. ~~5111.083~~ 5164.757. (A) As used in this section, 89094
"licensed health professional authorized to prescribe drugs" has 89095
the same meaning as in section 4729.01 of the Revised Code. 89096

(B) The medicaid director ~~of job and family services~~ may 89097
~~establish an~~ acquire or specify technologies to provide 89098
information regarding medicaid recipient eligibility, claims 89099
history, and drug coverage to medicaid providers through 89100
electronic health record and e-prescribing system for the medicaid 89101
~~program under which~~ applications. 89102

If such technologies are acquired or specified, the 89103
e-prescribing applications shall enable a medicaid provider who is 89104
a licensed health professional authorized to prescribe drugs ~~shall~~ 89105
to use an electronic system to prescribe a drug for a medicaid 89106
recipient ~~when required to do so by division (C) of this section.~~ 89107
The ~~e-prescribing~~ purpose of the electronic system shall is to 89108
eliminate the need for such medicaid providers to ~~make~~ issue 89109
prescriptions for medicaid recipients by handwriting or telephone. 89110
The ~~e-prescribing system~~ technologies acquired or specified by the 89111
director also shall provide such medicaid providers with an 89112
up-to-date, clinically relevant drug information database and a 89113
system of electronically monitoring medicaid recipients' medical 89114
history, drug regimen compliance, and fraud and abuse. 89115

~~(C) If the director establishes an e-prescribing system under
division (B) of this section, the director shall do all of the
following:~~ 89116
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~~(1) Require that a medicaid provider who is a licensed health
professional authorized to prescribe drugs use the e-prescribing
system during a fiscal year if the medicaid provider was one of
the ten medicaid providers who, during the calendar year that
precedes that fiscal year, issued the most prescriptions for
medicaid recipients receiving hospital services;~~ 89119
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~~(2) Before the beginning of each fiscal year, determine the
ten medicaid providers that issued the most prescriptions for
medicaid recipients receiving hospital services during the
calendar year that precedes the upcoming fiscal year and notify
those medicaid providers that they must use the e-prescribing
system for the upcoming fiscal year;~~ 89125
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~~(3) Seek the most federal financial participation available
for the development and implementation of the e-prescribing
system.~~ 89131
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Sec. 5111.085 5164.758. ~~Not later than July 1, 2012, the
department of job and family services The medicaid director shall
adopt rules in accordance with Chapter 119. under section 5164.02
of the Revised Code to implement a coordinated services program
for medicaid recipients who are found to have obtained
prescription drugs under the medicaid program at a frequency or in
an amount that is not medically necessary. The program shall be
implemented in a manner that is consistent with ~~section 1915(a)(2)~~
of the "Social Security Act," ~~95 Stat. 810 (1981)~~ section
1915(a)(2), 42 U.S.C. 1396n(a)(2), ~~as amended~~, and 42 C.F.R.
431.54(e).~~ 89134
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Sec. 5111.08 5164.759. In accordance with ~~subsection (g) of~~ 89145

~~section 1927~~ of the "Social Security Act," ~~49 Stat. 320 (1935)~~ 89146
~~section 1927(g)~~, 42 U.S.C.A. 1396r-8(g), ~~as amended~~, the 89147
department of ~~job and family services~~ medicaid shall establish an 89148
outpatient drug use review program to assure that prescriptions 89149
obtained by medicaid recipients ~~of medical assistance under this~~ 89150
~~chapter~~ are appropriate, medically necessary, and unlikely to 89151
cause adverse medical results. 89152

Sec. ~~5111.084~~ 5164.7510. (A) There is hereby established the 89153
pharmacy and therapeutics committee of the department of ~~job and~~ 89154
~~family services~~ medicaid. The committee shall assist the 89155
department with developing and maintaining a preferred drug list 89156
for the medicaid program. 89157

The committee shall review and recommend to the medicaid 89158
director ~~of job and family services~~ the drugs that should be 89159
included on the preferred drug list. The recommendations shall be 89160
made based on the evaluation of competent evidence regarding the 89161
relative safety, efficacy, and effectiveness of prescription drugs 89162
within a class or classes of prescription drugs. 89163

(B) The committee shall consist of ten members and shall be 89164
appointed by the medicaid director ~~of job and family services~~. The 89165
director shall seek recommendations for membership from relevant 89166
professional organizations. A candidate for membership recommended 89167
by a professional organization shall have professional experience 89168
working with medicaid recipients. 89169

The membership of the committee shall include: 89170

(1) Three pharmacists licensed under Chapter 4729. of the 89171
Revised Code; 89172

(2) Two doctors of medicine and two doctors of osteopathy who 89173
hold certificates to practice issued under Chapter 4731. of the 89174
Revised Code, one of whom is a family practice physician; 89175

(3) A registered nurse licensed under Chapter 4723. of the Revised Code; 89176
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(4) A pharmacologist who has a doctoral degree; 89178

(5) A psychiatrist who holds a certificate to practice issued under Chapter 4731. of the Revised Code and specializes in psychiatry. 89179
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(C) The committee shall elect from among its members a chairperson. Five committee members constitute a quorum. 89182
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The committee shall establish guidelines necessary for the committee's operation. 89184
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The committee may establish one or more subcommittees to investigate and analyze issues consistent with the duties of the committee under this section. The subcommittees may submit proposals regarding the issues to the committee and the committee may adopt, reject, or modify the proposals. 89186
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A vote by a majority of a quorum is necessary to make recommendations to the director. In the case of a tie, the chairperson shall decide the outcome. 89191
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(D) The director shall act on the committee's recommendations not later than thirty days after the recommendation is posted on the department's web site under division (F) of this section. If the director does not accept a recommendation of the committee, the director shall present the basis for this determination not later than fourteen days after making the determination or at the next scheduled meeting of the committee, whichever is sooner. 89194
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(E) An interested party may request, and shall be permitted, to make a presentation or submit written materials to the committee during a committee meeting. The presentation or other materials shall be relevant to an issue under consideration by the committee and any written material, including a transcript of 89201
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testimony to be given on the day of the meeting, may be submitted 89206
to the committee in advance of the meeting. 89207

(F) The department shall post the following on the 89208
department's web site: 89209

(1) Guidelines established by the committee under division 89210
(C) of this section; 89211

(2) A detailed committee agenda not later than fourteen days 89212
prior to the date of a regularly scheduled meeting and not later 89213
than seventy-two hours prior to the date of a special meeting 89214
called by the committee; 89215

(3) Committee recommendations not later than seven days after 89216
the meeting at which the recommendation was approved; 89217

(4) The director's final determination as to the 89218
recommendations made by the committee under this section. 89219

Sec. ~~5111.025~~ 5164.76. (A) In rules adopted under section 89220
~~5111.02~~ 5164.02 of the Revised Code, the medicaid director ~~of job~~ 89221
~~and family services~~ shall modify the manner or establish a new 89222
manner in which the following are paid under medicaid: 89223

(1) Community mental health ~~agencies~~ service providers or 89224
facilities for providing community mental health services ~~included~~ 89225
~~in~~ covered by the state medicaid plan program pursuant to section 89226
~~5111.023~~ 5164.15 of the Revised Code; 89227

(2) Providers of alcohol and drug addiction services for 89228
providing alcohol and drug addiction services ~~included in~~ covered 89229
by the medicaid program pursuant to rules adopted under section 89230
~~5111.02 of the Revised Code.~~ 89231

(B) The director's authority to modify the manner, or to 89232
establish a new manner, for medicaid to pay for the services 89233
specified in division (A) of this section is not limited by any 89234
rules adopted under section ~~5111.02 or 5119.61~~ 5119.22 or 5164.02 89235

of the Revised Code that are in effect on June 26, 2003, and 89236
govern the way medicaid pays for those services. This is the case 89237
regardless of what state agency adopted the rules. 89238

Sec. ~~5111.0213~~ 5164.77. (A) As used in this section: 89239

(1) "Aide services" means all of the following: 89240

(a) Home health aide services available under the home health 89241
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 89242

(b) Home care attendant services available under a home and 89243
community-based services medicaid waiver component; 89244

(c) Personal care aide services available under a home and 89245
community-based services medicaid waiver component. 89246

(2) ~~"Home and community-based services medicaid waiver 89247
component" has the same meaning as in section 5111.85 of the 89248
Revised Code.~~ 89249

~~(3)~~ "Independent provider" means an individual who personally 89250
provides aide services or nursing services and is not employed by, 89251
under contract with, or affiliated with another entity that 89252
provides those services. 89253

~~(4)~~(3) "Nursing services" means all of the following: 89254

(a) Nursing services available under the home health services 89255
benefit pursuant to 42 C.F.R. 440.70(b)(1); 89256

(b) Private duty nursing services as defined in 42 C.F.R. 89257
440.80; 89258

(c) Nursing services available under a home and 89259
community-based services medicaid waiver component. 89260

(B) The department of ~~job and family services~~ medicaid shall 89261
do ~~both~~ all of the following: 89262

(1) Effective October 1, 2011, reduce the medicaid program's 89263

first-hour-unit price for aide services to ninety-seven per cent 89264
of the price paid on June 30, 2011, and for nursing services to 89265
ninety-five per cent of the price paid on June 30, 2011; 89266

(2) Effective October 1, 2011, pay for a service that is an 89267
aide service or a nursing service provided by an independent 89268
provider eighty per cent of the price it pays for the same service 89269
provided by a provider that is not an independent provider; 89270

(3) Not sooner than July 1, 2012, adjust the medicaid 89271
~~reimbursement~~ payment rates for aide services and nursing services 89272
in a manner that reflects, at a minimum, labor market data, 89273
education and licensure status, home health agency and independent 89274
provider status, and length of service visit. 89275

(C) The department shall strive to have the adjustment made 89276
under division (B)(3) of this section go into effect on July 1, 89277
2012. The reductions made under divisions (B)(1) and (2) of this 89278
section shall remain in effect until the adjustment made under 89279
division (B)(3) of this section goes into effect. 89280

~~(D) The director of job and family services shall adopt rules 89281
under sections 5111.02 and 5111.85 of the Revised Code as 89282
necessary to implement this section. 89283~~

Sec. ~~5111.0212~~ 5164.80. As necessary to comply with ~~section 89284
1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997)~~ 89285
~~section 1902(a)(13)(A), 42 U.S.C. 1396a(a)(13)(A), as amended,~~ and 89286
any other federal law that requires public notice of proposed 89287
changes to ~~reimbursement~~ payment rates for ~~medical assistance 89288
provided under the medicaid program services,~~ the medicaid 89289
~~director of job and family services~~ shall give public notice in 89290
the register of Ohio of any change to a method or standard used to 89291
determine the medicaid ~~reimbursement~~ payment rate for ~~medical 89292
assistance~~ a medicaid service. 89293

~~Sec. 5111.0214~~ 5164.82. The department of job and family services medicaid shall not knowingly make a medicaid payment for a provider-preventable condition for which federal financial participation is prohibited by regulations adopted under ~~section 2702~~ of the "Patient Protection and Affordable Care Act," ~~124 Stat. 318 (2010)~~ section 2702, 42 U.S.C. 1396b-1. ~~The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

Sec. 5164.83. (A) As used in this section:

(1) "Core competencies," "direct care services," and "direct care worker" have the same meanings as in section 191.061 of the Revised Code.

(2) "Direct payment" means payment by the medicaid program for direct care services provided by a direct care worker to a medicaid recipient that is delivered directly to the worker.

(3) "Indirect payment" means payment by the medicaid program for direct care services provided by a direct care worker to a medicaid recipient that is delivered to a third party but later transferred to the worker.

(B) The department of medicaid shall not do either of the following unless a direct care worker demonstrates core competencies in accordance with section 191.061 of the Revised Code:

(1) Permit a direct or indirect payment to be made to the worker for a direct care service provided by the worker on or after October 1, 2015;

(2) Enter into a provider agreement with the direct care worker on or after October 1, 2015.

~~Sec. 5111.13~~ 5164.85. (A) As used in this section,

"cost-effective" and "group health plan" have the same meanings as 89323
in ~~section 1906~~ of the "Social Security Act," ~~104 Stat. 1388-161~~ 89324
~~(1990)~~ section 1906, 42 U.S.C. 1396e, ~~as amended~~, and any 89325
regulations adopted under that section. 89326

(B) The department of ~~job and family services~~ medicaid may 89327
~~submit a medicaid state plan amendment to the United States~~ 89328
~~secretary of health and human services for the purpose of~~ 89329
~~implementing~~ implement a program pursuant to ~~section 1906~~ of the 89330
"Social Security Act," ~~104 Stat. 1388-161 (1990)~~ section 1906, 42 89331
U.S.C. 1396e, ~~as amended~~, for the enrollment of medicaid-eligible 89332
individuals in group health plans when the department determines 89333
that enrollment is cost-effective. 89334

~~(C) The director of job and family services may adopt rules~~ 89335
~~in accordance with Chapter 119. of the Revised Code as necessary~~ 89336
~~to implement this section.~~ 89337

Sec. ~~5111.18~~ 5164.86. ~~Not later than September 1, 2007, the~~ 89338
~~The medicaid~~ director of ~~job and family services~~ shall establish a 89339
qualified state long-term care insurance partnership program 89340
consistent with the definition of that term in the "Social 89341
Security Act," section 1917(b)(1)(C)(iii), 42 U.S.C. 89342
1396p(b)(1)(C)(iii). An individual participating in the program 89343
who is subject to the medicaid estate recovery program instituted 89344
under section ~~5111.11~~ 5162.21 of the Revised Code shall be 89345
eligible for the reduced adjustment or recovery under division (D) 89346
of that section. 89347

~~The director of job and family services may adopt rules in~~ 89348
~~accordance with Chapter 119. of the Revised Code as necessary to~~ 89349
~~implement this section.~~ 89350

Sec. ~~5111.14~~ 5164.88. The medicaid director of ~~job and family~~ 89351
~~services~~ may submit to the United States secretary of health and 89352

~~human services an amendment to the medicaid state plan in order to~~ 89353
~~implement within the medicaid program a system under which~~ 89354
~~medicaid recipients with chronic conditions are provided with~~ 89355
~~coordinated care through health homes, as authorized by section~~ 89356
~~1945 of the "Social Security Act," 124 Stat. 319 (2010) section~~ 89357
~~1945, 42 U.S.C. 1396w-4.~~ 89358

~~The director may adopt rules under section 5111.02 of the~~ 89359
~~Revised Code to implement this section.~~ 89360

Sec. ~~5111.141~~ 5164.89. The department of ~~job and family~~ 89361
~~services~~ medicaid may require county departments of job and family 89362
services to provide case management of nonemergency transportation 89363
services provided under the ~~medical assistance~~ medicaid program. 89364
County departments shall provide the case management if required 89365
by the department in accordance with rules adopted ~~by the director~~ 89366
~~of job and family services~~ under section 5164.02 of the Revised 89367
Code. 89368

The department shall determine, for the purposes of claiming 89369
federal ~~reimbursement under the medical assistance program~~ 89370
financial participation, whether it will claim expenditures for 89371
nonemergency transportation services as administrative or program 89372
expenditures. 89373

Sec. ~~5111.96~~ 5164.90. (A) As used in this section, "MFP 89374
demonstration project" means a money follows the person 89375
demonstration project that the United States secretary of health 89376
and human services is authorized to award under section 6071 of 89377
the "Deficit Reduction Act of 2005" (Pub. L. No. 109-171, as 89378
amended). 89379

(B) To the extent funds are available under an MFP 89380
demonstration project awarded to the department of ~~job and family~~ 89381
~~services~~ medicaid, the director of ~~job and family services~~ 89382

~~medicaid may operate the helping Ohioans move, expanding (HOME) 89383
choice demonstration component of the medicaid program to 89384
transition medicaid recipients who qualify for the demonstration 89385
component to community settings. The director may adopt rules in 89386
accordance with Chapter 119. of the Revised Code for the 89387
administration and operation of the demonstration component. 89388~~

~~Sec. ~~5111.981~~ 5164.91. (A) As used in this section and 89389
section ~~5111.982~~ of the Revised Code: 89390~~

~~"Dual eligible individual" has the same meaning as in the 89391
"Social Security Act," section 1915(h)(2)(B), 42 U.S.C. 89392
1396n(h)(2)(B). 89393~~

~~"Medicare" means the program created in the "Social Security 89394
Act," Title XVIII, 42 U.S.C. 1395 et seq., as amended. 89395~~

~~(B) Subject to division (C) of this section, the medical 89396
assistance The medicaid director may implement a demonstration 89397
project called the integrated care delivery system to test and 89398
evaluate the integration of the care that dual eligible 89399
individuals receive under medicare and medicaid. No provision of 89400
Title LI of the Revised Code applies to the integrated care 89401
delivery system if that provision implements or incorporates a 89402
provision of federal law governing medicaid and that provision of 89403
federal law does not apply to the system. 89404~~

~~(C) Before implementing the integrated care delivery system 89405
under division (B) of this section, the director shall obtain the 89406
approval of the United States secretary of health and human 89407
services in the form of a federal medicaid waiver, medicaid state 89408
plan amendment, or demonstration grant. The director is required 89409
to seek the federal approval only if the director seeks to 89410
implement the integrated care delivery system. The director shall 89411
implement the integrated care delivery system in accordance with 89412
the terms of the federal approval, including the terms regarding 89413~~

~~the duration of the system.~~ 89414

Sec. ~~5111.0210~~ 5164.92. As used in this section, "advanced 89415
diagnostic imaging services" means magnetic resonance imaging 89416
services, computed tomography services, positron emission 89417
tomography services, cardiac nuclear medicine services, and 89418
similar imaging services. 89419

~~Not later than January 1, 2010, the~~ The department of ~~job and~~ 89420
~~family services~~ medicaid shall implement evidence-based, best 89421
practice guidelines or protocols and decision support tools for 89422
advanced diagnostic imaging services ~~available under~~ covered by 89423
the fee-for-service component of the medicaid program. 89424

Sec. ~~5111.0215~~ 5164.93. (A) The department of ~~job and family~~ 89425
~~services~~ medicaid may establish a program under which it provides 89426
incentive payments, as authorized by the "~~Health Information~~ 89427
~~Technology for Economic and Clinical Health~~ Social Security Act," 89428
~~123 Stat. 489 (2009)~~ section 1903(a)(3)(F) and (t), 42 U.S.C. 89429
~~1396b(a)(3)(F) and 1396b(t), as amended,~~ to encourage the adoption 89430
and use of electronic health record technology by medicaid 89431
providers who are identified under that federal law as eligible 89432
professionals. 89433

(B) After the department has made a determination regarding 89434
the amount of a medicaid provider's electronic health record 89435
incentive payment or the denial of an incentive payment, the 89436
department shall notify the provider. The provider may request 89437
that the department reconsider its determination. 89438

A request for reconsideration shall be submitted in writing 89439
to the department not later than fifteen days after the provider 89440
receives notification of the determination. The request shall be 89441
accompanied by written materials setting forth the basis for, and 89442
supporting, the reconsideration request. 89443

On receipt of a timely request, the department shall 89444
reconsider the determination. On the basis of the written 89445
materials accompanying the request, the department may uphold, 89446
reverse, or modify its original determination. The department 89447
shall mail to the provider by certified mail a written notice of 89448
the reconsideration decision. 89449

In accordance with Chapter 2505. of the Revised Code, the 89450
medicaid provider may appeal the reconsideration decision by 89451
filing a notice of appeal with the court of common pleas of 89452
Franklin county. The notice shall identify the decision being 89453
appealed and the specific grounds for the appeal. The notice of 89454
appeal shall be filed not later than fifteen days after the 89455
department mails its notice of the reconsideration decision. A 89456
copy of the notice of appeal shall be filed with the department 89457
not later than three days after the notice is filed with the 89458
court. 89459

(C) The medicaid director ~~of job and family services~~ may 89460
adopt rules ~~in accordance with Chapter 119.~~ under section 5162.02 89461
of the Revised Code as necessary to implement this section. The 89462
rules, if any, shall be adopted in accordance with Chapter 119. of 89463
the Revised Code. 89464

Sec. ~~5111.20~~ 5165.01. As used in ~~sections 5111.20 to 5111.331~~ 89465
~~of the Revised Code~~ this chapter: 89466

(A) "Affiliated operator" means an operator affiliated with 89467
either of the following: 89468

(1) The exiting operator for whom the affiliated operator is 89469
to assume liability for the entire amount of the exiting 89470
operator's debt under the medicaid program or the portion of the 89471
debt that represents the franchise permit fee the exiting operator 89472
owes; 89473

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section. 89474
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(B) "Allowable costs" are those a nursing facility's costs determined by that the department of job and family services to be medicaid determines are reasonable and do not include fines. Fines paid under sections ~~5111.35~~ 5165.60 to ~~5111.61~~ 5165.89 and section ~~5111.99~~ 5165.99 of the Revised Code are not allowable costs. 89477
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~~(B)~~(C) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs, tax costs, or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~by the director of job and family services~~ under section ~~5111.02~~ 5165.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the nursing facility's cost 89482
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report for the cost reporting period ending December 31, 1992. 89506

~~(C)(D)(1) "Capital costs" means costs of ownership and, in~~ 89507
~~the case of an intermediate care facility for the mentally~~ 89508
~~retarded, costs of nonextensive renovation~~ the actual expense 89509
incurred by a nursing facility for all of the following: 89510

(a) Depreciation and interest on any capital assets that cost 89511
five hundred dollars or more per item, including the following: 89512

(i) Buildings; 89513

(ii) Building improvements; 89514

(iii) Except as provided in division (C) of this section, 89515
equipment; 89516

(iv) Transportation equipment. 89517

(b) Amortization and interest on land improvements and 89518
leasehold improvements; 89519

(c) Amortization of financing costs; 89520

(d) Lease and rent of land, buildings, and equipment. 89521

(2) The costs of capital assets of less than five hundred 89522
dollars per item may be considered capital costs in accordance 89523
with a provider's practice. 89524

~~(1) "Cost of ownership" means the actual expense incurred for~~ 89525
~~all of the following:~~ 89526

~~(a) Depreciation and interest on any capital assets that cost~~ 89527
~~five hundred dollars or more per item, including the following:~~ 89528

~~(i) Buildings;~~ 89529

~~(ii) Building improvements that are not approved as~~ 89530
~~nonextensive renovations under section 5111.251 of the Revised~~ 89531
~~Code;~~ 89532

~~(iii) Except as provided in division (B) of this section,~~ 89533

equipment;	89534
(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;	89535
(v) Transportation equipment.	89536
(b) Amortization and interest on land improvements and leasehold improvements;	89537
(c) Amortization of financing costs;	89538
(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.	89539
The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	89540
(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.	89541
(D)(E) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	89542
(E) "Case mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	89543
(F) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.	89544
(G) "Change of operator" means an entering operator becoming the operator of a nursing facility in the place of the exiting	89545

operator. 89564

(1) Actions that constitute a change of operator include the following: 89565
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(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 89567
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(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred; 89570
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(c) A lease of the nursing facility to the entering operator or the exiting operator's termination of the exiting operator's lease; 89575
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(d) If the exiting operator is a partnership, dissolution of the partnership; 89578
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(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 89580
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(i) The change in composition does not cause the partnership's dissolution under state law. 89582
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(ii) The partners agree that the change in composition does not constitute a change in operator. 89584
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(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. 89586
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(2) The following, alone, do not constitute a change of operator: 89590
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(a) A contract for an entity to manage a nursing facility as the operator's agent, subject to the operator's approval of daily 89592
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<u>operating and management decisions;</u>	89594
<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility if an entering operator does not become the operator in place of an exiting operator;</u>	89595
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<u>(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.</u>	89599
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<u>(H) "Cost center" means the following:</u>	89603
<u>(1) Ancillary and support costs;</u>	89604
<u>(2) Capital costs;</u>	89605
<u>(3) Direct care costs;</u>	89606
<u>(4) Tax costs.</u>	89607
<u>(I)(1) "Custom wheelchair" means a wheelchair specifically designed to provide mobility to an individual who, without the specifically designed wheelchair, would be confined to lying, sitting, or another sedentary state.</u>	89608
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<u>(2) A bed- or chair-confined individual is confined to a sedentary state for the purpose of division (I)(1) of this section.</u>	89612
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<u>(J)(1) "Date of licensure," for a means the following:</u>	89615
<u>(a) In the case of a nursing facility originally that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, means the date specific beds were the nursing facility was originally so licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential</u>	89616
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~~facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.;~~ 89624
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~~If (b) In the case of a nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were facility that was not required by law to be licensed as a nursing home when they were it originally used to provide began to be operated as a nursing home or residential facility services, "date of licensure" means the date the beds it first were used to provide began to be operated as a nursing home or residential facility services, regardless of the date the present provider obtained licensure nursing facility was first licensed as a nursing home.~~ 89627
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~~(2) If a facility adds, after a nursing facility's original date of licensure, more nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure are added to the nursing facility, it will have the nursing facility has a different date of licensure for the additional beds ~~or extensively renovated portion of the facility, unless the beds are added in a space. This does not apply, however, to additional beds when both of the following apply:~~~~ 89637
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~~(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the previously licensed continuing beds but already located in that part of the nursing facility;~~ 89646
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~~(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time as a nursing home.~~ 89650
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~~(2)(3)~~ The definition of "date of licensure" in this section applies in determinations of the nursing facilities' medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded payment rates but does not apply in determinations of the nursing facilities' franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded fees.

~~(G)(K)~~ "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section ~~5111.26~~ 5165.10 of the Revised Code have been subjected to a desk review under ~~division (A) of section 5111.27~~ 5165.108 of the Revised Code and preliminarily determined to be allowable costs.

~~(H)(L)~~ "Direct care costs" means all of the following costs incurred by a nursing facility:

(1)~~(a)~~ Costs for registered nurses, licensed practical nurses, and nurse aides employed by the nursing facility;

~~(b)(2)~~ Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division ~~(H)(2)(L)(8)~~ of this section, other persons holding degrees qualifying them to provide therapy;

~~(e)(3)~~ Costs of purchased nursing services;

~~(d)(4)~~ Costs of quality assurance;

~~(e)(5)~~ Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5165.02 of the Revised Code, for personnel listed in divisions ~~(H)(L)(1)(a), (b)(2), and (d)(4), and (8)~~ of this section;

~~(f)(6)~~ Costs of consulting and management fees related to

direct care;	89685
(g)(7) Allocated direct care home office costs.	89686
(2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs;	89687
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<u>(8) Costs of habilitation staff (other than habilitation supervisors), medical supplies, oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, wheelchairs, resident transportation, and universal precautions supplies.</u>	89690
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(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	89697
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	89699
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;	89700
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	89706
(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.	89707
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<u>(4)(9) For fiscal year 2014, costs of wheelchairs;</u>	89712
<u>(10) For fiscal year 2015 and each fiscal year thereafter, costs of wheelchairs other than custom wheelchairs;</u>	89713
	89714

(11) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 5165.02 of the Revised Code. 89715
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(M) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code. 89718
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(N) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility. 89720
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(O) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility. 89723
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(P) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility. 89726
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(Q) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid residents other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation. 89729
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(R) "Entering operator" means the person or government entity that will become the operator of a nursing facility when a change of operator occurs or following an involuntary termination. 89734
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(S) "Exiting operator" means any of the following: 89737

(1) An operator that will cease to be the operator of a nursing facility on the effective date of a change of operator; 89738
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(2) An operator that will cease to be the operator of a nursing facility on the effective date of a facility closure; 89740
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(3) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation; 89742
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(4) An operator of a nursing facility that is undergoing or 89744

has undergone an involuntary termination. 89745

(T)(1) Subject to divisions (T)(2) and (3) of this section, 89746
"facility closure" means either of the following: 89747

(a) Discontinuance of the use of the building, or part of the 89748
building, that houses the facility as a nursing facility that 89749
results in the relocation of all of the nursing facility's 89750
residents; 89751

(b) Conversion of the building, or part of the building, that 89752
houses a nursing facility to a different use with any necessary 89753
license or other approval needed for that use being obtained and 89754
one or more of the nursing facility's residents remaining in the 89755
building, or part of the building, to receive services under the 89756
new use. 89757

(2) A facility closure occurs regardless of any of the 89758
following: 89759

(a) The operator completely or partially replacing the 89760
nursing facility by constructing a new nursing facility or 89761
transferring the nursing facility's license to another nursing 89762
facility; 89763

(b) The nursing facility's residents relocating to another of 89764
the operator's nursing facilities; 89765

(c) Any action the department of health takes regarding the 89766
nursing facility's medicaid certification that may result in the 89767
transfer of part of the nursing facility's survey findings to 89768
another of the operator's nursing facilities; 89769

(d) Any action the department of health takes regarding the 89770
nursing facility's license under Chapter 3721. of the Revised 89771
Code. 89772

(3) A facility closure does not occur if all of the nursing 89773
facility's residents are relocated due to an emergency evacuation 89774

and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs. 89775
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(U) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code. 89778
89779

~~(J)(V)~~ "Franchise permit fee" means ~~the following:~~ 89780

~~(1) In the context of nursing facilities, the fee imposed by sections 3721.50 5168.40 to 3721.58 5168.56 of the Revised Code:~~ 89781
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~~(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.~~ 89783
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~~(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment,~~ 89786
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~~including vehicles, acquired by operating lease executed before 89806
December 1, 1992, if the costs are reported as administrative and 89807
general costs on the facility's cost report for the cost reporting 89808
period ending December 31, 1992. 89809~~

~~(L)(W) "Inpatient days" means the following: 89810~~

~~(1) In the context of a nursing facility, both of the 89811
following: 89812~~

~~(a)(1) All days during which a resident, regardless of 89813
payment source, occupies a bed in a nursing facility that is 89814
included in the nursing facility's ~~certified~~ medicaid-certified 89815
capacity under Title XIX; 89816~~

~~(b)(2) Fifty per cent of the days for which payment is made 89817
under section ~~5111.33~~ 5165.34 of the Revised Code. 89818~~

~~(2) In the context of an intermediate care facility for the 89819
mentally retarded, both of the following: 89820~~

~~(a) All days during which a resident, regardless of payment 89821
source, occupies a bed in an intermediate care facility for the 89822
mentally retarded that is included in the facility's certified 89823
capacity under Title XIX; 89824~~

~~(b) All days for which payment is made under section 5111.33 89825
of the Revised Code. 89826~~

~~(M) "Intermediate care facility for the mentally retarded" 89827
means an intermediate care facility for the mentally retarded 89828
~~certified as in compliance with applicable standards for the 89829
medicaid program by the director of health in accordance with 89830
Title XIX. 89831~~~~

~~(N)(X) "Involuntary termination" means the department of 89832
medicaid's termination of the operator's provider agreement for 89833
the nursing facility when the termination is not taken at the 89834
operator's request. 89835~~

(Y) "Low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data. 89836
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(Z) "Maintenance and repair expenses" means, except as provided in division (BB)(2) of this section, a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the ~~cost~~ costs of ordinary repairs such as painting and wallpapering. 89843
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~~(O)~~(AA) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds. 89850
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(BB) "Medicaid days" means ~~the following:~~ 89853

~~(1) In the context of a nursing facility, both of the following:~~ 89854
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~~(a)(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified medicaid-certified capacity under Title XIX;~~ 89856
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~~(b)(2) Fifty per cent of the days for which payment is made under section ~~5111.331~~ 5165.34 of the Revised Code.~~ 89860
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~~(2) In the context of an intermediate care facility for the mentally retarded, both of the following:~~ 89862
89863

~~(a) All days during which a resident who is a medicaid recipient eligible for intermediate care facility for the mentally~~ 89864
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~~retarded services occupies a bed in an intermediate care facility 89866
for the mentally retarded that is included in the facility's 89867
certified capacity under Title XIX; 89868~~

~~(b) All days for which payment is made under section 5111.33 89869
of the Revised Code. 89870~~

~~(P)(CC)(1) "New nursing facility" means a nursing facility 89871
for which the provider obtains an initial provider agreement 89872
following medicaid certification of the nursing facility by the 89873
director of health, including such a nursing facility that 89874
replaces one or more nursing facilities for which a provider 89875
previously held a provider agreement. 89876~~

~~(2) "New nursing facility" does not mean a nursing facility 89877
for which the entering operator seeks a provider agreement 89878
pursuant to section 5165.511 or 5165.512 or (pursuant to section 89879
5165.515) section 5165.07 of the Revised Code. 89880~~

~~(DD) "Nursing facility" means a facility, or a distinct part 89881
of a facility, that is certified as a nursing facility by the 89882
director of health in accordance with Title XIX and is not an 89883
intermediate care facility for the mentally retarded. "Nursing 89884
facility" includes a facility, or a distinct part of a facility, 89885
that is certified as a nursing facility by the director of health 89886
in accordance with Title XIX and is certified as a skilled nursing 89887
facility by the director in accordance with Title XVIII has the 89888
same meaning as in the "Social Security Act," section 1919(a), 42 89889
U.S.C. 1396r(a). 89890~~

~~(Q)(EE) "Nursing facility services" has the same meaning as 89891
in the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f). 89892~~

~~(FF) "Nursing home" has the same meaning as in section 89893
3721.01 of the Revised Code. 89894~~

~~(GG) "Operator" means the person or government entity 89895
responsible for the daily operating and management decisions for a 89896~~

nursing facility ~~or intermediate care facility for the mentally~~ 89897
~~retarded.~~ 89898

~~(R) "Other protected costs" means costs incurred by an~~ 89899
~~intermediate care facility for the mentally retarded for medical~~ 89900
~~supplies; real estate, franchise, and property taxes; natural gas,~~ 89901
~~fuel oil, water, electricity, sewage, and refuse and hazardous~~ 89902
~~medical waste collection; allocated other protected home office~~ 89903
~~costs; and any additional costs defined as other protected costs~~ 89904
~~in rules adopted under section 5111.02 of the Revised Code.~~ 89905

~~(S)~~(HH)(1) "Owner" means any person or government entity that 89906
has at least five per cent ownership or interest, either directly, 89907
indirectly, or in any combination, in any of the following 89908
regarding a nursing facility ~~or intermediate care facility for the~~ 89909
~~mentally retarded:~~ 89910

(a) The land on which the nursing facility is located; 89911

(b) The structure in which the nursing facility is located; 89912

(c) Any mortgage, contract for deed, or other obligation 89913
secured in whole or in part by the land or structure on or in 89914
which the nursing facility is located; 89915

(d) Any lease or sublease of the land or structure on or in 89916
which the nursing facility is located. 89917

(2) "Owner" does not mean a holder of a debenture or bond 89918
related to the nursing facility ~~or intermediate care facility for~~ 89919
~~the mentally retarded~~ and purchased at public issue or a regulated 89920
lender that has made a loan related to the nursing facility unless 89921
the holder or lender operates the nursing facility directly or 89922
through a subsidiary. 89923

~~(T) "Patient" includes "resident."~~ 89924

~~(U) Except as provided in divisions (U)(1) and (2) of this~~ 89925
~~section, "per (II) "Per diem" means a nursing facility's or~~ 89926

~~intermediate care facility for the mentally retarded's actual, 89927
allowable costs in a given cost center in a cost reporting period, 89928
divided by the nursing facility's inpatient days for that cost 89929
reporting period. 89930~~

~~(1) When calculating indirect care costs for the purpose of 89931
establishing rates under section 5111.241 of the Revised Code, 89932
"per diem" means an intermediate care facility for the mentally 89933
retarded's actual, allowable indirect care costs in a cost 89934
reporting period divided by the greater of the facility's 89935
inpatient days for that period or the number of inpatient days the 89936
facility would have had during that period if its occupancy rate 89937
had been eighty five per cent. 89938~~

~~(2) When calculating capital costs for the purpose of 89939
establishing rates under section 5111.251 of the Revised Code, 89940
"per diem" means a facility's actual, allowable capital costs in a 89941
cost reporting period divided by the greater of the facility's 89942
inpatient days for that period or the number of inpatient days the 89943
facility would have had during that period if its occupancy rate 89944
had been ninety five per cent. 89945~~

~~(V)(JJ) "Provider" means an operator with a provider 89946
agreement. 89947~~

~~(W)(KK) "Provider agreement" means a contract provider 89948
agreement, as defined in section 5164.01 of the Revised Code, that 89949
is between the department of job and family services medicaid and 89950
the operator of a nursing facility ~~or intermediate care facility~~ 89951
~~for the mentally retarded~~ for the provision of nursing facility 89952
~~services or intermediate care facility services for the mentally~~ 89953
~~retarded~~ under the medicaid program. 89954~~

~~(X)(LL) "Purchased nursing services" means services that are 89955
provided in a nursing facility by registered nurses, licensed 89956
practical nurses, or nurse aides who are not employees of the 89957~~

nursing facility. 89958

~~(Y)~~(MM) "Reasonable" means that a cost is an actual cost that 89959
is appropriate and helpful to develop and maintain the operation 89960
of patient care facilities and activities, including normal 89961
standby costs, and that does not exceed what a prudent buyer pays 89962
for a given item or services. Reasonable costs may vary from 89963
provider to provider and from time to time for the same provider. 89964

~~(Z)~~(NN) "Related party" means an individual or organization 89965
that, to a significant extent, has common ownership with, is 89966
associated or affiliated with, has control of, or is controlled 89967
by, the provider. 89968

(1) An individual who is a relative of an owner is a related 89969
party. 89970

(2) Common ownership exists when an individual or individuals 89971
possess significant ownership or equity in both the provider and 89972
the other organization. Significant ownership or equity exists 89973
when an individual or individuals possess five per cent ownership 89974
or equity in both the provider and a supplier. Significant 89975
ownership or equity is presumed to exist when an individual or 89976
individuals possess ten per cent ownership or equity in both the 89977
provider and another organization from which the provider 89978
purchases or leases real property. 89979

(3) Control exists when an individual or organization has the 89980
power, directly or indirectly, to significantly influence or 89981
direct the actions or policies of an organization. 89982

(4) An individual or organization that supplies goods or 89983
services to a provider shall not be considered a related party if 89984
all of the following conditions are met: 89985

(a) The supplier is a separate bona fide organization. 89986

(b) A substantial part of the supplier's business activity of 89987

the type carried on with the provider is transacted with others 89988
than the provider and there is an open, competitive market for the 89989
types of goods or services the supplier furnishes. 89990

(c) The types of goods or services are commonly obtained by 89991
other nursing facilities ~~or intermediate care facilities for the~~ 89992
~~mentally retarded~~ from outside organizations and are not a basic 89993
element of patient care ordinarily furnished directly to patients 89994
by the nursing facilities. 89995

(d) The charge to the provider is in line with the charge for 89996
the goods or services in the open market and no more than the 89997
charge made under comparable circumstances to others by the 89998
supplier. 89999

~~(AA)~~(OO) "Relative of owner" means an individual who is 90000
related to an owner of a nursing facility ~~or intermediate care~~ 90001
~~facility for the mentally retarded~~ by one of the following 90002
relationships: 90003

(1) Spouse; 90004

(2) Natural parent, child, or sibling; 90005

(3) Adopted parent, child, or sibling; 90006

(4) Stepparent, stepchild, stepbrother, or stepsister; 90007

(5) Father-in-law, mother-in-law, son-in-law, 90008
daughter-in-law, brother-in-law, or sister-in-law; 90009

(6) Grandparent or grandchild; 90010

(7) Foster caregiver, foster child, foster brother, or foster 90011
sister. 90012

~~(BB) "Renovation" and "extensive renovation" mean:~~ 90013

~~(1) Any betterment, improvement, or restoration of an 90014
intermediate care facility for the mentally retarded started 90015
before July 1, 1993, that meets the definition of a renovation or 90016~~

~~extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.~~ 90017
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~~(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:~~ 90019
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~~(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.~~ 90022
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~~(b) "Extensive renovation" means a renovation that costs more than sixty five per cent and no more than eighty five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.~~ 90035
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~~For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.~~ 90039
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~~The department of job and family services may treat a~~ 90047

~~renovation that costs more than eighty five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.~~

~~(CC)(PP) "Residents' rights advocate" has the same meaning as in section 3721.10 of the Revised Code.~~

~~(OO) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).~~

~~(RR) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.~~

~~(SS) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.~~

~~(DD)(TT) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended et seq.~~

~~(EE)(UU) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended et seq.~~

~~(VV) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.~~

~~Sec. 5111.201 5165.011. Whenever (A) Except as provided in division (B) of this section, whenever "skilled nursing facility," "intermediate care facility," or "dual skilled nursing and intermediate care facility" is referred to or designated in any statute, rule, contract, provider agreement, or other document pertaining to the ~~medical assistance~~ medicaid program, the reference or designation is deemed to refer to a nursing facility, except that a.~~

(B) A reference to or designation of an "intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities" or "ICF/IID" is not deemed to refer to a nursing facility.

Sec. 5165.02. The medicaid director shall adopt rules as necessary to implement this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

~~Sec. 5111.202~~ 5165.03. (A) As used in this section:

(1) "Dementia" includes Alzheimer's disease or a related disorder.

(2) "Serious mental illness" means "serious mental illness," as defined by the United States department of health and human services in regulations adopted under ~~section 1919(e)(7)(G)(i) of the "Social Security Act," 49 Stat. 620 (1935)~~ section 1919(e)(7)(G)(i), 42 U.S.C.A. 301, as amended 1396r(e)(7)(G)(i).

(3) "Mentally ill individual" means an individual who has a serious mental illness other than either of the following:

(a) A primary diagnosis of dementia;

(b) A primary diagnosis that is not a primary diagnosis of dementia and a primary diagnosis of something other than a serious mental illness.

(4) "Mentally retarded individual" means an individual who is mentally retarded or has a related condition, as described in ~~section 1905(d) of the "Social Security Act,"~~ section 1905(d), 42 U.S.C. 1396d(d).

(5) "Specialized services" means the services specified by the United States department of health and human services in regulations adopted under ~~section 1919(e)(7)(G)(iii) of the "Social Security Act,"~~ section 1919(e)(7)(G)(iii), 42 U.S.C.

1396r(e)(7)(G)(iii). 90107

(B)(1) Except as provided in division (D) of this section, no 90108
nursing facility shall admit as a resident any mentally ill 90109
individual unless the facility has received evidence that the 90110
department of ~~mental health~~ mental health and addiction services 90111
has determined both of the following under section ~~5119.061~~ 90112
5119.40 of the Revised Code: 90113

(a) That the individual requires the level of services 90114
provided by a nursing facility because of the individual's 90115
physical and mental condition; 90116

(b) Whether the individual requires specialized services for 90117
mental illness. 90118

(2) Except as provided in division (D) of this section, no 90119
nursing facility shall admit as a resident any mentally retarded 90120
individual unless the facility has received evidence that the 90121
department of developmental disabilities has determined both of 90122
the following under section 5123.021 of the Revised Code: 90123

(a) That the individual requires the level of services 90124
provided by a nursing facility because of the individual's 90125
physical and mental condition; 90126

(b) Whether the individual requires specialized services for 90127
mental retardation. 90128

(C) The department of ~~job and family services~~ medicaid shall 90129
not make medicaid payments ~~under the medical assistance program~~ to 90130
a nursing facility on behalf of any individual who is admitted to 90131
the facility in violation of division (B) of this section for the 90132
period beginning on the date of admission and ending on the date 90133
the requirements of division (B) of this section are met. 90134

(D) A determination under division (B) of this section is not 90135
required for any individual who is exempted from the requirement 90136

that a determination be made by division (B)(2) of section 90137
~~5119.061~~ 5119.40 of the Revised Code or rules adopted by the 90138
department of ~~mental health~~ mental health and addiction services 90139
under division (E)(3) of that section, or by division (B)(2) of 90140
section 5123.021 of the Revised Code or rules adopted by the 90141
department of developmental disabilities under division (E)(3) of 90142
that section. 90143

Sec. ~~5111.203~~ 5165.031. ~~Regardless of whether or not an~~ 90144
~~applicant~~ An individual who applies for admission to a nursing 90145
~~facility or resident of~~ resides in a nursing facility ~~is an~~ 90146
~~applicant for or recipient of medical assistance, the department~~ 90147
~~of job and family services shall provide notice and an opportunity~~ 90148
~~for a hearing to any applicant for admission to a nursing facility~~ 90149
~~or resident of a nursing facility who is~~ may appeal if adversely 90150
affected by a determination made by the department of ~~mental~~ 90151
~~health~~ mental health and addiction services under section ~~5119.061~~ 90152
~~5119.40~~ of the Revised Code or by the department of developmental 90153
disabilities under section 5123.021 of the Revised Code. ~~The~~ 90154
~~hearing shall be conducted in the same manner as hearings~~ 90155
~~conducted under~~ If the individual is an applicant for or recipient 90156
of medicaid, the individual may appeal pursuant to section 5160.31 90157
of the Revised Code. If the individual is not an applicant for or 90158
recipient of medicaid, the individual may appeal pursuant to a 90159
process the department of medicaid shall establish, which shall be 90160
similar to the appeals process established by section 5101.35 of 90161
the Revised Code. The department of medicaid shall provide notice 90162
of the right to appeal to individuals adversely affected by 90163
determinations made under sections 5119.40 and 5123.021 of the 90164
Revised Code. Any decision made ~~by the department of job and~~ 90165
~~family services~~ on the basis of the hearing such an appeal is 90166
binding on the department of ~~mental health~~ mental health and 90167
addiction services and the department of developmental 90168

disabilities. 90169

Sec. ~~5111.204~~ 5165.04. (A) As used in this section, 90170
"representative" means a person acting on behalf of an applicant 90171
for or recipient of medicaid. A representative may be a family 90172
member, attorney, hospital social worker, or any other person 90173
chosen to act on behalf of an applicant or recipient. 90174

(B) The department of ~~job and family services~~ medicaid may 90175
require each applicant for or recipient of medicaid who applies or 90176
intends to apply for admission to a nursing facility or resides in 90177
a nursing facility to undergo an assessment to determine whether 90178
the applicant or recipient needs the level of care provided by a 90179
nursing facility. The assessment may be performed concurrently 90180
with a long-term care consultation provided under section 173.42 90181
of the Revised Code. 90182

To the maximum extent possible, the assessment shall be based 90183
on information from the resident assessment instrument specified 90184
in rules ~~adopted~~ authorized by the ~~director of job and family~~ 90185
~~services under division (E)~~ of section ~~5111.232~~ 5165.191 of the 90186
Revised Code. The assessment shall also be based on criteria and 90187
procedures established in rules ~~adopted under~~ authorized by 90188
division (F) of this section and information provided by the 90189
person being assessed or the person's representative. 90190

The department of ~~job and family services~~ medicaid, or if the 90191
assessment is performed by an agency under contract with the 90192
department pursuant to division (G) of this section, the agency, 90193
shall, not later than the time the level of care determination 90194
based on the assessment is required to be provided under division 90195
(C) of this section, give written notice of its conclusions and 90196
the basis for them to the person assessed and, if the department 90197
~~of job and family services~~ or agency under contract with the 90198
department has been informed that the person has a representative, 90199

to the representative. 90200

(C) The department ~~of job and family services~~ or agency under 90201
contract with the department, whichever performs the assessment, 90202
shall provide a level of care determination based on the 90203
assessment as follows: 90204

(1) In the case of a person applying or intending to apply 90205
for admission to a nursing facility while hospitalized, not later 90206
than one of the following: 90207

(a) One working day after the person or the person's 90208
representative submits the application or notifies the department 90209
of the person's intention to apply and submits all information 90210
required for providing the level of care determination, as 90211
specified in rules ~~adopted under~~ authorized by division (F)(2) of 90212
this section; 90213

(b) A later date requested by the person or the person's 90214
representative. 90215

(2) In the case of a person applying or intending to apply 90216
for admission to a nursing facility who is not hospitalized, not 90217
later than one of the following: 90218

(a) Five calendar days after the person or the person's 90219
representative submits the application or notifies the department 90220
of the person's intention to apply and submits all information 90221
required for providing the level of care determination, as 90222
specified in rules ~~adopted under~~ authorized by division (F)(2) of 90223
this section; 90224

(b) A later date requested by the person or the person's 90225
representative. 90226

(3) In the case of a person who resides in a nursing 90227
facility, not later than one of the following: 90228

(a) Five calendar days after the person or the person's 90229

representative submits an application for ~~medical assistance~~ 90230
medicaid and submits all information required for providing the 90231
level of care determination, as specified in rules ~~adopted under~~ 90232
authorized by division (F)(2) of this section; 90233

(b) A later date requested by the person or the person's 90234
representative. 90235

(4) In the case of an emergency, as specified in rules 90236
~~adopted under~~ authorized by division (F)(4) of this section, 90237
within the number of days specified in the rules. 90238

(D) A person assessed under this section or the person's 90239
representative may ~~request a state hearing to dispute~~ appeal the 90240
conclusions reached by the department ~~of job and family services~~ 90241
or agency under contract with the department on the basis of the 90242
assessment. The ~~request for a state hearing~~ appeal shall be made 90243
~~in accordance with~~ pursuant to section ~~5101.35~~ 5160.31 of the 90244
Revised Code. The department ~~of job and family services~~ or agency 90245
under contract with the department shall provide to the person or 90246
the person's representative and the nursing facility written 90247
notice of the person's right to request a state hearing. The 90248
notice shall include an explanation of the procedure for 90249
requesting a state hearing. If a state hearing is requested, the 90250
state shall be represented in the hearing by the department ~~of job~~ 90251
~~and family services~~ or the agency under contract with the 90252
department, whichever performed the assessment. 90253

(E) A nursing facility that admits or retains a person 90254
determined pursuant to an assessment required under this section 90255
not to need the level of care provided by the nursing facility 90256
shall not be ~~reimbursed~~ paid under the medicaid program for the 90257
person's care. 90258

(F) The medicaid director ~~of job and family services~~ shall 90259
adopt rules ~~in accordance with Chapter 119.~~ under section 5165.02 90260

of the Revised Code to implement and administer this section. The 90261
rules shall include all of the following: 90262

(1) Criteria and procedures to be used in determining whether 90263
admission to a nursing facility or continued stay in a nursing 90264
facility is appropriate for the person being assessed; 90265

(2) Information the person being assessed or the person's 90266
representative must provide to the department or agency under 90267
contract with the department for purposes of the assessment and 90268
providing a level of care determination based on the assessment; 90269

(3) Circumstances under which a person is not required to be 90270
assessed; 90271

(4) Circumstances that constitute an emergency for purposes 90272
of division (C)(4) of this section and the number of days within 90273
which a level of care determination must be provided in the case 90274
of an emergency. 90275

(G) Pursuant to section ~~5111.91~~ 5162.35 of the Revised Code, 90276
the department of ~~job and family services~~ medicaid may enter into 90277
contracts in the form of interagency agreements with one or more 90278
other state agencies to perform the assessments required under 90279
this section. The interagency agreements shall specify the 90280
responsibilities of each agency in the performance of the 90281
assessments. 90282

Sec. ~~5111.21~~ 5165.06. ~~(A) In order to be~~ Subject to section 90283
5165.072 of the Revised Code, an operator is eligible for medicaid 90284
~~payments, the operator of~~ to enter into a provider agreement for a 90285
~~nursing facility or intermediate care facility for the mentally~~ 90286
~~retarded shall do~~ if all of the following apply: 90287

~~(1) Enter into a provider agreement with the department as~~ 90288
~~provided in section 5111.22, 5111.671, or 5111.672 of the Revised~~ 90289
~~Code~~ (A) The nursing facility is certified by the director of 90290

health for participation in medicaid; 90291

~~(2) Apply for and maintain a valid license to operate (B) The~~ 90292
~~nursing facility is licensed by the director of health as a~~ 90293
~~nursing home if so required by law;~~ 90294

~~(3) Subject to division (B) of this section, (C) The operator~~ 90295
~~and nursing facility~~ comply with all applicable state and federal 90296
laws and rules. 90297

~~(B) A state rule that requires the operator of an~~ 90298
~~intermediate care facility for the mentally retarded to have~~ 90299
~~received approval of a plan for the proposed facility pursuant to~~ 90300
~~section 5123.042 of the Revised Code as a condition of the~~ 90301
~~operator being eligible for medicaid payments for the facility~~ 90302
~~does not apply if, under former section 5123.193 of the Revised~~ 90303
~~Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly~~ 90304
~~or section 5123.197 of the Revised Code, a residential facility~~ 90305
~~license was obtained or modified for the facility without~~ 90306
~~obtaining approval of such a plan.~~ 90307

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 90308
~~the operator of a nursing facility that elects to obtain and~~ 90309
~~maintain eligibility for payments under the medicaid program shall~~ 90310
~~qualify all of the facility's medicaid certified beds in the~~ 90311
~~medicare program established by Title XVIII. The director of job~~ 90312
~~and family services may adopt rules under section 5111.02 of the~~ 90313
~~Revised Code to establish the time frame in which a nursing~~ 90314
~~facility must comply with this requirement.~~ 90315

~~(2) The department of veterans services is not required to~~ 90316
~~qualify all of the medicaid certified beds in a nursing facility~~ 90317
~~the agency maintains and operates under section 5907.01 of the~~ 90318
~~Revised Code in the medicare program.~~ 90319

Sec. ~~5111.22~~ 5165.07. (A) Except as provided in section 90320

5165.072 of the Revised Code, the department of medicaid shall 90321
enter into a provider agreement with a nursing facility operator 90322
who applies, and is eligible, for the provider agreement. 90323

~~(B) A provider agreement between the department of job and~~ 90324
~~family services and the provider of a nursing facility or~~ 90325
~~intermediate care facility for the mentally retarded shall contain~~ 90326
require the following provisions: 90327

~~(A) The department agrees to make medicaid payments to the~~ 90328
~~provider, as provided in sections 5111.20 to 5111.331 of the~~ 90329
~~Revised Code, in accordance with this chapter for medicaid covered~~ 90330
nursing facility services the nursing facility provides to a 90331
resident of the its residents who are medicaid recipients eligible 90332
for nursing facility who is a medicaid recipient services. No 90333
payment shall be made for the day a medicaid recipient is 90334
discharged from the facility. 90335

~~(B) The~~ (C) A provider agreement shall require the provider 90336
agrees to do all of the following: 90337

(1) Maintain eligibility for the provider agreement as 90338
provided in section ~~5111.21~~ 5165.06 of the Revised Code; 90339

(2) Keep records relating to a cost reporting period for the 90340
greater of seven years after the cost report is filed or, if the 90341
department issues an audit report in accordance with ~~division (B)~~ 90342
~~of~~ section ~~5111.27~~ 5165.109 of the Revised Code, six years after 90343
all appeal rights relating to the audit report are exhausted; 90344

(3) File reports as required by the department; 90345

(4) Open all records relating to the costs of ~~its~~ the nursing 90346
facility's services for inspection and audit by the department; 90347

(5) Open its premises for inspection by the department, the 90348
department of health, and any other state or local authority 90349
having authority to inspect; 90350

(6) Supply to the department such information as it requires concerning the nursing facility's services to residents who are, or are eligible to be, medicaid recipients; 90351
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(7) Comply with section ~~5111.31~~ 5165.08 of the Revised Code. 90354

~~The (D) A~~ provider agreement may contain other provisions that are consistent with law and considered necessary by the department. 90355
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~~A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.~~ 90358
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~~The department of job and family services, in accordance with rules adopted under section 5111.02 of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or of the state.~~ 90364
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Sec. ~~5111.223~~ 5165.071. ~~The A nursing facility operator of a nursing facility or intermediate care facility for the mentally retarded~~ may enter into provider agreements for more than one nursing facility or intermediate care facility for the mentally retarded. 90370
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Sec. 5165.072. The department of medicaid, in accordance with rules adopted under section 5165.02 of the Revised Code, may elect not to enter into, not to revalidate, or to terminate a nursing facility provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or the state. The department shall not revalidate a 90375
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nursing facility provider agreement if the provider fails to 90381
maintain eligibility for the provider agreement as provided in 90382
section 5165.06 of the Revised Code. 90383

Sec. ~~5111.30~~ 5165.073. The department of ~~job and family~~ 90384
~~services~~ medicaid shall terminate the provider agreement with a 90385
nursing facility provider that does not comply with the 90386
requirements of section 3721.071 of the Revised Code for the 90387
installation of fire extinguishing and fire alarm systems. 90388

Sec. ~~5111.31~~ 5165.08. (A) Every provider agreement with ~~the a~~ 90389
nursing facility provider ~~of a nursing facility or intermediate~~ 90390
~~care facility for the mentally retarded~~ shall do both of the 90391
following: 90392

(1) Except as provided by division (B)(1) of this section, 90393
include any part of the nursing facility that meets federal and 90394
state standards for medicaid certification; 90395

(2) Prohibit the provider from doing either of the following: 90396

(a) Discriminating against a resident on the basis of race, 90397
color, sex, creed, or national origin; 90398

(b) Subject to division (D) of this section, failing or 90399
refusing to ~~retain~~ do either of the following: 90400

(i) Except as otherwise prohibited under section 5165.82 of 90401
the Revised Code, admit as a resident of the nursing facility an 90402
individual because the individual is, or may (as a resident of the 90403
nursing facility) become, a medicaid recipient if less than eighty 90404
per cent of the nursing facility's residents are medicaid 90405
recipients; 90406

(ii) Retain as a patient ~~any person~~ resident of the nursing 90407
facility an individual because the ~~person~~ individual is, ~~becomes,~~ 90408
or may (as a resident of the nursing facility) become, ~~as a~~ 90409

~~patient in the facility, become a medicaid recipient. For the 90410
purposes of this division, a medicaid recipient who is a patient 90411
in a facility shall be considered a patient in the facility during 90412
any hospital stays totaling less than twenty five days during any 90413
twelve month period. Recipients who have been identified by the 90414
department of job and family services or its designee as requiring 90415
the level of care of an intermediate care facility for the 90416
mentally retarded shall not be subject to a maximum period of 90417
absences during which they are considered patients if prior 90418
authorization of the department for visits with relatives and 90419
friends and participation in therapeutic programs is obtained 90420
under rules adopted under section 5111.02 of the Revised Code. 90421~~

~~(2) Except as provided by division (B)(1) of this section, 90422
include any part of the facility that meets standards for 90423
certification of compliance with federal and state laws and rules 90424
for participation in the medicaid program. 90425~~

~~(3) Prohibit the provider from discriminating against any 90426
patient on the basis of race, color, sex, creed, or national 90427
origin. 90428~~

~~(4) Except as otherwise prohibited under section 5111.55 of 90429
the Revised Code, prohibit the provider from failing or refusing 90430
to accept a patient because the patient is, becomes, or may, as a 90431
patient in the facility, become a medicaid recipient if less than 90432
eighty per cent of the patients in the facility are medicaid 90433
recipients. 90434~~

~~(B)(1) Except as provided by division (B)(2) of this section, 90435
the following beds added during the period beginning July 1, 1987, 90436
and ending July 1, 1993, to a nursing home licensed under Chapter 90437
3721. of the Revised Code are not required to be included in a 90438
provider agreement unless otherwise required by federal law. 90439~~

~~(a) Beds added during the period beginning July 1, 1987, and 90440~~

~~ending July 1, 1993, to a nursing home licensed under Chapter 3721. of the Revised Code;~~ 90441
90442

~~(b) Beds in an intermediate care facility for the mentally retarded that are designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5111.87 of the Revised Code.~~ 90443
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(2) If a provider chooses to include a bed specified in division (B)(1)(a) of this section in a provider agreement, the bed may not be removed from the provider agreement unless the provider withdraws the nursing facility in which the bed is located from the medicaid program. 90447
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(C) For the purpose of division (A)(2)(b)(ii) of this section, a medicaid recipient who is a patient in a nursing facility shall be considered a patient in the nursing facility during any hospital stays totaling less than twenty-five days during any twelve-month period. 90452
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(D) Nothing in this section shall bar a provider ~~that~~ from doing any of the following: 90457
90458

(1) If the provider is a religious organization operating a religious or denominational nursing facility ~~or intermediate care facility for the mentally retarded~~ from giving preference to persons of the same religion or denomination. ~~Nothing in this section shall bar any provider from giving;~~ 90459
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(2) Giving preference to persons with whom the provider has contracted to provide continuing care- 90464
90465

~~(D) Nothing in this section shall bar the provider of;~~ 90466

(3) If the nursing facility is a county home organized under Chapter 5155. of the Revised Code ~~from,~~ admitting residents exclusively from the county in which the county home is located- 90467
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~~(E) No provider of a nursing facility or intermediate care~~ 90470

~~facility for the mentally retarded for which a provider agreement is in effect shall violate the provider contract obligations imposed under this section.~~ 90471
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~~(F) Nothing in divisions (A) and (C) of this section shall bar a provider from retaining patients;~~ 90474
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(4) Retaining residents who have resided in the provider's nursing facility for not less than one year as private pay patients and who subsequently become medicaid recipients, but refusing to accept as a patient resident any person who is, or may, ~~(as a patient in resident of the nursing facility,~~) become a medicaid recipient, if all of the following apply: 90476
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~~(1)(a)~~ (a) The provider does not refuse to retain any patient resident who has resided in the provider's nursing facility for not less than one year as a private pay patient resident because the patient resident becomes a medicaid recipient, except as necessary to comply with division ~~(F)(2)(D)(4)(b)~~ of this section; 90482
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~~(2)(b)~~ (b) The number of medicaid recipients retained under ~~this~~ division (D)(4) of this section does not at any time exceed ten per cent of all the ~~patients~~ residents in the nursing facility; 90487
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~~(3)(c)~~ (c) On July 1, 1980, all the ~~patients~~ residents in the nursing facility were private pay ~~patients~~ residents. 90490
90491

(E) No provider shall violate the provider agreement obligations imposed by this section. 90492
90493

Sec. 5111.32 5165.081. Any ~~patient~~ A nursing facility resident has a cause of action against ~~the~~ a nursing facility provider ~~of a nursing facility or intermediate care facility for the mentally retarded~~ for breach of the provider agreement obligations or other duties imposed by section ~~5111.31 5165.08~~ of the Revised Code. The action may be commenced by the patient resident, or on the ~~patient's~~ resident's behalf by the ~~patient's~~ 90494
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~~resident's~~ sponsor or a residents' rights advocate, ~~as either is~~ 90501
~~defined under section 3721.10 of the Revised Code,~~ by the filing 90502
of a civil action in the court of common pleas of the county in 90503
which the nursing facility is located, or in the court of common 90504
pleas of Franklin county. 90505

If ~~the~~ a court of common pleas finds that a ~~breach of the~~ 90506
provider has breached a provider agreement obligations obligation 90507
or other duty imposed by section ~~5111.31~~ 5165.08 of the Revised 90508
Code ~~has occurred,~~ the court may enjoin do one or more of the 90509
following: 90510

(A) Enjoin the provider from engaging in the practice, ~~order;~~ 90511

(B) Order such affirmative relief as may be necessary, ~~and~~ 90512
award; 90513

(C) Award to ~~the patient~~ a resident and a ~~person~~ sponsor or 90514
~~public agency~~ government entity that brings ~~an~~ the action on 90515
behalf of a ~~patient~~ resident actual damages, costs, and reasonable 90516
attorney's fees. 90517

Sec. 5165.082. (A) Except as provided in division (B) of this 90518
section, the operator of a nursing facility that elects to have 90519
the nursing facility participate in the medicaid program shall 90520
qualify all of the nursing facility's medicaid-certified beds in 90521
the medicare program. The medicaid director may adopt rules under 90522
section 5165.02 of the Revised Code to establish the time frame in 90523
which a nursing facility must comply with this requirement. 90524

(B) The department of veterans services is not required to 90526
qualify all of the medicaid-certified beds in a nursing facility 90527
the department maintains and operates under section 5907.01 of the 90528
Revised Code in the medicare program. 90529

Sec. 5111.26 5165.10. (A)~~(1)~~(a) Except as provided in 90530

division ~~(A)(1)(b)(D)~~ of this section, each nursing facility 90531
provider shall file with the department of ~~job and family services~~ 90532
medicaid an annual cost report for each of the provider's nursing 90533
facilities ~~and intermediate care facilities for the mentally~~ 90534
~~retarded~~ that participate in the medicaid program. ~~A provider~~ 90535
~~shall prepare the reports in accordance with guidelines~~ 90536
~~established by the department. A~~ The cost report for a year shall 90537
cover a the calendar year or the portion of a the calendar year 90538
during which the nursing facility participated in the medicaid 90539
program. ~~A provider shall file the reports within~~ Except as 90540
provided in division (E) of this section, the cost report is due 90541
not later than ninety days after the end of the calendar year, or 90542
portion of the calendar year, that the cost report covers. The 90543
~~department, for good cause, may grant a fourteen day extension of~~ 90544
~~the time for filing cost reports upon written request from a~~ 90545
~~provider. The director of job and family services shall prescribe,~~ 90546
~~in rules adopted under section 5111.02 of the Revised Code, the~~ 90547
~~cost reporting form and a uniform chart of accounts for the~~ 90548
~~purpose of cost reporting, and shall distribute cost reporting~~ 90549
~~forms or computer software for electronic submission of the cost~~ 90550
~~report to each provider at least sixty days before the reporting~~ 90551
~~date.~~ 90552

~~(b) If rates for a provider's nursing facility or~~ 90553
~~intermediate care facility for the mentally retarded were most~~ 90554
~~recently established under section 5111.254 or 5111.255 of the~~ 90555
~~Revised Code, the provider shall submit a cost report for that~~ 90556
~~facility no later than ninety days after the end of the facility's~~ 90557
~~first three full calendar months of operation. If a nursing~~ 90558
~~facility or intermediate care facility for the mentally retarded~~ 90559
~~undergoes a change of provider that the department determines, in~~ 90560
~~accordance with rules adopted under section 5111.02 of the Revised~~ 90561
~~Code, is an arm's length transaction, the new provider shall~~ 90562
~~submit a cost report for that facility not later than ninety days~~ 90563

~~after the end of the facility's first three full calendar months 90564
of operation under the new provider. The provider of a facility 90565
that opens or undergoes a change of provider that is an arm's 90566
length transaction after the first day of October in any calendar 90567
year is not required to file a cost report for that calendar year. 90568~~

~~(e)(B)(1) If a nursing facility undergoes a change of 90569
provider that the department determines, in accordance with rules 90570
adopted under section ~~5111.02~~ 5165.02 of the Revised Code, is not 90571
an ~~arms~~ arm's length transaction, the new provider shall file a 90572
the nursing facility's cost report ~~under~~ in accordance with 90573
division (A)(1)(a) of this section ~~for the facility. The~~ and the 90574
cost report shall cover the portion of the calendar year during 90575
which the new provider operated the nursing facility and the 90576
portion of the calendar year during which the previous provider 90577
operated the nursing facility. 90578~~

~~(2) If a provider required to submit a cost report for a 90579
nursing facility ~~or intermediate care facility for the mentally~~ 90580
~~retarded does not file the report within the required time period~~ 90581
~~or within fourteen days thereafter if an extension is granted~~ 90582
~~under division (A)(1)(a) of this section, or files an incomplete~~ 90583
~~or inadequate report for the facility, the department shall~~ 90584
~~provide immediate written notice to the provider that the provider~~ 90585
~~agreement for the facility will be terminated in thirty days~~ 90586
~~unless the provider submits a complete and adequate cost report~~ 90587
~~for the facility within thirty days. During the thirty-day~~ 90588
~~termination period or any additional time allowed for an appeal of~~ 90589
~~the proposed termination of a provider agreement, the provider~~ 90590
~~shall be paid the facility's then current per resident per day~~ 90591
~~rate, minus two dollars. On July 1, 1994, the department shall~~ 90592
~~adjust the two dollar reduction to reflect the rate of inflation~~ 90593
~~during the preceding twelve months, as shown in the consumer price~~ 90594
~~index for all items for all urban consumers for the north central~~ 90595~~

~~region, published by the United States bureau of labor statistics. 90596
On July 1, 1995, and the first day of July of each year 90597
thereafter, the department shall adjust the amount of the 90598
reduction in effect during the previous twelve months to reflect 90599
the rate of inflation during the preceding twelve months, as shown 90600
in the same index undergoes a change of provider that the 90601
department determines, in accordance with rules adopted under 90602
section 5165.02 of the Revised Code, is an arm's length 90603
transaction, the new provider shall file with the department a 90604
cost report for the nursing facility not later than, except as 90605
provided in division (E) of this section, ninety days after the 90606
end of the nursing facility's first three full calendar months of 90607
operation under the new provider. The cost report shall cover the 90608
period that begins with the nursing facility's first day of 90609
operation under the new provider and ends on the first day of the 90610
month immediately following the first three full months of 90611
operation under the new provider. 90612~~

~~(B) No provider shall report fines paid under sections 90613
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 90614
cost report filed under this section. 90615~~

~~(C) The department shall develop an addendum to the cost 90616
report form that a provider may use to set forth costs that the 90617
provider believes may be disputed by the department. Any costs 90618
reported by the provider on the addendum may be considered by the 90619
department in setting the facility's rate. If the department does 90620
not consider the costs listed on the addendum in setting the 90621
facility's rate, the provider may seek reconsideration of that 90622
determination under section 5111.29 of the Revised Code. If the 90623
department subsequently includes the costs listed in the addendum 90624
in the facility's rate, the department shall pay the provider 90625
interest at a reasonable rate established in rules adopted under 90626
section 5111.02 of the Revised Code for the time that the rate 90627~~

paid excluded the costs. If the medicaid payment rate for a new nursing facility was most recently determined in accordance with section 5165.151 of the Revised Code, the provider shall file with the department a cost report for the new nursing facility not later than, except as provided in division (E) of this section, ninety days after the end of the new nursing facility's first three full calendar months of operation. The cost report shall cover the period that begins with the nursing facility's first day of operation and ends on the first day of the month immediately following the first three full months of operation.

(D) A nursing facility provider is not required to file a cost report for a nursing facility for a calendar year in accordance with division (A) of this section if the provider files a cost report for the nursing facility under division (B)(2) or (C) of this section and that cost report covers a period that begins after the first day of October of that calendar year. The provider shall file a cost report for the nursing facility in accordance with division (A) of this section for the immediately following calendar year.

(E) The department may grant to a provider a fourteen-day extension to file a cost report under this section if the provider provides the department a written request for the extension and the department determines that there is good cause for the extension.

Sec. ~~5111.266~~ 5165.101. A nursing facility provider of a nursing facility filing the nursing facility's cost report with the department of job and family services medicaid under section ~~5111.26~~ 5165.10 or 5165.522 of the Revised Code shall report as a nonreimbursable expense the cost of the nursing facility's franchise permit fee.

Sec. 5165.102. No nursing facility provider shall report 90658
fines paid under sections 5165.60 to 5165.89 or section 5165.99 of 90659
the Revised Code in a cost report filed under section 5165.10 or 90660
5165.522 of the Revised Code. 90661

Sec. 5165.103. Cost reports shall be completed using the form 90662
prescribed under section 5165.104 of the Revised Code and in 90663
accordance with the guidelines established under that section. 90664

Sec. 5165.104. The department of medicaid shall do all of the 90665
following: 90666

(A) Prescribe the form to be used for completing a cost 90667
report and a uniform chart of accounts for the purpose of 90668
reporting costs on the form; 90669

(B) Distribute a paper copy of the form, or computer software 90670
for electronic submission of the form, to each provider at least 90671
sixty days before the date the cost report is due; 90672

(C) Establish guidelines for completing the form. 90673

Sec. 5165.105. The department of medicaid shall develop an 90674
addendum to the cost report form that a nursing facility provider 90675
may use to set forth costs that the provider believes the 90676
department may dispute. The department may consider such costs in 90677
determining a nursing facility's medicaid payment rate. If the 90678
department does not consider such costs in determining a nursing 90679
facility's medicaid payment rate, the provider may seek 90680
reconsideration of the determination in accordance with section 90681
5165.38 of the Revised Code. If the department subsequently 90682
includes such costs in a nursing facility's medicaid payment rate, 90683
the department shall pay the provider interest at a reasonable 90684
rate established in rules adopted under section 5165.02 of the 90685
Revised Code for the period that the rate excluded the costs. 90686

Sec. 5165.106. If a nursing facility provider required by 90687
section 5165.10 of the Revised Code to file a cost report for the 90688
nursing facility fails to file the cost report by the date it is 90689
due or the date, if any, to which the due date is extended 90690
pursuant to division (E) of that section, or files an incomplete 90691
or inadequate report for the nursing facility under that section, 90692
the department of medicaid shall provide immediate written notice 90693
to the provider that the provider agreement for the nursing 90694
facility will be terminated in thirty days unless the provider 90695
submits a complete and adequate cost report for the nursing 90696
facility within thirty days. During the thirty-day termination 90697
period or any additional time allowed for an appeal of the 90698
proposed termination of a provider agreement, the provider shall 90699
be paid the nursing facility's then current per medicaid day 90700
payment rate, minus the dollar amount by which nursing facility's 90701
per medicaid day payment rates are reduced during fiscal year 2013 90702
in accordance with division (A)(2) of section 5111.26 of the 90703
Revised Code (renumbered as section 5165.10 of the Revised Code by 90704
H.B. ... of the 130th general assembly) as that section existed on 90705
the day immediately preceding the effective date of this section. 90706
On the first day of each July, the department shall adjust the 90707
amount of the reduction in effect during the previous twelve 90708
months to reflect the rate of inflation during the preceding 90709
twelve months, as shown in the consumer price index for all items 90710
for all urban consumers for the north central region, published by 90711
the United States bureau of labor statistics. 90712

Sec. ~~5111.261~~ 5165.107. (A) Except as provided in division 90713
(B) of this section and not later than three years after a nursing 90714
facility provider files a cost report with the department of ~~job~~ 90715
~~and family services~~ medicaid under section ~~5111.26~~ 5165.10 of the 90716
Revised Code, the provider may amend the cost report if the 90717

provider discovers a material error in the cost report or 90718
additional information to be included in the cost report. The 90719
department shall review the amended cost report for accuracy and 90720
notify the provider of its determination. 90721

(B) A provider may not amend a cost report if the department 90722
has notified the provider that an audit of the cost report or a 90723
cost report of the provider for a subsequent cost reporting period 90724
is to be conducted under section ~~5111.27~~ 5165.109 of the Revised 90725
Code. The provider may, however, provide the department 90726
information that affects the costs included in the cost report. 90727
Such information may not be provided after the adjudication of the 90728
final settlement of the cost report. 90729

Sec. ~~5111.27~~ 5165.108. (A) The department of ~~job and family~~ 90730
~~services~~ medicaid shall conduct a desk review of each cost report 90731
it receives under section ~~5111.26~~ 5165.10 or 5165.522 of the 90732
Revised Code. Based on the desk review, the department shall make 90733
a preliminary determination of whether the reported costs are 90734
allowable costs. The department shall notify each nursing facility 90735
provider of whether any of the reported costs are preliminarily 90736
determined not to be allowable, the medicaid payment rate 90737
calculation determined under ~~sections 5111.20 to 5111.331~~ of the 90738
~~Revised Code~~ this chapter that results from that determination, 90739
and the reasons for the determination and resulting rate. The 90740
department shall allow the provider to verify the calculation and 90741
submit additional information. 90742

~~(B) The department may conduct an audit, as defined by rule~~ 90743
~~adopted under section 5111.02 of the Revised Code, of any cost~~ 90744
~~report. The decision whether to conduct an audit and the scope of~~ 90745
~~the audit, which may be a desk or field audit, may be determined~~ 90746
~~based on prior performance of the provider, a risk analysis, or~~ 90747
~~other evidence that gives the department reason to believe that~~ 90748

~~the provider has reported costs improperly. A desk or field audit 90749
may be performed annually, but is required whenever a provider 90750
does not pass the risk analysis tolerance factors. An audit shall 90751
be conducted by auditors under contract with or employed by the 90752
department. The department shall notify a provider of the findings 90753
of an audit by issuing an audit report. An audit report regarding 90754
a nursing facility shall include notice of any fine imposed under 90755
section 5111.271 of the Revised Code. The department shall issue 90756
the audit report no later than three years after the cost report 90757
is filed, or upon the completion of a desk or field audit on the 90758
report or a report for a subsequent cost reporting period, 90759
whichever is earlier. 90760~~

~~The department may establish a contract for the auditing of 90761
facilities by outside firms. Each contract entered into by bidding 90762
shall be effective for one to two years. The department shall 90763
establish an audit manual and program which shall require that all 90764
field audits, conducted either pursuant to a contract or by 90765
department employees: 90766~~

~~(1) Comply with the applicable rules prescribed pursuant to 90767
Titles XVIII and XIX; 90768~~

~~(2) Consider generally accepted auditing standards prescribed 90769
by the American institute of certified public accountants; 90770~~

~~(3) Include a written summary as to whether the costs 90771
included in the report examined during the audit are allowable and 90772
are presented in accordance with state and federal laws and 90773
regulations, and whether, in all material respects, allowable 90774
costs are documented, reasonable, and related to patient care; 90775~~

~~(4) Are conducted by accounting firms or auditors who, during 90776
the period of the auditors' professional engagement or employment 90777
and during the period covered by the cost reports, do not have nor 90778
are committed to acquire any direct or indirect financial interest 90779~~

~~in the ownership, financing, or operation of a nursing facility or
intermediate care facility for the mentally retarded in this
state;~~ 90780
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~~(5) Are conducted by accounting firms or auditors who, as a
condition of the contract or employment, shall not audit any
facility that has been a client of the firm or auditor;~~ 90783
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~~(6) Are conducted by auditors who are otherwise independent
as determined by the standards of independence included in the
government auditing standards produced by the United States
government accountability office;~~ 90786
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~~(7) Are completed within the time period specified by the
department;~~ 90790
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~~(8) Provide to the provider complete written interpretations
that explain in detail the application of all relevant contract
provisions, regulations, auditing standards, rate formulae, and
departmental policies, with explanations and examples, that are
sufficient to permit the provider to calculate with reasonable
certainty those costs that are allowable and the rate to which the
provider's facility is entitled.~~ 90792
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~~For the purposes of division (B)(4) of this section,
employment of a member of an auditor's family by a nursing
facility or intermediate care facility for the mentally retarded
that the auditor does not review does not constitute a direct or
indirect financial interest in the ownership, financing, or
operation of the facility.~~ 90799
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~~(C) The department, pursuant to rules adopted under section
5111.02 of the Revised Code, may conduct an exception review of
assessment data submitted under section 5111.232 of the Revised
Code. The department may conduct an exception review based on the
findings of a certification survey conducted by the department of
health, a risk analysis, or prior performance of the provider.~~ 90805
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~~Exception reviews shall be conducted at the facility by appropriate health professionals under contract with or employed by the department of job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case mix scores.~~

~~The rules shall establish an exception review program that requires that exception reviews do all of the following:~~

~~(1) Comply with Titles XVIII and XIX;~~

~~(2) Provide a written summary that states whether the resident assessment forms have been completed accurately;~~

~~(3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;~~

~~(4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.~~

~~For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.~~

~~If an exception review is conducted before the effective date of the rate that is based on the case mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the~~

~~department, in accordance with those rules, may use the findings 90842
to recalculate individual resident case mix scores, quarterly 90843
average facility case mix scores, and annual average facility 90844
case mix scores. The department may use the recalculated quarterly 90845
and annual facility average case mix scores to calculate the 90846
facility's rate for direct care costs for the appropriate calendar 90847
quarter or quarters. 90848~~

~~(D) The department shall prepare a written summary of any 90849
audit disallowance or exception review finding that is made after 90850
the effective date of the rate that is based on the cost or 90851
case mix data. Where the provider is pursuing judicial or 90852
administrative remedies in good faith regarding the disallowance 90853
or finding, the department shall not withhold from the provider's 90854
current payments any amounts the department claims to be due from 90855
the provider pursuant to section 5111.28 of the Revised Code. 90856~~

~~(E) The department shall not reduce rates calculated under 90857
sections 5111.20 to 5111.331 of the Revised Code on the basis that 90858
the provider charges a lower rate to any resident who is not 90859
eligible for the medicaid program. 90860~~

~~(F) The department shall adjust the rates calculated under 90861
sections 5111.20 to 5111.331 of the Revised Code to account for 90862
reasonable additional costs that must be incurred by intermediate 90863
care facilities for the mentally retarded to comply with 90864
requirements of federal or state statutes, rules, or policies 90865
enacted or amended after January 1, 1992, or with orders issued by 90866
state or local fire authorities. 90867~~

Sec. 5165.109. ~~(A) The department of medicaid may conduct an 90868
audit, as defined in rules adopted under section 5165.02 of the 90869
Revised Code, of any cost report filed under section 5165.10 or 90870
5165.522 of the Revised Code. The decision whether to conduct an 90871
audit and the scope of the audit, which may be a desk or field 90872~~

audit, may be determined based on prior performance of the 90873
provider, a risk analysis, or other evidence that gives the 90874
department reason to believe that the provider has reported costs 90875
improperly. A desk or field audit may be performed annually, but 90876
is required whenever a provider does not pass the risk analysis 90877
tolerance factors. 90878

(B) Audits shall be conducted by auditors under contract with 90879
the department, auditors working for firms under contract with the 90880
department, or auditors employed by the department. 90881

The department may establish a contract for the auditing of 90882
nursing facilities by outside firms. Each contract entered into by 90883
bidding shall be effective for one to two years. 90884

(C) The department shall notify a provider of the findings of 90885
an audit of a cost report by issuing an audit report. The audit 90886
report shall include notice of any fine imposed under section 90887
5165.1010 of the Revised Code. The department shall issue the 90888
audit report not later than three years after the earlier of the 90889
following: 90890

(1) The date the cost report is filed; 90891

(2) The date a desk or field audit of the cost report or a 90892
cost report for a subsequent cost reporting period is completed. 90893

(D) The department shall prepare a written summary of any 90894
audit disallowance that is made after the effective date of the 90895
rate that is based on the cost. Where the provider is pursuing 90896
judicial or administrative remedies in good faith regarding the 90897
disallowance, the department shall not withhold from the 90898
provider's current payments any amounts the department claims to 90899
be due from the provider pursuant to section 5165.41 of the 90900
Revised Code. 90901

(E)(1) The department shall establish an audit manual and 90902

program for field audits conducted under this section. Each 90903
auditor conducting a field audit under this section shall follow 90904
the audit manual and program, regardless of whether the auditor is 90905
under contract with the department, works for a firm under 90906
contract with the department, or is employed by the department. 90907
The manual and program shall do both of the following: 90908

(a) Require each field audit to be conducted by an auditor to 90909
whom all of the following apply: 90910

(i) During the period of the auditor's contract, firm's 90911
contract, or auditor's employment with the department, the auditor 90912
or firm does not have and is not committed to acquire any direct 90913
or indirect financial interest in the ownership, financing, or 90914
operation of nursing facilities in this state. 90915

(ii) The auditor does not audit any provider that has been a 90916
client of the auditor or the auditor's firm. 90917

(iii) The auditor is otherwise independent as determined by 90918
the standards of independence included in the government auditing 90919
standards produced by the United States government accountability 90920
office. 90921

(b) Require each auditor conducting a field audit to do all 90922
of the following: 90923

(i) Comply with applicable rules prescribed pursuant to Title 90924
XVIII and Title XIX; 90925

(ii) Consider generally accepted auditing standards 90926
prescribed by the American institute of certified public 90927
accountants; 90928

(iii) Include a written summary as to whether the costs 90929
included in the cost report examined during the audit are 90930
allowable and are presented in accordance with state and federal 90931
laws and regulations, and whether, in all material respects, 90932

allowable costs are documented, reasonable, and related to patient care; 90933
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(iv) Complete the audit within the time period specified by the department; 90935
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(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's nursing facility is entitled. 90937
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(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by a nursing facility that the auditor does not audit does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the nursing facility. 90944
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Sec. ~~5111.271~~ 5165.1010. (A) Subject to division (D) of this section, the department of ~~job and family services~~ medicaid shall fine the provider of a nursing facility if the report of an audit conducted under ~~division (B) of section 5111.27~~ 5165.109 of the Revised Code regarding a cost report for the nursing facility includes either of the following: 90949
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(1) Adverse findings that exceed three per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report; 90955
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(2) Adverse findings that exceed twenty per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report. 90958
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(B) A fine issued under this section shall equal the greatest of the following: 90961
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- (1) If the adverse findings exceed three per cent but do not exceed ten per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report, the greater of three per cent of those reported costs or ten thousand dollars; 90963
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- (2) If the adverse findings exceed ten per cent but do not exceed twenty per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report, the greater of six per cent of those reported costs or twenty-five thousand dollars; 90967
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- (3) If the adverse findings exceed twenty per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report, the greater of ten per cent of those reported costs or fifty thousand dollars; 90972
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- (4) If the adverse findings exceed twenty per cent but do not exceed twenty-five per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report, the greater of three per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report or ten thousand dollars; 90976
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- (5) If the adverse findings exceed twenty-five per cent but do not exceed thirty per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report, the greater of six per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report or twenty-five thousand dollars; 90982
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- (6) If the adverse findings exceed thirty per cent of ~~medicaid-reimbursable~~ medicaid-allowable costs for a particular cost center reported in the cost report, the greater of ten per cent of the total amount of ~~medicaid-reimbursable~~ medicaid-allowable costs reported in the cost report or fifty thousand dollars. 90988
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(C) Fines paid under this section shall be deposited into the health care services administration fund created under section ~~5111.94~~ 5162.54 of the Revised Code.

(D) The department may not collect a fine under this section until all appeal rights relating to the audit report that is the basis for the fine are exhausted.

Sec. ~~5111.222~~ 5165.15. (A) ~~As used in this section, "low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid reimbursement rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.~~

~~(B)~~ Except as otherwise provided by sections ~~5111.20~~ 5165.151 to ~~5111.331~~ 5165.156 and 5165.34 of the Revised Code ~~and by division (C) of this section,~~ the total per medicaid day payment rate that the department of job and family services medicaid shall agree to pay for a fiscal year to the provider of a nursing facility pursuant to a provider agreement provider for nursing facility services the provider's nursing facility provides during a fiscal year shall equal the sum of all of the following:

~~(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;~~

~~(2)~~ The per medicaid day payment rate for ancillary and support costs determined for the nursing ~~facility's ancillary and support cost peer group~~ facility under section ~~5111.24~~ 5165.16 of the Revised Code;

~~(3)~~(2) The per medicaid day payment rate for capital costs determined for the nursing facility under section 5165.17 of the Revised Code;

(3) The per medicaid day payment rate for direct care costs 91024
determined for the nursing facility under section 5165.19 of the 91025
Revised Code; 91026

(4) The per medicaid day payment rate for tax costs 91027
determined for the nursing facility under section ~~5111.242~~ 5165.21 91028
of the Revised Code; 91029

~~(4) The quality incentive payment paid to the nursing~~ 91030
~~facility under section 5111.244 of the Revised Code;~~ 91031

(5) If the nursing facility qualifies as a critical access 91032
nursing facility, the nursing facility's critical access incentive 91033
payment paid ~~to the nursing facility~~ under section ~~5111.246~~ 91034
5165.23 of the Revised Code; 91035

~~(6) The rate for capital costs determined for the nursing~~ 91036
~~facility's capital costs peer group under section 5111.25~~ quality 91037
incentive payment paid to the nursing facility under section 91038
5165.25 of the Revised Code. 91039

~~(C) The total rate determined under division (B) of this~~ 91040
~~section shall not be paid for nursing facility services provided~~ 91041
~~to low resource utilization residents. Instead, the total rate for~~ 91042
~~nursing facility services that a nursing facility provides to low~~ 91043
~~resource utilization residents shall be one hundred thirty dollars~~ 91044
~~per medicaid day.~~ 91045

~~(D)~~(B) In addition to paying a nursing facility provider the 91046
nursing facility's total rate determined under division ~~(B)~~ ~~or~~ 91047
~~(C)~~(A) of this section for a fiscal year, the department shall pay 91048
the provider a quality bonus under section ~~5111.245~~ 5165.26 of the 91049
Revised Code for that fiscal year if the provider's nursing 91050
facility is a qualifying nursing facility, as defined in that 91051
section, for that fiscal year. The quality bonus shall not be part 91052
of the total rate. 91053

~~Sec. 5111.254 5165.151.~~ (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2006, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be the initial rate for nursing facility services provided by a new nursing facility. Instead, the initial total per medicaid day payment rate for nursing facility services provided by a new nursing facility shall be determined in the following manner:

(1) The initial rate for ancillary and support costs shall be the rate for the new nursing facility's peer group determined under division (D) of section 5165.16 of the Revised Code.

(2) The initial rate for capital costs shall be the rate for the new nursing facility's peer group determined under division (D) of section 5165.17 of the Revised Code;

(3) The initial rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section ~~5111.231~~ 5165.19 of the Revised Code for the new nursing facility's peer group and the new nursing facility's case-mix score determined under division (B) of this section. ~~For the purpose of division (A)(1) of this section, the nursing facility's case mix score shall be the following:~~

~~(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case mix score for the nursing facility's peer group;~~

~~(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.~~ 91085
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~~(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.~~ 91093
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~~(3) The rate for capital costs shall be the rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.~~ 91096
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(4) The initial rate for tax costs shall be the median rate for tax costs for the new nursing facility's peer group in which the nursing facility is placed under division (C) of section ~~5111.24~~ 5165.16 of the Revised Code. 91099
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(5) The quality incentive payment shall be the mean payment made to nursing facilities under section ~~5111.244~~ 5165.25 of the Revised Code. 91103
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(B) For the purpose of division (A)(3) of this section, a new nursing facility's case-mix score shall be the following: 91106
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(1) Unless the new nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the median annual average case-mix score for the new nursing facility's peer group; 91108
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(2) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the 91113
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medicaid program, the semiannual case-mix score most recently determined under section 5165.192 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and new nursing facilities. 91116
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(C) Subject to division ~~(C)~~(D) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter. 91121
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~~(C)~~(D) If a rate for direct care costs is determined under this section for a new nursing facility using the median annual average case-mix score for the new nursing facility's peer group, the rate shall be redetermined to reflect the ~~replacement~~ new nursing facility's actual semiannual average case-mix score determined under section ~~5111.232~~ 5165.192 of the Revised Code after the new nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by ~~division (E) of~~ section ~~5111.232~~ 5165.192 of the Revised Code. If the new nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the new nursing facility's peer group in lieu of the new nursing facility's semiannual case-mix score until the new nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score. 91126
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Sec. 5165.152. The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services provided to low resource utilization residents. Instead, the total rate for such nursing 91143
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facility services shall be one hundred thirty dollars per medicaid 91147
day. 91148

Sec. ~~5111.258~~ 5165.153. (A) ~~Notwithstanding sections 5111.20~~ 91149
~~to 5111.331 of the Revised Code (except section 5111.259 of the~~ 91150
~~Revised Code), the director of job and family services shall adopt~~ 91151
~~rules under section 5111.02 of the Revised Code that establish a~~ 91152
~~methodology for calculating the prospective rates that will be~~ 91153
~~paid each fiscal year to a provider for each of the provider's~~ 91154
~~eligible nursing facilities and intermediate care facilities for~~ 91155
~~the mentally retarded, and discrete units of the provider's~~ 91156
~~nursing facilities or intermediate care facilities for the~~ 91157
~~mentally retarded, that serve residents who have diagnoses The~~ 91158
total per medicaid day payment rate determined under section 91159
5165.15 of the Revised Code shall not be paid for nursing facility 91160
services provided by a nursing facility, or discrete unit of a 91161
nursing facility, designated by the department of medicaid as an 91162
outlier nursing facility or unit. Instead, the provider of a 91163
designated outlier nursing facility or unit shall be paid each 91164
fiscal year a total per medicaid day payment rate that the 91165
department shall prospectively determine in accordance with a 91166
methodology established in rules authorized by this section. 91167

(B) The department may designate a nursing facility, or 91168
discrete unit of a nursing facility, as an outlier nursing 91169
facility or unit if the nursing facility or unit serves residents 91170
who have either of the following: 91171

(1) Diagnoses or special care needs that require direct care 91172
resources that are not measured adequately by the applicable 91173
resident assessment instrument specified in rules authorized by 91174
section ~~5111.232~~ 5165.191 of the Revised Code, ~~or who have~~ 91175
diagnoses; 91176

~~(2) Diagnoses or special care needs specified in the rules authorized by this section as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established under this division may include, but shall not be limited to, any of the following:~~

~~(1) In the case of nursing facilities, facilities and units of facilities that serve medically fragile pediatric residents, residents who are dependent on ventilators, or residents who have severe traumatic brain injury, end stage Alzheimer's disease, or end stage acquired immunodeficiency syndrome:~~

~~(2) In the case of intermediate care facilities for the mentally retarded, facilities and units of facilities that serve residents who have complex medical conditions or severe behavioral problems.~~

~~The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.~~

(C) Notwithstanding any other provision of this chapter (except section 5165.156 of the Revised Code), the costs incurred by a designated outlier nursing facility or unit shall not be considered in establishing medicaid payment rates for other nursing facilities or units.

(D) The medicaid director shall adopt rules under section 5165.02 of the Revised Code as necessary to implement this section.

(1)(a) The rules authorized by this division shall specify do both of the following:

(i) Specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division a nursing facility, or discrete unit of a nursing facility, as an outlier nursing

facility or unit; 91208

(ii) Establish a methodology for prospectively determining 91209
the total per medicaid day payment rate that will be paid each 91210
fiscal year for nursing facility services provided by a designated 91211
outlier nursing facility or unit. The criteria shall include 91212

(b) The rules authorized by division (D)(1)(a)(i) of this 91213
section regarding the criteria for designating outlier nursing 91214
facilities and units shall do both of the following: 91215

(i) Provide for consideration of whether all of the allowable 91216
costs of the a nursing facility, or discrete unit of a nursing 91217
facility, would be paid by rates established a rate determined 91218
under sections 5111.20 to 5111.331 section 5165.15 of the Revised 91219
Code, and shall establish a; 91220

(ii) Specify the minimum bed size for a number of nursing 91221
facility beds that a nursing facility, or discrete unit to qualify 91222
to of a nursing facility, must have its rates established under 91223
this division to be designated an outlier nursing facility or 91224
unit, which may vary based on the diagnoses or special care needs 91225
of the residents served by the nursing facility or unit. The 91226
criteria shall not be designed to require that residents be served 91227
only in 91228

(c) The rules authorized by division (D)(1)(a)(i) of this 91229
section regarding the criteria for designating outlier nursing 91230
facilities and units shall not limit the designation to nursing 91231
facilities, or discrete units of nursing facilities, located in 91232
large cities. The 91233

(d) The rules authorized by division (D)(1)(a)(ii) of this 91234
section regarding the methodology for prospectively determining 91235
the rates of designated outlier nursing facilities and units shall 91236
provide for the methodology established by the rules shall to 91237
consider the historical costs of providing care nursing facility 91238

~~services to the residents of the designated outlier nursing facilities or~~ and ~~units.~~ 91239
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(2)(a) The rules may require do both of the following: 91241

(i) Include for designation as an outlier nursing facility or unit, a nursing facility, or discrete unit of a nursing facility, that serves medically fragile pediatric residents; residents who are dependent on ventilators; residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome; or residents with other diagnoses or special care needs specified in the rules; 91242
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(ii) Require that a designated outlier nursing facility designated under this division or containing a unit designated under this division receive authorization from the department to admit before admitting or retain retaining a resident to the facility or unit and. 91249
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(b) If the director adopts rules authorized by division (D)(2)(a)(ii) of this section regarding the authorization of a designated outlier nursing facility or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting that authorization. 91254
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~~Notwithstanding any other provision of sections 5111.20 to 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), the costs incurred by facilities or units whose rates are established under this division shall not be considered in establishing payment rates for other facilities or units.~~ 91259
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~~(B) The director may adopt rules under section 5111.02 of the Revised Code under which the department, notwithstanding any other provision of sections 5111.20 to 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), may adjust the rates determined under sections 5111.20 to 5111.331 of the Revised Code for a facility that serves a resident who has a diagnosis or~~ 91264
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~~special care need that, in the rules authorized by division (A) of 91270
this section, would qualify a facility or unit of a facility to 91271
have its rate determined under that division, but who is not in 91272
such a unit. The rules may require that a facility that qualifies 91273
for a rate adjustment under this division receive authorization 91274
from the department to admit or retain a resident who qualifies 91275
the facility for the rate adjustment and shall specify the 91276
criteria and procedures the department will apply when granting 91277
that authorization. 91278~~

Sec. 5165.154. (A) To the extent, if any, provided for in 91279
rules authorized by this section, the total per medicaid day 91280
payment rate determined under section 5165.15 of the Revised Code 91281
shall not be paid for nursing facility services that a nursing 91282
facility not designated as an outlier nursing facility or unit 91283
provides to a resident who meets the criteria for admission to a 91284
designated outlier nursing facility or unit, as specified in rules 91285
authorized by section 5165.153 of the Revised Code. Instead, the 91286
provider of a nursing facility providing nursing facility services 91287
to such a resident shall be paid each fiscal year a total per 91288
medicaid day payment rate that the department of medicaid shall 91289
prospectively determine in accordance with a methodology 91290
established in rules authorized by this section. 91291

(B) The medicaid director may adopt rules under section 91292
5165.02 of the Revised Code to implement this section. The rules 91293
may require that a nursing facility receive authorization from the 91294
department before admitting or retaining a resident who meets the 91295
criteria for admission to a designated outlier nursing facility or 91296
unit. If the director adopts such rules, the rules shall specify 91297
the criteria and procedures the department will apply when 91298
granting the authorization. 91299

Sec. 5111.225 5165.155. (A) As used in this section+ 91300

~~"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).~~

~~"Medicaid, "medicaid maximum allowable amount" means one hundred per cent of a nursing facility's total per diem medicaid day payment rate for a medicaid day.~~

(B) ~~The Instead of paying the total per medicaid day payment rate determined under section 5165.15 of the Revised Code, the department of job and family services medicaid shall pay the provider of a nursing facility the lesser of the following for nursing facility services the nursing facility provides on or after January 1, 2012, to a dual eligible individual who is eligible for nursing facility services under the medicaid program and post-hospital extended care services under Part A of Title XVIII:~~

(1) The coinsurance amount for the services as provided under Part A of Title XVIII;

(2) The medicaid maximum allowable amount for the services, less the amount paid under Part A of Title XVIII for the services.

Sec. 5111.259 5165.156. ~~The medicaid director of ~~job and family services~~ may ~~submit a request to the United States secretary of health and human services for approval to~~ establish a centers of excellence component of the medicaid program. The purpose of the centers of excellence component is to increase the efficiency and quality of nursing facility services provided to medicaid recipients with complex nursing facility service needs. ~~If federal approval for the centers of excellence component is granted, the~~ The director may adopt rules under section ~~5111.02 5165.02~~ of the Revised Code governing the component, including rules that establish a method of determining the medicaid ~~reimbursement~~ payment rates for nursing facilities providing~~

nursing facility services to medicaid recipients participating in 91332
the component. The rules may specify the extent to which, if any, 91333
of the provisions of ~~section 5111.258~~ sections 5165.153 and 91334
5165.154 of the Revised Code are to apply to the centers of 91335
excellence component. If such rules are adopted, the nursing 91336
facilities that provide nursing facility services to medicaid 91337
recipients participating in the centers of excellence component 91338
shall be paid for those services in accordance with the method 91339
established in the rules ~~notwithstanding anything to the contrary~~ 91340
~~in sections 5111.20 to 5111.331~~ instead of the total per medicaid 91341
day payment rate determined under section 5165.15 of the Revised 91342
Code. 91343

Sec. ~~5111.24~~ 5165.16. (A) As used in this section: 91344

(1) "Applicable calendar year" means the following: 91345

(a) For the purpose of the department of ~~job and family~~ 91346
~~services~~ medicaid's initial determination under division (D) of 91347
this section of each peer group's rate for ancillary and support 91348
costs, calendar year 2003; 91349

(b) For the purpose of the department's rebasings, the 91350
calendar year the department selects. 91351

(2) "Rebasing" means a redetermination under division (D) of 91352
this section of each peer ~~groups~~ group's rate for ancillary and 91353
support costs using information from cost reports for an 91354
applicable calendar year that is later than the applicable 91355
calendar year used for the previous determination of such rates. 91356

(B) The department of ~~job and family services~~ medicaid shall 91357
~~pay a provider for~~ determine each of the provider's eligible 91358
~~nursing facilities~~ a facility's per ~~resident~~ per medicaid day 91359
payment rate for ancillary and support costs ~~determined for the.~~ A 91360
nursing facility's peer group rate shall be the rate determined 91361

under division (D) of this section for the nursing facility's peer group. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following: 91362
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(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three; 91367
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(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four. 91369
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(C) For the purpose of determining nursing facilities' ~~rate~~ rates for ancillary and support costs, the department shall establish six peer groups. 91371
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~~Each~~ (1) Until the first rebasing occurs, the peer groups shall be composed as follows: 91374
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(a) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two. 91376
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(b) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer 91383
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group four. 91393

(c) Each nursing facility located in any of the following 91394
counties shall be placed in peer group five or six: Adams, Allen, 91395
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 91396
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 91397
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 91398
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 91399
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 91400
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 91401
Washington, Wayne, Williams, and Wyandot. Each nursing facility 91402
located in any of those counties that has fewer than one hundred 91403
beds shall be placed in peer group five. Each nursing facility 91404
located in any of those counties that has one hundred or more beds 91405
shall be placed in peer group six. 91406

(2) Beginning with the first rebasing, the peer groups shall 91407
be composed as they are under division (C)(1) of this section 91408
except as follows: 91409

(a) Each nursing facility that has fewer than one hundred 91410
beds and is located in Mahoning or Stark county shall be placed in 91411
peer group three rather than peer group five. 91412

(b) Each nursing facility that has one hundred or more beds 91413
and is located in Mahoning or Stark county shall be placed in peer 91414
group four rather than peer group six. 91415

(D)(1) The department shall determine the rate for ancillary 91416
and support costs for each peer group established under division 91417
(C) of this section. The department is not required to conduct a 91418
rebasings more than once every ten years. Except as necessary to 91419
implement the amendments made to this section by Am. Sub. H.B. 153 91420
and Sub. H.B. 303, both of the 129th general assembly, the rate 91421
for ancillary and support costs determined under this division for 91422
a peer group shall be used for subsequent years until the 91423

department conducts a rebasing. To determine a peer group's rate 91424
for ancillary and support costs, the department shall do all of 91425
the following: 91426

(a) Subject to division (D)(2) of this section, determine the 91427
rate for ancillary and support costs for each nursing facility in 91428
the peer group for the applicable calendar year by using the 91429
greater of the nursing facility's actual inpatient days for the 91430
applicable calendar year or the inpatient days the nursing 91431
facility would have had for the applicable calendar year if its 91432
occupancy rate had been ninety per cent; 91433

(b) Subject to division (D)(3) of this section, identify 91434
which nursing facility in the peer group is at the twenty-fifth 91435
percentile of the rate for ancillary and support costs for the 91436
applicable calendar year determined under division (D)(1)(a) of 91437
this section; 91438

(c) Multiply the rate for ancillary and support costs 91439
determined under division (D)(1)(a) of this section for the 91440
nursing facility identified under division (D)(1)(b) of this 91441
section by the rate of inflation for the eighteen-month period 91442
beginning on the first day of July of the applicable calendar year 91443
and ending the last day of December of the calendar year 91444
immediately following the applicable calendar year using the 91445
following: 91446

(i) Until the first rebasing occurs, the consumer price index 91447
for all items for all urban consumers for the north central 91448
region, published by the United States bureau of labor statistics, 91449
as that index existed on July 1, 2005; 91450

(ii) Effective with the first rebasing and except as provided 91451
in division (D)(1)(c)(iii) of this section, the consumer price 91452
index for all items for all urban consumers for the midwest 91453
region, published by the United States bureau of labor statistics; 91454

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(d) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(c) of this section by five and eight hundredths per cent.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

~~Sec. 5111.25~~ 5165.17. (A) As used in this section: 91485

(1) "Applicable calendar year" means the following: 91486

(a) For the purpose of the department of ~~job and family services~~ medicaid's initial determination under division (D) of this section of each peer group's rate for capital costs, calendar year 2003; 91487
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(b) For the purpose of the department's rebasings, the calendar year the department selects. 91491
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(2) "Rebasing" means a redetermination under division (D) of this section of each peer ~~groups~~ group's rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates. 91493
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(B) The department of ~~job and family services~~ medicaid shall ~~pay a provider for~~ determine each of the provider's eligible nursing facilities ~~a facility's~~ per resident per medicaid day payment rate for capital costs ~~determined for the~~. A nursing facility's peer group rate shall be the rate determined under division (D) of this section. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following: 91498
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(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three; 91507
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(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four. 91509
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(C) For the purpose of determining nursing facilities' ~~rate~~ rates for capital costs, the department shall establish six peer groups. 91511
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~~Each~~ (1) Until the first rebasing occurs, the peer groups 91514

shall be composed as follows: 91515

(a) Each nursing facility located in any of the following 91516
counties shall be placed in peer group one or two: Brown, Butler, 91517
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 91518
located in any of those counties that has fewer than one hundred 91519
beds shall be placed in peer group one. Each nursing facility 91520
located in any of those counties that has one hundred or more beds 91521
shall be placed in peer group two. 91522

(b) Each nursing facility located in any of the following 91523
counties shall be placed in peer group three or four: Ashtabula, 91524
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 91525
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 91526
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 91527
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 91528
Union, and Wood. Each nursing facility located in any of those 91529
counties that has fewer than one hundred beds shall be placed in 91530
peer group three. Each nursing facility located in any of those 91531
counties that has one hundred or more beds shall be placed in peer 91532
group four. 91533

(c) Each nursing facility located in any of the following 91534
counties shall be placed in peer group five or six: Adams, Allen, 91535
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 91536
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 91537
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 91538
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 91539
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 91540
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 91541
Washington, Wayne, Williams, and Wyandot. Each nursing facility 91542
located in any of those counties that has fewer than one hundred 91543
beds shall be placed in peer group five. Each nursing facility 91544
located in any of those counties that has one hundred or more beds 91545
shall be placed in peer group six. 91546

(2) Beginning with the first rebasing, the peer groups shall 91547
be composed as they are under division (C)(1) of this section 91548
except as follows: 91549

(a) Each nursing facility that has fewer than one hundred 91550
beds and is located in Mahoning or Stark county shall be placed in 91551
peer group three rather than peer group five. 91552

(b) Each nursing facility that has one hundred or more beds 91553
and is located in Mahoning or Stark county shall be placed in peer 91554
group four rather than peer group six. 91555

(D)(1) The department shall determine the rate for capital 91556
costs for each peer group established under division (C) of this 91557
section. The department is not required to conduct a rebasing more 91558
than once every ten years. Except as necessary to implement the 91559
amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 91560
303, both of the 129th general assembly, the rate for capital 91561
costs determined under this division for a peer group shall be 91562
used for subsequent years until the department conducts a 91563
rebasing. To determine a peer group's rate for capital costs, the 91564
department shall do both of the following: 91565

(a) Determine the rate for capital costs for the nursing 91566
facility in the peer group that is at the twenty-fifth percentile 91567
of the rate for capital costs for the applicable calendar year; 91568

(b) Until the first rebasing occurs, increase the amount 91569
calculated under division (D)(1)(a) of this section by five and 91570
eight hundredths per cent. 91571

(2) To identify the nursing facility in a peer group that is 91572
at the twenty-fifth percentile of the rate for capital costs for 91573
the applicable calendar year, the department shall do both of the 91574
following: 91575

(a) Subject to division (D)(3) of this section, use the 91576
greater of each nursing facility's actual inpatient days for the 91577

applicable calendar year or the inpatient days the nursing 91578
facility would have had for the applicable calendar year if its 91579
occupancy rate had been one hundred per cent; 91580

(b) Exclude both of the following: 91581

(i) Nursing facilities that participated in the medicaid 91582
program under the same provider for less than twelve months in the 91583
applicable calendar year; 91584

(ii) Nursing facilities whose capital costs are more than one 91585
standard deviation from the mean desk-reviewed, actual, allowable, 91586
per diem capital cost for all nursing facilities in the nursing 91587
facility's peer group for the applicable calendar year. 91588

(3) For the purpose of determining a nursing facility's 91589
occupancy rate under division (D)(2)(a) of this section, the 91590
department shall include any beds that the nursing facility 91591
removes from its medicaid-certified capacity after June 30, 2005, 91592
unless the nursing facility also removes the beds from its 91593
licensed bed capacity. 91594

(4) The department shall not redetermine a peer group's rate 91595
for capital costs under this division based on additional 91596
information that it receives after the rate is determined. The 91597
department shall redetermine a peer group's rate for capital costs 91598
only if the department made an error in determining the rate based 91599
on information available to the department at the time of the 91600
original determination. 91601

(E) Buildings shall be depreciated using the straight line 91602
method over forty years or over a different period approved by the 91603
department. Components and equipment shall be depreciated using 91604
the straight-line method over a period designated in rules adopted 91605
under section ~~5111.02~~ 5165.02 of the Revised Code, consistent with 91606
the guidelines of the American hospital association, or over a 91607
different period approved by the department. Any rules authorized 91608

by this division that specify useful lives of buildings, 91609
components, or equipment apply only to assets acquired on or after 91610
July 1, 1993. Depreciation for costs paid or reimbursed by any 91611
government agency shall not be included in capital costs unless 91612
that part of the payment under ~~sections 5111.20 to 5111.331 of the~~ 91613
~~Revised Code~~ this chapter is used to reimburse the government 91614
agency. 91615

(F) The capital cost basis of nursing facility assets shall 91616
be determined in the following manner: 91617

(1) Except as provided in division (F)(3) of this section, 91618
for purposes of calculating the rates to be paid for facilities 91619
with dates of licensure on or before June 30, 1993, the capital 91620
cost basis of each asset shall be equal to the desk-reviewed, 91621
actual, allowable, capital cost basis that is listed on the 91622
facility's cost report for the calendar year preceding the fiscal 91623
year during which the rate will be paid. 91624

(2) For facilities with dates of licensure after June 30, 91625
1993, the capital cost basis shall be determined in accordance 91626
with the principles of the medicare program ~~established under~~ 91627
~~Title XVIII~~, except as otherwise provided in ~~sections 5111.20 to~~ 91628
~~5111.331 of the Revised Code~~ this chapter. 91629

(3) Except as provided in division (F)(4) of this section, if 91630
a provider transfers an interest in a facility to another provider 91631
after June 30, 1993, there shall be no increase in the capital 91632
cost basis of the asset if the providers are related parties or 91633
the provider to which the interest is transferred authorizes the 91634
provider that transferred the interest to continue to operate the 91635
facility under a lease, management agreement, or other 91636
arrangement. If the previous sentence does not prohibit the 91637
adjustment of the capital cost basis under this division, the 91638
basis of the asset shall be adjusted by one-half of the change in 91639
the consumer price index for all items for all urban consumers, as 91640

published by the United States bureau of labor statistics, during 91641
the time that the transferor held the asset. 91642

(4) If a provider transfers an interest in a facility to 91643
another provider who is a related party, the capital cost basis of 91644
the asset shall be adjusted as specified in division (F)(3) of 91645
this section if all of the following conditions are met: 91646

(a) The related party is a relative of owner; 91647

(b) Except as provided in division (F)(4)(c)(ii) of this 91648
section, the provider making the transfer retains no ownership 91649
interest in the facility; 91650

(c) The department ~~of job and family services~~ determines that 91651
the transfer is an arm's length transaction pursuant to rules 91652
adopted under section ~~5111.02~~ 5165.02 of the Revised Code. The 91653
rules shall provide that a transfer is an arm's length transaction 91654
if all of the following apply: 91655

(i) Once the transfer goes into effect, the provider that 91656
made the transfer has no direct or indirect interest in the 91657
provider that acquires the facility or the facility itself, 91658
including interest as an owner, officer, director, employee, 91659
independent contractor, or consultant, but excluding interest as a 91660
creditor. 91661

(ii) The provider that made the transfer does not reacquire 91662
an interest in the facility except through the exercise of a 91663
creditor's rights in the event of a default. If the provider 91664
reacquires an interest in the facility in this manner, the 91665
department shall treat the facility as if the transfer never 91666
occurred when the department calculates its reimbursement rates 91667
for capital costs. 91668

(iii) The transfer satisfies any other criteria specified in 91669
the rules. 91670

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable ~~cost of ownership~~ capital costs was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the

lesser of the annual lease expense or the annual depreciation 91701
expense and imputed interest expense that would be calculated at 91702
the inception of the lease using the lessor's entire historical 91703
capital asset cost basis, adjusted by one-half of the change in 91704
the consumer price index for all items for all urban consumers, as 91705
published by the United States bureau of labor statistics, during 91706
the time the lessor held each asset until the beginning of the 91707
lease. 91708

(3) Subject to division (B) of this section, for a lease of a 91709
facility with a date of licensure on or after May 27, 1992, that 91710
is initially operated under a lease, actual, allowable capital 91711
costs shall include the annual lease expense if there was a 91712
substantial commitment of money for construction of the facility 91713
after December 22, 1992, and before July 1, 1993. If there was not 91714
a substantial commitment of money after December 22, 1992, and 91715
before July 1, 1993, actual, allowable capital costs shall include 91716
the lesser of the annual lease expense or the sum of the 91717
following: 91718

(a) The annual depreciation expense that would be calculated 91719
at the inception of the lease using the lessor's entire historical 91720
capital asset cost basis; 91721

(b) The greater of the lessor's actual annual amortization of 91722
financing costs and interest expense at the inception of the lease 91723
or the imputed interest expense calculated at the inception of the 91724
lease using seventy per cent of the lessor's historical capital 91725
asset cost basis. 91726

(4) Subject to division (B) of this section, for a lease of a 91727
facility with a date of licensure on or after May 27, 1992, that 91728
was not initially operated under a lease and has been in existence 91729
for ten years, actual, allowable capital costs shall include the 91730
lesser of the annual lease expense or the annual depreciation 91731
expense and imputed interest expense that would be calculated at 91732

the inception of the lease using the entire historical capital 91733
asset cost basis of one-half of the change in the consumer price 91734
index for all items for all urban consumers, as published by the 91735
United States bureau of labor statistics, during the time the 91736
lessor held each asset until the beginning of the lease. 91737

(5) Subject to division (B) of this section, for a new lease 91738
of a facility that was operated under a lease on May 27, 1992, 91739
actual, allowable capital costs shall include the lesser of the 91740
annual new lease expense or the annual old lease payment. If the 91741
old lease was in effect for ten years or longer, the old lease 91742
payment from the beginning of the old lease shall be adjusted by 91743
one-half of the change in the consumer price index for all items 91744
for all urban consumers, as published by the United States bureau 91745
of labor statistics, from the beginning of the old lease to the 91746
beginning of the new lease. 91747

(6) Subject to division (B) of this section, for a new lease 91748
of a facility that was not in existence or that was in existence 91749
but not operated under a lease on May 27, 1992, actual, allowable 91750
capital costs shall include the lesser of annual new lease expense 91751
or the annual amount calculated for the old lease under division 91752
(G)(2), (3), (4), or (6) of this section, as applicable. If the 91753
old lease was in effect for ten years or longer, the lessor's 91754
historical capital asset cost basis shall be, for purposes of 91755
calculating the annual amount under division (G)(2), (3), (4), or 91756
(6) of this section, adjusted by one-half of the change in the 91757
consumer price index for all items for all urban consumers, as 91758
published by the United States bureau of labor statistics, from 91759
the beginning of the old lease to the beginning of the new lease. 91760

In the case of a lease under division (G)(3) of this section 91761
of a facility for which a substantial commitment of money was made 91762
after December 22, 1992, and before July 1, 1993, the old lease 91763
payment shall be adjusted for the purpose of determining the 91764

annual amount. 91765

(7) For any revision of a lease described in division (G)(1), 91766
(2), (3), (4), (5), or (6) of this section, or for any subsequent 91767
lease of a facility operated under such a lease, other than 91768
execution of a new lease, the portion of actual, allowable capital 91769
costs attributable to the lease shall be the same as before the 91770
revision or subsequent lease. 91771

(8) Except as provided in division (G)(9) of this section, if 91772
a provider leases an interest in a facility to another provider 91773
who is a related party or previously operated the facility, the 91774
related party's or previous operator's actual, allowable capital 91775
costs shall include the lesser of the annual lease expense or the 91776
reasonable cost to the lessor. 91777

(9) If a provider leases an interest in a facility to another 91778
provider who is a related party, regardless of the date of the 91779
lease, the related party's actual, allowable capital costs shall 91780
include the annual lease expense, subject to the limitations 91781
specified in divisions (G)(1) to (7) of this section, if all of 91782
the following conditions are met: 91783

(a) The related party is a relative of owner; 91784

(b) If the lessor retains an ownership interest, it is, 91785
except as provided in division (G)(9)(c)(ii) of this section, in 91786
only the real property and any improvements on the real property; 91787

(c) The department ~~of job and family services~~ determines that 91788
the lease is an arm's length transaction pursuant to rules adopted 91789
under section ~~5111.02~~ 5165.02 of the Revised Code. The rules shall 91790
provide that a lease is an arm's length transaction if all of the 91791
following apply: 91792

(i) Once the lease goes into effect, the lessor has no direct 91793
or indirect interest in the lessee or, except as provided in 91794
division (G)(9)(b) of this section, the facility itself, including 91795

interest as an owner, officer, director, employee, independent 91796
contractor, or consultant, but excluding interest as a lessor. 91797

(ii) The lessor does not reacquire an interest in the 91798
facility except through the exercise of a lessor's rights in the 91799
event of a default. If the lessor reacquires an interest in the 91800
facility in this manner, the department shall treat the facility 91801
as if the lease never occurred when the department calculates its 91802
reimbursement rates for capital costs. 91803

(iii) The lease satisfies any other criteria specified in the 91804
rules. 91805

(d) Except in the case of hardship caused by a catastrophic 91806
event, as determined by the department, or in the case of a lessor 91807
who is at least sixty-five years of age, not less than twenty 91808
years have elapsed since, for the same facility, the capital cost 91809
basis was adjusted most recently under division (F)(4) of this 91810
section or actual, allowable capital costs were determined most 91811
recently under division (G)(9) of this section. 91812

(10) This division does not apply to leases of specific items 91813
of equipment. 91814

Sec. ~~5111.231~~ 5165.19. (A) As used in this section: 91815

(1) "Applicable calendar year" means the following: 91816

(a) For the purpose of the department of ~~job and family~~ 91817
~~services~~ medicaid's initial determination under division (D) of 91818
this section of each peer group's cost per case-mix unit, calendar 91819
year 2003; 91820

(b) For the purpose of the department's rebasings, the 91821
calendar year the department selects. 91822

(2) "Rebasing" means a redetermination under division (D) of 91823
this section of each peer ~~groups~~ group's cost per case-mix unit 91824
using information from cost reports for an applicable calendar 91825

year that is later than the applicable calendar year used for the 91826
previous determination of such costs. 91827

(B) ~~The~~ Semiannually, the department of ~~job and family~~ 91828
~~services~~ medicaid shall ~~pay a provider for~~ determine each of the 91829
~~provider's eligible nursing facilities~~ a facility's per resident 91830
~~per~~ medicaid day payment rate for direct care costs ~~determined~~ 91831
~~semiannually~~ by multiplying the ~~cost per case-mix unit determined~~ 91832
~~under division (D) of this section for the facility's peer group~~ 91833
~~by~~ the facility's semiannual case-mix score determined under 91834
section ~~5111.232~~ 5165.192 of the Revised Code by the cost per 91835
case-mix unit determined under division (D) of this section for 91836
the facility's peer group. However, for the period beginning 91837
October 1, 2013, and ending on the first day of the first 91838
rebasings, the rate for a nursing facility located in Mahoning or 91839
Stark county shall be determined semiannually by multiplying the 91840
facility's semiannual case-mix score determined under section 91841
5165.192 of the Revised Code by the cost per case-mix unit 91842
determined under division (D) of this section for the nursing 91843
facilities in peer group two. 91844

(C) For the purpose of determining nursing facilities' ~~rate~~ 91845
rates for direct care costs, the department shall establish three 91846
peer groups. 91847

Each (1) Until the first rebasing occurs, the peer groups 91848
shall be composed as follows: 91849

(a) Each nursing facility located in any of the following 91850
counties shall be placed in peer group one: Brown, Butler, 91851
Clermont, Clinton, Hamilton, and Warren. 91852

(b) Each nursing facility located in any of the following 91853
counties shall be placed in peer group two: Ashtabula, Champaign, 91854
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 91855
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 91856

Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 91857
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 91858
and Wood. 91859

(c) Each nursing facility located in any of the following 91860
counties shall be placed in peer group three: Adams, Allen, 91861
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 91862
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 91863
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 91864
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 91865
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 91866
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 91867
Washington, Wayne, Williams, and Wyandot. 91868

(2) Beginning with the first rebasing, the peer groups shall 91869
be composed as they are under division (C)(1) of this section 91870
except that each nursing facility located in Mahoning or Stark 91871
county shall be placed in peer group two rather than peer group 91872
three. 91873

(D)(1) The department shall determine a cost per case-mix 91874
unit for each peer group established under division (C) of this 91875
section. The department is not required to conduct a rebasing more 91876
than once every ten years. Except as necessary to implement the 91877
amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 91878
303, both of the 129th general assembly, and H.B... of the 130th 91879
general assembly, the cost per case-mix unit determined under this 91880
division for a peer group shall be used for subsequent years until 91881
the department conducts a rebasing. To determine a peer group's 91882
cost per case-mix unit, the department shall do all of the 91883
following: 91884

(a) Determine the cost per case-mix unit for each nursing 91885
facility in the peer group for the applicable calendar year by 91886
dividing each facility's desk-reviewed, actual, allowable, per 91887
diem direct care costs for the applicable calendar year by the 91888

facility's annual average case-mix score determined under section 91889
~~5111.232~~ 5165.192 of the Revised Code for the applicable calendar 91890
year; 91891

(b) Subject to division (D)(2) of this section, identify 91892
which nursing facility in the peer group is at the twenty-fifth 91893
percentile of the cost per case-mix units determined under 91894
division (D)(1)(a) of this section; 91895

(c) Calculate the amount that is two per cent above the cost 91896
per case-mix unit determined under division (D)(1)(a) of this 91897
section for the nursing facility identified under division 91898
(D)(1)(b) of this section; 91899

(d) Using the index specified in division (D)(3) of this 91900
section, multiply the rate of inflation for the eighteen-month 91901
period beginning on the first day of July of the applicable 91902
calendar year and ending the last day of December of the calendar 91903
year immediately following the applicable calendar year by the 91904
amount calculated under division (D)(1)(c) of this section; 91905

(e) Until the first rebasing occurs, add ~~one dollar and~~ 91906
~~eighty-eight cents~~ the following amount to the amount calculated 91907
under division (D)(1)(d) of this section+: 91908

(i) For fiscal year 2014, one dollar and eighty-eight cents; 91909

(ii) For fiscal year 2015 and each fiscal year thereafter, 91910
one dollar and fifty-six cents. 91911

(f) Until the first rebasing occurs, increase the amount 91912
calculated under division (D)(1)(e) of this section by five and 91913
eight hundredths per cent. 91914

(2) In making the identification under division (D)(1)(b) of 91915
this section, the department shall exclude both of the following: 91916

(a) Nursing facilities that participated in the medicaid 91917
program under the same provider for less than twelve months in the 91918

applicable calendar year; 91919

(b) Nursing facilities whose cost per case-mix unit is more 91920
than one standard deviation from the mean cost per case-mix unit 91921
for all nursing facilities in the nursing facility's peer group 91922
for the applicable calendar year. 91923

(3) The following index shall be used for the purpose of the 91924
calculation made under division (D)(1)(d) of this section: 91925

(a) Until the first rebasing occurs, the employment cost 91926
index for total compensation, health services component, published 91927
by the United States bureau of labor statistics, as the index 91928
existed on July 1, 2005; 91929

(b) Effective with the first rebasing and except as provided 91930
in division (D)(3)(c) of this section, the employment cost index 91931
for total compensation, nursing and residential care facilities 91932
occupational group, published by the United States bureau of labor 91933
statistics; 91934

(c) If the United States bureau of labor statistics ceases to 91935
publish the index specified in division (D)(3)(b) of this section, 91936
the index the bureau subsequently publishes that covers nursing 91937
facilities' staff costs. 91938

(4) The department shall not redetermine a peer group's cost 91939
per case-mix unit under this division based on additional 91940
information that it receives after the peer group's per case-mix 91941
unit is determined. The department shall redetermine a peer 91942
group's cost per case-mix unit only if it made an error in 91943
determining the peer group's cost per case-mix unit based on 91944
information available to the department at the time of the 91945
original determination. 91946

Sec. 5165.191. Each calendar quarter, each nursing facility 91947
provider shall compile complete assessment data for each resident 91948

of each of the provider's nursing facilities, regardless of 91949
payment source, who is in the nursing facility, or on hospital or 91950
therapeutic leave from the nursing facility, on the last day of 91951
the quarter. A resident assessment instrument specified in rules 91952
authorized by this section shall be used to compile the resident 91953
assessment data. Each provider shall submit the resident 91954
assessment data to the department of health and, if required by 91955
the rules, the department of medicaid. The resident assessment 91956
data shall be submitted not later than fifteen days after the end 91957
of the calendar quarter for which the data is compiled. If the 91958
resident assessment data is to be submitted to the department of 91959
medicaid, it shall be submitted to the department through the 91960
medium or media specified in the rules. 91961

Rules adopted under section 5165.02 of the Revised Code shall 91962
do all of the following: 91963

(A) In a manner consistent with the "Social Security Act," 91964
section 1919(e)(5), 42 U.S.C. 1396r(e)(5), specify a resident 91965
assessment instrument to be used by nursing facility providers 91966
under this section; 91967

(B) Specify whether nursing facility providers must submit 91968
the resident assessment data to the department of medicaid; 91969

(C) If the rules specify that nursing facility providers must 91970
submit the resident assessment data to the department, specify the 91971
medium or media through which the data is to be submitted. 91972

Sec. ~~5111.232~~ 5165.192. (A)(1) The Except as provided in 91973
division (B) of this section and in accordance with the process 91974
specified in rules authorized by this section, the department of 91975
job and family services medicaid shall do all of the following: 91976

(a) Every quarter, determine the following two case-mix 91977
scores for each nursing facility: 91978

<u>(i) A quarterly case-mix score that includes each resident who is a medicaid recipient and is not a low resource utilization resident;</u>	91979
	91980
	91981
<u>(ii) A quarterly case-mix score that includes each resident regardless of payment source.</u>	91982
	91983
<u>(b) Every six months, determine a semiannual and annual average case-mix scores score for each nursing facilities facility by using all of the following: quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(i) of this section;</u>	91984
	91985
	91986
	91987
	91988
<u>(c) After the end of each calendar year, determine an annual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(ii) of this section.</u>	91989
	91990
	91991
	91992
<u>(2) When determining case-mix scores under division (A)(1) of this section, the department shall use all of the following:</u>	91993
	91994
<u>(a) Data from a resident assessment instrument specified in rules adopted under authorized by section 5111.02 5165.191 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:</u>	91995
	91996
	91997
	91998
	91999
<u>(i) When determining semiannual case mix scores for fiscal year 2012, each resident who is a medicaid recipient;</u>	92000
	92001
<u>(ii) When determining semiannual case mix scores for fiscal year 2013 and thereafter, each resident who is a medicaid recipient and not placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data;</u>	92002
	92003
	92004
	92005
	92006
	92007
<u>(iii) When determining annual average case mix scores, each</u>	92008

~~resident regardless of payment source.~~ 92009

(b) Except as provided in rules authorized by ~~divisions~~ 92010
~~(A)(2)(a) and (b) of this section, the case-mix values established~~ 92011
by the United States department of health and human services; 92012

(c) Except as modified in rules authorized by ~~division~~ 92013
~~(A)(2)(c) of this section, the grouper methodology used on June~~ 92014
30, 1999, by the United States department of health and human 92015
services for prospective payment of skilled nursing facilities 92016
under the medicare program ~~established by Title XVIII.~~ 92017

~~(2) The director of job and family services may adopt rules~~ 92018
~~under section 5111.02 of the Revised Code that do any of the~~ 92019
~~following:~~ 92020

(a) ~~Adjust the case mix values specified in division~~ 92021
~~(A)(1)(b) of this section to reflect changes in relative wage~~ 92022
~~differentials that are specific to this state;~~ 92023

(b) ~~Express all of those case mix values in numeric terms~~ 92024
~~that are different from the terms specified by the United States~~ 92025
~~department of health and human services but that do not alter the~~ 92026
~~relationship of the case mix values to one another;~~ 92027

(c) ~~Modify the grouper methodology specified in division~~ 92028
~~(A)(1)(c) of this section as follows:~~ 92029

(i) ~~Establish a different hierarchy for assigning residents~~ 92030
~~to case mix categories under the methodology;~~ 92031

(ii) ~~Prohibit the use of the index maximizer element of the~~ 92032
~~methodology;~~ 92033

(iii) ~~Incorporate changes to the methodology the United~~ 92034
~~States department of health and human services makes after June~~ 92035
~~30, 1999;~~ 92036

(iv) ~~Make other changes the department determines are~~ 92037
~~necessary.~~ 92038

~~(B) The department shall determine case mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case mix values established by the department in those rules.~~

~~(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.~~

~~Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case mix score for each nursing facility using the facility's quarterly case mix scores for that six month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual average case mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.~~

~~(D)(1) If a Subject to division (B)(2) of this section, the~~

department, for one or more months of a calendar quarter, may 92071
assign to a nursing facility a case-mix score that is five per 92072
cent less than the nursing facility's case-mix score for the 92073
immediately preceding calendar quarter if any of the following 92074
apply: 92075

(a) The provider does not timely submit information complete 92076
and accurate resident assessment data necessary to determine the 92077
nursing facility's case-mix score for a the calendar quarter 92078
necessary to calculate a facility's case mix score, or submits 92079
incomplete or inaccurate information for a calendar quarter, the 92080
department may assign the facility a quarterly average case mix 92081
score that is five per cent less than the facility's quarterly 92082
average case mix score for the preceding calendar quarter. If the; 92083

(b) The nursing facility was subject to an exception review 92084
under division (C) of section 5111.27 5165.193 of the Revised Code 92085
for the immediately preceding calendar quarter, the department may 92086
assign a quarterly average case mix score that is five per cent 92087
less than the score determined by the exception review. If the; 92088

(c) The nursing facility was assigned a quarterly average 92089
case-mix score for the immediately preceding calendar quarter, the 92090
department may assign a quarterly average case mix score that is 92091
five per cent less than that score assigned for the preceding 92092
quarter. 92093

The department may use a quarterly average case mix score 92094
assigned under division (D)(1) of this section, instead of a 92095
quarterly average case mix score calculated based on the 92096
provider's submitted information, to calculate the facility's rate 92097
for direct care costs being established under section 5111.23 or 92098
5111.231 of the Revised Code for one or more months, as specified 92099
in rules authorized by division (E) of this section, of the 92100
quarter for which the rate established under section 5111.23 or 92101
5111.231 of the Revised Code will be paid. 92102

~~(2) Before taking action under division (D)(1) of this section assigning a case-mix score to a nursing facility due to the submission of incorrect resident assessment data, the department shall permit the provider a reasonable period of time, specified in rules authorized by division (E) of this section, to correct the information data. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the eighty first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the~~ The department shall not may assign a quarterly average the case-mix score due to late submission of corrections to assessment information unless if the provider fails to submit the corrected information prior to resident assessment data not later than the earlier of the ~~forty sixth~~ forty-fifth day after the end of the calendar quarter to which the ~~information data~~ pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under ~~Titles~~ Title XVIII and Title XIX.

~~(2)(3) If, for more than six months in a calendar year, a provider is paid a rate determined for a nursing facility ealeculated using a quarterly average case-mix score assigned to the nursing facility under division (D)(B)(1) of this section for more than six months in a calendar year, the department may assign the nursing facility a cost per case-mix unit that is five per cent less than the nursing facility's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of ealeculating determining the nursing facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 5165.19 of the Revised Code, to establish the nursing facility's~~

rate for direct care costs for the ~~following~~ fiscal year 92136
immediately following the calendar year for which the cost per 92137
case-mix unit is assigned. 92138

~~(3)~~(4) The department shall take action under division 92139
~~(D)~~(B)(1) ~~or~~, (2), or (3) of this section only in accordance with 92140
rules authorized by ~~division (E) of~~ this section. The department 92141
shall not take an action that affects rates for prior payment 92142
periods except in accordance with sections ~~5111.27~~ 5165.41 and 92143
~~5111.28~~ 5165.42 of the Revised Code. 92144

~~(E)~~(C) The medicaid director shall adopt rules under section 92145
~~5111.02~~ 5165.02 of the Revised Code ~~that~~ as necessary to implement 92146
this section. 92147

(1) The rules shall do all of the following: 92148

~~(1) Specify whether providers of a nursing facility must~~ 92149
~~submit the assessment data to the department of job and family~~ 92150
~~services;~~ 92151

~~(2) Specify the medium or media through which the completed~~ 92152
~~assessment data shall be submitted;~~ 92153

~~(3)~~(a) Specify the process for determining the semiannual and 92154
annual average case-mix scores for nursing facilities; 92155

(b) Adjust the case-mix values specified in division 92156
(A)(2)(b) of this section to reflect changes in relative wage 92157
differentials that are specific to this state; 92158

(c) Express all of those case-mix values in numeric terms 92159
that are different from the terms specified by the United States 92160
department of health and human services but that do not alter the 92161
relationship of the case-mix values to one another; 92162

(d) Modify the grouper methodology specified in division 92163
(A)(2)(c) of this section as follows: 92164

(i) Establish a different hierarchy for assigning residents 92165

<u>to case-mix categories under the methodology;</u>	92166
<u>(ii) Prohibit the use of the index maximizer element of the methodology;</u>	92167
<u>(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;</u>	92168
<u>(iv) Make other changes the department determines are necessary.</u>	92169
<u>(e) Establish procedures under which the resident assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;</u>	92170
<u>(4)(f) Establish procedures for providers to correct resident assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles Title XVIII and Title XIX.</u>	92171
<u>(5)(g) Specify when and how the department will assign case-mix scores or costs per case-mix unit to a nursing facility under division (D)(B) of this section if information necessary to calculate the nursing facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding</u>	92172
<u>(2) Notwithstanding any other provision of sections 5111.20 to 5111.331 of the Revised Code this chapter, the rules also may provide for the following:</u>	92173
<u>(a) Exclusion of case mix scores assigned under division (D) of this section from calculation of an intermediate care facility for the mentally retarded's annual average case mix score and the</u>	92174
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~~maximum cost per case mix unit for the facility's peer group;~~ 92196

~~(b) Exclusion~~ exclusion of case-mix scores assigned to a 92197
nursing facility under division ~~(D)~~(B) of this section from 92198
~~calculation~~ the determination of a the nursing facility's 92199
semiannual or annual average case-mix score and the cost per 92200
case-mix unit for the nursing facility's peer group. 92201

Sec. 5165.193. (A) The department of medicaid may, pursuant 92202
to rules authorized by this section, conduct an exception review 92203
of resident assessment data submitted by a nursing facility 92204
provider under section 5165.191 of the Revised Code. The 92205
department may conduct an exception review based on the findings 92206
of a medicaid certification survey conducted by the department of 92207
health, a risk analysis, or prior performance of the provider. 92208

Exception reviews shall be conducted at the nursing facility 92209
by appropriate health professionals under contract with or 92210
employed by the department. The professionals may review resident 92211
assessment forms and supporting documentation, conduct interviews, 92212
and observe residents to identify any patterns or trends of 92213
inaccurate resident assessments and resulting inaccurate case-mix 92214
scores. 92215

(B) If an exception review is conducted before the effective 92216
date of a nursing facility's rate for direct care costs that is 92217
based on the resident assessment data being reviewed and the 92218
review results in findings that exceed tolerance levels specified 92219
in the rules authorized by this section, the department, in 92220
accordance with those rules, may use the findings to redetermine 92221
individual resident case-mix scores, the nursing facility's 92222
case-mix score for the quarter, and the nursing facility's annual 92223
average case-mix score. The department may use the nursing 92224
facility's redetermined quarterly and annual average case-mix 92225
scores to determine the nursing facility's rate for direct care 92226

costs for the appropriate calendar quarter or quarters. 92227

(C) The department shall prepare a written summary of any 92228
exception review finding that is made after the effective date of 92229
a nursing facility's rate for direct care costs that is based on 92230
the resident assessment data that was reviewed. Where the provider 92231
is pursuing judicial or administrative remedies in good faith 92232
regarding the finding, the department shall not withhold from the 92233
provider's current payments any amounts the department claims to 92234
be due from the provider pursuant to section 5165.41 of the 92235
Revised Code. 92236

(D)(1) The medicaid director shall adopt rules under section 92237
5165.02 of the Revised Code as necessary to implement this 92238
section. The rules shall establish an exception review program 92239
that does all of the following: 92240

(a) Requires each exception review to comply with Title XVIII 92241
and Title XIX; 92242

(b) Requires a written summary for each exception review that 92243
states whether resident assessment forms have been completed 92244
accurately; 92245

(c) Prohibits each health professional who conducts an 92246
exception review from doing either of the following: 92247

(i) During the period of the professional's contract or 92248
employment with the department, having or being committed to 92249
acquire any direct or indirect financial interest in the 92250
ownership, financing, or operation of nursing facilities in this 92251
state; 92252

(ii) Reviewing any provider that has been a client of the 92253
professional. 92254

(2) For the purposes of division (D)(1)(c)(i) of this 92255
section, employment of a member of a health professional's family 92256

by a nursing facility that the professional does not review does 92257
not constitute a direct or indirect financial interest in the 92258
ownership, financing, or operation of the nursing facility. 92259

Sec. ~~5111.242~~ 5165.21. (A) As used in this section: 92260

(1) "Applicable calendar year" means the following: 92261

(a) For the purpose of the department of ~~job and family~~ 92262
~~services'~~ medicaid's initial determination under this section of 92263
nursing facilities' rate for tax costs, calendar year 2003; 92264

(b) For the purpose of the department's rebasings, the 92265
calendar year the department selects. 92266

(2) "Rebasing" means a redetermination under division ~~(C)~~(B) 92267
of this section of each nursing facility's rate for tax costs 92268
using information from cost reports for an applicable calendar 92269
year that is later than the applicable calendar year used for the 92270
previous determination of such rates. 92271

~~(B) The department of job and family services shall pay a~~ 92272
~~provider for each of the provider's eligible nursing facilities a~~ 92273
~~per resident per day rate for tax costs determined under division~~ 92274
~~(C) of this section.~~ 92275

~~(C)~~ The department of medicaid shall determine the each 92276
nursing facility's per medicaid day payment rate for tax costs ~~for~~ 92277
~~each nursing facility~~. The department is not required to conduct a 92278
rebasings more than once every ten years. Except as necessary to 92279
implement the amendments made to this section by Sub. H.B. 303 of 92280
the 129th general assembly, the rate for tax costs determined 92281
under this division for a nursing facility shall be used for 92282
subsequent years until the department conducts a rebasing. To 92283
determine a nursing facility's rate for tax costs and except as 92284
provided in division ~~(D)~~(C) of this section, the department shall 92285
do both of the following: 92286

(1) Divide the nursing facility's desk-reviewed, actual, 92287
allowable tax costs paid for the applicable calendar year by the 92288
number of inpatient days the nursing facility would have had if 92289
its occupancy rate had been one hundred per cent during the 92290
applicable calendar year; 92291

(2) Until the first rebasing occurs, increase the amount 92292
calculated under division ~~(C)~~(B)(1) of this section by five and 92293
eight hundredths per cent. 92294

~~(D)~~(C) If a nursing facility had a credit regarding its real 92295
estate taxes reflected on its cost report for calendar year 2003, 92296
the department shall determine, as follows, its rate for tax costs 92297
for the period beginning on July 1, 2010, and ending on the first 92298
day of the fiscal year for which the department first conducts a 92299
rebasing: 92300

(1) Divide the nursing facility's desk-reviewed, actual, 92301
allowable tax costs paid for calendar year 2004 by the number of 92302
inpatient days the nursing facility would have had if its 92303
occupancy rate had been one hundred per cent during calendar year 92304
2004; 92305

(2) Until the first rebasing occurs, increase the amount 92306
calculated under division ~~(D)~~(C)(1) of this section by five and 92307
eight hundredths per cent. 92308

Sec. ~~5111.246~~ 5165.23. (A) Each fiscal year, the department 92309
of ~~job and family services~~ medicaid shall ~~pay a~~ determine the 92310
critical access incentive payment ~~to the provider of~~ for each 92311
nursing facility that qualifies as a critical access nursing 92312
facility. To qualify as a critical access nursing facility for a 92313
fiscal year, a nursing facility must meet all of the following 92314
requirements: 92315

(1) The nursing facility must be located in an area that, on 92316

December 31, 2011, was designated an empowerment zone under 92317
~~section 1391~~ of the "Internal Revenue Code of 1986," ~~107 Stat. 543~~ 92318
section 1391, 26 U.S.C. 1391, ~~as amended.~~ 92319

(2) The nursing facility must have an occupancy rate of at 92320
least eighty-five per cent as of the last day of the calendar year 92321
immediately preceding the fiscal year. 92322

(3) The nursing facility must have a medicaid utilization 92323
rate of at least sixty-five per cent as of the last day of the 92324
calendar year immediately preceding the fiscal year. 92325

(4) The nursing facility must have been awarded at least five 92326
points for meeting accountability measures under section 5165.25 92327
of the Revised Code for the fiscal year and at least one of the 92328
five points must have been awarded for meeting the following: 92329

(a) For fiscal year 2014, the accountability measures 92330
identified in divisions (C)(10), (11), (12), and (13) of section 92331
5165.25 of the Revised Code; 92332

(b) For fiscal year 2015 and each fiscal year thereafter, the 92333
accountability measures identified in divisions (D)(9), (10), 92334
(11), (12), and (14) of section 5165.25 of the Revised Code. 92335

(B) A critical access nursing facility's critical access 92336
incentive payment for a fiscal year shall equal five per cent of 92337
the portion of the nursing facility's total rate for the fiscal 92338
year that is the sum of the rates and payment identified in 92339
divisions ~~(B)(A)~~(1) to (4) and (6) of section ~~5111.222~~ 5165.15 of 92340
the Revised Code. 92341

Sec. ~~5111.244~~ 5165.25. (A) As used in this section: 92342

(1) ~~"Applicable percentage" means, for the accountability~~ 92343
~~measures identified in divisions (C)(10) to (13) of this section,~~ 92344
~~the following:~~ 92345

~~(a) For fiscal year 2013, whichever of the following applies:~~ 92346

~~(i) The percentage that the department of job and family services specifies for an accountability measure pursuant to division (E)(1)(b) or (E)(2)(a)(ii) of this section;~~ 92347
92348
92349

~~(ii) The percentage specified for an accountability measure in division (E)(2)(b), (ii), (iii), (iv), or (v) of this section.~~ 92350
92351

~~(b) For fiscal year 2014, whichever of the following applies:~~ 92352

~~(i) The percentage used pursuant to division (F)(2) of this section;~~ 92353
92354

~~(ii) The percentage that the department specifies for an accountability measure pursuant to division (F)(3)(a) of this section.~~ 92355
92356
92357

~~(c) For fiscal year 2015 and thereafter, whichever of the following applies:~~ 92358
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~~(i) The percentage used pursuant to division (F)(2) of this section;~~ 92360
92361

~~(ii) The percentage used pursuant to division (F)(3)(b) of this section.~~ 92362
92363

~~(2) "Complaint surveys" has the same meaning as in 42 C.F.R. 488.30.~~ 92364
92365

~~(3)(2) "Customer satisfaction survey" means the annual survey of long-term care facilities required by section 173.47 of the Revised Code.~~ 92366
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~~(4)(3) "Deficiency" has the same meaning as in 42 C.F.R. 488.301.~~ 92369
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(4) "Exempted hospital discharge" has the same meaning as in 42 C.F.R. 483.106(b)(2)(i). 92371
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(5) "Family satisfaction survey" means a customer satisfaction survey, or part of a customer satisfaction survey, that contains the results of information obtained from the 92373
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families of a nursing facility's residents. 92376

(6) "Minimum data set" means the standardized, uniform 92377
comprehensive assessment of nursing facility residents that is 92378
used to identify potential problems, strengths, and preferences of 92379
residents and is part of the resident assessment instrument 92380
required by ~~section 1919(e)(5) of the "Social Security Act," 401~~ 92381
~~Stat. 1330-197 (1987)~~ section 1919(e)(5), 42 U.S.C. 1396r(e)(5),
as amended. 92382
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(7) ~~"National voluntary consensus standards for nursing 92384
homes" means measures used to determine the quality of care 92385
provided by nursing facilities as endorsed by the national quality 92386
forum.~~ 92387

~~(8)~~ "Nurse aide" has the same meaning as in section 3721.21 92388
of the Revised Code. 92389

~~(9)~~(8) "Resident satisfaction survey" means a customer 92390
satisfaction survey, or part of a customer satisfaction survey, 92391
that contains the results of information obtained from a nursing 92392
facility's residents. 92393

~~(10)~~(9) "Room mirror" means a mirror that is located in 92394
either of the following rooms: 92395

(a) A resident bathroom if the sink used by a resident after 92396
the resident uses the resident bathroom is in the resident 92397
bathroom; 92398

(b) A resident's room if the sink used by a resident after 92399
the resident uses the resident bathroom is in the resident's room. 92400

~~(11)~~(10) "Room sink" means a sink that is located in either 92401
of the following rooms: 92402

(a) A resident bathroom if the sink used by a resident after 92403
the resident uses the resident bathroom is in the resident 92404
bathroom; 92405

(b) A resident's room if the sink used by a resident after the resident uses the resident bathroom is in the resident's room. 92406
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~~(12)~~(11) "Standard survey" has the same meaning as in 42 C.F.R. 488.301. 92408
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(12) "Special focus facility list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program required by the "Social Security Act," section 1919(f)(10), 42 U.S.C. 1396r(f)(10). 92410
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(13) "Substantial wall" means a permanent structure that reaches from floor to ceiling and divides a semiprivate room into two distinct living spaces, each with its own window. 92415
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(14) "Table B of the special focus facility list" means the table included in the special focus facility list that identifies nursing facilities that have not improved. 92418
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(B)(1) Each fiscal year, the department of ~~job and family services~~ medicaid shall ~~pay a~~ determine each nursing facility's quality incentive payment ~~to the provider of each nursing facility that is awarded one or more points for meeting accountability measures under division (C) of this section.~~ Subject to ~~division~~ divisions (B)(2) and (3) of this section, the per medicaid day amount of a quality incentive payment paid to a nursing facility provider shall be the product of the following: 92421
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(a) The number of points the provider's nursing facility is awarded for meeting accountability measures under ~~division (C) of~~ this section; 92429
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(b) Three dollars and twenty-nine cents. 92432

(2) The maximum quality incentive payment that may be paid to ~~the provider of~~ a nursing facility provider for a fiscal year 2014 shall be sixteen dollars and forty-four cents per medicaid day. 92433
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(3) The maximum quality incentive payment that may be paid to a nursing facility provider for fiscal year 2015 and each fiscal year thereafter shall be the following: 92436
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(a) Sixteen dollars and forty-four cents if at least one of the points awarded to the nursing facility for meeting accountability measures is for an accountability measure identified in division (D)(9), (10), (11), (12), or (14) of this section; 92439
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(b) Thirteen dollars and sixteen cents if division (B)(3)(a) of this section does not apply. 92444
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(C) Subject For fiscal year 2014 only and subject to divisions (D), division (E), and (F) of this section, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets: 92446
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(1) The facility's overall score on its resident satisfaction survey is at least eighty-six. 92451
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(2) The facility's overall score on its family satisfaction survey is at least eighty-eight. 92453
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(3) The facility satisfies the requirements for participation in the advancing excellence in America's nursing homes campaign. 92455
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(4) The facility had neither of the following on the facility's most recent standard survey conducted not later than the last day of the calendar year immediately preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year immediately preceding the fiscal year for which the point is to be awarded: 92457
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(a) A health deficiency with a scope and severity level greater than F; 92463
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(b) A deficiency that constitutes a substandard quality of 92465

care.	92466
(5) The facility offers at least fifty per cent of its residents at least one of the following dining choices for at least one meal each day:	92467 92468 92469
(a) Restaurant-style dining in which food is brought from the food preparation area to residents per the residents' orders;	92470 92471
(b) Buffet-style dining in which residents obtain their own food, or have the facility's staff bring food to them per the residents' directions, from the buffet;	92472 92473 92474
(c) Family-style dining in which food is customarily served on a serving dish and shared by residents;	92475 92476
(d) Open dining in which residents have at least a two-hour period to choose when to have a meal;	92477 92478
(e) Twenty-four-hour dining in which residents may order meals from the facility any time of the day.	92479 92480
(6) At least fifty per cent of the facility's residents are able to take a bath or shower as often as they choose.	92481 92482
(7) The facility has at least both of the following scores on its resident satisfaction survey:	92483 92484
(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at least eighty-nine;	92485 92486 92487
(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-six.	92488 92489 92490
(8) The facility has at least both of the following scores on its family satisfaction survey:	92491 92492
(a) With regard to the question in the survey regarding residents' ability to choose when to go to bed in the evening, at	92493 92494

least eighty-eight; 92495

(b) With regard to the question in the survey regarding residents' ability to choose when to get out of bed in the morning, at least seventy-five. 92496
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(9) All of the following apply to the facility: 92499

(a) At least seventy-five per cent of the facility's residents have the opportunity, following admission to the facility and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive at the facility, including their preferences for advance care planning, with a member of the residents' ~~healthcare~~ health care teams that the facility, residents, and residents' sponsors consider appropriate. 92500
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(b) The facility records the residents' care goals, including the residents' advance care planning preferences, in their medical records. 92508
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(c) The facility uses the residents' care goals, including the residents' advance care planning preferences, in the development of the residents' individual plans of care. 92511
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(10) Not more than ~~the applicable percentage~~ thirteen and thirty-five hundredths per cent of the facility's long-stay residents report severe to moderate pain during the minimum data set assessment process. 92514
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(11) Not more than ~~the applicable percentage~~ five and seventy-three hundredths per cent of the facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process. 92518
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(12) Not more than ~~the applicable percentage~~ one and fifty-two hundredths per cent of the facility's long-stay 92523
92524

residents were physically restrained as reported during the 92525
minimum data set assessment process. 92526

(13) Less than ~~the applicable percentage~~ seven and 92527
seventy-eight hundredths per cent of the facility's long-stay 92528
residents had a urinary tract infection as reported during the 92529
minimum data set assessment process. 92530

(14) The facility uses a tool for tracking residents' 92531
admissions to hospitals. 92532

(15) An average of at least fifty per cent of the facility's 92533
medicaid-certified beds are in private rooms. 92534

(16) The facility has accessible resident bathrooms, all of 92535
which meet at least two of the following standards and at least 92536
some of which meet all of the following standards: 92537

(a) There are room mirrors that are accessible to residents 92538
in wheelchairs, can be adjusted so as to be visible to residents 92539
who are seated or standing, or both. 92540

(b) There are room sinks that are accessible to residents in 92541
wheelchairs and have clearance for wheelchairs. 92542

(c) There are room sinks that have faucets with adaptive or 92543
easy-to-use lever or paddle handles. 92544

(17) The facility does both of the following: 92545

(a) Maintains a written policy that prohibits the use of 92546
overhead paging systems or limits the use of overhead paging 92547
systems to emergencies, as defined in the policy; 92548

(b) Communicates the policy to its staff, residents, and 92549
families of residents. 92550

(18) The facility has a score of at least ninety on its 92551
resident satisfaction survey with regard to the question in the 92552
survey regarding residents' ability to personalize their rooms 92553
with personal belongings. 92554

(19) The facility has a score of at least ninety-five on its family satisfaction survey with regard to the question in the survey regarding residents' ability to personalize their rooms with personal belongings.

(20) The facility does both of the following:

(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than eight different nurse aides during a thirty-day period;

(b) Communicates the policy to its staff, residents, and families of residents.

(21) The facility's staff retention rate is at least seventy-five per cent.

(22) The facility's turnover rate for nurse aides is not higher than sixty-five per cent.

(23) For at least fifty per cent of the resident care conferences in the facility, a nurse aide who is a primary caregiver for the resident attends and participates in the conference.

(D) For fiscal year 2015 and each fiscal year thereafter and subject to division (E) of this section, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets:

(1) The facility's overall score on its resident satisfaction survey is at least eighty-seven and five-tenths.

(2) The facility's overall score on its family satisfaction survey is at least eighty-five and nine-tenths.

(3) The facility satisfies the requirements for participation in the advancing excellence in America's nursing homes campaign.

<u>(4) Both of the following apply to the facility:</u>	92585
<u>(a) The facility had not been listed on table B of the special focus facility list for eighteen or more consecutive months during any time during the calendar year immediately preceding the fiscal year for which the point is to be awarded.</u>	92586 92587 92588 92589
<u>(b) The facility had neither of the following on the facility's most recent standard survey conducted not later than the last day of the calendar year immediately preceding the fiscal year for which the point is to be awarded or any complaint surveys conducted in the calendar year immediately preceding the fiscal year for which the point is to be awarded:</u>	92590 92591 92592 92593 92594 92595
<u>(i) A health deficiency with a scope and severity level greater than F;</u>	92596 92597
<u>(ii) A deficiency that constitutes a substandard quality of care.</u>	92598 92599
<u>(5) The facility does all of the following:</u>	92600
<u>(a) Offers at least fifty per cent of its residents at least one of the following dining choices for at least two meals each day:</u>	92601 92602 92603
<u>(i) Restaurant-style dining in which food is brought from the food preparation area to residents per the residents' orders;</u>	92604 92605
<u>(ii) Buffet-style dining in which residents obtain their own food, or have the facility's staff bring food to them per the residents' directions, from the buffet;</u>	92606 92607 92608
<u>(iii) Family-style dining in which food is customarily served on a serving dish and shared by residents;</u>	92609 92610
<u>(iv) Open dining in which residents have at least a two-hour period to choose when to have a meal;</u>	92611 92612
<u>(v) Twenty-four-hour dining in which residents may order meals from the facility any time of the day.</u>	92613 92614

<u>(b) Maintains a written policy specifying the manner or</u>	92615
<u>manners in which residents' dining choices for meals are offered;</u>	92616
<u>(c) Communicates the policy to its staff, residents, and</u>	92617
<u>families of residents.</u>	92618
<u>(6) The facility does all of the following:</u>	92619
<u>(a) Enables at least fifty per cent of the facility's</u>	92620
<u>residents to take a bath or shower when they choose;</u>	92621
<u>(b) Maintains a written policy regarding residents' choices</u>	92622
<u>in bathing;</u>	92623
<u>(c) Communicates the policy to its staff, residents, and</u>	92624
<u>families of residents.</u>	92625
<u>(7) The facility has at least both of the following scores on</u>	92626
<u>its resident satisfaction survey:</u>	92627
<u>(a) With regard to the question in the survey regarding</u>	92628
<u>residents' ability to choose when to go to bed in the evening, at</u>	92629
<u>least eighty-nine;</u>	92630
<u>(b) With regard to the question in the survey regarding</u>	92631
<u>residents' ability to choose when to get out of bed in the</u>	92632
<u>morning, at least seventy-six.</u>	92633
<u>(8) The facility has at least both of the following scores on</u>	92634
<u>its family satisfaction survey:</u>	92635
<u>(a) With regard to the question in the survey regarding</u>	92636
<u>residents' ability to choose when to go to bed in the evening, at</u>	92637
<u>least eighty-eight;</u>	92638
<u>(b) With regard to the question in the survey regarding</u>	92639
<u>residents' ability to choose when to get out of bed in the</u>	92640
<u>morning, at least seventy-five.</u>	92641
<u>(9) Not more than thirteen and thirty-five hundredths per</u>	92642
<u>cent of the facility's long-stay residents report severe to</u>	92643

moderate pain during the minimum data set assessment process. 92644

(10) Not more than five and sixteen hundredths per cent of the facility's long-stay, high-risk residents have been assessed as having one or more stage two, three, or four pressure ulcers during the minimum data set assessment process. 92645
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(11) Not more than one and fifty-two hundredths per cent of the facility's long-stay residents were physically restrained as reported during the minimum data set assessment process. 92649
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(12) Less than seven per cent of the facility's long-stay residents had a urinary tract infection as reported during the minimum data set assessment process. 92652
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(13) The facility does all of the following: 92655

(a) Uses a tool for tracking residents' admissions to hospitals; 92656
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(b) Informs the department of the tool the facility uses to track residents' hospital admissions; 92658
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(c) Each month, reports to the department hospital admission data for all residents. 92660
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(14) Both of the following apply: 92662

(a) At least ninety-five per cent of the facility's long-stay residents are assessed for risk of pneumococcal pneumonia and, if appropriate as determined by the assessment, vaccinated against pneumococcal pneumonia. 92663
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(b) At least ninety-three per cent of the facility's long-stay residents are assessed for risk of seasonal influenza and, if appropriate as determined by the assessment, vaccinated against seasonal influenza. 92667
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(15) An average of at least fifty per cent of the facility's medicaid-certified beds are in either, or in a combination of both, of the following: 92671
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92673

<u>(a) Private rooms;</u>	92674
<u>(b) Semiprivate rooms to which all of the following apply:</u>	92675
<u>(i) Each room provides a distinct territory for each resident occupying the room.</u>	92676 92677
<u>(ii) Each distinct territory has a window and is separated by a substantial wall from the other distinct territories in the room.</u>	92678 92679 92680
<u>(iii) Each resident is able to enter and exit the distinct territory of the resident's room without entering or exiting another resident's distinct territory.</u>	92681 92682 92683
<u>(iv) Complete visual privacy for each distinct territory may be obtained by drawing a curtain or other screen.</u>	92684 92685
<u>(16) The facility does both of the following:</u>	92686
<u>(a) Obtains at least a ninety-five per cent compliance rate with requesting resident reviews required by 42 C.F.R. 483.106(b)(2)(ii) for individuals who are exempted hospital discharges;</u>	92687 92688 92689 92690
<u>(b) Reports to the department data demonstrating the facility's compliance with the resident review requirements.</u>	92691 92692
<u>(17) The facility does both of the following:</u>	92693
<u>(a) Maintains a written policy that requires consistent assignment of nurse aides and specifies the goal of having a resident receive nurse aide care from not more than twelve different nurse aides during a thirty-day period;</u>	92694 92695 92696 92697
<u>(b) Communicates the policy to its staff, residents, and families of residents.</u>	92698 92699
<u>(18) The facility's staff retention rate is at least seventy-five per cent.</u>	92700 92701
<u>(19) The facility's turnover rate for nurse aides is not</u>	92702

higher than sixty-five per cent. 92703

(20) For at least fifty per cent of the resident care conferences in the facility, a nurse aide who is a primary caregiver for the resident attends and participates in the conference. 92704
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(21) All of the following apply to the facility: 92708

(a) At least seventy-five per cent of the facility's residents have the opportunity, following admission to the facility and before completing or quarterly updating their individual plans of care, to discuss their goals for the care they are to receive at the facility, including their preferences for advance care planning, with a member of the residents' health care teams that the facility, residents, and residents' sponsors consider appropriate. 92709
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(b) The facility records the residents' care goals, including the residents' advance care planning preferences, in their medical records. 92717
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(c) The facility uses the residents' care goals, including the residents' advance care planning preferences, in the development of the residents' individual plans of care. 92720
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92722

(d) The facility maintains a written policy that encourages advance care planning. 92723
92724

(e) The facility communicates the policy to its staff, residents, and families of residents. 92725
92726

(22) The facility does both of the following: 92727

(a) Maintains a written policy that prohibits the use of overhead paging systems or limits the use of overhead paging systems to emergencies, as defined in the policy; 92728
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(b) Communicates the policy to its staff, residents, and families of residents. 92731
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(E)(1) To be awarded a point for meeting an accountability measure under division (C) or (D) of this section other than the accountability measure identified in ~~division~~ divisions (C)(4) and (D)(4)(b) of this section, a nursing facility must meet the accountability measure in the calendar year immediately preceding the fiscal year for which the point is to be awarded. ~~However, a nursing facility must meet the accountability measures specified in divisions (C)(3), (5), (6), (9), (14) to (17), (20), (22), and (23) of this section in the period beginning January 1, 2012, and ending March 31, 2012, to be awarded points for those accountability measures for fiscal year 2013.~~

(2) The department shall award points pursuant to ~~division~~ divisions (C)(1), (7), ~~or~~ and (18) and (D)(1) and (7) of this section to a nursing facility only if a resident satisfaction survey was initiated under section 173.47 of the Revised Code for the nursing facility in the calendar year immediately preceding the fiscal year for which the points are to be awarded.

(3) The department shall award points pursuant to ~~division~~ divisions (C)(2), (8), ~~or~~ and (19) and (D)(2) and (8) of this section to a nursing facility only if a family satisfaction survey was initiated under section 173.47 of the Revised Code for the nursing facility in the calendar year immediately preceding the fiscal year for which the points are to be awarded.

(4) The department shall award points pursuant to divisions (D)(21) and (22) of this section only for fiscal year 2015.

(5) Not later than July 1, 2013, the department shall adjust the score used for the purpose of division (C)(8)(b) of this section in a manner that causes at least fifty per cent of nursing facilities to meet division (C)(8)(b) of this section.

~~(E) For the purposes of awarding points under divisions (C)(10) to (13) of this section for fiscal year 2013, the~~

~~following apply:~~ 92764

~~(1) If, by July 1, 2012, the United States centers for
medicare and medicaid services makes calculations using the 3.0
version of the minimum data set that indicate whether nursing
facilities meet those accountability measures, the department
shall do both of the following:~~ 92765
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~~(a) Rely on those calculations:~~ 92770

~~(b) Specify the percentages to be used for the purposes of
those accountability measures and, in specifying the percentages,
provide for at least fifty per cent of nursing facilities to earn
points for meeting those accountability measures.~~ 92771
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~~(2) If, by July 1, 2012, the United States centers for
medicare and medicaid services does not make calculations using
the 3.0 version of the minimum data set that indicate whether
nursing facilities meet those accountability measures, the
department shall do either of the following:~~ 92775
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~~(a) Do both of the following:~~ 92780

~~(i) Make the calculations using the 3.0 version of the
minimum data set in accordance with the national voluntary
consensus standards for nursing homes;~~ 92781
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92783

~~(ii) Specify the percentages to be used for the purposes of
those accountability measures and, in specifying the percentages,
provide for at least fifty per cent of nursing facilities to earn
points for meeting those accountability measures.~~ 92784
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~~(b) Do all of the following:~~ 92788

~~(i) Rely on the most recent calculations the United States
centers for medicare and medicaid services made using the 2.0
version of the minimum data set that indicate whether nursing
facilities meet those accountability measures;~~ 92789
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~~(ii) Use four per cent as the applicable percentage for the~~ 92793

~~accountability measure identified in division (C)(10) of this section;~~ 92794
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~~(iii) Use nine per cent as the applicable percentage for the accountability measure identified in division (C)(11) of this section;~~ 92796
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~~(iv) Use two per cent as the applicable percentage for the accountability measure identified in division (C)(12) of this section;~~ 92799
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~~(v) Use ten per cent as the applicable percentage for the accountability measure identified in division (C)(13) of this section.~~ 92802
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~~(F) For the purposes of awarding points under divisions (C)(10) to (13) of this section for fiscal year 2014 and thereafter, the department shall do the following:~~ 92805
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~~(1) Rely on calculations the United States centers for medicare and medicaid services makes using the 3.0 version of the minimum data set that indicate whether nursing facilities meet those accountability measures;~~ 92808
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~~(2) If the department takes action pursuant to division (E)(1) of this section for fiscal year 2013, continue to use the percentages the department specifies pursuant to division (E)(1)(b) of this section for the purposes of those accountability measures;~~ 92812
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~~(3) If the department takes action pursuant to division (E)(2) of this section for fiscal year 2013, do the following:~~ 92817
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~~(a) For fiscal year 2014, specify the percentages to be used for the purposes of those accountability measures and, in specifying the percentages, provide for at least fifty per cent of nursing facilities to earn points for meeting those accountability measures;~~ 92819
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~~(b) For fiscal year 2015 and thereafter, continue to use the percentages the department specifies pursuant to division (F)(3)(a) of this section for the purposes of those accountability measures.~~

~~(G) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

~~The rules~~ Rules adopted under section 5165.02 of the Revised Code may specify what is meant by "some" as that word is used in division (C)(16) of this section.

Sec. ~~5111.245~~ 5165.26. (A) As used in this section:

(1) "Point days for a fiscal year" means the product of the following:

(a) A qualifying nursing facility's quality bonus points for the fiscal year;

(b) The number of the qualifying nursing facility's medicaid days in the fiscal year.

(2) "Qualifying nursing facility" means a nursing facility that qualifies for a quality bonus for a fiscal year as determined under division (B) of this section.

(3) "Quality bonus points for a fiscal year" means the amount determined by subtracting five from the number of points awarded to a qualifying nursing facility for meeting accountability measures under ~~division (C) of section 5111.244~~ 5165.25 of the Revised Code for a fiscal year.

(4) "Residual budgeted amount for quality incentive payments for a fiscal year" means the amount determined for a fiscal year as follows:

(a) Multiply the total number of medicaid days in the fiscal

year by sixteen dollars and forty-four cents; 92853

(b) Determine the total amount of quality incentive payments 92854
that was paid under section ~~5111.244~~ 5165.25 of the Revised Code 92855
to all nursing facility providers for the fiscal year; 92856

(c) Subtract the amount determined under division (A)(4)(b) 92857
of this section from the product calculated under division 92858
(A)(4)(a) of this section. 92859

(B) The department of ~~job and family services~~ medicaid shall 92860
pay a nursing facility provider a quality bonus for a fiscal year 92861
if both of the following apply: 92862

(1) The provider's nursing facility is awarded more than five 92863
points for meeting accountability measures under ~~division (C) of~~ 92864
section ~~5111.244~~ 5165.25 of the Revised Code for the fiscal year. 92865

(2) The residual budgeted amount for quality incentive 92866
payments for the fiscal year is greater than zero. 92867

(C) The total quality bonus to be paid to the provider of a 92868
qualifying nursing facility for a fiscal year shall equal the 92869
product of the following: 92870

(1) The quality bonus per medicaid day for the fiscal year 92871
determined for the provider's qualifying nursing facility under 92872
division (D) of this section; 92873

(2) The number of the qualifying nursing facility's medicaid 92874
days in the fiscal year. 92875

(D) A qualifying nursing facility's quality bonus per 92876
medicaid day for a fiscal year shall be the product of the 92877
following: 92878

(1) The nursing facility's quality bonus points for the 92879
fiscal year; 92880

(2) The quality bonus per point for the fiscal year 92881
determined under division (E) of this section. 92882

(E) The quality bonus per point for a fiscal year shall be determined as follows:

(1) Determine the number of each qualifying nursing facility's point days for the fiscal year;

(2) Determine the sum of all qualifying nursing facilities' point days for the fiscal year;

(3) Divide the residual budgeted amount for quality incentive payments for the fiscal year by the sum determined under division (E)(2) of this section.

(F) The calculation of a qualifying nursing facility's bonus payment is not subject to appeal under Chapter 119. of the Revised Code.

~~(G) The director of job and family services may adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

Sec. ~~5111.257~~ 5165.28. If a provider of a nursing facility adds or replaces one or more medicaid certified beds to or at the nursing facility, or renovates one or more of the nursing facility's beds, the medicaid payment rate for the added, replaced, or renovated beds shall be the same as the medicaid payment rate for the nursing facility's existing beds.

Sec. ~~5111.265~~ 5165.29. If one or more medicaid-certified beds are relocated from one nursing facility to another nursing facility owned by a different person or government entity and the application for the certificate of need authorizing the relocation is filed with the director of health on or after ~~the effective date of this section~~ July 1, 2005, amortization of the cost of acquiring operating rights for the relocated beds is not an allowable cost for the purpose of determining the nursing facility's medicaid ~~reimbursement~~ payment rate.

~~Sec. 5111.264~~ 5165.30. Except as provided in section ~~5111.25~~ 92913
~~or 5111.251~~ 5165.17 of the Revised Code, the costs of goods, 92914
services, and facilities, furnished to a nursing facility provider 92915
by a related party are includable in the allowable costs of the 92916
provider at the reasonable cost to the related party. 92917

Sec. 5165.32. The department of medicaid shall not reduce a 92918
nursing facility's medicaid payment rate determined under this 92919
chapter on the basis that the provider charges a lower rate to any 92920
resident who is not eligible for medicaid. 92921

Sec. 5165.33. No medicaid payment shall be made to a nursing 92922
facility provider for the day a medicaid recipient is discharged 92923
from the nursing facility. 92924

~~Sec. 5111.331~~ 5165.34. (A) The department of ~~job and family~~ 92925
~~services~~ medicaid may make medicaid payments to a nursing facility 92926
provider ~~of a nursing facility~~ under ~~sections 5111.20 to 5111.331~~ 92927
~~of the Revised Code~~ this chapter to reserve a bed for a recipient 92928
during a temporary absence under conditions prescribed by the 92929
department, to include hospitalization for an acute condition, 92930
visits with relatives and friends, and participation in 92931
therapeutic programs outside the facility, when the resident's 92932
plan of care provides for such absence and federal financial 92933
participation ~~is~~ for the payments is available. 92934

(B) The maximum period for which payments may be made to 92935
reserve a bed in a nursing facility shall not exceed thirty days 92936
in a calendar year. 92937

(C) The department shall establish the per ~~diem~~ medicaid day 92938
payment rates ~~to be paid to providers of nursing facilities~~ for 92939
reserving beds under this section. In establishing the per ~~diem~~ 92940
medicaid day payment rates, the department shall ~~do the following:~~ 92941

~~(1) In the case of a payment to reserve a bed for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;~~ 92942
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~~(2) In the case of a payment to reserve a bed for a day during calendar year 2012 and each calendar year thereafter, set the per diem medicaid day payment rate at an amount equal to the following:~~ 92947
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~~(a)(1) In the case of a nursing facility that had an occupancy rate in the preceding calendar year exceeding ninety-five per cent, an amount not exceeding fifty per cent of the per diem medicaid day payment rate the provider would be paid if the recipient were not absent from the nursing facility that day;~~ 92951
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~~(b)(2) In the case of a nursing facility that had an occupancy rate in the preceding calendar year not exceeding ninety-five per cent, an amount not exceeding eighteen per cent of the per diem medicaid day payment rate the provider would be paid if the recipient were not absent from the nursing facility that day.~~ 92957
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(D) For the purpose of setting a nursing facility's per medicaid day payment rate to reserve a bed for a day during the period beginning on the effective date of this amendment and ending December 31, 2013, the department shall determine the nursing facility's occupancy rate by using information reported on the nursing facility's cost report for calendar year 2012. For the purpose of setting a nursing facility's per medicaid day payment rate to reserve a bed for January 1, 2014, or thereafter, the department shall determine the nursing facility's occupancy rate by using information reported on the nursing facility's cost report for the calendar year preceding the fiscal year in which 92963
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the reservation falls. 92974

~~Sec. 5111.212 5165.35. As used in this section, "effective date of an involuntary termination" and "involuntary termination" have the same meanings as in section 5111.65 of the Revised Code.~~ 92975
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Medicaid payments may be made for nursing facility services 92978
~~and intermediate care facility for the mentally retarded services~~ 92979
provided not later than thirty days after the effective date of an 92980
involuntary termination of the nursing facility that provides the 92981
services if the services are provided to a medicaid recipient who 92982
is eligible for the services and resided in the nursing facility 92983
before the effective date of the involuntary termination. 92984

~~Sec. 5111.221 5165.37. The department of job and family services medicaid shall make its best efforts each year to calculate nursing facilities' medicaid payment rates under sections 5111.20 to 5111.331 of the Revised Code this chapter in time to use them to make pay the payments due to providers rates by the fifteenth day of August of each fiscal year. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each provider the rate calculated for the provider's nursing facilities and intermediate care facilities for the mentally retarded under those sections this chapter at the end of the previous fiscal year. If the department also is unable to calculate the rates to make the payments due pay the rates by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid for any nursing facility pursuant to this section at the request of the provider. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.~~ 92985
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If the rate paid to a provider for a nursing facility 93005
pursuant to this section is lower than the rate calculated for the 93006
nursing facility for the current fiscal year, the department shall 93007
pay the provider the difference between the two rates for the 93008
number of days for which the provider was paid for the nursing 93009
facility pursuant to this section. If the rate paid for a nursing 93010
facility pursuant to this section is higher than the rate 93011
calculated for it for the current fiscal year, the provider shall 93012
refund to the department the difference between the two rates for 93013
the number of days for which the provider was paid for the nursing 93014
facility pursuant to this section. 93015

Sec. ~~5111.29~~ 5165.38. ~~(A) The medicaid director of job and~~ 93016
~~family services~~ shall adopt rules under section ~~5111.02~~ 5165.02 of 93017
the Revised Code that establish a process under which a nursing 93018
facility provider, or a group or association of nursing facility 93019
providers, may seek reconsideration of medicaid payment rates 93020
established under ~~sections 5111.20 to 5111.331~~ of the Revised Code 93021
this chapter, including a rate for direct care costs recalculated 93022
before the effective date of the rate as a result of an exception 93023
review of resident assessment information data conducted under 93024
section ~~5111.27~~ 5165.193 of the Revised Code. The 93025

~~(1) Except as provided in divisions (A)(2) to (4) of this~~ 93026
~~section, the only issue that a provider, group, or association may~~ 93027
~~raise in the rate reconsideration shall be whether the rate was~~ 93028
~~calculated in accordance with sections 5111.20 to 5111.331 of the~~ 93029
~~Revised Code this chapter and the rules adopted under section~~ 93030
~~5111.02 5165.02 of the Revised Code. The rules shall permit a~~ 93031
~~provider, group, or association to may~~ submit written arguments or 93032
other materials that support its position. ~~The rules shall specify~~ 93033
provider, group, or association and department of medicaid shall 93034
take actions regarding the rate reconsideration within time frames 93035
~~within which the provider, group, or association and the~~ 93036

~~department must act specified in rules authorized by this section.~~ 93037

~~if~~ 93038

~~If the department determines, as a result of the rate 93039
reconsideration, that the rate ~~established~~ determined for one or 93040
more nursing facilities ~~of a provider~~ is less than the rate to 93041
which the nursing facility is entitled, the department shall 93042
increase the rate. If the department has paid the incorrect rate 93043
for a period of time, the department shall pay the provider the 93044
difference between the amount the provider was paid for that 93045
period for the nursing facility and the amount the provider should 93046
have been paid for the nursing facility.~~ 93047

~~(2) The rules shall provide that during a fiscal year, the 93048
department, by means of the rate reconsideration process, may 93049
increase the rate determined for an intermediate care facility for 93050
the mentally retarded as calculated under sections 5111.20 to 93051
5111.331 of the Revised Code if the provider of the facility 93052
demonstrates that the facility's actual, allowable costs have 93053
increased because of extreme circumstances. A facility may qualify 93054
for a rate increase only if the facility's per diem, actual, 93055
allowable costs have increased to a level that exceeds its total 93056
rate. The rules shall specify the circumstances that would justify 93057
a rate increase under division (A)(2) of this section. The rules 93058
shall provide that the extreme circumstances include natural 93059
disasters, renovations approved under division (D) of section 93060
5111.251 of the Revised Code, an increase in workers' compensation 93061
experience rating of greater than five per cent for a facility 93062
that has an appropriate claims management program, increased 93063
security costs for an inner city facility, and a change of 93064
ownership that results from bankruptcy, foreclosure, or findings 93065
of violations of certification requirements by the department of 93066
health. An increase under division (A)(2) of this section is 93067
subject to any rate limitations or maximum rates established by 93068~~

~~sections 5111.20 to 5111.331 of the Revised Code for specific cost 93069
centers. Any rate increase granted under division (A)(2) of this 93070
section shall take effect on the first day of the first month 93071
after the department receives the request. 93072~~

~~(3) The rules shall provide that the department, through the 93073
rate reconsideration process, may increase an intermediate care 93074
facility for the mentally retarded's rate as calculated under 93075
sections 5111.20 to 5111.331 of the Revised Code if the 93076
department, in the department's sole discretion, determines that 93077
the rate as calculated under those sections works an extreme 93078
hardship on the facility. 93079~~

~~(4) The rules shall provide that when beds certified for the 93080
medicaid program are added to an existing intermediate care 93081
facility for the mentally retarded or replaced at the same site, 93082
the department, through the rate reconsideration process, shall 93083
increase the intermediate care facility for the mentally 93084
retarded's rate for capital costs proportionately, as limited by 93085
any applicable limitation under section 5111.251 of the Revised 93086
Code, to account for the costs of the beds that are added or 93087
replaced. The department shall make this increase one month after 93088
the first day of the month after the department receives 93089
sufficient documentation of the costs. Any rate increase granted 93090
under division (A)(4) of this section after June 30, 1993, shall 93091
remain in effect until the effective date of a rate calculated 93092
under section 5111.251 of the Revised Code that includes costs 93093
incurred for a full calendar year for the bed addition or bed 93094
replacement. The facility shall report double accumulated 93095
depreciation in an amount equal to the depreciation included in 93096
the rate adjustment on its cost report for the first year of 93097
operation. During the term of any loan used to finance a project 93098
for which a rate adjustment is granted under division (A)(4) of 93099
this section, if the facility is operated by the same provider, 93100~~

~~the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:~~

~~(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;~~

~~(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the facility during the same calendar year.~~

~~(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.~~

~~(B) All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:~~

~~(1) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code;~~

~~(2) Any adverse finding that results from an exception review of resident assessment information conducted under section 5111.27 of the Revised Code after the effective date of the facility's rate that is based on the assessment information;~~

~~(3) Any medicaid payment deemed an overpayment under section 5111.683 of the Revised Code;~~

~~(4) Any penalty the department imposes under division (C) of section 5111.28 of the Revised Code or section 5111.683 of the Revised Code.~~

Sec. ~~5111.28~~ 5165.40. (A) If a nursing facility provider properly amends ~~its~~ a cost report for the nursing facility under section ~~5111.261~~ 5165.107 of the Revised Code and the amended report shows that the provider received a lower medicaid payment rate under the original cost report than ~~it~~ the provider was

entitled to receive, the department of ~~job and family services~~ 93131
medicaid shall adjust the provider's rate for the nursing facility 93132
prospectively to reflect the corrected information. The department 93133
shall pay the adjusted rate beginning two months after the first 93134
day of the month after the provider files the amended cost report. 93135
~~if~~ 93136

If the department finds, from an exception review of resident 93137
assessment ~~information data~~ conducted pursuant to section 5165.193 93138
of the Revised Code after the effective date of ~~the~~ a nursing 93139
facility's rate for direct care costs that is based on the 93140
resident assessment information data, that inaccurate resident 93141
assessment ~~information data~~ resulted in the provider receiving a 93142
lower rate for the nursing facility than it was entitled to 93143
receive, the department prospectively shall adjust the provider's 93144
rate accordingly ~~and~~. The department shall make payments to the 93145
provider using the adjusted rate for the remainder of the ~~calendar~~ 93146
quarter six-month period for which the resident assessment 93147
~~information data~~ is used to determine the rate, beginning one 93148
month after the first day of the month after the exception review 93149
is completed. 93150

~~(B) If the provider properly amends its cost report under~~ 93151
~~section 5111.261 of the Revised Code, the department makes a~~ 93152
~~finding based on an audit under section 5111.27 of the Revised~~ 93153
~~Code, or the department makes a finding based on an exception~~ 93154
~~review of resident assessment information conducted under section~~ 93155
~~5111.27 of the Revised Code after the effective date of the rate~~ 93156
~~for direct care costs that is based on the assessment information,~~ 93157
~~any of which results in a determination that the provider has~~ 93158
~~received a higher rate than it was entitled to receive, the~~ 93159
~~department shall recalculate the provider's rate using the revised~~ 93160
~~information. The department shall apply the recalculated rate to~~ 93161
~~the periods when the provider received the incorrect rate to~~ 93162

~~determine the amount of the overpayment. The provider shall refund
the amount of the overpayment.~~ 93163
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~~In addition to requiring a refund under this division, the
department may charge the provider interest at the applicable rate
specified in this division from the time the overpayment was made.~~ 93165
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~~(1) If the overpayment resulted from costs reported for
calendar year 1993, the interest shall be no greater than one and
one half times the average bank prime rate.~~ 93168
93169
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~~(2) If the overpayment resulted from costs reported for
subsequent calendar years:~~ 93171
93172

~~(a) The interest shall be no greater than two times the
average bank prime rate if the overpayment was equal to or less
than one per cent of the total medicaid payments to the provider
for the fiscal year for which the incorrect information was used
to establish a rate.~~ 93173
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~~(b) The interest shall be no greater than two and one half
times the current average bank prime rate if the overpayment was
greater than one per cent of the total medicaid payments to the
provider for the fiscal year for which the incorrect information
was used to establish a rate.~~ 93178
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~~(C) The department also may impose the following penalties:~~ 93183

~~(1) If a provider does not furnish invoices or other
documentation that the department requests during an audit within
sixty days after the request, no more than the greater of one
thousand dollars per audit or twenty five per cent of the
cumulative amount by which the costs for which documentation was
not furnished increased the total medicaid payments to the
provider during the fiscal year for which the costs were used to
establish a rate;~~ 93184
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~~(2) If an exiting operator or owner fails to provide notice~~ 93192

~~of a facility closure, voluntary termination, or voluntary withdrawal of participation in the medicaid program as required by section 5111.66 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5111.67 of the Revised Code, no more than the current average bank prime rate plus four per cent of the last two monthly payments.~~ 93193
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~~(D) If the provider continues to participate in the medicaid program, the department shall deduct any amount that the provider is required to refund under this section, and the amount of any interest charged or penalty imposed under this section, from the next available payment from the department to the provider. The department and the provider may enter into an agreement under which the amount, together with interest, is deducted in installments from payments from the department to the provider.~~ 93200
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~~(E) The department shall transmit refunds and penalties to the treasurer of state for deposit in the general revenue fund.~~ 93208
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~~(F) For the purpose of this section, the department shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.~~ 93210
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Sec. 5165.41. (A) The department of medicaid shall redetermine a provider's medicaid payment rate for a nursing facility using revised information if any of the following results in a determination that the provider received a higher medicaid payment rate for the nursing facility than the provider was 93219
93220
93221
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93223

entitled to receive: 93224

(1) The provider properly amends a cost report for the nursing facility under section 5165.107 of the Revised Code; 93225
93226

(2) The department makes a finding based on an audit under section 5165.109 of the Revised Code; 93227
93228

(3) The department makes a finding based on an exception review of resident assessment data conducted under section 5165.193 of the Revised Code after the effective date of the nursing facility's rate for direct care costs that is based on the resident assessment data; 93229
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(4) The department makes a finding based on a post-payment review conducted under section 5165.49 of the Revised Code. 93234
93235

(B) The department shall apply the redetermined rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the overpayment. The department may charge the provider the following amount of interest from the time the overpayment was made: 93236
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93241

(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one-half times the current average bank prime rate. 93242
93243
93244

(2) If the overpayment resulted from costs reported for a subsequent calendar year: 93245
93246

(a) The interest shall be no greater than two times the current average bank prime rate if the overpayment was no more than one per cent of the total medicaid payments to the provider for the fiscal year for which the overpayment was made. 93247
93248
93249
93250

(b) The interest shall be no greater than two and one-half times the current average bank prime rate if the overpayment was more than one per cent of the total medicaid payments to the 93251
93252
93253

provider for the fiscal year for which the overpayment was made. 93254

Sec. 5165.42. In addition to the other penalties authorized 93255
by this chapter, the department of medicaid may impose the 93256
following penalties on a nursing facility provider: 93257

(A) If the provider does not furnish invoices or other 93258
documentation that the department requests during an audit within 93259
sixty days after the request, a fine of no more than the greater 93260
of the following: 93261

(1) One thousand dollars per audit; 93262

(2) Twenty-five per cent of the cumulative amount by which 93263
the costs for which documentation was not furnished increased the 93264
total medicaid payments to the provider during the fiscal year for 93265
which the costs were used to determine a rate. 93266

(B) If an exiting operator or owner fails to provide notice 93267
of a facility closure or voluntary withdrawal of participation in 93268
the medicaid program as required by section 5165.50 of the Revised 93269
Code, or an exiting operator or owner and entering operator fail 93270
to provide notice of a change of operator as required by section 93271
5165.51 of the Revised Code, a fine of not more than the current 93272
average bank prime rate plus four per cent of the last two monthly 93273
payments. 93274

Sec. 5165.43. For the purposes of sections 5165.41 and 93275
5165.42 of the Revised Code, the department of medicaid shall 93276
determine the current average bank prime rate using statistical 93277
release H.15, "selected interest rates," a weekly publication of 93278
the federal reserve board, or any successor publication. If 93279
statistical release H.15, or its successor, ceases to contain the 93280
bank prime rate information or ceases to be published, the 93281
department shall request a written statement of the average bank 93282
prime rate from the federal reserve bank of Cleveland or the 93283

federal reserve board. 93284

Sec. 5165.44. (A) Except as provided in division (B) of this section, the department of medicaid shall deduct the following from the next available medicaid payment the department makes to a nursing facility provider who continues to participate in medicaid: 93285
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93287
93288
93289

(1) Any amount the provider is required to refund, and any interest charged, under section 5165.41 of the Revised Code; 93290
93291

(2) The amount of any penalty imposed on the provider under section 5165.42 of the Revised Code. 93292
93293

(B) The department and a nursing facility provider may enter into an agreement under which a deduction required by division (A) of this section is taken in installments from payments the department makes to the provider. 93294
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Sec. 5165.45. The department of medicaid shall transmit to the treasurer of state for deposit in the general revenue fund amounts collected from the following: 93298
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93300

(A) Refunds required by, and interest charged under, section 5165.41 of the Revised Code; 93301
93302

(B) Amounts collected from penalties imposed under section 5165.42 of the Revised Code. 93303
93304

Sec. 5165.46. All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code: 93305
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93307

(A) Any audit disallowance that the department of medicaid makes as the result of an audit under section 5165.109 of the Revised Code; 93308
93309
93310

(B) Any adverse finding that results from an exception review of resident assessment data conducted for a nursing facility under section 5165.193 of the Revised Code after the effective date of the nursing facility's medicaid payment rate for direct care costs that is based on the resident assessment data; 93311
93312
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93314
93315

(C) Any medicaid payment deemed an overpayment under section 5165.523 of the Revised Code; 93316
93317

(D) Any penalty the department imposes under section 5165.42 of the Revised Code or section 5165.523 of the Revised Code. 93318
93319

Sec. ~~5111.262~~ 5165.47. No person, other than ~~the~~ a nursing facility provider ~~of a nursing facility~~, shall submit a claim for medicaid ~~reimbursement~~ payment for a service provided to a nursing facility resident if the service is included in a medicaid payment made to the nursing facility provider ~~of a nursing facility~~ under ~~sections 5111.20 to 5111.33 of the Revised Code~~ this chapter or in the ~~reimbursable~~ allowable expenses reported on a provider's cost report for a nursing facility. No nursing facility provider ~~of a nursing facility~~ shall submit a separate claim for medicaid ~~reimbursement~~ payment for a service provided to a resident of the nursing facility if the service is included in a medicaid payment made to the provider under ~~sections 5111.20 to 5111.331 of the Revised Code~~ this chapter or in the ~~reimbursable~~ allowable expenses on the provider's cost report for the nursing facility. 93320
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Sec. ~~5111.0211~~ 5165.48. ~~As used in this section, "nursing facility" and "provider" have the same meanings as in section 5111.20 of the Revised Code.~~ 93335
93336
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The provider of a nursing facility is not required to submit a claim to the department of ~~job and family services~~ medicaid regarding the medicare cost-sharing expenses of a resident of the 93338
93339
93340

nursing facility who, under federal law, is eligible to have the 93341
medicaid program pay for a part of the cost-sharing expenses if 93342
the provider determines that, under rules adopted under section 93343
~~5111.02~~ 5165.02 of the Revised Code, the nursing facility would 93344
not receive a medicaid payment for any part of the medicare 93345
cost-sharing expenses. In such a situation, a claim for the 93346
medicare cost-sharing expenses shall be considered to have been 93347
adjudicated at no payment. 93348

Sec. 5165.49. The department of medicaid may conduct a 93349
post-payment review of a claim submitted by a nursing facility 93350
provider and paid by the medicaid program to determine whether the 93351
provider was overpaid. The department shall provide the provider a 93352
written summary of the review's results. The review's results are 93353
not subject to an adjudication under Chapter 119. of the Revised 93354
Code; however, the provider may request that the medicaid director 93355
reconsider the review's results. The director shall reconsider the 93356
review's results on receipt of a request made in good faith. The 93357
department shall not deduct any amounts the department claims to 93358
be due from the provider as a result of the review from the 93359
provider's medicaid payments pursuant to section 5165.44 of the 93360
Revised Code until the conclusion of the director's 93361
reconsideration, if any, of the review. 93362

Sec. ~~5111.66~~ 5165.50. An exiting operator or owner of a 93363
nursing facility ~~or intermediate care facility for the mentally~~ 93364
~~retarded~~ participating in the medicaid program shall provide the 93365
department of ~~job and family services~~ medicaid written notice of a 93366
facility closure, ~~voluntary termination,~~ or voluntary withdrawal 93367
of participation not less than ninety days before the effective 93368
date of the facility closure, ~~voluntary termination,~~ or voluntary 93369
withdrawal of participation. The written notice shall be provided 93370
to the department in accordance with the method specified in rules 93371

~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 93372
Revised Code. 93373

The written notice shall include all of the following: 93374

(A) The name of the exiting operator and, if any, the exiting 93375
operator's authorized agent; 93376

(B) The name of the nursing facility ~~or intermediate care~~ 93377
~~facility for the mentally retarded~~ that is the subject of the 93378
written notice; 93379

(C) The exiting operator's medicaid provider agreement number 93380
for the nursing facility that is the subject of the written 93381
notice; 93382

(D) The effective date of the facility closure, ~~voluntary~~ 93383
~~termination,~~ or voluntary withdrawal of participation; 93384

(E) The signature of the exiting operator's or owner's 93385
representative. 93386

Sec. ~~5111.661~~ 5165.501. An operator shall comply with ~~section~~ 93387
~~1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965)~~ 93388
section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F) if the operator's 93389
nursing facility undergoes a voluntary withdrawal of 93390
participation. 93391

Sec. ~~5111.67~~ 5165.51. (A) An exiting operator or owner and 93392
entering operator shall provide the department of ~~job and family~~ 93393
~~services~~ medicaid written notice of a change of operator if the 93394
nursing facility ~~or intermediate care facility for the mentally~~ 93395
~~retarded~~ participates in the medicaid program and the entering 93396
operator seeks to continue the nursing facility's participation. 93397
The written notice shall be provided to the department in 93398
accordance with the method specified in rules ~~adopted under~~ 93399
authorized by section ~~5111.689~~ 5165.53 of the Revised Code. The 93400

written notice shall be provided to the department not later than 93401
forty-five days before the effective date of the change of 93402
operator if the change of operator does not entail the relocation 93403
of residents. The written notice shall be provided to the 93404
department not later than ninety days before the effective date of 93405
the change of operator if the change of operator entails the 93406
relocation of residents. 93407

The written notice shall include all of the following: 93408

(1) The name of the exiting operator and, if any, the exiting 93409
operator's authorized agent; 93410

(2) The name of the nursing facility ~~or intermediate care~~ 93411
~~facility for the mentally retarded~~ that is the subject of the 93412
change of operator; 93413

(3) The exiting operator's seven-digit medicaid legacy number 93414
and ten-digit national provider identifier number for the nursing 93415
facility that is the subject of the change of operator; 93416

(4) The name of the entering operator; 93417

(5) The effective date of the change of operator; 93418

(6) The manner in which the entering operator becomes the 93419
nursing facility's operator, including through sale, lease, 93420
merger, or other action; 93421

(7) If the manner in which the entering operator becomes the 93422
nursing facility's operator involves more than one step, a 93423
description of each step; 93424

(8) Written authorization from the exiting operator or owner 93425
and entering operator for the department to process a provider 93426
agreement for the entering operator; 93427

(9) The names and addresses of the persons to whom the 93428
department should send initial correspondence regarding the change 93429

of operator; 93430

(10) If the nursing facility also participates in the 93431
medicare program, notification of whether the entering operator 93432
intends to accept assignment of the exiting operator's medicare 93433
provider agreement; 93434

(11) The signature of the exiting operator's or owner's 93435
representative. 93436

(B) An exiting operator or owner and entering operator 93437
immediately shall provide the department written notice of any 93438
changes to information included in a written notice of a change of 93439
operator that occur after that notice is provided to the 93440
department. The notice of the changes shall be provided to the 93441
department in accordance with the method specified in rules 93442
~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 93443
Revised Code. 93444

Sec. ~~5111.671~~ 5165.511. The department of ~~job and family~~ 93445
~~services~~ medicaid may enter into a provider agreement with an 93446
entering operator that goes into effect at 12:01 a.m. on the 93447
effective date of the change of operator if all of the following 93448
requirements are met: 93449

(A) The department receives a properly completed written 93450
notice required by section ~~5111.67~~ 5165.51 of the Revised Code on 93451
or before the date required by that section. 93452

(B) The department receives both of the following in 93453
accordance with the method specified in rules ~~adopted under~~ 93454
authorized by section ~~5111.689~~ 5165.53 of the Revised Code and not 93455
later than ten days after the effective date of the change of 93456
operator: 93457

(1) From the entering operator, a completed application for a 93458
provider agreement and all other forms and documents specified in 93459

rules ~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code; 93460
93461

(2) From the exiting operator or owner, all forms and 93462
documents specified in rules ~~adopted under~~ authorized by section 93463
~~5111.689~~ 5165.53 of the Revised Code. 93464

(C) The entering operator is eligible for medicaid payments 93465
as provided in section ~~5111.21~~ 5165.06 of the Revised Code. 93466

Sec. ~~5111.672~~ 5165.512. (A) The department of ~~job and family~~ 93467
~~services~~ medicaid may enter into a provider agreement with an 93468
entering operator that goes into effect at 12:01 a.m. on the date 93469
determined under division (B) of this section if all of the 93470
following are the case: 93471

(1) The department receives a properly completed written 93472
notice required by section ~~5111.67~~ 5165.51 of the Revised Code. 93473

(2) The department receives, from the entering operator and 93474
in accordance with the method specified in rules ~~adopted under~~ 93475
authorized by section ~~5111.689~~ 5165.53 of the Revised Code, a 93476
completed application for a provider agreement and all other forms 93477
and documents specified in rules adopted under that section. 93478

(3) The department receives, from the exiting operator or 93479
owner and in accordance with the method specified in rules ~~adopted~~ 93480
~~under~~ authorized by section ~~5111.689~~ 5165.53 of the Revised Code, 93481
all forms and documents specified in rules adopted under that 93482
section. 93483

(4) One or more of the following apply: 93484

(a) The requirement of division (A)(1) of this section is met 93485
after the time required by section ~~5111.67~~ 5165.51 of the Revised 93486
Code; 93487

(b) The requirement of division (A)(2) of this section is met 93488
more than ten days after the effective date of the change of 93489

operator; 93490

(c) The requirement of division (A)(3) of this section is met 93491
more than ten days after the effective date of the change of 93492
operator. 93493

(5) The entering operator is eligible for medicaid payments 93494
as provided in section ~~5111.21~~ 5165.06 of the Revised Code. 93495

(B) The department shall determine the date a provider 93496
agreement entered into under this section is to go into effect as 93497
follows: 93498

(1) The effective date shall give the department sufficient 93499
time to process the change of operator, assure no duplicate 93500
payments are made, and make the withholding required by section 93501
~~5111.681~~ 5165.521 of the Revised Code. 93502

(2) The effective date shall be not earlier than the latest 93503
of the following: 93504

(a) The effective date of the change of operator; 93505

(b) The date that the entering operator complies with section 93506
~~5111.67~~ 5165.51 of the Revised Code and division (A)(2) of this 93507
section; 93508

(c) The date that the exiting operator or owner complies with 93509
section ~~5111.67~~ 5165.51 of the Revised Code and division (A)(3) of 93510
this section. 93511

(3) The effective date shall be not later than the following 93512
after the later of the dates specified in division (B)(2) of this 93513
section: 93514

(a) Forty-five days if the change of operator does not entail 93515
the relocation of residents; 93516

(b) Ninety days if the change of operator entails the 93517
relocation of residents. 93518

Sec. ~~5111.673~~ 5165.513. A provider that enters into a provider agreement with the department of ~~job and family services~~ medicaid under section ~~5111.671~~ 5165.511 or ~~5111.672~~ 5165.512 of the Revised Code shall do all of the following:

(A) Comply with all applicable federal statutes and regulations;

(B) Comply with section ~~5111.22~~ 5165.07 of the Revised Code and all other applicable state statutes and rules;

(C) Comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:

(1) Any plan of correction;

(2) Compliance with health and safety standards;

(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;

(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;

(5) Compliance with additional requirements imposed by the department;

(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.

Sec. ~~5111.674~~ 5165.514. In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility ~~or intermediate care facility for the mentally retarded~~ for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under

section ~~5111.671~~ 5165.511 or ~~5111.672~~ 5165.512 of the Revised Code. 93548
93549

Sec. ~~5111.675~~ 5165.515. The department of ~~job and family services~~ medicaid may enter into a provider agreement as provided 93550
93551
in section ~~5111.22~~ 5165.07 of the Revised Code, rather than 93552
93553
section ~~5111.671~~ 5165.511 or ~~5111.672~~ 5165.512 of the Revised Code, with an entering operator if the entering operator does not 93554
93555
agree to a provider agreement that satisfies the requirements of division (C) of section ~~5111.673~~ 5165.513 of the Revised Code. The 93556
93557
department may not enter into the provider agreement unless the department of health certifies the nursing facility ~~or~~ 93558
93559
~~intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended~~ for participation in medicaid. The effective date 93560
93561
of the provider agreement shall not precede any of the following: 93562

(A) The date that the department of health certifies the nursing facility; 93563
93564

(B) The effective date of the change of operator; 93565

(C) The date the requirement of section ~~5111.67~~ 5165.51 of the Revised Code is satisfied. 93566
93567

Sec. ~~5111.676~~ 5165.516. The medicaid director ~~of job and family services~~ may adopt rules ~~in accordance with Chapter 119.~~ 93568
93569
under section 5165.02 of the Revised Code governing adjustments to the medicaid ~~reimbursement~~ payment rate for a nursing facility ~~or~~ 93570
93571
~~intermediate care facility for the mentally retarded~~ that undergoes a change of operator. No rate adjustment resulting from 93572
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a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case 93574
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regardless of whether the provider agreement is entered into under 93576
93577
section ~~5111.671~~ 5165.511, section ~~5111.672~~ 5165.512, or, pursuant

to section ~~5111.675~~ 5165.515, section ~~5111.22~~ 5165.07 of the Revised Code. 93578
93579

Sec. ~~5111.677~~ 5165.517. ~~Neither of the following~~ The 93580
department of health's determination that a change of operator has 93581
or has not occurred for purposes of licensure under Chapter 3721. 93582
of the Revised Code shall not affect the department of ~~job and~~ 93583
~~family services'~~ medicaid's determination of whether or when a 93584
change of operator occurs or the effective date of an entering 93585
operator's provider agreement under section ~~5111.671~~ 5165.511, 93586
section ~~5111.672~~ 5165.512, or, pursuant to section ~~5111.675~~ 93587
5165.515, section ~~5111.22~~ 5165.07 of the Revised Code: 93588

~~(A) The department of health's determination that a change of operator has or has not occurred for purposes of licensure under Chapter 3721. of the Revised Code:~~ 93589
93590
93591

~~(B) The department of developmental disabilities' determination that a change of operator has or has not occurred for purposes of licensure under section 5123.19 of the Revised Code.~~ 93592
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Sec. ~~5111.68~~ 5165.52. (A) On receipt of a written notice 93596
under section ~~5111.66~~ 5165.50 of the Revised Code of a facility 93597
closure, ~~voluntary termination,~~ or voluntary withdrawal of 93598
participation, on receipt of a written notice under section 93599
~~5111.67~~ 5165.51 of the Revised Code of a change of operator, or on 93600
the effective date of an involuntary termination, the department 93601
of ~~job and family services~~ medicaid shall estimate the amount of 93602
any overpayments made under the medicaid program to the exiting 93603
operator, including overpayments the exiting operator disputes, 93604
and other actual and potential debts the exiting operator owes or 93605
may owe to the department and United States centers for medicare 93606
and medicaid services under the medicaid program, including a 93607

franchise permit fee. 93608

(B) In estimating the exiting operator's other actual and 93609
potential debts to the department and the United States centers 93610
for medicare and medicaid services under the medicaid program, the 93611
department shall use a debt estimation methodology the medicaid 93612
~~director of job and family services~~ shall establish in rules 93613
~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 93614
Revised Code. The methodology shall provide for estimating all of 93615
the following that the department determines are applicable: 93616

(1) Refunds due the department under section ~~5111.27~~ 5165.41 93617
of the Revised Code; 93618

(2) Interest owed to the department and United States centers 93619
for medicare and medicaid services; 93620

(3) Final civil monetary and other penalties for which all 93621
right of appeal has been exhausted; 93622

(4) Money owed the department and United States centers for 93623
medicare and medicaid services from any outstanding final fiscal 93624
audit, including a final fiscal audit for the last fiscal year or 93625
portion thereof in which the exiting operator participated in the 93626
medicaid program; 93627

(5) Other amounts the department determines are applicable. 93628

(C) The department shall provide the exiting operator written 93629
notice of the department's estimate under division (A) of this 93630
section not later than thirty days after the department receives 93631
the notice under section ~~5111.66~~ 5165.50 of the Revised Code of 93632
the facility closure, ~~voluntary termination~~, or voluntary 93633
withdrawal of participation; the department receives the notice 93634
under section ~~5111.67~~ 5165.51 of the Revised Code of the change of 93635
operator; or the effective date of the involuntary termination. 93636
The department's written notice shall include the basis for the 93637

estimate. 93638

Sec. ~~5111.681~~ 5165.521. (A) Except as provided in divisions 93639
(B), (C), and (D) of this section, the department of ~~job and~~ 93640
~~family services~~ medicaid may withhold from payment due an exiting 93641
operator under the medicaid program the total amount specified in 93642
the notice provided under division (C) of section ~~5111.68~~ 5165.52 93643
of the Revised Code that the exiting operator owes or may owe to 93644
the department and United States centers for medicare and medicaid 93645
services under the medicaid program. 93646

(B) In the case of a change of operator and subject to 93647
division (E) of this section, the following shall apply regarding 93648
a withholding under division (A) of this section if the exiting 93649
operator or entering operator or an affiliated operator executes a 93650
successor liability agreement meeting the requirements of division 93651
(F) of this section: 93652

(1) If the exiting operator, entering operator, or affiliated 93653
operator assumes liability for the total, actual amount of debt 93654
the exiting operator owes the department and the United States 93655
centers for medicare and medicaid services under the medicaid 93656
program as determined under section ~~5111.685~~ 5165.525 of the 93657
Revised Code, the department shall not make the withholding. 93658

(2) If the exiting operator, entering operator, or affiliated 93659
operator assumes liability for only the portion of the amount 93660
specified in division (B)(1) of this section that represents the 93661
franchise permit fee the exiting operator owes, the department 93662
shall withhold not more than the difference between the total 93663
amount specified in the notice provided under division (C) of 93664
section ~~5111.68~~ 5165.52 of the Revised Code and the amount for 93665
which the exiting operator, entering operator, or affiliated 93666
operator assumes liability. 93667

(C) In the case of a ~~voluntary termination~~, voluntary 93668

withdrawal of participation, or facility closure and subject to 93669
division (E) of this section, the following shall apply regarding 93670
a withholding under division (A) of this section if the exiting 93671
operator or an affiliated operator executes a successor liability 93672
agreement meeting the requirements of division (F) of this 93673
section: 93674

(1) If the exiting operator or affiliated operator assumes 93675
liability for the total, actual amount of debt the exiting 93676
operator owes the department and the United States centers for 93677
medicare and medicaid services under the medicaid program as 93678
determined under section ~~5111.685~~ 5165.525 of the Revised Code, 93679
the department shall not make the withholding. 93680

(2) If the exiting operator or affiliated operator assumes 93681
liability for only the portion of the amount specified in division 93682
(C)(1) of this section that represents the franchise permit fee 93683
the exiting operator owes, the department shall withhold not more 93684
than the difference between the total amount specified in the 93685
notice provided under division (C) of section ~~5111.68~~ 5165.52 of 93686
the Revised Code and the amount for which the exiting operator or 93687
affiliated operator assumes liability. 93688

(D) In the case of an involuntary termination and subject to 93689
division (E) of this section, the following shall apply regarding 93690
a withholding under division (A) of this section if the exiting 93691
operator, the entering operator, or an affiliated operator 93692
executes a successor liability agreement meeting the requirements 93693
of division (F) of this section and the department approves the 93694
successor liability agreement: 93695

(1) If the exiting operator, entering operator, or affiliated 93696
operator assumes liability for the total, actual amount of debt 93697
the exiting operator owes the department and the United States 93698
centers for medicare and medicaid services under the medicaid 93699
program as determined under section ~~5111.685~~ 5165.525 of the 93700

Revised Code, the department shall not make the withholding. 93701

(2) If the exiting operator, entering operator, or affiliated 93702
operator assumes liability for only the portion of the amount 93703
specified in division (D)(1) of this section that represents the 93704
franchise permit fee the exiting operator owes, the department 93705
shall withhold not more than the difference between the total 93706
amount specified in the notice provided under division (C) of 93707
section ~~5111.68~~ 5165.52 of the Revised Code and the amount for 93708
which the exiting operator, entering operator, or affiliated 93709
operator assumes liability. 93710

(E) For an exiting operator or affiliated operator to be 93711
eligible to enter into a successor liability agreement under 93712
division (B), (C), or (D) of this section, both of the following 93713
must apply: 93714

(1) The exiting operator or affiliated operator must have one 93715
or more valid provider agreements, other than the provider 93716
agreement for the nursing facility ~~or intermediate care facility~~ 93717
~~for the mentally retarded~~ that is the subject of the involuntary 93718
termination, ~~voluntary termination~~, voluntary withdrawal of 93719
participation, facility closure, or change of operator; 93720

(2) During the twelve-month period preceding either the 93721
effective date of the involuntary termination or the month in 93722
which the department receives the notice of the ~~voluntary~~ 93723
~~termination~~, voluntary withdrawal of participation, or facility 93724
closure under section ~~5111.66~~ 5165.50 of the Revised Code or the 93725
notice of the change of operator under section ~~5111.67~~ 5165.51 of 93726
the Revised Code, the average monthly medicaid payment made to the 93727
exiting operator or affiliated operator pursuant to the exiting 93728
operator's or affiliated operator's one or more provider 93729
agreements, other than the provider agreement for the nursing 93730
facility ~~or intermediate care facility for the mentally retarded~~ 93731
that is the subject of the involuntary termination, ~~voluntary~~ 93732

~~termination~~, voluntary withdrawal of participation, facility 93733
closure, or change of operator, must equal at least ninety per 93734
cent of the sum of the following: 93735

(a) The average monthly medicaid payment made to the exiting 93736
operator pursuant to the exiting operator's provider agreement for 93737
the nursing facility ~~or intermediate care facility for the~~ 93738
~~mentally retarded~~ that is the subject of the involuntary 93739
termination, ~~voluntary termination~~, voluntary withdrawal of 93740
participation, facility closure, or change of operator; 93741

(b) Whichever of the following apply: 93742

(i) If the exiting operator or affiliated operator has 93743
assumed liability under one or more other successor liability 93744
agreements, the total amount for which the exiting operator or 93745
affiliated operator has assumed liability under the other 93746
successor liability agreements; 93747

(ii) If the exiting operator or affiliated operator has not 93748
assumed liability under any other successor liability agreements, 93749
zero. 93750

(F) A successor liability agreement executed under this 93751
section must comply with all of the following: 93752

(1) It must provide for the operator who executes the 93753
successor liability agreement to assume liability for either of 93754
the following as specified in the agreement: 93755

(a) The total, actual amount of debt the exiting operator 93756
owes the department and the United States centers for medicare and 93757
medicaid services under the medicaid program as determined under 93758
section ~~5111.685~~ 5165.525 of the Revised Code; 93759

(b) The portion of the amount specified in division (F)(1)(a) 93760
of this section that represents the franchise permit fee the 93761
exiting operator owes. 93762

(2) It may not require the operator who executes the
successor liability agreement to furnish a surety bond.

(3) It must provide that the department, after determining
under section ~~5111.685~~ 5165.525 of the Revised Code the actual
amount of debt the exiting operator owes the department and United
States centers for medicare and medicaid services under the
medicaid program, may deduct the lesser of the following from
medicaid payments made to the operator who executes the successor
liability agreement:

(a) The total, actual amount of debt the exiting operator
owes the department and the United States centers for medicare and
medicaid services under the medicaid program as determined under
section ~~5111.685~~ 5165.525 of the Revised Code;

(b) The amount for which the operator who executes the
successor liability agreement assumes liability under the
agreement.

(4) It must provide that the deductions authorized by
division (F)(3) of this section are to be made for a number of
months, not to exceed six, agreed to by the operator who executes
the successor liability agreement and the department or, if the
operator who executes the successor liability agreement and
department cannot agree on a number of months that is less than
six, a greater number of months determined by the attorney general
pursuant to a claims collection process authorized by statute of
this state.

(5) It must provide that, if the attorney general determines
the number of months for which the deductions authorized by
division (F)(3) of this section are to be made, the operator who
executes the successor liability agreement shall pay, in addition
to the amount collected pursuant to the attorney general's claims
collection process, the part of the amount so collected that, if

not for division (H) of this section, would be required by section 93794
109.081 of the Revised Code to be paid into the attorney general 93795
claims fund. 93796

(G) Execution of a successor liability agreement does not 93797
waive an exiting operator's right to contest the amount specified 93798
in the notice the department provides the exiting operator under 93799
division (C) of section ~~5111.68~~ 5165.52 of the Revised Code. 93800

(H) Notwithstanding section 109.081 of the Revised Code, the 93801
entire amount that the attorney general, whether by employees or 93802
agents of the attorney general or by special counsel appointed 93803
pursuant to section 109.08 of the Revised Code, collects under a 93804
successor liability agreement, other than the additional amount 93805
the operator who executes the agreement is required by division 93806
(F)(5) of this section to pay, shall be paid to the department of 93807
~~job and family services~~ medicaid for deposit into the appropriate 93808
fund. The additional amount that the operator is required to pay 93809
shall be paid into the state treasury to the credit of the 93810
attorney general claims fund created under section 109.081 of the 93811
Revised Code. 93812

Sec. ~~5111.682~~ 5165.522. (A) Except as provided in division 93813
(B) of this section, an exiting operator shall file with the 93814
department of ~~job and family services~~ medicaid a cost report not 93815
later than ninety days after the last day the exiting operator's 93816
provider agreement is in effect or, in the case of a voluntary 93817
withdrawal of participation, the effective date of the voluntary 93818
withdrawal of participation. The cost report shall cover the 93819
period that begins with the day after the last day covered by the 93820
operator's most recent previous cost report required by section 93821
~~5111.26~~ 5165.10 of the Revised Code and ends on the last day the 93822
exiting operator's provider agreement is in effect or, in the case 93823
of a voluntary withdrawal of participation, the effective date of 93824

the voluntary withdrawal of participation. The cost report shall 93825
include, as applicable, all of the following: 93826

(1) The sale price of the nursing facility ~~or intermediate~~ 93827
~~care facility for the mentally retarded;~~ 93828

(2) A final depreciation schedule that shows which assets are 93829
transferred to the buyer and which assets are not transferred to 93830
the buyer; 93831

(3) Any other information the department requires. 93832

(B) The department, at its sole discretion, may waive the 93833
requirement that an exiting operator file a cost report in 93834
accordance with division (A) of this section. 93835

Sec. ~~5111.683~~ 5165.523. If an exiting operator required by 93836
section ~~5111.682~~ 5165.522 of the Revised Code to file a cost 93837
report with the department of ~~job and family services~~ medicaid 93838
fails to file the cost report in accordance with that section, all 93839
payments under the medicaid program for the period the cost report 93840
is required to cover are deemed overpayments until the date the 93841
department receives the properly completed cost report. The 93842
department may impose on the exiting operator a penalty of one 93843
hundred dollars for each calendar day the properly completed cost 93844
report is late. 93845

Sec. ~~5111.684~~ 5165.524. The department of ~~job and family~~ 93846
~~services~~ medicaid may not provide an exiting operator final 93847
payment under the medicaid program until the department receives 93848
all properly completed cost reports the exiting operator is 93849
required to file under sections ~~5111.26~~ 5165.10 and ~~5111.682~~ 93850
5165.522 of the Revised Code. 93851

Sec. ~~5111.685~~ 5165.525. The department of ~~job and family~~ 93852

~~services~~ medicaid shall determine the actual amount of debt an exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue an initial debt summary report on this matter not later than sixty days after the date the exiting operator files the properly completed cost report required by section ~~5111.682~~ 5165.522 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, sixty days after the date the department waives the cost report requirement. The initial debt summary report becomes the final debt summary report thirty-one days after the department issues the initial debt summary report unless the exiting operator, or an affiliated operator who executes a successor liability agreement under section ~~5111.681~~ 5165.521 of the Revised Code, requests a review before that date.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section ~~5111.681~~ 5165.521 of the Revised Code, may request a review to contest any of the department's findings included in the initial debt summary report. The request for the review must be submitted to the department not later than thirty days after the date the department issues the initial debt summary report. The department shall conduct the review on receipt of a timely request and issue a revised debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section ~~5111.681~~ 5165.521 of the Revised Code, the department shall issue the revised debt summary report not later than ninety days after the date the department receives the timely request for the review unless the department and exiting operator or affiliated operator agree to a later date. The exiting operator or affiliated operator

may submit information to the department explaining what the 93886
operator contests before and during the review, including 93887
documentation of the amount of any debt the department owes the 93888
operator. The exiting operator or affiliated operator may submit 93889
additional information to the department not later than thirty 93890
days after the department issues the revised debt summary report. 93891
The revised debt summary report becomes the final debt summary 93892
report thirty-one days after the department issues the revised 93893
debt summary report unless the exiting operator or affiliated 93894
operator timely submits additional information to the department. 93895
If the exiting operator or affiliated operator timely submits 93896
additional information to the department, the department shall 93897
consider the additional information and issue a final debt summary 93898
report not later than sixty days after the department issues the 93899
revised debt summary report unless the department and exiting 93900
operator or affiliated operator agree to a later date. 93901

Each debt summary report the department issues under this 93902
section shall include the department's findings and the amount of 93903
debt the department determines the exiting operator owes the 93904
department and United States centers for medicare and medicaid 93905
services under the medicaid program. The department shall explain 93906
its findings and determination in each debt summary report. 93907

The exiting operator, and an affiliated operator who executes 93908
a successor liability agreement under section ~~5111.681~~ 5165.521 of 93909
the Revised Code, may request, in accordance with Chapter 119. of 93910
the Revised Code, an adjudication regarding a finding in a final 93911
debt summary report that pertains to an audit or alleged 93912
overpayment made under the medicaid program to the exiting 93913
operator. The adjudication shall be consolidated with any other 93914
uncompleted adjudication that concerns a matter addressed in the 93915
final debt summary report. 93916

Sec. ~~5111.686~~ 5165.526. The department of ~~job and family~~ 93917
~~services~~ medicaid shall release the actual amount withheld under 93918
division (A) of section ~~5111.681~~ 5165.521 of the Revised Code, 93919
less any amount the exiting operator owes the department and 93920
United States centers for medicare and medicaid services under the 93921
medicaid program, as follows: 93922

(A) Unless the department issues the initial debt summary 93923
report required by section ~~5111.685~~ 5165.525 of the Revised Code 93924
not later than sixty days after the date the exiting operator 93925
files the properly completed cost report required by section 93926
~~5111.682~~ 5165.522 of the Revised Code, sixty-one days after the 93927
date the exiting operator files the properly completed cost 93928
report; 93929

(B) If the department issues the initial debt summary report 93930
required by section ~~5111.685~~ 5165.525 of the Revised Code not 93931
later than sixty days after the date the exiting operator files a 93932
properly completed cost report required by section ~~5111.682~~ 93933
5165.522 of the Revised Code, not later than the following: 93934

(1) Thirty days after the deadline for requesting an 93935
adjudication under section ~~5111.685~~ 5165.525 of the Revised Code 93936
regarding the final debt summary report if the exiting operator, 93937
and an affiliated operator who executes a successor liability 93938
agreement under section ~~5111.681~~ 5165.521 of the Revised Code, 93939
fail to request the adjudication on or before the deadline; 93940

(2) Thirty days after the completion of an adjudication of 93941
the final debt summary report if the exiting operator, or an 93942
affiliated operator who executes a successor liability agreement 93943
under section ~~5111.681~~ 5165.521 of the Revised Code, requests the 93944
adjudication on or before the deadline for requesting the 93945
adjudication. 93946

(C) Unless the department issues the initial debt summary 93947

report required by section ~~5111.685~~ 5165.525 of the Revised Code 93948
not later than sixty days after the date the department waives the 93949
cost report requirement of section ~~5111.682~~ 5165.522 of the 93950
Revised Code, sixty-one days after the date the department waives 93951
the cost report requirement; 93952

(D) If the department issues the initial debt summary report 93953
required by section ~~5111.685~~ 5165.525 of the Revised Code not 93954
later than sixty days after the date the department waives the 93955
cost report requirement of section ~~5111.682~~ 5165.522 of the 93956
Revised Code, not later than the following: 93957

(1) Thirty days after the deadline for requesting an 93958
adjudication under section ~~5111.685~~ 5165.525 of the Revised Code 93959
regarding the final debt summary report if the exiting operator, 93960
and an affiliated operator who executes a successor liability 93961
agreement under section ~~5111.681~~ 5165.521 of the Revised Code, 93962
fail to request the adjudication on or before the deadline; 93963

(2) Thirty days after the completion of an adjudication of 93964
the final debt summary report if the exiting operator, or an 93965
affiliated operator who executes a successor liability agreement 93966
under section ~~5111.681~~ 5165.521 of the Revised Code, requests the 93967
adjudication on or before the deadline for requesting the 93968
adjudication. 93969

Sec. ~~5111.687~~ 5165.527. The department of ~~job and family~~ 93970
~~services~~ medicaid, at its sole discretion, may release the amount 93971
withheld under division (A) of section ~~5111.681~~ 5165.521 of the 93972
Revised Code if the exiting operator submits to the department 93973
written notice of a postponement of a change of operator, facility 93974
closure, ~~voluntary termination~~, or voluntary withdrawal of 93975
participation and the transactions leading to the change of 93976
operator, facility closure, ~~voluntary termination~~, or voluntary 93977
withdrawal of participation are postponed for at least thirty days 93978

but less than ninety days after the date originally proposed for 93979
the change of operator, facility closure, ~~voluntary termination,~~ 93980
or voluntary withdrawal of participation as reported in the 93981
written notice required by section ~~5111.66~~ 5165.50 or ~~5111.67~~ 93982
5165.51 of the Revised Code. The department shall release the 93983
amount withheld if the exiting operator submits to the department 93984
written notice of a cancellation or postponement of a change of 93985
operator, facility closure, ~~voluntary termination,~~ or voluntary 93986
withdrawal of participation and the transactions leading to the 93987
change of operator, facility closure, ~~voluntary termination,~~ or 93988
voluntary withdrawal of participation are canceled or postponed 93989
for more than ninety days after the date originally proposed for 93990
the change of operator, facility closure, ~~voluntary termination,~~ 93991
or voluntary withdrawal of participation as reported in the 93992
written notice required by section ~~5111.66~~ 5165.50 or ~~5111.67~~ 93993
5165.51 of the Revised Code. A written notice shall be provided to 93994
the department in accordance with the method specified in rules 93995
~~adopted under~~ authorized by section ~~5111.689~~ 5165.53 of the 93996
Revised Code. 93997

After the department receives a written notice regarding a 93998
cancellation or postponement of a facility closure, ~~voluntary~~ 93999
~~termination,~~ or voluntary withdrawal of participation, the exiting 94000
operator or owner shall provide new written notice to the 94001
department under section ~~5111.66~~ 5165.50 of the Revised Code 94002
regarding any transactions leading to a facility closure, 94003
~~voluntary termination,~~ or voluntary withdrawal of participation at 94004
a future time. After the department receives a written notice 94005
regarding a cancellation or postponement of a change of operator, 94006
the exiting operator or owner and entering operator shall provide 94007
new written notice to the department under section ~~5111.67~~ 5165.51 94008
of the Revised Code regarding any transactions leading to a change 94009
of operator at a future time. 94010

Sec. ~~5111.688~~ 5165.528. (A) All amounts withheld under 94011
section ~~5111.684~~ 5165.521 of the Revised Code from payment due an 94012
exiting operator under the medicaid program shall be deposited 94013
into the medicaid payment withholding fund created by the 94014
controlling board pursuant to section 131.35 of the Revised Code. 94015
Money in the fund shall be used as follows: 94016

(1) To pay an exiting operator when a withholding is released 94017
to the exiting operator under section ~~5111.686~~ 5165.526 or 94018
~~5111.687~~ 5165.527 of the Revised Code; 94019

(2) To pay the department of ~~job and family services~~ medicaid 94020
and United States centers for medicare and medicaid services the 94021
amount an exiting operator owes the department and United States 94022
centers under the medicaid program. 94023

(B) Amounts paid from the medicaid payment withholding fund 94024
pursuant to division (A)(2) of this section shall be deposited 94025
into the appropriate department fund. 94026

Sec. ~~5111.689~~ 5165.53. The medicaid director ~~of job and~~ 94027
~~family services~~ shall adopt rules under section ~~5111.02~~ 5165.02 of 94028
the Revised Code to implement sections ~~5111.65~~ 5165.50 to ~~5111.689~~ 94029
5165.53 of the Revised Code, including rules applicable to an 94030
exiting operator that provides written notification under section 94031
~~5111.66~~ 5165.50 of the Revised Code of a voluntary withdrawal of 94032
participation. Rules adopted under this section shall comply with 94033
~~section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286~~ 94034
~~(1965)~~ section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F), regarding 94035
restrictions on transfers or discharges of nursing facility 94036
residents in the case of a voluntary withdrawal of participation. 94037
The rules may prescribe a medicaid ~~reimbursement~~ payment 94038
methodology and other procedures that are applicable after the 94039
effective date of a voluntary withdrawal of participation that 94040

differ from the ~~reimbursement~~ payment methodology and other 94041
procedures that would otherwise apply. The rules shall specify all 94042
of the following: 94043

(A) The method by which written notices to the department 94044
required by sections ~~5111.65~~ 5165.50 to ~~5111.689~~ 5165.53 of the 94045
Revised Code are to be provided; 94046

(B) The forms and documents that are to be provided to the 94047
department of medicaid under sections ~~5111.671~~ 5165.511 and 94048
~~5111.672~~ 5165.512 of the Revised Code, which shall include, in the 94049
case of such forms and documents provided by entering operators, 94050
all the fully executed leases, management agreements, merger 94051
agreements and supporting documents, and fully executed sales 94052
contracts and any other supporting documents culminating in the 94053
change of operator; 94054

(C) The method by which the forms and documents identified in 94055
division (B) of this section are to be provided to the department. 94056

Sec. ~~5111.35~~ 5165.60. As used in this section, "a resident's 94057
rights" means the rights of a nursing facility resident under 94058
sections 3721.10 to 3721.17 of the Revised Code ~~and subsection (e)~~ 94059
~~of section 1819 or 1919 of,~~ the "Social Security Act," ~~49 Stat.~~ 94060
~~620 (1935)~~ sections 1819(c) and 1919(c), 42 U.S.C.A. ~~301,~~ ~~as~~ 94061
~~amended~~ 1395i-3(c) and 1396r(c), and federal regulations issued 94062
under those ~~subsections~~ sections of the "Social Security Act." 94063

As used in sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the 94064
Revised Code: 94065

(A) "Certification requirements" means the requirements for 94066
nursing facilities established under ~~sections 1819 and 1919 of the~~ 94067
"Social Security Act-," sections 1819 and 1919, 42 U.S.C. 1395i-3 94068
and 1396r. 94069

(B) "Compliance" means substantially meeting all applicable 94070

certification requirements. 94071

(C) "Contracting agency" means a state agency that has 94072
entered into a contract with the department of ~~job and family~~ 94073
~~services~~ medicaid under section ~~5111.38~~ 5165.63 of the Revised 94074
Code. 94075

(D)(1) "Deficiency" means a finding cited by the department 94076
of health during a survey, on the basis of one or more actions, 94077
practices, situations, or incidents occurring at a nursing 94078
facility, that constitutes a severity level three finding, 94079
severity level four finding, scope level three finding, or scope 94080
level four finding. Whenever the finding is a repeat finding, 94081
"deficiency" also includes any finding that is a severity level 94082
two and scope level one finding, a severity level two and scope 94083
level two finding, or a severity level one and scope level two 94084
finding. 94085

(2) "Cluster of deficiencies" means deficiencies that result 94086
from noncompliance with two or more certification requirements and 94087
are causing or resulting from the same action, practice, 94088
situation, or incident. 94089

(E) "Emergency" means either of the following: 94090

(1) A deficiency or cluster of deficiencies that creates a 94091
condition of immediate jeopardy; 94092

(2) An unexpected situation or sudden occurrence of a serious 94093
or urgent nature that creates a substantial likelihood that one or 94094
more residents of a nursing facility may be seriously harmed if 94095
allowed to remain in the facility, including the following: 94096

(a) A flood or other natural disaster, civil disaster, or 94097
similar event; 94098

(b) A labor strike that suddenly causes the number of staff 94099
members in a nursing facility to be below that necessary for 94100

resident care. 94101

(F) "Finding" means a finding of noncompliance with 94102
certification requirements determined by the department of health 94103
under section ~~5111.41~~ 5165.66 of the Revised Code. 94104

(G) "Immediate jeopardy" means that one or more residents of 94105
a nursing facility are in imminent danger of serious physical or 94106
life-threatening harm. 94107

(H) "Medicaid eligible resident" means a person who is a 94108
resident of a nursing facility, or is applying for admission to a 94109
nursing facility, and is eligible ~~to receive financial assistance~~ 94110
for nursing facility services under the ~~medical assistance~~ 94111
medicaid program ~~for the care the person receives in such a~~ 94112
~~facility.~~ 94113

(I) "Noncompliance" means failure to substantially meet all 94114
applicable certification requirements. 94115

(J) "Nursing facility" ~~has the same meaning as in section~~ 94116
~~5111.20 of the Revised Code~~ includes a skilled nursing facility to 94117
the extent the context requires. 94118

(K) ~~"Provider" means a person, institution, or entity that~~ 94119
~~furnishes nursing facility services under a medical assistance~~ 94120
~~program provider agreement.~~ 94121

~~(L) "Provider agreement" means a contract between the~~ 94122
~~department of job and family services and a provider for the~~ 94123
~~provision of nursing facility services under the medicaid program.~~ 94124

~~(M)~~ "Repeat finding" or "repeat deficiency" means a finding 94125
or deficiency cited pursuant to a survey, to which both of the 94126
following apply: 94127

(1) The finding or deficiency involves noncompliance with the 94128
same certification requirement, and the same kind of actions, 94129
practices, situations, or incidents caused by or resulting from 94130

the noncompliance, as were cited in the immediately preceding 94131
standard survey or another survey conducted subsequent to the 94132
immediately preceding standard survey of the facility. For 94133
purposes of this division, actions, practices, situations, or 94134
incidents may be of the same kind even though they involve 94135
different residents, staff, or parts of the facility. 94136

(2) The finding or deficiency is cited subsequent to a 94137
determination by the department of health that the finding or 94138
deficiency cited on the immediately preceding standard survey, or 94139
another survey conducted subsequent to the immediately preceding 94140
standard survey, had been corrected. 94141

~~(N)~~(L)(1) "Scope level one finding" means a finding of 94142
noncompliance by a nursing facility in which the actions, 94143
situations, practices, or incidents causing or resulting from the 94144
noncompliance affect one or a very limited number of facility 94145
residents and involve one or a very limited number of facility 94146
staff members. 94147

(2) "Scope level two finding" means a finding of 94148
noncompliance by a nursing facility in which the actions, 94149
situations, practices, or incidents causing or resulting from the 94150
noncompliance affect more than a limited number of facility 94151
residents or involve more than a limited number of facility staff 94152
members, but the number or percentage of facility residents 94153
affected or staff members involved and the number or frequency of 94154
the actions, situations, practices, or incidents in short 94155
succession does not establish any reasonable degree of 94156
predictability of similar actions, situations, practices, or 94157
incidents occurring in the future. 94158

(3) "Scope level three finding" means a finding of 94159
noncompliance by a nursing facility in which the actions, 94160
situations, practices, or incidents causing or resulting from the 94161
noncompliance affect more than a limited number of facility 94162

residents or involve more than a limited number of facility staff 94163
members, and the number or percentage of facility residents 94164
affected or staff members involved or the number or frequency of 94165
the actions, situations, practices, or incidents in short 94166
succession establishes a reasonable degree of predictability of 94167
similar actions, situations, practices, or incidents occurring in 94168
the future. 94169

(4) "Scope level four finding" means a finding of 94170
noncompliance by a nursing facility causing or resulting from 94171
actions, situations, practices, or incidents that involve a 94172
sufficient number or percentage of facility residents or staff 94173
members or occur with sufficient regularity over time that the 94174
noncompliance can be considered systemic or pervasive in the 94175
facility. 94176

~~(O)~~(M)(1) "Severity level one finding" means a finding of 94177
noncompliance by a nursing facility that has not caused and, if 94178
continued, is unlikely to cause physical harm to a facility 94179
resident, mental or emotional harm to a resident, or a violation 94180
of a resident's rights that results in physical, mental, or 94181
emotional harm to the resident. 94182

(2) "Severity level two finding" means a finding of 94183
noncompliance by a nursing facility that, if continued over time, 94184
will cause, or is likely to cause, physical harm to a facility 94185
resident, mental or emotional harm to a resident, or a violation 94186
of a resident's rights that results in physical, mental, or 94187
emotional harm to the resident. 94188

(3) "Severity level three finding" means a finding of 94189
noncompliance by a nursing facility that has caused physical harm 94190
to a facility resident, mental or emotional harm to a resident, or 94191
a violation of a resident's rights that results in physical, 94192
mental, or emotional harm to the resident. 94193

(4) "Severity level four finding" means a finding of noncompliance by a nursing facility that has caused life-threatening harm to a facility resident or caused a resident's death.

~~(P)~~(N) "State agency" has the same meaning as in section 1.60 of the Revised Code.

~~(Q)~~(O) "Substandard care" means care furnished in a facility in which the department of health has cited a deficiency or deficiencies that constitute one of the following:

(1) A severity level four finding, regardless of scope;

(2) A severity level three and scope level four finding, in the quality of care provided to residents;

(3) A severity level three and scope level three finding, in the quality of care provided to residents.

~~(R)~~(P)(1) "Survey" means a survey of a nursing facility conducted under section ~~5111.39~~ 5165.64 of the Revised Code.

(2) "Standard survey" means a survey conducted by the department of health under division (A) of section ~~5111.39~~ 5165.64 of the Revised Code and includes an extended survey.

(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey.

Sec. ~~5111.36~~ 5165.61. The medicaid director of ~~job and family services~~ may adopt rules under ~~Chapter 119~~, section 5165.02 of the Revised Code that are consistent with regulations, guidelines, and procedures issued by the United States secretary of health and human services under ~~sections 1819 and 1919~~ of the "Social Security Act," ~~49 Stat. 620 (1935)~~ sections 1819 and 1919, 42 U.S.C.A. ~~301, as amended 1395i-3 and 1396r~~, and necessary for administration and enforcement of sections ~~5111.35~~ 5165.60 to

~~5111.62~~ 5165.89 of the Revised Code. If the secretary does not 94224
issue appropriate regulations for enforcement of those sections 94225
~~1819 and 1919~~ of the "Social Security Act" on or before December 94226
13, 1990, the medicaid director ~~of job and family services~~ may 94227
adopt, under ~~Chapter 119.~~ section 5165.02 of the Revised Code, 94228
rules that are consistent with those sections and with sections 94229
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. 94230

Sec. ~~5111.37~~ 5165.62. The department of ~~job and family~~ 94231
~~services~~ medicaid is hereby authorized to enforce sections ~~5111.35~~ 94232
5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. The department may 94233
enforce the sections directly or through contracting agencies. The 94234
department and agencies shall enforce the sections in accordance 94235
with the requirements of ~~sections 1819 and 1919~~ of the "Social 94236
Security Act," ~~49 Stat. 620 (1935)~~ sections 1819 and 1919, 42 94237
U.S.C.A. ~~301, as amended~~ 1395i-3 and 1396r, that apply to nursing 94238
facilities; with regulations, guidelines, and procedures adopted 94239
by the United States secretary of health and human services for 94240
the enforcement of those sections ~~1819 and 1919~~ of the "Social 94241
Security Act"; and with the rules ~~adopted under~~ authorized by 94242
section ~~5111.36~~ 5165.61 of the Revised Code. The department and 94243
agencies shall enforce sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 94244
of the Revised Code for purposes of the medicare program, ~~Title~~ 94245
~~XVIII of the "Social Security Act,"~~ only to the extent prescribed 94246
by the regulations, guidelines, and procedures issued by the 94247
secretary under ~~section 1819 of that act~~ the "Social Security 94248
Act," section 1819, 42 U.S.C. 1395i-3. 94249

Sec. ~~5111.38~~ 5165.63. The department of ~~job and family~~ 94250
~~services~~ medicaid may enter into contracts with other state 94251
agencies pursuant to section 5162.35 of the Revised Code that 94252
authorize the agencies to perform all or part of the duties 94253
assigned to the department of ~~job and family services~~ medicaid 94254

under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code. Each contract shall specify the duties the agency is authorized to perform and the sections of the Revised Code under which the agency is authorized to perform those duties.

Sec. ~~5111.39~~ 5165.64. (A) The department of health shall conduct a survey, titled a standard survey, of every nursing facility in this state on a statewide average of not more than once every twelve months. Each nursing facility shall undergo a standard survey at least once every fifteen months as a condition of meeting certification requirements. The department may extend a standard survey; such a survey is titled an extended survey.

(B) The department may conduct surveys in addition to standard surveys when it considers them necessary.

(C) The department shall conduct surveys in accordance with the regulations, guidelines, and procedures issued by the United States secretary of health and human services under ~~Titles~~ Title XVIII and Title XIX ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ sections ~~5111.40~~ 5165.65 to ~~5111.42~~ 5165.68 of the Revised Code, and rules adopted under section 3721.022 of the Revised Code.

Sec. ~~5111.40~~ 5165.65. (A) At the conclusion of each survey, the department of health survey team shall conduct an exit interview with the administrator or other person in charge of the nursing facility and any other facility staff members designated by the administrator or person in charge of the facility. During the exit interview, at the request of the administrator or other person in charge of the facility, the survey team shall provide one of the following, as selected by the survey team:

(1) Copies of all survey notes and any other written materials created during the survey;

(2) A written summary of the survey team's recommendations regarding findings of noncompliance with certification requirements;	94285 94286 94287
(3) An audio or audiovisual recording of the interview. If the survey team selects this option, at least two copies of the recording shall be made and the survey team shall select one copy to be kept by the survey team for use by the department of health.	94288 94289 94290 94291
(B) All expenses of copying under division (A)(1) of this section or recording under division (A)(3) of this section, including the cost of the copy of the recording kept by the survey team, shall be paid by the facility.	94292 94293 94294 94295
Sec. 5111.41 5165.66. (A) Except as provided in section 3721.17 of the Revised Code, a finding shall be cited only on the basis of a survey and a determination that one or more actions, practices, situations, or incidents at a nursing facility caused or resulted from the facility's failure to comply with one or more certification requirements. The department of health shall determine whether the actions, practices, situations, or incidents can be justified by either of the following:	94296 94297 94298 94299 94300 94301 94302 94303
(1) The actions, practices, situations, or incidents resulted from a resident exercising the resident's rights guaranteed under the laws of the United States or of this state;	94304 94305 94306
(2) The actions, practices, situations, or incidents resulted from a facility following the orders of a person licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.	94307 94308 94309 94310
(B) If the department of health determines both that the actions, practices, situations, or incidents cannot be justified by the factors identified in division (A) of this section and that one or more of the following are applicable, the department shall	94311 94312 94313 94314

declare that the actions, practices, situations, or incidents 94315
constitute a finding: 94316

(1) The actions, practices, situations, or incidents could 94317
have been prevented by one or more persons involved in the 94318
facility's operation; 94319

(2) No person involved in the facility's operation identified 94320
the actions, practices, situations, or incidents prior to the 94321
survey; 94322

(3) Prior to the survey, no person involved in the facility's 94323
operation initiated action to correct the noncompliance caused by 94324
or resulting in the actions, practices, situations, or incidents; 94325

(4) The facility does not have in effect, if needed, a 94326
contingency plan that is reasonably calculated to prevent 94327
physical, mental, or emotional harm to residents while permanent 94328
corrective action is being taken. 94329

(C) The department of health shall determine the severity 94330
level and scope level of each finding. 94331

(D) A deficiency that is substantially corrected within the 94332
time limits specified in sections ~~5111.52~~ 5165.79 to 94333
~~5111.56~~5165.83 of the Revised Code and for which no remedy is 94334
imposed, shall be counted as a deficiency for the purpose of 94335
determining whether a deficiency is a repeat deficiency. 94336

(E) Whenever the department of health determines that during 94337
the period between two surveys a finding existed at the facility, 94338
but the facility substantially corrected it prior to the second 94339
survey, the department shall cite it. However, the department of 94340
~~job and family services~~ medicaid or a contracting agency shall 94341
impose a remedy only as provided in division (C) of section 94342
~~5111.46~~ 5165.72 of the Revised Code. 94343

(F) Immediately upon determining the severity and scope of a 94344

finding at a nursing facility, the department of health shall 94345
notify the department of ~~job and family services~~ medicaid and any 94346
contracting agency of the finding, the severity and scope of the 94347
finding, and whether the finding creates immediate jeopardy. 94348
Immediately upon determining that an emergency exists at a 94349
facility that does not result from a deficiency that creates 94350
immediate jeopardy, the department of health shall notify the 94351
department of ~~job and family services~~ medicaid and any contracting 94352
agency. 94353

Sec. ~~5111.411~~ 5165.67. The results of a survey of a nursing 94354
facility that is conducted under section ~~5111.39~~ 5165.64 of the 94355
Revised Code, including any statement of deficiencies and all 94356
findings and deficiencies cited in the statement on the basis of 94357
the survey, shall be used solely to determine the nursing 94358
facility's compliance with certification requirements or with this 94359
chapter or another chapter of the Revised Code. Those results of a 94360
survey, that statement of deficiencies, and the findings and 94361
deficiencies cited in that statement shall not be used in any 94362
court or in any action or proceeding that is pending in any court 94363
and are not admissible in evidence in any action or proceeding 94364
unless that action or proceeding is an appeal of an administrative 94365
action by the department of ~~job and family services~~ medicaid or 94366
contracting agency under this chapter or is an action by any 94367
department or agency of the state to enforce this chapter or 94368
another chapter of the Revised Code. 94369

Nothing in this section prohibits the results of a survey, a 94370
statement of deficiencies, or the findings and deficiencies cited 94371
in that statement on the basis of the survey under this section 94372
from being used in a criminal investigation or prosecution. 94373

Sec. ~~5111.42~~ 5165.68. (A) Not later than ten days after an 94374
exit interview, the department of health shall deliver to the 94375

nursing facility a detailed statement, titled a statement of 94376
deficiencies, setting forth all findings and deficiencies cited on 94377
the basis of the survey, including any finding cited pursuant to 94378
division (E) of section ~~5111.41~~ 5165.66 of the Revised Code. The 94379
statement shall indicate the severity and scope level of each 94380
finding and fully describe the incidents or other facts that form 94381
the basis of the department's determination of the existence of 94382
each finding and deficiency. A failure by the survey team to 94383
completely disclose in the exit interview every finding that may 94384
result from the survey does not affect the validity of any finding 94385
or deficiency cited in the statement of deficiencies. On request 94386
of the facility, the department shall provide a copy of any 94387
written worksheet or other document produced by the survey team in 94388
making recommendations regarding scope and severity levels of 94389
findings and deficiencies. 94390

(B) At the same time the department of health delivers a 94391
statement of deficiencies, it also shall deliver to the facility a 94392
separate written notice that states all of the following: 94393

(1) That the department of ~~job and family services~~ medicaid 94394
or a contracting agency will issue an order under section ~~5111.57~~ 94395
5165.84 of the Revised Code denying payment for any medicaid 94396
eligible residents admitted on and after the effective date of the 94397
order if the facility does not substantially correct, within 94398
ninety days after the exit interview, the deficiency or 94399
deficiencies cited in the statement of deficiencies in accordance 94400
with the plan of correction it submitted under section ~~5111.43~~ 94401
5165.69 of the Revised Code; 94402

(2) If a condition of substandard care has been cited on the 94403
basis of a standard survey and a condition of substandard care was 94404
also cited on the immediately preceding standard survey, that the 94405
department of ~~job and family services~~ medicaid or a contracting 94406
agency will issue an order under section ~~5111.57~~ 5165.84 of the 94407

Revised Code denying payment for any medicaid eligible residents 94408
admitted on and after the effective date of the order if a 94409
condition of substandard care is cited on the basis of the next 94410
standard survey; 94411

(3) That the department of ~~job and family services~~ medicaid 94412
or a contracting agency will issue an order under section ~~5111.58~~ 94413
5165.88 of the Revised Code terminating the facility's 94414
participation in the ~~medical assistance~~ medicaid program if either 94415
of the following applies: 94416

(a) The facility does not substantially correct the 94417
deficiency or deficiencies in accordance with the plan of 94418
correction it submitted under section ~~5111.43~~ 5165.69 of the 94419
Revised Code within six months after the exit interview. 94420

(b) The facility substantially corrects the deficiency or 94421
deficiencies within the six-month period, but after correcting it, 94422
the department of health, based on a follow-up survey conducted 94423
during the remainder of the six-month period, determines that the 94424
facility has failed to maintain compliance with certification 94425
requirements. 94426

Sec. ~~5111.43~~ 5165.69. (A) Whenever a nursing facility 94427
receives a statement of deficiencies under section ~~5111.42~~ 5165.68 94428
of the Revised Code, the facility shall submit to the department 94429
of health for its approval a plan of correction for each finding 94430
cited in the statement. The plan shall ~~describe~~ include all of the 94431
following: 94432

(1) Detailed descriptions of the actions the facility will 94433
take to correct each finding and specify the, including actions 94434
the facility will take to protect residents situated similarly to 94435
the residents affected by the causes of the findings; 94436

(2) The date by which each finding will be corrected. ~~In the~~ 94437

~~ease of;~~ 94438

(3) A detailed description of an ongoing monitoring and improvement process to be used at the facility that is focused on preventing any recurrence of the causes of the findings; 94439
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(4) If the plan concerns a finding assigned a severity level indicating that a resident was harmed or immediate jeopardy exists, all of the following: 94442
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(a) Detailed analyses of the facts and circumstances of the finding, including identification of its root cause; 94445
94446

(b) A detailed explanation of how the corrective actions described pursuant to division (A)(1) of this section relate to the root cause of the finding identified pursuant to division (A)(4)(a) of this section; 94447
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(c) A detailed explanation of the relationship between the ongoing monitoring and improvement process described pursuant to division (A)(3) of this section and the root cause of the finding identified pursuant to division (A)(4)(a) of this section. 94451
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(5) If the plan concerns a finding cited pursuant to division (E) of section ~~5111.41~~ 5165.66 of the Revised Code, the plan shall describe a description of the actions the facility took to correct the finding and the date on which it was corrected. 94455
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(B)(1) The department shall approve any plan, and any modification of an existing plan a nursing facility submits to the department, that ~~conforms~~ does both of the following: 94459
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(a) Conforms to the requirements for approval of plans of corrections, and modifications, established in the regulations, guidelines, and procedures issued by the United States secretary of health and human services under ~~Titles~~ Title XVIII and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 94462
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(b) Includes all the information required by division (A) of this section. The department also shall approve any modification of an existing plan submitted by a facility, if the plan as modified conforms to those regulations, guidelines, and procedures. The 94468
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(2) The department shall consult with the department of medicaid, department of aging, and office of the state long-term care ombudsperson program when determining whether a plan, or modification of an existing plan, to which division (A)(4) of this section applies conforms to the requirements for approval. The department shall not reject a facility's plan of correction or modification on the ground that the facility disputes the finding, if the plan or modification is reasonably calculated to correct the finding. 94473
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(C) A facility that complies with this section shall not be considered to have admitted the existence of a finding cited by the department. 94482
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Sec. ~~5111.44~~ 5165.70. The department of health may appoint employees of the department to conduct on-site monitoring of a nursing facility whenever a finding is cited, including any finding cited pursuant to division (E) of section ~~5111.41~~ 5165.66 of the Revised Code, or an emergency is found to exist. Appointment of monitors under this section is not subject to appeal under section ~~5111.60~~ 5165.87 or any other section of the Revised Code. No employee of a facility for which monitors are appointed, no person employed by the facility within the previous two years, and no person who currently has a consulting or other contract with the department or the facility, shall be appointed as a monitor under this section. Every monitor appointed under this section shall have the professional qualifications necessary to monitor correction of the finding or elimination of the 94485
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emergency. 94499

Sec. ~~5111.45~~ 5165.71. (A) If the department of health cites a 94500
deficiency or deficiencies that was not substantially corrected 94501
before a survey and that does not constitute a severity level four 94502
finding or create immediate jeopardy, the department of ~~job and~~ 94503
~~family services~~ medicaid or a contracting agency shall permit the 94504
nursing facility to continue participating in the ~~medical~~ 94505
~~assistance~~ medicaid program for up to six months after the exit 94506
interview, if all of the following apply: 94507

(1) The facility meets the requirements, established in 94508
regulations issued by the United States secretary of health and 94509
human services under Title XIX ~~of the "Social Security Act,"~~ 49 94510
~~Stat. 620 (1935),~~ 42 U.S.C.A. 301, ~~as amended,~~ for certification 94511
of nursing facilities that have a deficiency. 94512

(2) The department of health has approved a plan of 94513
correction submitted by the facility under section ~~5111.43~~ 5165.69 94514
of the Revised Code for each deficiency. 94515

(3) The provider agrees to repay the department of ~~job and~~ 94516
~~family services~~ medicaid, in accordance with section ~~5111.58~~ 94517
5165.85 of the Revised Code, the federal share of all payments 94518
made by the department to the facility during the six-month period 94519
following the exit interview if the facility does not within the 94520
six-month period substantially correct the deficiency or 94521
deficiencies in accordance with the plan of correction submitted 94522
under section ~~5111.43~~ 5165.69 of the Revised Code. 94523

(B) If any of the conditions in divisions (A)(1) to (3) of 94524
this section do not apply, the department of ~~job and family~~ 94525
~~services~~ medicaid or contracting agency shall issue an order 94526
terminating the facility's participation in the ~~medical assistance~~ 94527
medicaid program. An order issued under this division is subject 94528
to appeal under Chapter 119. of the Revised Code. The order shall 94529

not take effect prior to the later of the thirtieth day after it 94530
is delivered to the facility or, if the order is appealed, the 94531
date on which a final adjudication order upholding the termination 94532
becomes effective pursuant to Chapter 119. of the Revised Code. 94533

(C) At the time the department of ~~job and family services~~ 94534
medicaid or contracting agency issues an order under division (B) 94535
of this section terminating a nursing facility's participation in 94536
the ~~medical assistance~~ medicaid program, it may also impose, 94537
subject to section ~~5111.50~~ 5165.76 of the Revised Code, other 94538
remedies under sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the 94539
Revised Code. 94540

Sec. ~~5111.46~~ 5165.72. (A) If the department of health cites a 94541
deficiency, or cluster of deficiencies, that was not substantially 94542
corrected before a survey and constitutes a severity level four 94543
finding, the department of ~~job and family services~~ medicaid or 94544
contracting agency shall, subject to sections ~~5111.52~~ 5165.79 to 94545
~~5111.56~~ 5165.83 of the Revised Code, impose a remedy for the 94546
deficiency or cluster of deficiencies. The department or agency 94547
may act under either division (A)(1) or (2) of this section: 94548

(1) The department or agency may impose one or more of the 94550
following remedies: 94551

(a) Issue an order terminating the nursing facility's 94552
participation in the ~~medical assistance~~ medicaid program. 94553

(b) Do either of the following: 94554

(i) Regardless of whether the provider consents, appoint a 94555
temporary manager of the facility. 94556

(ii) Apply to the common pleas court of the county in which 94557
the facility is located for such injunctive or other equitable 94558
relief as is necessary for the appointment of a special master 94559

with such powers and authority over the facility and length of appointment as the court considers necessary. 94560
94561

(c) Do either of the following: 94562

(i) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order; 94563
94564
94565

(ii) Impose a fine. 94566

(d) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency. 94567
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(2) The department or agency may impose one or more of the following remedies: 94572
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(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility; 94574
94575

(b) Do either of the following: 94576

(i) Regardless of whether the provider consents, appoint a temporary manager of the facility; 94577
94578

(ii) Apply to the commonpleas court of the county in which the facility is located for such injunctive or other equitable relief as is necessary for the appointment of a special master with such powers and authority over the facility and length of appointment as the court considers necessary. 94579
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94583

(c) Do either of the following: 94584

(i) Issue an order denying ~~payment~~ medicaid payments to the facility ~~under the medical assistance program~~ for all medicaid eligible residents admitted after the effective date of the order; 94585
94586
94587

(ii) Impose a fine. 94588

(d) Issue an order denying ~~payment~~ medicaid payments to the 94589
facility ~~under the medical assistance program~~ for medicaid 94590
eligible residents admitted after the effective date of the order 94591
who have certain diagnoses or special care needs specified by the 94592
department or agency; 94593

(e) Issue an order requiring the facility to correct the 94594
deficiency or cluster of deficiencies under the plan of correction 94595
submitted by the facility and approved by the department of health 94596
under section ~~5111.43~~ 5165.69 of the Revised Code. 94597

(B) The department of ~~job and family services~~ medicaid or 94598
contracting agency shall deliver a written order issued under 94599
division (A)(1) of this section terminating a nursing facility's 94600
participation in the ~~medical assistance~~ medicaid program to the 94601
facility within five days after the exit interview. If the 94602
facility alleges, at any time prior to the later of the twentieth 94603
day after the exit interview or the fifteenth day after it 94604
receives the order, that the deficiency or cluster of deficiencies 94605
for which the order was issued has been substantially corrected, 94606
the department of health shall conduct a follow-up survey to 94607
determine whether the deficiency or cluster of deficiencies has 94608
been substantially corrected. The order shall take effect and the 94609
facility's participation shall terminate on the twentieth day 94610
after the exit interview, unless the facility has substantially 94611
corrected the deficiency or cluster of deficiencies that 94612
constituted a severity level four finding or did not receive 94613
notice from the department of ~~job and family services~~ medicaid or 94614
contracting agency within five days after the exit interview. In 94615
the latter case, the order shall take effect and the facility's 94616
participation shall terminate on the fifteenth day after the 94617
facility received the order. 94618

(C) If the department of health cites a deficiency or cluster 94619
of deficiencies pursuant to division (E) of section ~~5111.41~~ 94620

5165.66 of the Revised Code that constituted a severity level four 94621
finding, the department of ~~job and family services~~ medicaid or a 94622
contracting agency shall, subject to section ~~5111.56~~ 5165.83 of 94623
the Revised Code, impose a fine. The fine shall be in effect for a 94624
period equal to the number of days the deficiency or cluster of 94625
deficiencies existed at the facility. 94626

Sec. ~~5111.47~~ 5165.73. If the department of health cites a 94627
deficiency, or cluster of deficiencies, that was not substantially 94628
corrected before a survey and constitutes a severity level three 94629
and scope level three or four finding, the department of ~~job and~~ 94630
~~family services~~ medicaid or a contracting agency may, subject to 94631
sections ~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, 94632
impose one or more of the following remedies: 94633

(A) Do either of the following: 94634

(1) Issue an order denying ~~payment~~ medicaid payments to the 94635
facility ~~under the medical assistance program~~ for all medicaid 94636
eligible residents admitted after the effective date of the order; 94637

(2) Impose a fine. 94638

(B) Issue an order denying ~~payment~~ medicaid payments to the 94639
facility ~~under the medical assistance program~~ for medicaid 94640
eligible residents admitted after the effective date of the order 94641
who have certain diagnoses or special care needs specified by the 94642
department or agency; 94643

(C) Issue an order requiring the facility to correct the 94644
deficiency or cluster of deficiencies under the plan of correction 94645
submitted by the facility and approved by the department of health 94646
under section ~~5111.43~~ 5165.69 of the Revised Code. 94647

Sec. ~~5111.48~~ 5165.74. (A) If the department of health cites a 94648
deficiency, or cluster of deficiencies, that was not substantially 94649
corrected before a survey and constitutes a severity level three 94650

and scope level two finding, the department of ~~job and family~~ 94651
~~services~~ medicaid or a contracting agency may, subject to sections 94652
~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose 94653
one or more of the following remedies: 94654

(1) Do either of the following: 94655

(a) Issue an order denying ~~payment~~ medicaid payments to the 94656
facility ~~under the medical assistance program~~ for all medicaid 94657
eligible residents admitted after the effective date of the order; 94658

(b) Impose a fine. 94659

(2) Issue an order denying ~~payment~~ medicaid payments to the 94660
facility ~~under the medical assistance program~~ for medicaid 94661
eligible residents admitted after the effective date of the order 94662
who have certain diagnoses or special care needs specified by the 94663
department or agency; 94664

(3) Issue an order requiring the facility to correct the 94665
deficiency or cluster of deficiencies under the plan of correction 94666
proposed by the facility and approved by the department of health 94667
under section ~~5111.43~~ 5165.69 of the Revised Code. 94668

(B) If the department of health cites a deficiency, or 94669
cluster of deficiencies, that was not substantially corrected 94670
before a survey and constitutes a severity level three and scope 94671
level one finding, the department of ~~job and family services~~ 94672
medicaid or a contracting agency may, subject to sections ~~5111.55~~ 94673
5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose one or 94674
more of the following remedies: 94675

(1) Impose a fine; 94676

(2) Issue an order denying ~~payment~~ medicaid payments to the 94677
facility ~~under the medical assistance program~~ for medicaid 94678
eligible residents admitted after the effective date of the order 94679
who have certain diagnoses or special care needs specified by the 94680

department or agency; 94681

(3) Issue an order requiring the facility to correct the 94682
deficiency or cluster of deficiencies under the plan of correction 94683
proposed by the facility and approved by the department of health 94684
under section ~~5111.43~~ 5165.69 of the Revised Code. 94685

(C) If the department of health cites a deficiency, or 94686
cluster of deficiencies, that was not substantially corrected 94687
before a survey and constitutes a severity level two and a scope 94688
level three or four finding, the department of ~~job and family~~ 94689
~~services~~ medicaid or a contracting agency may, subject to sections 94690
~~5111.55~~ 5165.82 and ~~5111.56~~ 5165.83 of the Revised Code, impose 94691
one or more of the following remedies: 94692

(1) Impose a fine; 94693

(2) Issue an order denying ~~payment~~ medicaid payments to the 94694
facility ~~under the medical assistance program~~ for medicaid 94695
eligible residents admitted after the effective date of the order 94696
who have certain diagnoses or special care needs specified by the 94697
department or agency; 94698

(3) Issue an order requiring the facility to correct the 94699
deficiency or cluster of deficiencies under the plan of correction 94700
submitted by the facility and approved by the department of health 94701
under section ~~5111.43~~ 5165.69 of the Revised Code. 94702

(D) If the department of health cites a deficiency, or 94703
cluster of deficiencies, that was not substantially corrected 94704
before a survey, constitutes a severity level two and scope level 94705
one or two finding, and is a repeat finding, the department of ~~job~~ 94706
~~and family services~~ medicaid or a contracting agency may issue an 94707
order requiring the facility to correct the deficiency or cluster 94708
of deficiencies under the plan of correction submitted by the 94709
facility and approved by the department of health under section 94710
~~5111.43~~ 5165.69 of the Revised Code. 94711

(E) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey and constitutes a severity level one and scope level three or four finding, the department of ~~job and family services~~ medicaid or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

(F) If the department of health cites a deficiency, or cluster of deficiencies, that was not substantially corrected before a survey, constitutes a severity level one and scope level two finding, and is a repeat finding, the department of ~~job and family services~~ medicaid or a contracting agency may issue an order requiring the facility to correct the deficiency or cluster of deficiencies under the plan of correction submitted by the facility and approved by the department of health under section ~~5111.43~~ 5165.69 of the Revised Code.

Sec. ~~5111.49~~ 5165.75. (A) In determining which remedies to impose under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, including whether a fine should be imposed, the department of ~~job and family services~~ medicaid or a contracting agency shall do both of the following:

(1) Impose the remedies that are most likely to achieve correction of deficiencies, encourage sustained compliance with certification requirements, and protect the health, safety, and rights of facility residents, but that are not directed at punishment of the facility;

(2) Consider all of the following:

(a) The presence or absence of immediate jeopardy;

(b) The relationships of groups of deficiencies to each other;	94742 94743
(c) The facility's history of compliance with certification requirements generally and in the specific area of the deficiency or deficiencies;	94744 94745 94746
(d) Whether the deficiency or deficiencies are directly related to resident care;	94747 94748
(e) The corrective, long-term compliance, resident protective, and nonpunitive outcomes sought by the department or agency;	94749 94750 94751
(f) The nature, scope, and duration of the noncompliance with certification requirements;	94752 94753
(g) The existence of repeat deficiencies;	94754
(h) The category of certification requirements with which the facility is out of compliance;	94755 94756
(i) Any period of noncompliance with certification requirements that occurred between two certifications by the department of health that the facility was in compliance with certification requirements;	94757 94758 94759 94760
(j) The facility's degree of culpability;	94761
(k) The accuracy, extent, and availability of facility records;	94762 94763
(l) The facility's financial condition, exclusive of any moneys donated to a facility that is an organization described in subsection 501(c)(3) and is tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1;	94764 94765 94766 94767 94768
(m) Any adverse effect that the action or fine would have on the health and safety of facility residents;	94769 94770

(n) If the noncompliance that resulted in the citation of a deficiency or cluster of deficiencies existed before a change in ownership of the facility, whether the new owner or owners have had sufficient time to correct the noncompliance.

(B) Whenever the department or agency imposes remedies under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code, it shall provide a written statement to the nursing facility that specifies all of the following:

(1) The effective date of each remedy;

(2) The deficiency or cluster of deficiencies for which each remedy is imposed;

(3) The severity and scope of the deficiency or cluster of deficiencies;

(4) The rationale, including all applicable factors specified in division (A) of this section, for imposing the remedies.

Sec. ~~5111.50~~ 5165.76. At the time the department of ~~job and family services~~ medicaid or a contracting agency, under section ~~5111.45~~ 5165.71, ~~5111.46~~ 5165.72, or ~~5111.51~~ 5165.77 of the Revised Code, issues an order terminating a nursing facility's participation in the ~~medical assistance~~ medicaid program, the department or agency may also impose a fine, in accordance with sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 and ~~5111.56~~ 5165.83 of the Revised Code, to be collected in the event the termination order does not take effect. The department or agency shall not collect this fine if the termination order takes effect.

Sec. ~~5111.51~~ 5165.77. (A) If the department of health finds during a survey that an emergency exists at a nursing facility, as the result of a deficiency or cluster of deficiencies that creates immediate jeopardy, the department of ~~job and family services~~ medicaid or a contracting agency shall impose one or more of the

remedies described in division (A)(1) of this section and, in addition, may take one or both of the actions described in division (A)(2) of this section.

(1) The department or agency shall impose one or more of the following remedies:

(a) Appoint, subject to the continuing consent of the provider, a temporary manager of the facility;

(b) Apply to the common pleas court of the county in which the facility is located for a temporary restraining order, preliminary injunction, or such other injunctive or equitable relief as is necessary to close the facility, transfer one or more residents to other nursing facilities or other appropriate care settings, or otherwise eliminate the condition of immediate jeopardy. If the court grants such an order, injunction, or relief, it may appoint a special master empowered to implement the court's judgment under the court's direct supervision.

(c) Issue an order terminating the facility's participation in the ~~medical-assistance~~ medicaid program;

(d) Regardless of whether the provider consents, appoint a temporary manager of the facility.

(2) The department or agency may do one or both of the following:

(a) Issue an order denying ~~payment~~ medicaid payments to the facility for all medicaid eligible residents admitted after the effective date of the order;

(b) Impose remedies under sections ~~5111.46~~ 5165.72 to ~~5111.48~~ 5165.74 of the Revised Code appropriate to the severity and scope of the deficiency or cluster of deficiencies, except that the department or agency shall not impose a fine for the same deficiency for which the department or agency has issued an order

under division (A)(2)(a) of this section. 94831

(B) If the department of health, department of ~~job and family~~ 94832
~~services~~ medicaid, or a contracting agency finds on the basis of a 94833
survey or other visit to the facility by representatives of that 94834
department or agency that an emergency exists at a facility that 94835
is not the result of a deficiency or cluster of deficiencies that 94836
constitutes immediate jeopardy, the department of ~~job and family~~ 94837
~~services~~ medicaid or contracting agency may do either of the 94838
following: 94839

(1) Appoint, subject to the continuing consent of the 94840
provider, a temporary manager of the facility; 94841

(2) Apply to the common pleas court of the county in which 94842
the facility is located for a temporary restraining order, 94843
preliminary injunction, or such other injunctive or equitable 94844
relief as is necessary to close the facility, transfer one or more 94845
residents to other nursing facilities or other appropriate care 94846
settings, or otherwise eliminate the emergency. If the court 94847
grants such an order, injunction, or relief, it may appoint a 94848
special master empowered to implement the court's judgment under 94849
the court's direct supervision. 94850

(C)(1) Prior to acting under division (A)(1)(b), (c), (d), or 94851
(2), or (B)(2) of this section, the department of ~~job and family~~ 94852
~~services~~ medicaid or contracting agency shall give written notice 94853
to the facility specifying all of the following: 94854

(a) The nature of the emergency, including the nature of any 94855
deficiency or deficiencies that caused the emergency; 94856

(b) The nature of the action the department or agency intends 94857
to take unless the department of health determines that the 94858
facility, in the absence of state intervention, possesses the 94859
capacity to eliminate the emergency; 94860

(c) The rationale for taking the action. 94861

(2) If the department of health determines that the facility 94862
does not possess the capacity to eliminate the emergency in the 94863
absence of state intervention, the department of ~~job and family~~ 94864
~~services~~ medicaid or contracting agency may immediately take 94865
action under division (A) or (B) of this section. If the 94866
department of health determines that the facility possesses the 94867
capacity to eliminate the emergency, the department of ~~job and~~ 94868
~~family services~~ medicaid or contracting agency shall direct the 94869
facility to eliminate the emergency within five days after the 94870
facility's receipt of the notice. At the end of the five-day 94871
period, the department of health shall conduct a follow-up survey 94872
that focuses on the emergency. If the department of health 94873
determines that the facility has eliminated the emergency within 94874
the time period, the department of ~~job and family services~~ 94875
medicaid or contracting agency shall not act under division 94876
(A)(1)(b), (c), (d), or (2)(a), or (B)(2) of this section. If the 94877
department of health determines that the facility has failed to 94878
eliminate the emergency within the five-day period, the department 94879
of ~~job and family services~~ medicaid or contracting agency shall 94880
take appropriate action under division (A)(1)(b), (c), (d), or 94881
(2), or (B)(2) of this section. 94882

(3) Until the written notice required by division (C)(1) of 94883
this section is actually delivered, no action taken by the 94884
department of ~~job and family services~~ medicaid or contracting 94885
agency under division (A)(1)(b), (c), (d), or (2), or (B)(2) of 94886
this section shall have any legal effect. In addition to the 94887
written notice, the department of health survey team shall give 94888
oral notice to the facility, at the time of the survey, concerning 94889
any recommendations the survey team intends to make that could 94890
form the basis of a determination that an emergency exists. 94891

(D) The department of ~~job and family services~~ medicaid or 94892
contracting agency shall deliver a written order issued under 94893

division (A)(1) of this section terminating a nursing facility's 94894
participation in the ~~medical assistance~~ medicaid program to the 94895
facility within five days after the exit interview. If the 94896
facility alleges, at any time prior to the later of the twentieth 94897
day after the exit interview or the fifteenth day after it 94898
receives the order, that the condition of immediate jeopardy for 94899
which the order was issued has been eliminated, the department of 94900
health shall conduct a follow-up survey to determine whether the 94901
immediate jeopardy has been eliminated. The order shall take 94902
effect and the facility's participation shall terminate on the 94903
twentieth day after the exit interview, unless the facility has 94904
eliminated the immediate jeopardy or did not receive notice from 94905
the department of ~~job and family services~~ medicaid or contracting 94906
agency within five days after the exit interview. In the latter 94907
case, the order shall take effect and the facility's participation 94908
shall terminate on the fifteenth day after the facility received 94909
the order. 94910

(E) Any action taken by the department of ~~job and family~~ 94911
~~services~~ medicaid or a contracting agency under division 94912
(A)(1)(c), (d), or (2)(a) of this section is subject to appeal 94913
under Chapter 119. of the Revised Code, except that the department 94914
or agency may take such action prior to and during the pendency of 94915
any proceeding under that chapter. No action taken by a facility 94916
under division (C) of this section to eliminate an emergency cited 94917
by the department of health shall be considered an admission by 94918
the facility of the existence of an emergency. 94919

Sec. 5165.771. (A) As used in this section: 94920

"SFF list" means the list of nursing facilities that the 94921
United States department of health and human services creates 94922
under the special focus facility program. 94923

"Special focus facility program" means the program conducted 94924

by the United States secretary of health and human services 94925
pursuant to the "Social Security Act," section 1919(f)(10), 42 94926
U.S.C. 1396r(f)(10). 94927

"Table A" means the table included in the SFF list that 94928
identifies nursing facilities that are newly added to the SFF 94929
list. 94930

"Table B" means the table included in the SFF list that 94931
identifies nursing facilities that have not improved. 94932

"Table C" means the table included in the SFF list that 94933
identifies nursing facilities that have shown improvement. 94934

"Table D" means the table included in the SFF list that 94935
identifies nursing facilities that have recently graduated from 94936
the special focus facility program. 94937

(B) The department of medicaid shall issue an order 94938
terminating a nursing facility's participation in the medicaid 94939
program if any of the following apply: 94940

(1) The nursing facility is listed in table A or table B on 94941
the effective date of this section and fails to be placed in table 94942
C not later than twelve months after the effective date of this 94943
section; 94944

(2) The nursing facility is listed in table A, table B, or 94945
table C on the effective date of this section and fails to be 94946
placed in table D not later than twenty-four months after the 94947
effective date of this section; 94948

(3) The nursing facility is placed in table A after the 94949
effective date of this section and fails to be placed in table C 94950
not later than twelve months after the nursing facility is placed 94951
in table A; 94952

(4) The nursing facility is placed in table A after the 94953
effective date of this section and fails to be placed in table D 94954

not later than twenty-four months after the nursing facility is placed in table A. 94955
94956

(C) An order issued under this section is not subject to appeal under Chapter 119. of the Revised Code. 94957
94958

Sec. ~~5111.511~~ 5165.78. (A) If the department of ~~job and family services~~ medicaid determines that a nursing facility is 94959
experiencing or is likely to experience a serious financial loss 94960
or failure that jeopardizes or is likely to jeopardize the health, 94961
safety, and welfare of its residents, the department, subject to 94962
the provider's consent, may appoint a temporary resident safety 94963
assurance manager in the nursing facility to take actions the 94964
department determines are appropriate to ensure the health, 94965
safety, and welfare of the residents. 94966
94967

(B) A temporary resident safety assurance manager appointed 94968
under this section is vested with the authority necessary to take 94969
actions the department of ~~job and family services~~ medicaid 94970
determines are appropriate to ensure the health, safety, and 94971
welfare of the residents. 94972

(C) A temporary resident safety assurance manager appointed 94973
under this section may use any of the following funds to pay for 94974
costs the manager incurs on behalf of the nursing facility: 94975

(1) Medicaid payments made in accordance with the provider 94976
agreement for the nursing facility; 94977

(2) Funds from the residents protection fund that the 94978
department provides the manager under section ~~5111.62~~ 5162.66 of 94979
the Revised Code; 94980

(3) Other funds the department determines are appropriate if 94981
such use of the funds is consistent with the appropriations that 94982
authorize the use of the funds and all other state and federal 94983
laws governing the use of the funds. 94984

(D) The provider is liable to the department for the amount of any payments the department makes to the temporary resident safety assurance manager, other than payments specified in division (C)(1) of this section. The department may recover the amount the provider owes the department by doing any of the following:

(1) Offsetting medicaid payments made to the provider in accordance with the provider agreement;

(2) Placing a lien on any of the provider's real and personal property;

(3) Initiating other collection actions.

(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code.

(F) In rules ~~adopted under~~ authorized by section ~~5111.36~~ 5165.61 of the Revised Code, the medicaid director ~~of job and family services~~ may establish all of the following:

(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section;

(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers;

(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers;

(4) Accounting and reporting requirements for temporary resident safety assurance managers;

(5) Other procedures and requirements the director determines are necessary to implement this section.

Sec. ~~5111.52~~ 5165.79. (A) As used in this section, "terminating" includes not renewing.

(B) A nursing facility's participation in the ~~medical~~

~~assistance~~ medicaid program shall be terminated under sections 95014
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code as follows: 95015
95016

(1) If the department of ~~job and family services~~ medicaid is 95017
terminating the facility's participation, it shall issue an order 95018
terminating the facility's provider agreement. 95019

(2) If the department of health, acting as a contracting 95020
agency, is terminating the facility's participation, it shall 95021
issue an order terminating certification of the facility's 95022
compliance with certification requirements. When the department of 95023
health terminates certification, the department of ~~job and family~~ 95024
~~services~~ medicaid shall terminate the facility's provider 95025
agreement. The department of ~~job and family services~~ medicaid is 95026
not required to provide an adjudication hearing when it terminates 95027
a provider agreement following termination of certification by the 95028
department of health. 95029

(3) If a state agency other than the department of health, 95030
acting as a contracting agency, is terminating the facility's 95031
participation, it shall notify the department of ~~job and family~~ 95032
~~services~~ medicaid, and the department of ~~job and family services~~ 95033
medicaid shall issue an order terminating the facility's provider 95034
agreement. The contracting agency shall conduct any administrative 95035
proceedings concerning the order. 95036

(C) If the following conditions are met, the department of 95037
~~job and family services~~ medicaid may make ~~medical assistance~~ 95038
medicaid payments to a nursing facility for a period not exceeding 95039
thirty days after the effective date of termination under sections 95040
~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code of the 95041
facility's participation in the ~~medical assistance~~ medicaid 95042
program: 95043

(1) The payments are for medicaid eligible residents admitted 95044

to the facility prior to the effective date of the termination; 95045

(2) The provider is making reasonable efforts to transfer 95046
medicaid eligible residents to other care settings. 95047

The period during which payments may be made under this 95048
division begins on the later of the effective date of the 95049
termination or, if the facility has appealed a termination order, 95050
the date of issuance of the adjudication order upholding 95051
termination. 95052

Sec. ~~5111.53~~ 5165.80. (A) Whenever a nursing facility is 95053
closed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the 95054
Revised Code, the department of ~~job and family services~~ medicaid 95055
or contracting agency shall arrange for the safe and orderly 95056
transfer of all residents, including residents who are not 95057
medicaid eligible residents, to other appropriate care settings. 95058
Whenever a nursing facility's participation in the ~~medical~~ 95059
~~assistance~~ medicaid program is terminated under sections ~~5111.35~~ 95060
5165.60 to ~~5111.62~~ 5165.89 of the Revised Code, the department or 95061
agency shall arrange for the safe and orderly transfer of all 95062
medicaid eligible residents or, if the termination results in the 95063
closure of the facility, of all residents. The provider and all 95064
persons involved in the facility's operation shall cooperate with 95065
and assist in the transfer of residents. 95066

(B) After a nursing facility's participation in the ~~medical~~ 95067
~~assistance~~ medicaid program is terminated under section ~~5111.45~~ 95068
5165.71, ~~5111.46~~ 5165.72, ~~5111.51~~ 5165.77, 5165.771, or ~~5111.58~~ 95069
5165.85 of the Revised Code, the department of ~~job and family~~ 95070
~~services~~ medicaid or contracting agency may appoint a temporary 95071
manager subject to the continuing consent of the provider, or may 95072
apply to the common pleas court of the county in which the 95073
facility is located for such injunctive relief as is necessary for 95074
the appointment of a special master, to ensure the transfer of 95075

medicaid eligible residents to other appropriate care settings 95076
and, if applicable, the orderly closure of the facility. 95077

Sec. ~~5111.54~~ 5165.81. (A) A temporary manager of a nursing 95078
facility appointed by the department of ~~job and family services~~ 95079
~~medicaid~~ or a contracting agency under sections ~~5111.35~~ 5165.60 to 95080
~~5111.62~~ 5165.89 of the Revised Code shall meet all of the 95081
following qualifications: 95082

(1) Be licensed as a nursing home administrator under Chapter 95083
4751. of the Revised Code; 95084

(2) Have demonstrated competence as a nursing home 95085
administrator; 95086

(3) Have had no disciplinary action taken against the 95087
temporary manager by any licensing board or professional society 95088
in this state. 95089

(B) The salary of a temporary manager or special master 95090
appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the 95091
Revised Code shall be paid by the facility and set by the 95092
department of ~~job and family services~~ ~~medicaid~~ or contracting 95093
agency, in the case of a temporary manager, or by the court, in 95094
the case of a special master, at a rate not to exceed the maximum 95095
allowable compensation for an administrator under the ~~medical~~ 95096
~~assistance~~ ~~medicaid~~ program. The extent to which this compensation 95097
is allowable under the ~~medical assistance~~ ~~medicaid~~ program is 95098
subject to and limited by this chapter and rules ~~of the department~~ 95099
adopted under section 5165.02 of the Revised Code. 95100

Subject to division (C) of this section, any costs incurred 95101
on behalf of a nursing facility by a temporary manager or special 95102
master appointed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 95103
of the Revised Code shall be paid by the facility. The 95104
allowability of these costs under the ~~medical assistance~~ ~~medicaid~~ 95105

program shall be subject to and governed by this chapter and the 95106
rules ~~of the department~~ adopted under section 5165.02 of the 95107
Revised Code. This division does not prohibit a facility from 95108
applying for or receiving any waiver of cost ceilings available 95109
under the rules ~~of the department~~. 95110

(C) No temporary manager or special master appointed under 95111
sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code 95112
shall enter into any employment contract on behalf of a facility, 95113
or purchase any capital goods using facility funds totaling more 95114
than ten thousand dollars, unless the temporary manager or special 95115
master has obtained prior approval for the contract or purchase 95116
from either the provider or the court. 95117

(D)(1) A temporary manager appointed for a nursing facility 95118
under section ~~5111.46~~ 5165.72 of the Revised Code is hereby 95119
vested, subject to division (C) of this section, with the legal 95120
authority necessary to correct any deficiency or cluster of 95121
deficiencies at a facility, bring the facility into compliance 95122
with certification requirements, and otherwise ensure the health 95123
and safety of the residents. 95124

(2) A temporary manager appointed under section ~~5111.51~~ 95125
5165.77 of the Revised Code is hereby vested, subject to division 95126
(C) of this section, with the authority necessary to eliminate the 95127
emergency, bring the facility into compliance with certification 95128
requirements, and otherwise ensure the health and safety of the 95129
residents. 95130

(3) A temporary manager appointed under section ~~5111.53~~ 95131
5165.80 of the Revised Code is hereby vested, subject to division 95132
(C) of this section, with the authority necessary to ensure the 95133
transfer of medicaid eligible residents to other appropriate care 95134
settings and, if applicable, the orderly closure of the facility, 95135
and to otherwise ensure the health and safety of the residents. 95136

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of the Revised Code to appoint a temporary manager or apply for a special master, the department of ~~job and family services~~ medicaid or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section ~~5111.49~~ 5165.75 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of ~~job and family services~~ medicaid or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of ~~job and family services~~ medicaid or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section ~~5111.49~~ 5165.75 of the Revised Code is actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72 or division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code shall

expire at the end of the seventh day following the appointment. If 95170
the department of ~~job and family services~~ medicaid or contracting 95171
agency finds that the deficiency or deficiencies that prompted the 95172
appointment under division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 95173
5165.72 of the Revised Code cannot be substantially corrected, or 95174
the condition of immediate jeopardy that prompted the appointment 95175
under division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised 95176
Code cannot be eliminated, prior to the expiration of the 95177
appointment, it may take one of the following actions: 95178

(1) Appoint, subject to the continuing consent of the 95179
provider, a temporary manager for the facility; 95180

(2) Apply to the common pleas court of the county in which 95181
the facility is located for an order appointing a special master 95182
who, under the authority and direct supervision of the court and 95183
subject to divisions (B) and (C) of this section, may take such 95184
additional actions as are necessary to correct the deficiency or 95185
deficiencies or eliminate the condition of immediate jeopardy and 95186
bring the facility into compliance with certification 95187
requirements. 95188

(G) The court, on finding that the deficiency or deficiencies 95189
for which a special master was appointed under division (F)(2) of 95190
this section or division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 95191
5165.72 of the Revised Code has been substantially corrected, or 95192
the emergency for which a special master was appointed under 95193
division (F)(2) of this section or division (A)(1)(b) or (B)(2) of 95194
section ~~5111.51~~ 5165.77 of the Revised Code has been eliminated, 95195
that the facility has been brought into compliance with 95196
certification requirements, and that the provider has established 95197
the management capability to ensure continued compliance with the 95198
certification requirements, shall immediately terminate its 95199
jurisdiction over the facility and return control and management 95200
of the facility to the provider. If the deficiency or deficiencies 95201

cannot be substantially corrected, or the emergency cannot be 95202
eliminated practicably within a reasonable time following 95203
appointment of the special master, the court may order the special 95204
master to close the facility and transfer all residents to other 95205
nursing facilities or other appropriate care settings. 95206

(H) This section does not apply to temporary resident safety 95207
assurance managers appointed under section ~~5111.511~~ 5165.78 of the 95208
Revised Code. 95209

Sec. ~~5111.55~~ 5165.82. (A) An order issued under section 95210
~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 95211
5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ 95212
medicaid payments to a nursing facility for all medicaid eligible 95213
residents admitted after its effective date, or an order issued 95214
under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 95215
of the Revised Code denying ~~payment~~ medicaid payments to a nursing 95216
facility for medicaid eligible residents admitted after the 95217
effective date of the order who have specified diagnoses or 95218
special care needs, shall also apply to individuals admitted to 95219
the facility on and after the effective date of the order who are 95220
not medicaid eligible residents but become medicaid eligible 95221
residents after admission. Such an order shall not apply to any of 95222
the following: 95223

(1) An individual who was a medicaid eligible resident of the 95224
facility on the day immediately preceding the effective date of 95225
the order and continues to be a medicaid eligible resident on and 95226
after that date; 95227

(2) An individual who was a resident of the facility on the 95228
day immediately preceding the effective date of the order, 95229
continues to be a resident on and after that date, and becomes 95230
medicaid eligible on or after that date; 95231

(3) An individual who was a medicaid eligible resident of the 95232

facility prior to the effective date of the order, is temporarily 95233
absent from the facility on that or a subsequent date due to 95234
hospitalization or participation in therapeutic programs outside 95235
the facility, and chooses to return to the facility; 95236

(4) An individual who was a resident of the facility prior to 95237
the effective date of the order, is temporarily absent from the 95238
facility on that or a subsequent date due to hospitalization or 95239
participation in therapeutic programs outside the facility, 95240
becomes medicaid eligible on or after that date, and chooses to 95241
return to the facility. 95242

(B) An order issued under section ~~5111.46~~ 5165.72 of the 95243
Revised Code denying ~~payment~~ medicaid payments to a nursing 95244
facility for all medicaid eligible residents admitted after its 95245
effective date, or denying ~~payment~~ medicaid payments to a facility 95246
for medicaid eligible residents admitted after the effective date 95247
of the order who have specified diagnoses or special care needs 95248
shall not take effect prior to the fifth day after the order is 95249
delivered to the facility. Such an order issued under section 95250
~~5111.47~~ 5165.73 or ~~5111.48~~ 5165.74 of the Revised Code shall not 95251
take effect prior to the twentieth day after it is delivered to 95252
the facility. 95253

(C) No nursing facility that has received an order under 95254
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 95255
5165.77, or ~~5111.57~~ 5165.84 of the Revised Code denying ~~payment~~ 95256
medicaid payments for all new admissions of medicaid eligible 95257
residents shall admit a medicaid eligible resident on or after the 95258
effective date of the order, unless the resident is described in 95259
division (A)(3) or (4) of this section, until the order is 95260
terminated pursuant to this section. No nursing facility that has 95261
received an order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, 95262
or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ medicaid 95263
payments to a nursing facility for new admissions of medicaid 95264

eligible residents with specified diagnoses or special care needs 95265
shall admit such a resident on or after the effective date of the 95266
order, unless the resident is described in division (A)(3) or (4) 95267
of this section, until the order is terminated pursuant to this 95268
section. 95269

(D) In the case of an order imposed under division (B) of 95270
section ~~5111.57~~ 5165.84 of the Revised Code, the department or 95271
agency shall appoint monitors in accordance with section ~~5111.44~~ 95272
5165.70 of the Revised Code to conduct on-site monitoring. 95273

(E)(1) A facility may give written notice to the department 95274
of health whenever any of the following apply: 95275

(a) With respect to an order denying payment issued under 95276
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of 95277
the Revised Code, either of the following is the case: 95278

(i) The facility has completed implementation of the plan of 95279
correction it submitted under section ~~5111.43~~ 5165.69 of the 95280
Revised Code and substantially corrected all deficiencies for 95281
which the order was issued. 95282

(ii) The facility has reduced the severity or scope of all of 95283
the deficiencies to a level at which sections ~~5111.46~~ 5165.72 to 95284
~~5111.48~~ 5165.74 of the Revised Code do not authorize the order. 95285

(b) With respect to an order denying payment issued under 95286
section ~~5111.51~~ 5165.77 of the Revised Code, the facility has 95287
eliminated the immediate jeopardy. 95288

(c) With respect to an order denying ~~payment~~ medicaid 95289
payments issued under division (A) of section ~~5111.57~~ 5165.84 of 95290
the Revised Code, the facility has completed implementation of the 95291
plan of correction it submitted under section ~~5111.43~~ 5165.69 of 95292
the Revised Code and substantially corrected all deficiencies for 95293
which the order was issued. 95294

(d) With respect to an order denying ~~payment~~ medicaid 95295
payments issued under division (B) of section ~~5111.57~~ 5165.84 of 95296
the Revised Code, both of the following are the case: 95297

(i) The facility has completed implementation of the plan of 95298
correction it submitted under section ~~5111.43~~ 5165.69 of the 95299
Revised Code and substantially corrected all deficiencies for 95300
which the order was issued. 95301

(ii) The facility is in compliance with certification 95302
requirements and has provided adequate assurance that it will 95303
remain in compliance with them. 95304

(2) Within ten working days after it receives the notice 95305
under division (E)(1) of this section, the department of health 95306
shall conduct a follow-up survey that focuses on the cited 95307
deficiency or deficiencies, unless the department is able to 95308
determine, on the basis of documentation provided by the facility, 95309
that the facility has completed the applicable action described in 95310
divisions (E)(1)(a) to (d) of this section. If the department of 95311
health makes that determination on the basis of the documentation, 95312
the department of ~~job and family services~~ medicaid or contracting 95313
agency shall terminate the order denying ~~payment~~ medicaid payments 95314
as of the date the facility completed the applicable action, as 95315
subsequently verified by the department of health. If the 95316
department of health conducts a follow-up survey, the department 95317
of ~~job and family services~~ medicaid or contracting agency shall 95318
terminate the order denying ~~payment~~ medicaid payments as of the 95319
date the department of health makes the determination that the 95320
facility completed the applicable action. 95321

(F) The department of ~~job and family services~~ medicaid or 95322
contracting agency shall provide public notice implementing an 95323
order under section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, ~~5111.48~~ 95324
5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the Revised Code 95325
denying ~~payment~~ medicaid payments to a nursing facility ~~under the~~ 95326

~~medical assistance program~~ for all medicaid eligible residents by 95327
publishing in a newspaper of general circulation in the county in 95328
which the facility is located an announcement stating: "By order 95329
of the (Ohio Department of ~~Job and Family Services~~ Medicaid or 95330
name of contracting agency), effective on and after (effective 95331
date of order), (name of facility) is no longer authorized to 95332
admit Medicaid eligible residents." Immediately following 95333
termination of any such order, the department or agency shall 95334
publish in a newspaper of general circulation in the county in 95335
which the facility is located an announcement stating: "By order 95336
of the (Ohio Department of ~~Job and Family Services~~ Medicaid or 95337
name of contracting agency), effective on and after (effective 95338
date of termination), (name of facility) is hereby authorized to 95339
admit Medicaid eligible residents." Neither the department nor the 95340
contracting agency shall issue public notice of an order under 95341
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of 95342
the Revised Code denying payment to a nursing facility for 95343
medicaid eligible residents with specified diagnoses or special 95344
care needs; public notice is not required for such an order to 95345
take effect. 95346

(G) A facility that complies with division (E) of this 95347
section shall not be considered to have admitted to the existence 95348
of the deficiency that constitutes the basis of the department's 95349
or agency's order. 95350

Sec. ~~5111.56~~ 5165.83. (A) As used in this section, "certified 95351
beds" means beds certified under Title XVIII or Title XIX ~~of the~~ 95352
~~"Social Security Act,"~~ 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 95353
~~amended.~~ 95354

(B) If the department of ~~job and family services~~ medicaid or 95355
a contracting agency imposes a fine on a nursing facility under 95356
section ~~5111.46~~ 5165.72, ~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of 95357

the Revised Code, it may impose one or more of the following: 95358

(1) One hundred sixty per cent of the amount calculated under 95359
division (C) of this section for any deficiency or cluster of 95360
deficiencies that constitutes a severity level four and scope 95361
level four finding; 95362

(2) One hundred forty per cent of the amount calculated under 95363
division (C) of this section for any deficiency or cluster of 95364
deficiencies that constitutes a severity level four and scope 95365
level three finding; 95366

(3) One hundred twenty per cent of the amount calculated 95367
under division (C) of this section for any deficiency or cluster 95368
of deficiencies that constitutes a severity level four and scope 95369
level two finding; 95370

(4) The amount calculated under division (C) of this section 95371
for any deficiency or cluster of deficiencies that constitutes a 95372
severity level four and scope level one finding or any deficiency 95373
or cluster of deficiencies that constitutes a severity level three 95374
and scope level four finding; 95375

(5) Ninety per cent of the amount calculated under division 95376
(C) of this section for any deficiency or cluster of deficiencies 95377
that constitutes a severity level three and scope level three 95378
finding; 95379

(6) Eighty per cent of the amount calculated under division 95380
(C) of this section for any deficiency or cluster of deficiencies 95381
that constitutes a severity level three and scope level two 95382
finding; 95383

(7) Seventy per cent of the amount calculated under division 95384
(C) of this section for any deficiency or cluster of deficiencies 95385
that constitutes a severity level three and scope level one 95386
finding; 95387

(8) Fifty per cent of the amount calculated under division 95388
(C) of this section for any deficiency or cluster of deficiencies 95389
that constitutes a severity level two and scope level four 95390
finding; 95391

(9) Forty per cent of the amount calculated under division 95392
(C) of this section for any deficiency or cluster of deficiencies 95393
that constitutes a severity level two and scope level three 95394
finding. 95395

(C) The amount subject to division (B) of this section shall 95396
be the product of multiplying two dollars and fifty cents for each 95397
day the fine is in effect by the total number of licensed nursing 95398
home beds or certified beds, whichever is greater, in the facility 95399
as of the date the deficiency or cluster of deficiencies that is 95400
the reason for the fine was cited. 95401

(D)(1) The department of ~~job and family services~~ medicaid or 95402
contracting agency shall not impose on a facility, at any one 95403
time, more than four fines as a result of any one survey. 95404

(2) The department of ~~job and family services~~ medicaid or 95405
contracting agency shall not impose more than one fine based on a 95406
deficiency or cluster of deficiencies. However, if the department 95407
of health, in a follow-up or other subsequent survey, finds a 95408
change in the scope or severity of the deficiency or cluster of 95409
deficiencies, the department of ~~job and family services~~ medicaid 95410
or contracting agency may increase or decrease the fine in 95411
accordance with division (B) of this section to reflect the change 95412
in scope or severity. The department or agency shall give the 95413
facility written notice of the change in the amount of the fine. 95414
The change shall take effect on the date the follow-up or other 95415
subsequent survey is completed. 95416

If the department of health finds that a deficiency is a 95417
repeat deficiency, the department of ~~job and family services~~ 95418

medicaid or contracting agency may impose a fine that is one 95419
hundred per cent greater than the fine specified in division (B) 95420
of this section for the deficiency. 95421

(E) The total amount of fines the department of ~~job and~~ 95422
~~family services~~ medicaid or contracting agency may impose on a 95423
facility in a single calendar year shall not exceed five hundred 95424
dollars for each licensed nursing home bed or certified bed, 95425
whichever is greater in number, in the facility. 95426

(F)(1) Except as provided in division (F)(2) of this section, 95427
the department of ~~job and family services~~ medicaid or contracting 95428
agency shall not impose a fine under section ~~5111.46~~ 5165.72, 95429
~~5111.47~~ 5165.73, or ~~5111.48~~ 5165.74 of the Revised Code if the 95430
deficiency or cluster of deficiencies is substantially corrected 95431
within twenty days after the nursing facility receives the 95432
statement provided under division (B) of section ~~5111.49~~ 5165.75 95433
of the Revised Code. The department or agency shall inform the 95434
nursing facility in that statement that the fine will not be 95435
imposed if the deficiency or cluster of deficiencies is 95436
substantially corrected within the twenty-day period. 95437

(2) If a nursing facility has substantially corrected a 95438
deficiency or cluster of deficiencies within six months after the 95439
exit interview of a survey that was the basis for citing a 95440
deficiency or cluster of deficiencies, but after correcting it has 95441
been cited for the same deficiency or cluster of deficiencies by 95442
the department of health on the basis of a subsequent survey 95443
conducted during the remainder of the six-month period, the 95444
department of ~~job and family services~~ medicaid or contracting 95445
agency may impose a fine beginning on the date of the exit 95446
interview of the subsequent survey. 95447

(G) Whenever a facility believes that it has completed 95448
implementation of the plan of correction it submitted under 95449
section ~~5111.43~~ 5165.69 of the Revised Code and substantially 95450

corrected the cited deficiency or cluster of deficiencies that is 95451
the basis for a fine, it may give written notice to that effect to 95452
the department of health. After receiving the notice, the 95453
department shall conduct a follow-up survey of the facility that 95454
focuses on the deficiency or cluster, unless the department is 95455
able to determine, on the basis of documentation provided by the 95456
facility, that the facility has substantially corrected the 95457
deficiency or cluster. If, based on the follow-up survey, the 95458
department establishes that the facility had not completed 95459
implementation of the plan of correction at the time the 95460
department received the notice, any fine based on the deficiency 95461
or cluster shall be doubled effective from the date the department 95462
received the notice. A facility that complies with this division 95463
shall not be considered to have admitted the existence of the 95464
deficiency or cluster that is the basis for the fine. 95465

(H) Except for a fine imposed under division (C) of section 95466
~~5111.46~~ 5165.72 of the Revised Code and as provided in division 95467
(F)(2) of this section, the department of ~~job and family services~~ 95468
medicaid or contracting agency shall impose a fine only if the 95469
facility fails to give notice under division (G) of this section 95470
within twenty days after it receives the statement required by 95471
division (B) of section ~~5111.49~~ 5165.75 of the Revised Code or if 95472
the department of health determines, based on a follow-up survey, 95473
that the deficiency or cluster of deficiencies for which the fine 95474
is proposed has not been substantially corrected within the 95475
twenty-day period. The fine shall be imposed effective on the 95476
twenty-first day after the facility receives the statement under 95477
division (B) of section ~~5111.49~~ 5165.75 of the Revised Code. The 95478
fine shall remain in effect until the earliest of the following: 95479

(1) The date the department of health receives notice under 95480
division (G) of this section, unless the department determines, on 95481
the basis of a follow-up survey, that the deficiency or cluster of 95482

deficiencies that is the basis for the fine has not been 95483
substantially corrected as of that date; 95484

(2) The date on which the department of health makes a 95485
determination, on the basis of a follow-up survey, that the 95486
deficiency or cluster of deficiencies has been substantially 95487
corrected; 95488

(3) The date the facility substantially corrected the 95489
deficiency or cluster, as subsequently determined by the 95490
department of health on the basis of documentation provided by the 95491
facility. 95492

(I) Any fine imposed by the department of ~~job and family~~ 95493
~~services~~ medicaid or contracting agency under this section is 95494
subject to appeal under Chapter 119. of the Revised Code. If the 95495
facility does not request a hearing under Chapter 119. of the 95496
Revised Code and either pays or agrees in writing to pay the fine 95497
when payment becomes due under division (J) of this section, the 95498
department or agency shall reduce the fine by fifty per cent. The 95499
department or agency may compromise any claim for payment of a 95500
fine under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the 95501
Revised Code. 95502

(J) The department of ~~job and family services~~ medicaid or 95503
contracting agency shall collect interest on fines, at the rate 95504
per calendar month that equals one-twelfth of the rate per year 95505
prescribed by section 5703.47 of the Revised Code for the calendar 95506
year that includes the month for which the interest charge 95507
accrues. Payment of a fine is due, and interest begins to accrue 95508
on the unpaid fine or balance, on the thirty-first day after the 95509
department or agency issues a final adjudication order imposing 95510
the fine. If the deficiency or deficiencies on which the fine is 95511
based have not been corrected when the final adjudication order is 95512
issued, the payment is due, and interest begins to accrue on the 95513
unpaid fine or balance, on the thirty-first day after the 95514

deficiency or deficiencies are corrected and the department or 95515
agency mails a notice specifying the amount of the fine to the 95516
facility. 95517

(K) The department of ~~job and family services~~ medicaid or 95518
contracting agency shall collect fines and interest imposed under 95519
this section through one of the following means: 95520

(1) A lump sum payment from the provider; 95521

(2) Periodic payments for a period not to exceed twelve 95522
months, in accordance with a schedule approved by the department 95523
or agency; 95524

(3) Appropriately reducing the amounts of medicaid payments 95525
made to the facility for ~~care~~ nursing facility services provided 95526
to medicaid eligible residents for a period not to exceed twelve 95527
months following the date on which payment of the fine becomes due 95528
under division (J) of this section. An amount equal to the amount 95529
by which each payment is reduced shall be deposited to the credit 95530
of the residents protection fund in accordance with section 95531
~~5111.62~~ 5162.66 of the Revised Code. 95532

Sec. ~~5111.57~~ 5165.84. (A) The department of ~~job and family~~ 95533
~~services~~ medicaid or a contracting agency shall issue an order 95534
denying ~~payment~~ medicaid payments to a nursing facility for all 95535
medicaid eligible residents admitted to the facility on or after 95536
the effective date of the order, if the facility has failed to 95537
substantially correct within ninety days after the exit interview 95538
a deficiency or cluster of deficiencies in accordance with the 95539
plan of correction it submitted under section ~~5111.43~~ 5165.69 of 95540
the Revised Code, as determined by the department of health on the 95541
basis of a follow-up survey. 95542

(B) The department of ~~job and family services~~ medicaid or 95543
contracting agency shall issue an order denying ~~payment~~ medicaid 95544

payments to a nursing facility for all medicaid eligible residents 95545
admitted to the facility on or after the effective date of the 95546
order, if during three consecutive standard surveys conducted 95547
after December 13, 1990, the department of health has found a 95548
condition of substandard care in a facility. 95549

(C) An order issued under division (A) or (B) of this section 95550
shall take effect on the later of the date the facility receives 95551
the order or the date the public notice required under division 95552
(F) of section ~~5111.55~~ 5165.82 of the Revised Code is published. 95553
The order is subject to appeal under Chapter 119. of the Revised 95554
Code; however the order may take effect prior to or during the 95555
pendency of any hearing under that chapter. In that case, the 95556
department or agency shall provide the facility an opportunity for 95557
a hearing in accordance with section ~~5111.60~~ 5165.87 of the 95558
Revised Code. 95559

Sec. ~~5111.58~~ 5165.85. (A) If a nursing facility notifies the 95560
department of ~~job and family services~~ medicaid or a contracting 95561
agency, at any time during the six-month period following the exit 95562
interview of a survey that was the basis for citing a deficiency 95563
or deficiencies, that the deficiency or deficiencies have been 95564
substantially corrected in accordance with the plan of correction 95565
submitted and approved under section ~~5111.43~~ 5165.69 of the 95566
Revised Code, the department of health shall conduct a follow-up 95567
survey to determine whether the deficiency or deficiencies have 95568
been substantially corrected in accordance with the plan. 95569

(B) The department of ~~job and family services~~ medicaid or a 95570
contracting agency shall terminate a nursing facility's 95571
participation in the ~~medical assistance~~ medicaid program whenever 95572
the facility has not substantially corrected, within six months 95573
after the exit interview of the survey on the basis of which it 95574
was cited, a deficiency or deficiencies in accordance with the 95575

plan of correction submitted under section ~~5111.43~~ 5165.69 of the 95576
Revised Code, as determined by the department of health on the 95577
basis of a follow-up survey. 95578

(C) Unless the facility has substantially corrected the 95579
deficiency or deficiencies in accordance with the plan of 95580
correction, as determined by the department of health on the basis 95581
of a follow-up survey, the department of ~~job and family services~~ 95582
medicaid or contracting agency shall deliver to the facility, at 95583
least thirty days prior to the day that is six months after the 95584
exit interview, a written order terminating the facility's 95585
participation in the ~~medical assistance~~ medicaid program. The 95586
order shall take effect and the facility's participation shall 95587
terminate on the day that is six months after the exit interview. 95588
The order shall not take effect if, after it is delivered to the 95589
facility and prior to the effective date of the order, the 95590
department of health determines on the basis of a follow-up survey 95591
that the facility has corrected the deficiency or deficiencies. 95592

An order issued under this section is subject to appeal under 95593
Chapter 119. of the Revised Code; however, the order may take 95594
effect prior to or during the pendency of any hearing under that 95595
chapter. In that case, the department of ~~job and family services~~ 95596
medicaid or contracting agency shall provide the facility an 95597
opportunity for a hearing in accordance with section ~~5111.60~~ 95598
5165.87 of the Revised Code. 95599

(D) Except as provided in division (E) of this section, 95600
whenever the department of ~~job and family services~~ medicaid or a 95601
contracting agency terminates a facility's participation in the 95602
~~medical assistance~~ medicaid program pursuant to this section, the 95603
provider shall repay the department the federal share of all 95604
medicaid payments made by the department to the facility ~~under the~~ 95605
~~medical assistance program~~ during the six-month period following 95606
the exit interview of the survey that was the basis for citing the 95607

deficiency or cluster of deficiencies. The provider shall repay 95608
the department within thirty days after the department repays to 95609
the federal government the federal share of medicaid payments made 95610
to the facility during that six-month period. 95611

(E) A provider is not required to repay the department of ~~job~~ 95612
~~and family services~~ medicaid if either of the following is the 95613
case: 95614

(1) The facility has brought an appeal under Chapter 119. of 95615
the Revised Code of termination of its participation in the 95616
~~medical assistance~~ medicaid program, except that the provider 95617
shall repay the department of ~~job and family services~~ medicaid 95618
within thirty days after the facility exhausts its right to appeal 95619
under that chapter. 95620

(2) The facility complied with the plan of correction 95621
approved by the department of health and the obligation to repay 95622
resulted from the department's failure to provide timely 95623
verification to the United States department of health and human 95624
services of the facility's compliance with the plan of correction. 95625

(F) If a provider's obligation to repay the department of ~~job~~ 95626
~~and family services~~ medicaid under division (D) of this section 95627
results from disallowance of federal financial participation by 95628
the United States department of health and human services, the 95629
provider shall not be required to repay the department of ~~job and~~ 95630
~~family services~~ medicaid until the federal disallowance becomes 95631
final. 95632

(G) Any fines paid under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 95633
5165.89 of the Revised Code during any period for which the 95634
facility is required to repay the department of ~~job and family~~ 95635
~~services~~ medicaid under division (D) of this section shall be 95636
offset against the amount the provider is required to repay the 95637
department for that period. 95638

(H) Prior to a change of ownership of a facility for which a provider has an obligation to repay the department of ~~job and family services~~ medicaid under division (D) of this section that has not become final, or has become final but not been paid, the department may do one or more of the following:

(1) Require the provider to place money in escrow, or obtain a bond, in sufficient amount to indemnify the state against the provider's failure to repay the department after the change of ownership occurs;

(2) Place a lien on the facility's real property;

(3) Use any method to recover the medicaid payments that is available to the attorney general to recover payments on behalf of the department of ~~job and family services~~ medicaid.

Sec. ~~5111.59~~ 5165.86. The department of ~~job and family services~~ medicaid, the department of health, and any contracting agency shall deliver a written notice, statement, or order to a nursing facility under sections ~~5111.35~~ 5165.60 to ~~5111.41~~ 5165.66 and ~~5111.43~~ 5165.69 to ~~5111.62~~ 5165.89 of the Revised Code by certified mail or hand delivery. If the notice, statement, or order is mailed, it shall be addressed to the administrator of the facility as indicated in the department's or agency's records. If it is hand delivered, it shall be delivered to a person at the facility who would appear to the average prudent person to have authority to accept it.

Delivery of written notice by a nursing facility to the department of health, the department of ~~job and family services~~ medicaid, or a contracting agency under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code shall be by certified mail or hand delivery to the appropriate department or the agency.

Sec. ~~5111.60~~ 5165.87. (A) Except as provided in division (B)

of this section, the following remedies are subject to appeal 95669
under Chapter 119. of the Revised Code: 95670

(1) An order issued under section ~~5111.45~~ 5165.71, ~~5111.46~~ 95671
5165.72, ~~5111.51~~ 5165.77, or ~~5111.58~~ 5165.85 of the Revised Code 95672
terminating a nursing facility's participation in the ~~medical~~ 95673
~~assistance~~ medicaid program; 95674

(2) Appointment of a temporary manager of a facility under 95675
division (A)(1)(b) or (2)(b) of section ~~5111.46~~ 5165.72, or 95676
division (A)(1)(d) of section ~~5111.51~~ 5165.77 of the Revised Code; 95677

(3) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 95678
5165.73, ~~5111.48~~ 5165.74, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of 95679
the Revised Code denying ~~payment~~ medicaid payments to a facility 95680
~~under the medical assistance program~~ for all medicaid eligible 95681
residents admitted after the effective date of the order; 95682

(4) An order issued under section ~~5111.46~~ 5165.72, ~~5111.47~~ 95683
5165.73, or ~~5111.48~~ 5165.74 of the Revised Code denying ~~payment~~ 95684
medicaid payments to a facility ~~under the medical assistance~~ 95685
~~program~~ for medicaid eligible residents admitted after the 95686
effective date of the order who have certain diagnoses or special 95687
care needs specified by the department or agency; 95688

(5) A fine imposed under section ~~5111.46~~ 5165.72, ~~5111.47~~ 95689
5165.73, or ~~5111.48~~ 5165.74 of the Revised Code. 95690

(B) The department of ~~job and family services~~ medicaid or 95691
contracting agency may do any of the following prior to or during 95692
the pendency of any proceeding under Chapter 119. of the Revised 95693
Code: 95694

(1) Issue and execute an order under section ~~5111.46~~ 5165.72, 95695
~~5111.51~~ 5165.77, or ~~5111.58~~ 5165.85 of the Revised Code 95696
terminating a nursing facility's participation in the ~~medical~~ 95697
~~assistance~~ medicaid program; 95698

(2) Appoint a temporary manager under division (A)(1)(b) or 95699
(2)(b) of section ~~5111.46~~ 5165.72 or division (A)(1)(d) of section 95700
~~5111.51~~ 5165.77 of the Revised Code; 95701

(3) Issue and execute an order under section ~~5111.46~~ 5165.72, 95702
~~5111.47~~ 5165.73, ~~5111.51~~ 5165.77, or ~~5111.57~~ 5165.84 of the 95703
Revised Code denying ~~payment~~ medicaid payments to a facility for 95704
all medicaid eligible residents admitted after the effective date 95705
of the order; 95706

(4) Issue and execute an order under section ~~5111.46~~ 5165.72 95707
or ~~5111.47~~ 5165.73 or division (A), (B), or (C) of section ~~5111.48~~ 95708
5165.74 of the Revised Code denying ~~payment~~ medicaid payments to a 95709
facility for medicaid eligible residents admitted after the 95710
effective date of the order who have specified diagnoses or 95711
special care needs. 95712

(C) Whenever the department or agency imposes a remedy listed 95713
in division (B) of this section prior to or during the pendency of 95714
a proceeding, all of the following apply: 95715

(1) The provider against whom the action is taken shall have 95716
ten days after the date the facility actually receives the notice 95717
specified in section 119.07 of the Revised Code to request a 95718
hearing. 95719

(2) The hearing shall commence within thirty days after the 95720
date the department or agency receives the provider's request for 95721
a hearing. 95722

(3) The hearing shall continue uninterrupted from day to day, 95723
except for Saturdays, Sundays, and legal holidays, unless other 95724
interruptions are agreed to by the provider and the department or 95725
agency. 95726

(4) If the hearing is conducted by a hearing examiner, the 95727
hearing examiner shall file a report and recommendations within 95728
ten days after the close of the hearing. 95729

(5) The provider shall have five days after the date the hearing officer files the report and recommendations within which to file objections to the report and recommendations.

(6) Not later than fifteen days after the date the hearing officer files the report and recommendations, the medicaid director ~~of job and family services~~ or the director of the contracting agency shall issue an order approving, modifying, or disapproving the report and recommendations of the hearing examiner.

(D) If the department or agency imposes more than one remedy as the result of deficiencies cited in a single survey, the proceedings for all of the remedies shall be consolidated. If any of the remedies are imposed during the pendency of a hearing, as permitted by division (B) of this section, the consolidated hearing shall be conducted in accordance with division (C) of this section. The consolidation of the remedies for purposes of a hearing does not affect the effective dates prescribed in sections ~~5111.35~~ 5165.60 to ~~5111.58~~ 5168.85 of the Revised Code.

(E) If a contracting agency conducts administrative proceedings pertaining to remedies imposed under sections ~~5111.35~~ 5165.60 to ~~5111.62~~ 5165.89 of the Revised Code, the department of ~~job and family services~~ medicaid shall not be considered a party to the proceedings.

Sec. ~~5111.61~~ 5165.88. (A)(1) Except as required by court order, as necessary for the administration or enforcement of any statute relating to nursing facilities, or as provided in division (C) of this section, the department of ~~job and family services~~ medicaid and any contracting agency shall not release any of the following information without the permission of the individual or the individual's legal representative:

(a) The identity of any resident of a nursing facility;

(b) The identity of any individual who submits a complaint 95761
about a nursing facility; 95762

(c) The identity of any individual who provides the 95763
department or agency with information about a nursing facility and 95764
has requested confidentiality; 95765

(d) Any information that reasonably would tend to disclose 95766
the identity of any individual described in division (A)(1)(a) to 95767
(c) of this section. 95768

(2) An agency or individual to whom the department or 95769
contracting agency is required, by court order or for the 95770
administration or enforcement of a statute relating to nursing 95771
facilities, to release information described in division (A)(1) of 95772
this section shall not release the information without the 95773
permission of the individual who would be or would reasonably tend 95774
to be identified, or of the individual's legal representative, 95775
unless the agency or individual is required to release it by 95776
division (C) of this section, by court order, or for the 95777
administration or enforcement of a statute relating to nursing 95778
facilities. 95779

(B) Except as provided in division (C) of this section, any 95780
record that identifies an individual described in division (A)(1) 95781
of this section or that reasonably would tend to identify such an 95782
individual is not a public record for the purposes of section 95783
149.43 of the Revised Code, and is not subject to inspection and 95784
copying under section 1347.08 of the Revised Code. 95785

(C) If the department or a contracting agency, or an agency 95786
or individual to whom the department or contracting agency was 95787
required by court order or for administration or enforcement of a 95788
statute relating to nursing facilities to release information 95789
described in division (A)(1) of this section, uses information in 95790
any administrative or judicial proceeding against a facility that 95791

reasonably would tend to identify an individual described in 95792
division (A)(1) of this section, the department, agency, or 95793
individual shall disclose that information to the facility. 95794
However, the department, agency, or individual shall not disclose 95795
information that directly identifies an individual described in 95796
divisions (A)(1)(a) to (c) of this section, unless the individual 95797
is to testify in the proceedings. 95798

(D) No person shall knowingly register a false complaint 95799
about a nursing facility with the department or a contracting 95800
agency, or knowingly swear or affirm the truth of a false 95801
complaint, when the allegation is made for the purpose of 95802
incriminating another. 95803

Sec. ~~5111.63~~ 5165.89. ~~For the purposes of this section,~~ 95804
~~"facility," "medicare," and "medicaid" have the same meanings as~~ 95805
~~in section 3721.10 of the Revised Code.~~ 95806

The department of health shall be the designee of the 95807
department of ~~job and family services~~ medicaid for the purpose of 95808
conducting a hearing pursuant to section 3721.162 of the Revised 95809
Code concerning a nursing facility's decision to transfer or 95810
discharge a resident if the resident is a medicaid recipient or 95811
medicare beneficiary. 95812

Sec. ~~5111.99~~ 5165.99. (A) Whoever violates ~~division (B) of~~ 95813
section ~~5111.26~~ 5165.102 or division (E) of section ~~5111.31~~ 95814
5165.08 of the Revised Code shall be fined not less than five 95815
hundred dollars nor more than one thousand dollars for the first 95816
offense and not less than one thousand dollars nor more than five 95817
thousand dollars for each subsequent offense. Fines paid under 95818
this section shall be deposited in the state treasury to the 95819
credit of the general revenue fund. 95820

(B) Whoever violates division (D) of section ~~5111.61~~ 5165.88 95821

of the Revised Code is guilty of registering a false complaint, a 95822
misdemeanor of the first degree. 95823

Sec. 5166.01. As used in this chapter: 95824

"Administrative agency" means, with respect to a home and 95825
community-based services medicaid waiver component, the department 95826
of medicaid or, if a state agency or political subdivision 95827
contracts with the department under section 5162.35 of the Revised 95828
Code to administer the component, that state agency or political 95829
subdivision. 95830

"Dual eligible individual" has the same meaning as in section 95831
5160.01 of the Revised Code. 95832

"Home and community-based services medicaid waiver component" 95833
means a medicaid waiver component under which home and 95834
community-based services are provided as an alternative to 95835
hospital services, nursing facility services, or ICF/IID services. 95836

"Hospital" has the same meaning as in section 3727.01 of the 95837
Revised Code. 95838

"Hospital long-term care unit" has the same meaning as in 95839
section 5168.40 of the Revised Code. 95840

"ICDS participant" means a dual eligible individual who 95841
participates in the integrated care delivery system. 95842

"ICF/IID" and "ICF/IID services" have the same meanings as in 95843
section 5124.01 of the Revised Code. 95844

"Integrated care delivery system" and "ICDS" mean the 95845
demonstration project authorized by section 5164.91 of the Revised 95846
Code. 95847

"Level of care determination" means a determination of 95848
whether an individual needs the level of care provided by a 95849
hospital, nursing facility, or ICF/IID and whether the individual, 95850

if determined to need that level of care, would receive hospital services, nursing facility services, or ICF/IID services if not for a home and community-based services medicaid waiver component. 95851
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"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code. 95854
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"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code. 95856
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"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code. 95862
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"Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code. 95864
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"Ohio transitions II aging carve-out program" means the home and community-based services medicaid waiver component that is known as Ohio transitions II aging carve-out and was created pursuant to section 5166.11 of the Revised Code. 95868
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"Provider agreement" has the same meaning as in section 5164.01 of the Revised Code. 95872
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"Residential treatment facility" means a residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds. 95874
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"Skilled nursing facility" has the same meaning as in section 5165.01 of the Revised Code. 95882
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"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code. 95884
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~~Sec. 5111.85 5166.02.~~ (A) ~~As used in this section and sections 5111.851 to 5111.856 of the Revised Code:~~ 95887
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~~"Home and community based services medicaid waiver component" means a medicaid waiver component under which home and community based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.~~ 95889
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~~"Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~ 95894
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~~"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~ 95896
95897

~~"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.~~ 95898
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~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 95905
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~~(B) The medicaid director of job and family services may shall adopt rules under in accordance with Chapter 119. of the Revised Code governing medicaid waiver components that. The rules may establish all of the following:~~ 95907
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(1) Eligibility requirements for the medicaid waiver 95911

components;	95912
(2) The type, amount, duration, and scope of <u>medicaid</u> services the medicaid waiver components provide <u>cover</u> ;	95913 95914
(3) The conditions under which the medicaid waiver components cover <u>medicaid</u> services;	95915 95916
(4) The amount <u>amounts</u> the medicaid waiver components pay for <u>medicaid</u> services or the method <u>methods</u> by which the amount is <u>amounts are</u> determined;	95917 95918 95919
(5) The manner <u>manners</u> in which the medicaid waiver components pay for <u>medicaid</u> services;	95920 95921
(6) Safeguards for the health and welfare of medicaid recipients receiving <u>medicaid</u> services under a medicaid waiver component;	95922 95923 95924
(7) Procedures for prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and choose to be enrolled in the component;	95925 95926 95927 95928
(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.	95929 95930 95931 95932 95933 95934
(9) Other policies necessary for the efficient administration of the medicaid waiver components.	95935 95936
(C) <u>(B)</u> The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.	95937 95938 95939 95940
(D) <u>(C)</u> The following apply to procedures established under	95941

division ~~(B)~~(A)(7) of this section: 95942

(1) Any such procedures established for the medicaid-funded 95943
component of the PASSPORT program shall be consistent with section 95944
~~173.401~~ 173.521 of the Revised Code. 95945

(2) Any such procedures established for the medicaid-funded 95946
component of the assisted living program shall be consistent with 95947
section 173.542 of the Revised Code. 95948

(3) Any such procedures established for the Ohio home care 95949
waiver program shall be consistent with section ~~5111.862~~ 5166.121 95950
of the Revised Code. 95951

~~(3)~~(4) Any such procedures established for the unified 95952
long-term services and support medicaid waiver program shall be 95953
consistent with section ~~5111.865~~ 5166.141 of the Revised Code. 95954

~~(4) Any such procedures established for the medicaid-funded~~ 95955
~~component of the assisted living program shall be consistent with~~ 95956
~~section 5111.894 of the Revised Code.~~ 95957

Sec. ~~5111.84~~ 5166.03. The medicaid director ~~of job and family~~ 95958
~~services~~ may not submit a request to the United States secretary 95959
of health and human services for a medicaid waiver under ~~section~~ 95960
~~1115~~ of the "Social Security Act ~~of 1935,~~" section 1115, 42 U.S.C. 95961
1315, unless the director provides the speaker of the house of 95962
representatives and president of the senate written notice of the 95963
director's intent to submit the request at least ten days before 95964
the date the director submits the request to the United States 95965
secretary. The notice shall include a detailed explanation of the 95966
medicaid waiver the director proposes to seek. 95967

Sec. ~~5111.851~~ 5166.04. ~~(A) As used in sections 5111.851 to~~ 95968
~~5111.855 of the Revised Code:~~ 95969

~~"Administrative agency" means, with respect to a home and~~ 95970

~~community based services medicaid waiver component, the department 95971
of job and family services or, if a state agency or political 95972
subdivision contracts with the department under section 5111.91 of 95973
the Revised Code to administer the component, that state agency or 95974
political subdivision. 95975~~

~~"Level of care determination" means a determination of 95976
whether an individual needs the level of care provided by a 95977
hospital, nursing facility, or intermediate care facility for the 95978
mentally retarded and whether the individual, if determined to 95979
need that level of care, would receive hospital, nursing facility, 95980
or intermediate care facility for the mentally retarded services 95981
if not for a home and community based services medicaid waiver 95982
component. 95983~~

~~"Medicaid buy in for workers with disabilities program" means 95984
the component of the medicaid program established under sections 95985
5111.70 to 5111.7011 of the Revised Code. 95986~~

~~"Skilled nursing facility" means a facility certified as a 95987
skilled nursing facility under Title XVIII of the "Social Security 95988
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 95989~~

~~(B) The following requirements apply to each home and 95990
community-based services medicaid waiver component: 95991~~

~~(1)(A) Only an individual who qualifies for a component shall 95992
receive that component's medicaid services. 95993~~

~~(2)(B) A level of care determination shall be made as part of 95994
the process of determining whether an individual qualifies for a 95995
component and shall be made each year after the initial 95996
determination if, during such a subsequent year, the 95997
administrative agency determines there is a reasonable indication 95998
that the individual's needs have changed. 95999~~

~~(3)(C) A written plan of care or individual service plan 96000
based on an individual assessment of the medicaid services that an 96001~~

individual needs to avoid needing admission to a hospital, nursing 96002
facility, or ~~intermediate care facility for the mentally retarded~~ 96003
ICF/IID shall be created for each individual determined eligible 96004
for a component. 96005

~~(4)~~(D) Each individual determined eligible for a component 96006
shall receive that component's medicaid services in accordance 96007
with the individual's level of care determination and written plan 96008
of care or individual service plan. 96009

~~(5)~~(E) No individual may receive medicaid services under a 96010
component while the individual is a hospital inpatient or resident 96011
of a skilled nursing facility, nursing facility, or ~~intermediate~~ 96012
~~care facility for the mentally retarded~~ ICF/IID. 96013

~~(6)~~(F) No individual may receive prevocational, educational, 96014
or supported employment services under a component if the 96015
individual is eligible for such services that are funded with 96016
federal funds provided under 29 U.S.C. 730 or the "Individuals 96017
with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 96018
1400, as amended. 96019

~~(7)~~(G) Safeguards shall be taken to protect the health and 96020
welfare of individuals receiving medicaid services under a 96021
component, including safeguards established in rules adopted under 96022
section ~~5111.85~~ 5166.02 of the Revised Code and safeguards 96023
established by licensing and certification requirements that are 96024
applicable to the providers of that component's medicaid services. 96025

~~(8)~~(H) No medicaid services may be provided under a component 96026
by a provider that is subject to standards that the "Social 96027
Security Act," section 1616(e)(1), 42 U.S.C. 1382e(e)(1), requires 96028
be established if the provider fails to comply with the standards 96029
applicable to the provider. 96030

~~(9)~~(I) Individuals determined to be eligible for a component, 96031
or such individuals' representatives, shall be informed of that 96032

component's medicaid services, including any choices that the 96033
individual or representative may make regarding the component's 96034
medicaid services, and given the choice of either receiving 96035
medicaid services under that component or, as appropriate, 96036
hospital services, nursing facility services, or ~~intermediate care~~ 96037
~~facility for the mentally retarded~~ ICF/IID services. 96038

~~(10) No individual shall lose eligibility for services under 96039
a component, or have the services reduced or otherwise disrupted, 96040
on the basis that the individual also receives services under the 96041
medicaid buy in for workers with disabilities program. 96042~~

~~(11) No individual shall lose eligibility for services under 96043
a component, or have the services reduced or otherwise disrupted, 96044
on the basis that the individual's income or resources increase to 96045
an amount above the eligibility limit for the component if the 96046
individual is participating in the medicaid buy in for workers 96047
with disabilities program and the amount of the individual's 96048
income or resources does not exceed the eligibility limit for the 96049
medicaid buy in for workers with disabilities program. 96050~~

~~(12) No individual receiving services under a component shall 96051
be required to pay any cost sharing expenses for the services for 96052
any period during which the individual also participates in the 96053
medicaid buy in for workers with disabilities program. 96054~~

Sec. ~~5111.852~~ 5166.05. The department of job and family 96055
services medicaid may review and approve, modify, or deny written 96056
plans of care and individual service plans that section ~~5111.851~~ 96057
5166.04 of the Revised Code requires be created for individuals 96058
determined eligible for a home and community-based services 96059
medicaid waiver component. If a state agency or political 96060
subdivision contracts with the department under section ~~5111.91~~ 96061
5162.35 of the Revised Code to administer a home and 96062
community-based services medicaid waiver component and approves, 96063

modifies, or denies a written plan of care or individual service 96064
plan pursuant to the agency's or subdivision's administration of 96065
the component, the department may review the agency's or 96066
subdivision's approval, modification, or denial and order the 96067
agency or subdivision to reverse or modify the approval, 96068
modification, or denial. The state agency or political subdivision 96069
shall comply with the department's order. 96070

The department of ~~job and family services~~ medicaid shall be 96071
granted full and immediate access to any records the department 96072
needs to implement its duties under this section. 96073

Sec. ~~5111.853~~ 5166.06. Each administrative agency shall 96074
maintain, for a period of time the department of ~~job and family~~ 96075
~~services~~ medicaid shall specify, financial records documenting the 96076
costs of medicaid services provided under the home and 96077
community-based services medicaid waiver components that the 96078
agency administers, including records of independent audits. The 96079
administrative agency shall make the financial records available 96080
on request to the United States secretary of health and human 96081
services, United States comptroller general, and their designees. 96082

Sec. ~~5111.854~~ 5166.07. Each administrative agency is 96083
financially accountable for funds expended for medicaid services 96084
~~provided under~~ covered by the home and community-based services 96085
medicaid waiver components that the agency administers. 96086

Sec. ~~5111.855~~ 5166.08. Each state agency and political 96087
subdivision that enters into a contract with the department of ~~job~~ 96088
~~and family services~~ medicaid under section ~~5111.91~~ 5162.35 of the 96089
Revised Code to administer a home and community-based services 96090
medicaid waiver component, or one or more aspects of such a 96091
component, shall provide the department a written assurance that 96092

the agency or subdivision will not violate any of the requirements 96093
of sections ~~5111.85~~ 5166.01 to ~~5111.854~~ 5166.07 of the Revised 96094
Code. 96095

Sec. ~~5111.856~~ 5166.10. To the extent necessary for the 96096
efficient and economical administration of medicaid waiver 96097
components, the department of ~~job and family services~~ medicaid may 96098
transfer an individual enrolled in a medicaid waiver component 96099
administered by the department to another medicaid waiver 96100
component the department administers if the individual is eligible 96101
for the medicaid waiver component and the transfer does not 96102
jeopardize the individual's health or safety. 96103

Sec. ~~5111.86~~ 5166.11. (A) As used in this section: 96104

~~(1) "Hospital" has the same meaning as in section 3727.01 of~~ 96105
~~the Revised Code.~~ 96106

~~(2) "Medicaid waiver component" has the same meaning as in~~ 96107
~~section 5111.85 of the Revised Code.~~ 96108

~~(3) "Nursing facility" has the same meaning as in section~~ 96109
~~5111.20 of the Revised Code.~~ 96110

~~(4),~~ "Ohio home care program" means the program the 96111
department of ~~job and family services~~ medicaid administers that 96112
provides state plan services and medicaid waiver component 96113
services pursuant to rules adopted ~~under sections 5111.01 and~~ 96114
~~5111.02 of the Revised Code~~ for the medicaid program and a 96115
medicaid waiver that went into effect July 1, 1998. 96116

(B) The ~~director~~ department of ~~job and family services~~ 96117
medicaid may ~~submit requests to the United States secretary of~~ 96118
~~health and human services pursuant to section 1915 of the "Social~~ 96119
~~Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended,~~ 96120
~~to obtain waivers of federal medicaid requirements that would~~ 96121

~~otherwise be violated in the creation and implementation of~~ create 96122
~~and administer~~ two or more medicaid waiver components under which 96123
home and community-based services are provided to eligible 96124
individuals who need the level of care provided by a nursing 96125
facility or hospital. In ~~administering~~ the ~~requests~~ medicaid 96126
waiver components, the ~~director~~ department may specify the 96127
following: 96128

(1) The maximum number of individuals who may be enrolled in 96129
each of the medicaid waiver components ~~included in the requests;~~ 96130

(2) The maximum amount the medicaid program may expend each 96131
year for each individual enrolled in the medicaid waiver 96132
components; 96133

(3) The maximum amount the medicaid program may expend each 96134
year for all individuals enrolled in the medicaid waiver 96135
components; 96136

(4) Any other requirements the ~~director~~ department selects 96137
for the medicaid waiver components. 96138

~~(C) If the secretary approves the medicaid waivers requested~~ 96139
~~under this section, the director may create and implement the~~ 96140
~~medicaid waiver components in accordance with the provisions of~~ 96141
~~the approved waivers. The department of job and family services~~ 96142
~~shall administer the medicaid waiver components.~~ 96143

(D) After the first of any of the medicaid waiver components 96144
created that the department administers under this section begins 96145
to enroll eligible individuals, the ~~director~~ department may ~~submit~~ 96146
~~to the United States secretary of health and human services an~~ 96147
~~amendment to a medicaid waiver component of the Ohio home care~~ 96148
~~program authorizing the department to cease enrolling~~ to enroll 96149
additional individuals in ~~that~~ a medicaid waiver component of the 96150
Ohio home care program. ~~If the secretary approves the amendment,~~ 96151
~~the director may cease to enroll additional individuals in that~~ 96152

~~medicaid waiver component of the Ohio home care program.~~ 96153

Sec. ~~5111.861~~ 5166.12. (A) ~~As used in this section:~~ 96154

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 96155
96156

~~"Unified long term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.~~ 96157
96158
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~~(B) Subject to division (C) of this section, there is hereby created the Ohio home care program. The program shall provide home and community based services. The department of job and family services medicaid shall administer the program.~~ 96160
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~~(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services medicaid shall ~~work together~~ collaborate to determine whether the Ohio home care waiver program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio home care waiver program should be terminated, the program shall cease to exist on a date the departments shall specify.~~ 96164
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Sec. ~~5111.862~~ 5166.121. (A) ~~As used in this section:~~ 96172

~~"Hospital long term care unit" has the same meaning as in section 3721.50 of the Revised Code.~~ 96173
96174

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 96175
96176

~~"Ohio home care program" means the medicaid waiver component created under section 5111.861 of the Revised Code.~~ 96177
96178

~~"Residential treatment facility" means a residential facility licensed by the department of mental health under section 5119.22 of the Revised Code, or an institution certified by the department~~ 96179
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96181

~~of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.~~

~~(B) Subject to division (C) of Unless the Ohio home care waiver program is terminated pursuant to section 5111.861 5165.12 of the Revised Code, the department of ~~job and family services~~ medicaid shall establish a home first component for the Ohio home care waiver program. An individual is eligible for the Ohio home care waiver program's home first component if the individual has been determined to be eligible for the Ohio home care waiver program and at least one of the following applies:~~

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care waiver program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care waiver program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care waiver program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care waiver program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time 96213
the individual applies for the Ohio home care waiver program. 96214

(6) At the time the individual applies for the Ohio home care 96215
waiver program, the individual participates in the money follows 96216
the person demonstration project authorized by section 6071 of the 96217
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 96218
and either resides in a residential treatment facility or 96219
inpatient hospital setting. 96220

~~(C)~~(B) An individual determined to be eligible for the home 96221
first component of the Ohio home care waiver program shall be 96222
enrolled in the ~~Ohio home care~~ program in accordance with rules 96223
adopted under section ~~5111.85~~ 5166.02 of the Revised Code. 96224

Sec. ~~5111.863~~ 5166.13. ~~(A) As used in this section:~~ 96225

~~"Medicaid waiver component" has the same meaning as in~~ 96226
~~section 5111.85 of the Revised Code.~~ 96227

~~"Unified long term services and support medicaid waiver~~ 96228
~~component" means the medicaid waiver component authorized by~~ 96229
~~section 5111.864 of the Revised Code.~~ 96230

~~(B) Subject to division (C) of this section, there is hereby~~ 96231
~~created the Ohio transitions II aging carve-out program. The~~ 96232
~~program shall provide home and community based services. The~~ 96233
~~department of job and family services shall administer the~~ 96234
~~program.~~ 96235

~~(C)~~ If the unified long-term services and support medicaid 96236
waiver component is created, the departments of aging and ~~job and~~ 96237
~~family services~~ medicaid shall ~~work together~~ collaborate to 96238
determine whether the Ohio transitions II aging carve-out program 96239
should continue to operate as a separate medicaid waiver component 96240
or be terminated. If the departments determine that the Ohio 96241
transitions II aging carve-out program should be terminated, the 96242

program shall cease to exist on a date the departments shall specify. 96243
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Sec. ~~5111.864~~ 5166.14. ~~(A) As used in this section:~~ 96245

~~"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 96246
96247

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 96248
96249

~~(B) The director department of job and family services medicaid shall submit a request to the United States secretary of health and human services pursuant to section 1915n of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain approval to create a unified long-term services and support medicaid waiver component to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. The director department of job and family services medicaid shall work collaborate with the director department of aging in seeking approval of the unified long term services and support medicaid waiver component and, if the approval is obtained, in creating and implementing the component.~~ 96250
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~~If the request to create the unified long term services and support medicaid waiver component is approved, the The medicaid director of job and family services, working shall collaborate with the director of aging, shall adopt when adopting rules under section ~~5111.85~~ 5166.02 of the Revised Code to implement the component. The rules may authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code governing aspects of the unified long term services and support medicaid waiver component.~~ 96263
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Sec. ~~5111.865~~ 5166.141. ~~(A) As used in this section, "unified~~ 96272

~~long term services and support medicaid waiver program" or~~ 96273
~~"program" means the medicaid waiver component authorized by~~ 96274
~~section 5111.864 of the Revised Code.~~ 96275

~~(B) If the United States secretary of health and human~~ 96276
~~services approves the request submitted under section 5111.864 of~~ 96277
~~the Revised Code to create the unified long term services and~~ 96278
~~support medicaid waiver program, the~~ The department of ~~job and~~ 96279
~~family services~~ medicaid shall establish a home first component 96280
for the unified long-term services and support medicaid waiver 96281
program. The home first component shall be similar to the home 96282
first component of the medicaid-funded component of the PASSPORT 96283
program established under section ~~173.401~~ 173.521 of the Revised 96284
Code, ~~the home first component of the Ohio home care program~~ 96285
~~established under section 5111.862 of the Revised Code, and the~~ 96286
home first component of the medicaid-funded component of the 96287
assisted living program established under section ~~5111.894~~ 173.542 96288
of the Revised Code, and the home first component of the Ohio home 96289
care waiver program established under section 5166.121 of the 96290
Revised Code. 96291

Sec. 5166.16. (A) As used in this section, "ODA or MCD 96292
medicaid waiver component" means all of the following: 96293

(1) The medicaid-funded component of the PASSPORT program, 96294
unless it is terminated pursuant to division (C) of section 173.52 96295
of the Revised Code; 96296

(2) The choices program, unless it is terminated pursuant to 96297
division (B) of section 173.53 of the Revised Code; 96298

(3) The medicaid-funded component of the assisted living 96299
program, unless it is terminated pursuant to division (C) of 96300
section 173.54 of the Revised Code; 96301

(4) The Ohio home care waiver program, unless it is 96302

terminated pursuant to section 5166.12 of the Revised Code; 96303

(5) The Ohio transitions II aging carve-out program, unless 96304
it is terminated pursuant to section 5166.13 of the Revised Code. 96305

(B) The medicaid director may create a home and 96306
community-based services medicaid waiver component as part of the 96307
integrated care delivery system. If the ICDS medicaid waiver 96308
component is created, both of the following apply: 96309

(1) The department of medicaid shall administer it; 96310

(2) When it begins to accept enrollments, no ICDS participant 96311
who is eligible for the ICDS medicaid waiver component shall be 96312
enrolled in an ODA or MCD medicaid waiver component regardless of 96313
whether the participant prefers to remain or be enrolled in an ODA 96314
or MCD medicaid waiver component. 96315

(C) A dual eligible individual who is eligible for an ODA or 96316
MCD medicaid waiver component may enroll in the component before 96317
the individual becomes an ICDS participant. The dual eligible 96318
individual shall disenroll from the ODA or MCD medicaid waiver 96319
component and enroll in the ICDS medicaid waiver component once 96320
the individual becomes an ICDS participant and it is possible to 96321
enroll the individual in the ICDS medicaid waiver component. The 96322
disenrollment from the ODA or MCD medicaid waiver component and 96323
enrollment into the ICDS medicaid waiver component shall occur 96324
regardless of whether the individual prefers to remain enrolled in 96325
the ODA or MCD medicaid waiver component. 96326

(D) An ICDS participant's disenrollment from an ODA or MCD 96327
medicaid waiver component and enrollment in the ICDS medicaid 96328
waiver component resulting from division (B)(2) or (C) of this 96329
section shall be accomplished without a disruption in the 96330
participant's services under the components. 96331

Sec. ~~5111.87~~ 5166.20. (A) ~~As used in this section and section~~ 96332

~~5111.871 of the Revised Code:~~ 96333

~~(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.~~ 96334
96335

~~(2) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.~~ 96336
96337

~~(B) The director department of job and family services medicaid may apply to the United States secretary of health and human services for both of create the following:~~ 96338
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(1) One or more medicaid waiver components under which home 96341
and community-based services are provided to individuals with 96342
mental retardation or other developmental disability as an 96343
alternative to placement in ~~an intermediate care facility for the~~ 96344
~~mentally retarded ICFs/IID;~~ 96345

(2) One or more medicaid waiver components under which home 96346
and community-based services are provided in the form of any of 96347
the following: 96348

(a) Early intervention and supportive services for children 96349
under three years of age who have developmental delays or 96350
disabilities the ~~director~~ department determines are significant; 96351

(b) Therapeutic services for children who have autism; 96352

(c) Specialized habilitative services for individuals who are 96353
eighteen years of age or older and have autism. 96354

~~(C)(B) No medicaid waiver component authorized by created~~ 96355
~~pursuant to division (B)(A)(2)(b) or (c) of this section shall~~ 96356
~~provide services that are available under another medicaid waiver~~ 96357
~~component. No medicaid waiver component authorized by created~~ 96358
~~pursuant to division (B)(A)(2)(b) of this section shall provide~~ 96359
~~services to an individual that the individual is eligible to~~ 96360
~~receive through an individualized education program as defined in~~ 96361
~~section 3323.01 of the Revised Code.~~ 96362

~~(D)~~(C) The director of developmental disabilities ~~or~~ and 96363
director of health may request that the ~~director~~ department of ~~job~~ 96364
~~and family services~~ apply for medicaid create one or more medicaid 96365
~~waivers~~ waiver components under this section. 96366

~~(E)~~(D) Before ~~applying for~~ creating a medicaid waiver 96367
component under this section, the ~~director~~ department of ~~job and~~ 96368
~~family services~~ medicaid shall seek, accept, and consider public 96369
comments. 96370

Sec. ~~5111.871~~ 5166.21. The department of ~~job and family~~ 96371
~~services~~ medicaid shall enter into a contract with the department 96372
of developmental disabilities under section ~~5111.91~~ 5162.35 of the 96373
Revised Code with regard to one or more of the medicaid waiver 96374
components ~~established~~ created by the department of ~~job and family~~ 96375
~~services~~ medicaid under section ~~5111.87~~ 5166.20 of the Revised 96376
Code. ~~Subject, if needed, to the approval of the United States~~ 96377
~~secretary of health and human services, the~~ The contract shall 96378
include the medicaid waiver component known as the transitions 96379
developmental disabilities waiver. The contract shall provide for 96380
the department of developmental disabilities to administer the 96381
components in accordance with the terms of the federal medicaid 96382
waivers authorizing the components. The contract shall include a 96383
schedule for the department of developmental disabilities to begin 96384
administering the transitions developmental disabilities waiver. 96385
~~The directors of job and family services and developmental~~ 96386
~~disabilities shall adopt rules in accordance with Chapter 119. of~~ 96387
~~the Revised Code governing the components.~~ 96388

If the department of developmental disabilities or the 96389
department of ~~job and family services~~ medicaid denies an 96390
individual's application for home and community-based services 96391
provided under any of these medicaid components, the department 96392
that denied the services shall give timely notice to the 96393

individual that the individual may ~~request a hearing under appeal~~ 96394
pursuant to section ~~5101.35~~ 5160.31 of the Revised Code. 96395

The departments of developmental disabilities and ~~job and~~ 96396
~~family services~~ medicaid may approve, reduce, deny, or terminate a 96397
medicaid service included in the individualized service plan 96398
developed for a medicaid recipient eligible for home and 96399
community-based services provided under any of these medicaid 96400
components. The departments shall consider the recommendations a 96401
county board of developmental disabilities makes under division 96402
(A)(1)(c) of section 5126.055 of the Revised Code. If either 96403
department approves, reduces, denies, or terminates a medicaid 96404
service, that department shall give timely notice to the medicaid 96405
recipient that the recipient may ~~request a hearing under appeal~~ 96406
pursuant to section ~~5101.35~~ 5160.31 of the Revised Code. 96407

If supported living, as defined in section 5126.01 of the 96408
Revised Code, is to be provided as a medicaid service under any of 96409
these components, any person or government entity with a current, 96410
valid ~~medicaid~~ provider agreement and a current, valid certificate 96411
under section 5123.161 of the Revised Code may provide the 96412
medicaid service. 96413

If a medicaid service is to be provided under any of these 96414
components by a residential facility, as defined in section 96415
5123.19 of the Revised Code, any person or government entity with 96416
a current, valid ~~medicaid~~ provider agreement and a current, valid 96417
license under section 5123.19 of the Revised Code may provide the 96418
medicaid service. 96419

Sec. ~~5111.872~~ 5166.22. (A) Subject to division (B) of this 96420
section, when the department of developmental disabilities 96421
allocates enrollment numbers to a county board of developmental 96422
disabilities for home and community-based services specified in 96423
division ~~(B)~~(A)(1) of section ~~5111.87~~ 5166.20 of the Revised Code 96424

and provided under any of the medicaid waiver components that the 96425
department administers under section ~~5111.871~~ 5166.21 of the 96426
Revised Code, the department shall consider all of the following: 96427

(1) The number of individuals with mental retardation or 96428
other developmental disability who are on a waiting list the 96429
county board establishes under section 5126.042 of the Revised 96430
Code for those services and are given priority on the waiting 96431
list; 96432

(2) The implementation component required by division (A)(3) 96433
of section 5126.054 of the Revised Code of the county board's plan 96434
approved under section 5123.046 of the Revised Code; 96435

(3) Anything else the department considers necessary to 96436
enable county boards to provide those services to individuals in 96437
accordance with the priority requirements for waiting lists 96438
established under section 5126.042 of the Revised Code for those 96439
services. 96440

(B) Division (A) of this section applies to home and 96441
community-based services provided under the medicaid waiver 96442
component known as the transitions developmental disabilities 96443
waiver only to the extent, if any, provided by the contract 96444
required by section ~~5111.871~~ 5166.21 of the Revised Code regarding 96445
the ~~waiver~~ component. 96446

Sec. ~~5111.873~~ 5166.23. (A) Subject to division (D) of this 96447
section, the medicaid director ~~of job and family services~~ shall 96448
adopt rules ~~in accordance with Chapter 119.~~ under section 5166.02 96449
of the Revised Code establishing the ~~amount of reimbursement~~ 96450
payment amounts or the methods by which the payment amounts ~~of~~ 96451
~~reimbursement~~ are to be determined for home and community-based 96452
services specified in division ~~(B)(A)~~(1) of section ~~5111.87~~ 96453
5166.20 of the Revised Code and provided under the components of 96454
the medicaid program that the department of developmental 96455

disabilities administers under section ~~5111.871~~ 5166.21 of the 96456
Revised Code. With respect to these rules, all of the following 96457
apply: 96458

(1) The rules shall establish procedures for the department 96459
of developmental disabilities to follow in arranging for the 96460
initial and ongoing collection of cost information from a 96461
comprehensive, statistically valid sample of persons and 96462
government entities providing the services at the time the 96463
information is obtained. 96464

(2) The rules shall establish procedures for the collection 96465
of consumer-specific information through an assessment instrument 96466
the department of developmental disabilities shall provide to the 96467
department of ~~job and family services~~ medicaid. 96468

(3) With the information collected pursuant to divisions 96469
(A)(1) and (2) of this section, an analysis of that information, 96470
and other information the director determines relevant, the rules 96471
shall establish ~~reimbursement~~ payment standards that do all of the 96472
following: 96473

(a) Assure that ~~reimbursement is~~ payment amounts are 96474
consistent with efficiency, economy, and quality of care; 96475

(b) Consider the intensity of consumer resource need; 96476

(c) Recognize variations in different geographic areas 96477
regarding the resources necessary to assure the health and welfare 96478
of consumers; 96479

(d) Recognize variations in environmental supports available 96480
to consumers. 96481

(B) As part of the process of adopting rules ~~under~~ authorized 96482
by this section, the director shall consult with the director of 96483
developmental disabilities, representatives of county boards of 96484
developmental disabilities, persons who provide the home and 96485

community-based services, and other persons and government 96486
entities the director identifies. 96487

(C) The ~~directors of job and family services~~ medicaid 96488
director and director of developmental disabilities shall review 96489
the rules ~~adopted under~~ authorized by this section at times they 96490
determine are necessary to ensure that the ~~amount of reimbursement~~ 96491
payment amounts or the methods by which the payment amounts ~~of~~ 96492
~~reimbursement~~ are to be determined continue to meet the 96493
~~reimbursement~~ payment standards established under division (A)(3) 96494
of this section. 96495

(D) This section applies to home and community-based services 96496
provided under the medicaid waiver component known as the 96497
transitions developmental disabilities waiver only to the extent, 96498
if any, provided by the contract required by section ~~5111.871~~ 96499
5166.21 of the Revised Code regarding the ~~waiver~~ component. 96500

Sec. ~~5111.88~~ 5166.30. (A) As used in sections ~~5111.88~~ 5166.30 96501
to ~~5111.8811~~ 5166.3010 of the Revised Code: 96502

(1) "Adult" means an individual at least eighteen years of 96503
age. 96504

(2) "Appropriate director" means the following: 96505

(a) The medicaid director in the context of all of the 96506
following: 96507

(i) The Ohio home care waiver program, unless it is 96508
terminated pursuant to section 5166.12 of the Revised Code; 96509

(ii) The Ohio transitions II aging carve-out program, unless 96510
it is terminated pursuant to section 5166.13 of the Revised Code; 96511

(iii) The integrated care delivery system medicaid waiver 96512
component authorized by section 5166.16 of the Revised Code. 96513

(b) The director of aging in the context of the 96514

medicaid-funded component of the PASSPORT program, unless it is 96515
terminated pursuant to division (C) of section 173.52 of the 96516
Revised Code. 96517

(3) "Authorized representative" means the following: 96518

(a) In the case of a consumer who is a minor, the consumer's 96519
parent, custodian, or guardian; 96520

(b) In the case of a consumer who is an adult, an individual 96521
selected by the consumer pursuant to section ~~5111.8810~~ 5166.3010 96522
of the Revised Code to act on the consumer's behalf for purposes 96523
regarding home care attendant services. 96524

~~(3)~~(4) "Authorizing health care professional" means a health 96525
care professional who, pursuant to section ~~5111.887~~ 5166.307 of 96526
the Revised Code, authorizes a home care attendant to assist a 96527
consumer with self-administration of medication, nursing tasks, or 96528
both. 96529

~~(4)~~(5) "Consumer" means an individual to whom all of the 96530
following apply: 96531

(a) The individual is enrolled in a participating medicaid 96532
waiver component. 96533

(b) The individual has a medically determinable physical 96534
impairment to which both of the following apply: 96535

(i) It is expected to last for a continuous period of not 96536
less than twelve months. 96537

(ii) It causes the individual to require assistance with 96538
activities of daily living, self-care, and mobility, including 96539
either assistance with self-administration of medication or the 96540
performance of nursing tasks, or both. 96541

(c) In the case of an individual who is an adult, the 96542
individual is mentally alert and is, or has an authorized 96543
representative who is, capable of selecting, directing the actions 96544

of, and dismissing a home care attendant. 96545

(d) In the case of an individual who is a minor, the 96546
individual has an authorized representative who is capable of 96547
selecting, directing the actions of, and dismissing a home care 96548
attendant. 96549

~~(5)~~(6) "Controlled substance" has the same meaning as in 96550
section 3719.01 of the Revised Code. 96551

~~(6)~~(7) "Custodian" has the same meaning as in section 96552
2151.011 of the Revised Code. 96553

~~(7)~~(8) "Gastrostomy tube" means a percutaneously inserted 96554
catheter that terminates in the stomach. 96555

~~(8)~~(9) "Guardian" has the same meaning as in section 2111.01 96556
of the Revised Code. 96557

~~(9)~~(10) "Health care professional" means a physician or 96558
registered nurse. 96559

~~(10)~~(11) "Home care attendant" means an individual holding a 96560
valid ~~medicaid~~ provider agreement in accordance with section 96561
~~5111.881~~ 5166.301 of the Revised Code that authorizes the 96562
individual to provide home care attendant services to consumers. 96563

~~(11)~~(12) "Home care attendant services" means all of the 96564
following as provided by a home care attendant: 96565

(a) Personal care aide services; 96566

(b) Assistance with the self-administration of medication; 96567

(c) Assistance with nursing tasks. 96568

~~(12)~~(13) "Jejunostomy tube" means a percutaneously inserted 96569
catheter that terminates in the jejunum. 96570

~~(13) "Medicaid waiver component" has the same meaning as in~~ 96571
~~section 5111.85 of the Revised Code.~~ 96572

(14) "Medication" means a drug as defined in section 4729.01 96573

of the Revised Code. 96574

(15) "Minor" means an individual under eighteen years of age. 96575

(16) "Participating medicaid waiver component" means ~~both~~ all 96576
of the following: 96577

(a) The medicaid-funded component of the PASSPORT program, 96578
unless it is terminated pursuant to division (C) of section 173.52 96579
of the Revised Code; 96580

(b) The Ohio home care waiver program created under, unless 96581
it is terminated pursuant to section 5111.861 5166.12 of the 96582
Revised Code; 96583

~~(b)~~(c) The Ohio transitions II aging carve-out program 96584
created under, unless it is terminated pursuant to section 96585
5111.863 5166.13 of the Revised Code; 96586

(d) The integrated care delivery system medicaid waiver 96587
component authorized by section 5166.16 of the Revised Code. 96588

(17) "Physician" means an individual authorized under Chapter 96589
4731. of the Revised Code to practice medicine and surgery or 96590
osteopathic medicine and surgery. 96591

(18) "Practice of nursing as a registered nurse," "practice 96592
of nursing as a licensed practical nurse," and "registered nurse" 96593
have the same meanings as in section 4723.01 of the Revised Code. 96594
"Registered nurse" includes an advanced practice registered nurse, 96595
as defined in section 4723.01 of the Revised Code. 96596

(19) "Schedule II," "schedule III," "schedule IV," and 96597
"schedule V" have the same meanings as in section 3719.01 of the 96598
Revised Code. 96599

(B) ~~The director of job and family services may submit~~ 96600
~~requests to the United States secretary of health and human~~ 96601
~~services to amend the federal medicaid waivers authorizing the~~ 96602
~~participating~~ Participating medicaid waiver components ~~to have~~ 96603

~~those components~~ may cover home care attendant services in 96604
accordance with sections ~~5111.88~~ 5166.30 to ~~5111.8810~~ 5166.3010 of 96605
the Revised Code and rules adopted under section ~~5111.8811~~ 5166.02 96606
of the Revised Code. ~~Notwithstanding sections 5111.881 to~~ 96607
~~5111.8811 of the Revised Code, those sections shall be implemented~~ 96608
~~regarding a participating medicaid waiver component only if the~~ 96609
~~secretary approves a waiver amendment for the component.~~ 96610

Sec. ~~5111.881~~ 5166.301. The medicaid director ~~of job and~~ 96611
~~family services~~ shall enter into a medicaid provider agreement 96612
with an individual to authorize the individual to provide home 96613
care attendant services to consumers if the individual does both 96614
of the following: 96615

(A) Agrees to comply with the requirements of sections 96616
~~5111.88~~ 5166.30 to ~~5111.8810~~ 5166.3010 and rules adopted under 96617
section ~~5111.8811~~ 5166.02 of the Revised Code; 96618

(B) Provides the director evidence satisfactory to the 96619
director of all of the following: 96620

(1) That the individual either meets the personnel 96621
qualifications specified in 42 C.F.R. 484.4 for home health aides 96622
or has successfully completed at least one of the following: 96623

(a) A competency evaluation program or training and 96624
competency evaluation program approved or conducted by the 96625
director of health under section 3721.31 of the Revised Code; 96626

(b) A training program approved by the ~~department of job and~~ 96627
~~family services~~ appropriate director that includes training in at 96628
least all of the following and provides training equivalent to a 96629
training and competency evaluation program specified in division 96630
(B)(1)(a) of this section or meets the requirements of 42 C.F.R. 96631
484.36(a): 96632

(i) Basic home safety; 96633

(ii) Universal precautions for the prevention of disease transmission, including hand-washing and proper disposal of bodily waste and medical instruments that are sharp or may produce sharp pieces if broken;

(iii) Personal care aide services;

(iv) The labeling, counting, and storage requirements for schedule II, III, IV, and V medications.

(2) That the individual has obtained a certificate of completion of a course in first aid from a first aid course to which all of the following apply:

(a) It is not provided solely through the internet.

(b) It includes hands-on training provided by a first aid instructor who is qualified to provide such training according to standards set in rules adopted under section ~~5111.8811~~ 5166.02 of the Revised Code.

(c) It requires the individual to demonstrate successfully that the individual has learned the first aid taught in the course.

(3) That the individual meets any other requirements for the medicaid provider agreement specified in rules adopted under section ~~5111.8811~~ 5166.02 of the Revised Code.

Sec. ~~5111.882~~ 5166.302. A home care attendant shall complete not less than twelve hours of in-service continuing education regarding home care attendant services each year and provide the appropriate director ~~of job and family services~~ evidence satisfactory to the appropriate director that the attendant satisfied this requirement. The evidence shall be submitted to the appropriate director not later than the annual anniversary of the issuance of the home care attendant's initial ~~medicaid~~ provider agreement.

Sec. ~~5111.883~~ 5166.303. A home care attendant shall do all of the following:

(A) Maintain a clinical record for each consumer to whom the attendant provides home care attendant services in a manner that protects the consumer's privacy;

(B) Participate in a face-to-face visit every ninety days with all of the following to monitor the health and welfare of each of the consumers to whom the attendant provides home care attendant services:

(1) The consumer;

(2) The consumer's authorized representative, if any;

(3) A registered nurse who agrees to answer any questions that the attendant, consumer, or authorized representative has about consumer care needs, medications, and other issues.

(C) Document the activities of each visit required by division (B) of this section in the consumer's clinical record with the assistance of the registered nurse.

Sec. ~~5111.884~~ 5166.304. (A) A home care attendant may assist a consumer with nursing tasks or self-administration of medication only after the attendant does both of the following:

(1) Subject to division (B) of this section, completes consumer-specific training in how to provide the assistance that the authorizing health care professional authorizes the attendant to provide to the consumer;

(2) At the request of the consumer, consumer's authorized representative, or authorizing health care professional, successfully demonstrates that the attendant has learned how to provide the authorized assistance to the consumer.

(B) The training required by division (A)(1) of this section

shall be provided by either of the following: 96693

(1) The authorizing health care professional; 96694

(2) The consumer or consumer's authorized representative in 96695
cooperation with the authorizing health care professional. 96696

Sec. ~~5111.885~~ 5166.305. A home care attendant shall comply 96697
with both of the following when assisting a consumer with nursing 96698
tasks or self-administration of medication: 96699

(A) The written consent of the consumer or consumer's 96700
authorized representative provided to the appropriate director ~~of~~ 96701
~~job and family services~~ under section ~~5111.886~~ 5166.306 of the 96702
Revised Code; 96703

(B) The authorizing health care professional's written 96704
authorization provided to the appropriate director under section 96705
~~5111.887~~ 5166.307 of the Revised Code. 96706

Sec. ~~5111.886~~ 5166.306. To consent to a home care attendant 96707
assisting a consumer with nursing tasks or self-administration of 96708
medication, the consumer or consumer's authorized representative 96709
shall provide the appropriate director ~~of job and family services~~ 96710
a written statement signed by the consumer or authorized 96711
representative under which the consumer or authorized 96712
representative consents to both of the following: 96713

(A) Having the attendant assist the consumer with nursing 96714
tasks or self-administration of medication; 96715

(B) Assuming responsibility for directing the attendant when 96716
the attendant assists the consumer with nursing tasks or 96717
self-administration of medication. 96718

Sec. ~~5111.887~~ 5166.307. To authorize a home care attendant to 96719
assist a consumer with nursing tasks or self-administration of 96720

medication, a health care professional shall provide the 96721
appropriate director ~~of job and family services~~ a written 96722
statement signed by the health care professional that includes all 96723
of the following: 96724

(A) The consumer's name and address; 96725

(B) A description of the nursing tasks or self-administration 96726
of medication with which the attendant is to assist the consumer, 96727
including, in the case of assistance with self-administration of 96728
medication, the name and dosage of the medication; 96729

(C) The times or intervals when the attendant is to assist 96730
the consumer with the self-administration of each dosage of the 96731
medication or nursing tasks; 96732

(D) The dates the attendant is to begin and cease providing 96733
the assistance; 96734

(E) A list of severe adverse reactions the attendant must 96735
report to the health care professional should the consumer 96736
experience one or more of the reactions; 96737

(F) At least one telephone number at which the attendant can 96738
reach the health care professional in an emergency; 96739

(G) Instructions the attendant is to follow when assisting 96740
the consumer with nursing tasks or self-administration of 96741
medication, including instructions for maintaining sterile 96742
conditions and for storage of task-related equipment and supplies; 96743

(H) The health care professional's attestation of both of the 96744
following: 96745

(1) That the consumer or consumer's authorized representative 96746
has demonstrated to the health care professional the ability to 96747
direct the attendant; 96748

(2) That the attendant has demonstrated to the health care 96749

professional the ability to provide the consumer assistance with 96750
nursing tasks or self-administration of medication that the health 96751
care professional has specifically authorized the attendant to 96752
provide and that the consumer or consumer's authorized 96753
representative has indicated to the health care professional that 96754
the consumer or authorized representative is satisfied with the 96755
attendant's demonstration. 96756

Sec. ~~5111.888~~ 5166.308. When authorizing a home care 96757
attendant to assist a consumer with nursing tasks or 96758
self-administration of medication, a health care professional may 96759
not authorize a home care attendant to do any of the following: 96760

(A) Perform a task that is outside of the health care 96761
professional's scope of practice; 96762

(B) Assist the consumer with the self-administration of a 96763
medication, including a schedule II, schedule III, schedule IV, or 96764
schedule V drug unless both of the following apply: 96765

(1) The medication is administered orally, topically, or via 96766
a gastrostomy tube or jejunostomy tube, including through any of 96767
the following: 96768

(a) In the case of an oral medication, a metered dose 96769
inhaler; 96770

(b) In the case of a topical medication, including a 96771
transdermal medication, either of the following: 96772

(i) An eye, ear, or nose drop or spray; 96773

(ii) A vaginal or rectal suppository. 96774

(c) In the case of a gastrostomy tube or jejunostomy tube, 96775
only through a pre-programmed pump. 96776

(2) The medication is in its original container and the label 96777
attached to the container displays all of the following: 96778

(a) The consumer's full name in print;	96779
(b) The medication's dispensing date, which must not be more than twelve months before the date the attendant assists the consumer with self-administration of the medication;	96780 96781 96782
(c) The exact dosage and means of administration that match the health care professional's authorization to the attendant.	96783 96784
(C) Assist the consumer with the self-administration of a schedule II, schedule III, schedule IV, or schedule V medication unless, in addition to meeting the requirements of division (B) of this section, all of the following apply:	96785 96786 96787 96788
(1) The medication has a warning label on its container.	96789
(2) The attendant counts the medication in the consumer's or authorized representative's presence when the medication is administered to the consumer and records the count on a form used for the count as specified in rules adopted under section 5111.8811 <u>5166.02</u> of the Revised Code.	96790 96791 96792 96793 96794
(3) The attendant recounts the medication in the consumer's or authorized representative's presence at least monthly and reconciles the recount on a log located in the consumer's clinical record.	96795 96796 96797 96798
(4) The medication is stored separately from all other medications and is secured and locked at all times when not being administered to the consumer to prevent unauthorized access.	96799 96800 96801
(D) Perform an intramuscular injection;	96802
(E) Perform a subcutaneous injection unless it is for a routine dose of insulin;	96803 96804
(F) Program a pump used to deliver a medication unless the pump is used to deliver a routine dose of insulin;	96805 96806
(G) Insert, remove, or discontinue an intravenous access device;	96807 96808

- (H) Engage in intravenous medication administration; 96809
- (I) Insert or initiate an infusion therapy; 96810
- (J) Perform a central line dressing change. 96811

Sec. ~~5111.889~~ 5166.309. A home care attendant who provides 96812
home care attendant services to a consumer in accordance with the 96813
authorizing health care professional's authorization does not 96814
engage in the practice of nursing as a registered nurse or in the 96815
practice of nursing as a licensed practical nurse in violation of 96816
section 4723.03 of the Revised Code. 96817

A consumer or the consumer's authorized representative shall 96818
report to the appropriate director ~~of job and family services~~ if a 96819
home care attendant engages in the practice of nursing as a 96820
registered nurse or the practice of nursing as a licensed 96821
practical nurse beyond the authorizing health care professional's 96822
authorization. The appropriate director shall forward a copy of 96823
each report to the board of nursing. 96824

Sec. ~~5111.8810~~ 5166.3010. A consumer who is an adult may 96825
select an individual to act on the consumer's behalf for purposes 96826
regarding home care attendant services by submitting a written 96827
notice of the consumer's selection of an authorized representative 96828
to the appropriate director ~~of job and family services~~. The notice 96829
shall specifically identify the individual the consumer selects as 96830
authorized representative and may limit what the authorized 96831
representative may do on the consumer's behalf regarding home care 96832
attendant services. A consumer may not select the consumer's home 96833
care attendant to be the consumer's authorized representative. 96834
96835

Sec. ~~5111.97~~ 5166.35. (A) ~~As used in this section:~~ 96836
(1) ~~"Home and community based services medicaid waiver~~ 96837

~~component" has the same meaning as in section 5111.85 of the Revised Code.~~ 96838
96839

~~(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 96840
96841

~~(B) To the extent funds are available, the~~ The medicaid 96842
~~director of job and family services~~ may establish the Ohio access 96843
success project to help medicaid recipients make the transition 96844
from residing in a nursing ~~facility~~ facilities to residing in a 96845
community ~~setting~~ settings. The project may be established as a 96846
separate nonmedicaid program or integrated into a new or existing 96847
home and community-based services medicaid waiver component. The 96848
director shall permit any medicaid recipient ~~of medicaid-funded~~ 96849
receiving nursing facility services to apply for participation in 96850
the project, but may limit the number of project participants. 96851

The director shall ensure that an assessment of an applicant 96852
is conducted as soon as practicable to determine whether the 96853
applicant is eligible for participation in the project. To the 96854
maximum extent possible, the assessment and eligibility 96855
determination shall be completed not later than the date that 96856
occurs six months after the applicant ~~became a recipient of~~ 96857
~~medicaid-funded~~ begins to receive nursing facility services. 96858

~~(C)~~(B) To be eligible for benefits under the project, a 96859
medicaid recipient must satisfy all of the following requirements: 96860

(1) The medicaid recipient must be ~~a recipient of~~ 96861
~~medicaid-funded~~ receiving nursing facility services, at the time 96862
of applying for the project benefits. 96863

(2) If the project is established as a nonmedicaid program, 96864
the medicaid recipient must be able to remain in the community as 96865
a result of receiving project benefits and the projected cost of 96866
the benefits to the project does not exceed eighty per cent of the 96867
average monthly medicaid cost of a medicaid recipient in a nursing 96868

facility. 96869

(3) If the project is integrated into a home and 96870
community-based services medicaid waiver component, the medicaid 96871
recipient must meet the waiver component's enrollment criteria. 96872

~~(D)~~(C) If the director establishes the Ohio access success 96873
project, the benefits provided under the project may include 96874
payment of all of the following: 96875

(1) The first month's rent in a community setting; 96876

(2) Rental deposits; 96877

(3) Utility deposits; 96878

(4) Moving expenses; 96879

(5) Other expenses not covered by the medicaid program that 96880
facilitate a medicaid recipient's move from a nursing facility to 96881
a community setting. 96882

~~(E)~~(D) If the project is established as a nonmedicaid 96883
program, no participant may receive more than two thousand 96884
dollars' worth of benefits under the project. 96885

~~(F)~~(E) If the department of ~~job and family services~~ medicaid 96886
enters into a contract with an entity to provide fiscal management 96887
services regarding the project, the contract may provide for a 96888
portion of a participant's benefits under the project to be paid 96889
to the contracting entity. The contract shall specify the portion 96890
to be paid to the contracting entity. 96891

~~(G)~~ The director may submit a request to the United States 96892
~~secretary of health and human services pursuant to section 1915 of~~ 96893
~~the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n,~~ 96894
~~as amended, to create a home and community based services medicaid~~ 96895
~~waiver component to serve individuals who meet the criteria for~~ 96896
~~participation in the Ohio access success project.~~ 96897

~~(H)~~(F) The director may adopt rules in accordance with 96898

Chapter 119. of the Revised Code for the administration and 96899
operation of the project. If the project is integrated into a home 96900
and community-based services medicaid waiver component, the rules 96901
shall be adopted under section ~~5111.85~~ 5166.02 of the Revised 96902
Code. 96903

Sec. 5167.01. As used in this chapter: 96904

(A) "Controlled substance" has the same meaning as in section 96905
3719.01 of the Revised Code. 96906

(B) "Dual eligible individual" has the same meaning as in 96907
section 5160.01 of the Revised Code. 96908

(C) "Emergency services" has the same meaning as in the 96909
"Social Security Act," section 1932(b)(2), 42 U.S.C. 96910
1396u-2(b)(2). 96911

(D) "Home and community-based services medicaid waiver 96912
component" has the same meaning as in section 5166.01 of the 96913
Revised Code. 96914

(E) "Medicaid managed care organization" means a managed care 96915
organization under contract with the department of medicaid 96916
pursuant to section 5167.10 of the Revised Code. 96917

(F) "Medicaid waiver component" has the same meaning as in 96918
section 5166.01 of the Revised Code. 96919

(G) "Nursing facility" has the same meaning as in section 96920
5165.01 of the Revised Code. 96921

(H) "Provider" means any person or government entity that 96922
furnishes emergency services to a medicaid recipient enrolled in a 96923
medicaid managed care organization, regardless of whether the 96924
person or entity has a provider agreement. 96925

(I) "Provider agreement" has the same meaning as in section 96926
5164.01 of the Revised Code. 96927

Sec. 5167.02. The medicaid director shall adopt rules as 96928
necessary to implement this chapter. The rules shall be adopted in 96929
accordance with Chapter 119. of the Revised Code. 96930

~~Sec. 5111.16~~ 5167.03. (A) As part of the medicaid program, 96931
the department of ~~job and family services~~ medicaid shall establish 96932
a care management system. ~~The department shall submit, if~~ 96933
~~necessary, applications to the United States department of health~~ 96934
~~and human services for waivers of federal medicaid requirements~~ 96935
~~that would otherwise be violated in the implementation of the~~ 96936
~~system.~~ 96937

(B) The department shall implement the care management system 96938
in some or all counties and shall designate the medicaid 96939
recipients who are required or permitted to participate in the 96940
system. In the department's implementation of the system and 96941
designation of participants, all of the following apply: 96942

(1) In the case of individuals who receive medicaid on the 96943
basis of being included in the category identified by the 96944
department as covered families and children, the department shall 96945
implement the care management system in all counties. All 96946
individuals included in the category shall be designated for 96947
participation, except for individuals included in one or more of 96948
the medicaid recipient groups specified in 42 C.F.R. 438.50(d). 96949
The department shall ensure that all participants are enrolled in 96950
medicaid managed care organizations that are health insuring 96951
~~corporations under contract with the department pursuant to~~ 96952
~~section 5111.17 of the Revised Code.~~ 96953

(2) In the case of individuals who receive medicaid on the 96954
basis of being aged, blind, or disabled, ~~as specified in division~~ 96955
~~(C)(2) of section 5111.01 of the Revised Code,~~ the department 96956
shall implement the care management system in all counties. Except 96957

as provided in division (C) of this section, all individuals 96958
included in the category shall be designated for participation. 96959
The department shall ensure that all participants are enrolled in 96960
medicaid managed care organizations that are health insuring 96961
~~corporations under contract with the department pursuant to~~ 96962
~~section 5111.17 of the Revised Code.~~ 96963

(3) Alcohol, drug addiction, and mental health services 96964
covered by medicaid shall not be included in any component of the 96965
care management system when the nonfederal share of the cost of 96966
those services is provided by a board of alcohol, drug addiction, 96967
and mental health services or a state agency other than the 96968
department of ~~job and family services~~ medicaid, but the recipients 96969
of those services may otherwise be designated for participation in 96970
the system. 96971

(C)(1) In designating participants who receive medicaid on 96972
the basis of being aged, blind, or disabled, the department shall 96973
not include any of the following, except as provided under 96974
division (C)(2) of this section: 96975

(a) Individuals who are under twenty-one years of age; 96976

(b) Individuals who are institutionalized; 96977

(c) Individuals who become eligible for medicaid by spending 96978
down their income or resources to a level that meets the medicaid 96979
program's financial eligibility requirements; 96980

(d) ~~Individuals who are dually~~ Dual eligible under the 96981
~~medicaid program and the medicare program established under Title~~ 96982
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.~~ 96983
~~1395, as amended~~ individuals; 96984

(e) Individuals to the extent that they are receiving 96985
medicaid services through a medicaid waiver component, ~~as defined~~ 96986
~~in section 5111.85 of the Revised Code.~~ 96987

(2) ~~If any necessary waiver of federal medicaid requirements~~ 96988
~~is granted, the~~ The department may designate any of the following 96989
individuals who receive medicaid on the basis of being aged, 96990
blind, or disabled as individuals who are permitted or required to 96991
participate in the care management system: 96992

(a) Individuals who are under twenty-one years of age; 96993

(b) Individuals who reside in a nursing facility, ~~as defined~~ 96994
~~in section 5111.20 of the Revised Code;~~ 96995

(c) Individuals who, as an alternative to receiving nursing 96996
facility services, are participating in a home and community-based 96997
services medicaid waiver component, ~~as defined in section 5111.85~~ 96998
~~of the Revised Code;~~ 96999

(d) ~~Individuals who are dually~~ Dual eligible under the 97000
~~medicaid program and the medicare program~~ individuals. 97001

(D) Subject to division (B) of this section, the department 97002
may do both of the following under the care management system: 97003

(1) Require or permit participants in the system to obtain 97004
health care services from providers designated by the department; 97005

(2) Require or permit participants in the system to obtain 97006
health care services through medicaid managed care organizations 97007
~~under contract with the department pursuant to section 5111.17 of~~ 97008
~~the Revised Code.~~ 97009

~~(E)(1) The department shall prepare an annual report on the~~ 97010
~~care management system. The report shall address the department's~~ 97011
~~ability to implement the system, including all of the following~~ 97012
~~components:~~ 97013

~~(a) The required designation of participants included in the~~ 97014
~~category identified by the department as covered families and~~ 97015
~~children;~~ 97016

~~(b) The required designation of participants included in the~~ 97017

~~aged, blind, or disabled category of medicaid recipients;~~ 97018

~~(c) The use of any programs for enhanced care management.~~ 97019

~~(2) The department shall submit each annual report to the~~ 97020
~~general assembly. The first report shall be submitted not later~~ 97021
~~than October 1, 2007.~~ 97022

~~(F) The director of job and family services may adopt rules~~ 97023
~~in accordance with Chapter 119. of the Revised Code to implement~~ 97024
~~this section.~~ 97025

Sec. ~~5111.161~~ 5167.031. (A) As used in this section: 97026

(1) "Children's care network" means any of the following: 97027

(a) A children's hospital; 97028

(b) A group of children's hospitals; 97029

(c) A group of pediatric physicians. 97030

(2) "Children's hospital" has the same meaning as in section 97031
2151.86 of the Revised Code. 97032

(B) If the department of ~~job and family services~~ medicaid 97033
includes in the care management system, pursuant to section 97034
~~5111.16~~ 5167.03 of the Revised Code, individuals under twenty-one 97035
years of age who are included in the category of individuals who 97036
receive medicaid on the basis of being aged, blind, or disabled, 97037
~~as specified in division (C)(2) of section 5111.01 of the Revised~~ 97038
~~Code,~~ the department ~~shall develop a system to~~ may recognize 97039
entities as pediatric accountable care organizations. ~~The purpose~~ 97040
~~of the recognition system shall be to meet the complex medical and~~ 97041
~~behavioral needs of disabled children through new approaches to~~ 97042
~~care coordination. The department shall implement the recognition~~ 97043
~~system not later than July 1, 2012.~~ 97044

An entity recognized by the department as a pediatric 97045
accountable care organization may develop innovative partnerships 97046

between relevant groups and may contract directly or subcontract 97047
with the state to provide care coordination and other services to 97048
the medicaid recipients under twenty-one years of age described in 97049
this division who are permitted or required to participate in the 97050
care management system. 97051

(C)(1) To be recognized by the department as a pediatric 97052
accountable care organization, an entity shall meet the standards 97053
established ~~in rules adopted under this section by the department.~~ 97054
Unless required by ~~sections~~ section 2706 ~~and 3022~~ of the "Patient 97055
Protection and Affordable Care Act," 124 Stat. 325 (2010) and 97056
~~Title XVIII of the "Social Security Act," 124 Stat. 395 (2010)~~ 97057
section 1895, 42 U.S.C. 1395jjj, the regulations adopted pursuant 97058
to those sections, and the laws of this state, the department 97059
shall not require that an entity be a health insuring corporation 97060
as a condition of receiving the department's recognition. 97061

(2) Any of the following entities may receive the 97062
department's recognition, if the standards for recognition have 97063
been met: 97064

(a) A children's care network; 97065

(b) A children's care network that may include one or more 97066
other entities, including, but not limited to, health insuring 97067
corporations or other managed care organizations; 97068

(c) Any other entity the department determines is qualified. 97069

(D) The ~~department~~ medicaid director shall consult with all 97070
of the following in adopting rules ~~under~~ authorized by division 97071
(E) of this section necessary for an entity to be recognized by 97072
the department as a pediatric accountable care organization: 97073

(1) The superintendent of insurance; 97074

(2) Children's hospitals; 97075

(3) ~~Managed~~ Medicaid managed care organizations ~~under~~ 97076

~~contract pursuant to section 5111.17 of the Revised Code;~~ 97077

(4) Any other relevant entities, as determined necessary by 97078
the department, with interests in pediatric accountable care 97079
organizations. 97080

(E) ~~The department shall adopt rules in accordance with~~ 97081
~~Chapter 119. of the Revised Code as necessary to implement this~~ 97082
~~section.~~ In adopting the rules under section 5167.02 of the 97083
Revised Code, the ~~department~~ medicaid director shall do all of the 97084
following: 97085

(1) Establish application procedures to be followed by an 97086
entity seeking recognition as a pediatric accountable care 97087
organization; 97088

(2) Ensure that the standards for recognition as a pediatric 97089
accountable care organization are the same as and do not conflict 97090
with those specified in ~~sections~~ section 2706 and 3022 of the 97091
"Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) 97092
and ~~Title XVIII of the "Social Security Act," 124 Stat. 395 (2010)~~ 97093
section 1895, 42 U.S.C. 1395jjj or the regulations adopted 97094
pursuant to those sections; 97095

(3) Establish requirements regarding the access to pediatric 97096
specialty care provided through or by a pediatric accountable care 97097
organization; 97098

(4) Establish accountability and financial requirements for 97099
an entity recognized as a pediatric accountable care organization; 97100

(5) Establish quality improvement initiatives consistent with 97101
any state medicaid quality plan established by the department; 97102

(6) Establish transparency and consumer protection 97103
requirements for an entity recognized as a pediatric accountable 97104
care organization; 97105

(7) Establish a process for sharing data. 97106

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.

Sec. 5167.032. (A) The department of medicaid shall prepare an annual report on the care management system established under this chapter. The report shall address the department's ability to implement the system, including all of the following components:

(1) The required designation of participants included in the category identified by the department as covered families and children;

(2) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;

(3) The use of any programs for enhanced care management.

(B) The department shall submit each annual report to the general assembly in accordance with section 101.68 of the Revised Code.

Sec. ~~5111.17~~ 5167.10. (A) The department of ~~job and family services~~ medicaid may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to ~~medical-assistance~~ medicaid recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section ~~5111.16~~ 5167.03 of the Revised Code.

(B) ~~The~~ (1) Subject to division (B)(2)(a) of this section, the department or its actuary shall base the hospital inpatient capital payment portion of the payment made to managed care organizations on data for services provided to all recipients enrolled in managed care organizations with which the department

contracts, as reported by hospitals on relevant cost reports 97137
submitted pursuant to rules adopted under ~~this~~ section 5167.02 of 97138
the Revised Code. 97139

(2)(a) The hospital inpatient capital payment portion of the 97140
payment made to medicaid managed care organizations shall not 97141
exceed any maximum rate established by the department pursuant to 97142
rules adopted under this section. 97143

(b) If a maximum rate is established, a medicaid managed care 97144
organization shall not compensate hospitals for inpatient capital 97145
costs in an amount that exceeds that rate. 97146

~~(C) The director of job and family services may adopt rules~~ 97147
~~in accordance with Chapter 119. of the Revised Code to implement~~ 97148
~~this section.~~ 97149

~~(D)~~ The department of ~~job and family services~~ medicaid shall 97150
allow a medicaid managed care organization to use providers to 97151
render care upon completion of the medicaid managed care 97152
organization's credentialing process. 97153

Sec. ~~5111.177~~ 5167.11. When contracting under section ~~5111.17~~ 97154
5167.10 of the Revised Code with a health insuring corporation 97155
that holds a certificate of authority under Chapter 1751. of the 97156
Revised Code, the department of ~~job and family services~~ medicaid 97157
shall require the health insuring corporation to provide a 97158
grievance process for medicaid recipients in accordance with 42 97159
C.F.R. 438, subpart F. 97160

Sec. ~~5111.172~~ 5167.12. (A) When contracting under section 97161
~~5111.17~~ 5167.10 of the Revised Code with a managed care 97162
organization that is a health insuring corporation, the department 97163
of ~~job and family services~~ medicaid shall require the health 97164
insuring corporation to provide coverage of prescription drugs for 97165
medicaid recipients enrolled in the health insuring corporation. 97166

In providing the required coverage, the health insuring corporation may, subject to the department's approval and the limitations specified in division (B) of this section, use strategies for the management of drug utilization.

(B) The department shall not permit a health insuring corporation to impose a prior authorization requirement in the case of a drug to which all of the following apply:

(1) The drug is an antidepressant or antipsychotic.

(2) The drug is administered or dispensed in a standard tablet or capsule form, except that in the case of an antipsychotic, the drug also may be administered or dispensed in a long-acting injectable form.

(3) The drug is prescribed by either of the following:

(a) A physician whom the health insuring corporation, pursuant to division (C) of section ~~5111.17~~ 5167.10 of the Revised Code, has credentialed to provide care as a psychiatrist;

(b) A psychiatrist practicing at a community mental health ~~agency services provider~~ certified by the department of ~~mental health~~ mental health and addiction services under section ~~5119.611~~ 5119.36 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.

~~(C) As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code.~~

The department shall permit a health insuring corporation to develop and implement a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription.

Sec. ~~5111.179~~ 5167.13. Each contract the department of job and family services medicaid enters into with a managed care organization under section ~~5111.17~~ 5167.10 of the Revised Code shall require the managed care organization to implement a coordinated services program for medicaid recipients enrolled in the organization who are found to have obtained prescription drugs under the medicaid program at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is consistent with ~~section 1915(a)(2)~~ of the "Social Security Act," ~~95 Stat. 810 (1981)~~ section 1915(a)(2), 42 U.S.C. 1396n(a)(2), ~~as amended~~, and 42 C.F.R. 431.54(e).

Sec. ~~5111.1710~~ 5167.14. Each contract the department of job and family services medicaid enters into with a managed care organization under section ~~5111.17~~ 5167.10 of the Revised Code shall require the managed care organization to enter into a data security agreement with the state board of pharmacy governing the managed care organization's use of the board's drug database established and maintained under section 4729.75 of the Revised Code.

This section does not apply if the board no longer maintains the drug database.

Sec. ~~5111.162~~ 5167.20. (A) ~~As used in this section:~~

(1) ~~"Emergency services" has the same meaning as in section 1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-2(b)(2), as amended.~~

(2) ~~"Medicaid managed care organization" means a managed care organization that has entered into a contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.~~

~~(B)~~ Except as provided in division ~~(C)~~(B) of this section, 97226
when a participant in the care management system established under 97227
~~section 5111.16 of the Revised Code~~ this chapter is enrolled in a 97228
medicaid managed care organization and the organization refers the 97229
participant to receive services, other than emergency services 97230
provided on or after January 1, 2007, at a hospital that 97231
participates in the medicaid program but is not under contract 97232
with the organization, the hospital shall provide the service for 97233
which the referral was made and shall accept from the 97234
organization, as payment in full, the amount derived from the 97235
~~reimbursement~~ payment rate used by the department to ~~reimburse~~ pay 97236
other hospitals of the same type for providing the same service to 97237
a medicaid recipient who is not enrolled in a medicaid managed 97238
care organization. 97239

~~(C)~~(B) A hospital is not subject to division ~~(B)~~(A) of this 97240
section if all of the following are the case: 97241

(1) The hospital is located in a county in which participants 97242
in the care management system are required before January 1, 2006, 97243
to be enrolled in a medicaid managed care organization that is a 97244
health insuring corporation; 97245

(2) The hospital has entered into a contract before January 97246
1, 2006, with at least one health insuring corporation serving the 97247
participants specified in division ~~(C)~~(B)(1) of this section; 97248

(3) The hospital remains under contract with at least one 97249
health insuring corporation serving participants in the care 97250
management system who are required to be enrolled in a health 97251
insuring corporation. 97252

~~(D)~~(C) The medicaid director ~~of job and family services~~ shall 97253
adopt rules under section 5167.02 of the Revised Code specifying 97254
the circumstances under which a medicaid managed care organization 97255
is permitted to refer a participant in the care management system 97256

to a hospital that is not under contract with the organization. 97257
~~The director may adopt any other rules necessary to implement this~~ 97258
~~section. All rules adopted under this section shall be adopted in~~ 97259
~~accordance with Chapter 119. of the Revised Code.~~ 97260

Sec. ~~5111.163~~ 5167.201. ~~(A) As used in this section:~~ 97261

~~(1) "Emergency services" has the same meaning as in section~~ 97262
~~1932(b)(2) of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 97263
~~U.S.C. 1396u-2(b)(2), as amended.~~ 97264

~~(2) "Medicaid managed care organization" has the same meaning~~ 97265
~~as in section 5111.162 of the Revised Code.~~ 97266

~~(3) "Provider" means any person, institution, or entity that~~ 97267
~~furnishes emergency services to a medicaid recipient enrolled in a~~ 97268
~~medicaid managed care organization, regardless of whether the~~ 97269
~~person, institution, or entity has a provider agreement with the~~ 97270
~~department of job and family services pursuant to Title XIX of the~~ 97271
~~"Social Security Act."~~ 97272

~~(B) When a participant in the care management system~~ 97273
~~established under section 5111.16 of the Revised Code this chapter~~ 97274
~~is enrolled in a medicaid managed care organization and receives~~ 97275
~~emergency services on or after January 1, 2007, from a provider~~ 97276
~~that is not under contract with the organization, the provider~~ 97277
~~shall accept from the organization, as payment in full, not more~~ 97278
~~than the amounts (less any payments for indirect costs of medical~~ 97279
~~education and direct costs of graduate medical education) that the~~ 97280
~~provider could collect if the participant received medicaid other~~ 97281
~~than through enrollment in a managed care organization.~~ 97282

An agreement entered into by a participant, a participant's 97283
parent, or a participant's legal guardian that requires payment 97284
for emergency services in violation of this section is void and 97285
unenforceable. 97286

Sec. ~~5111.982~~ 5167.21. (A) As used in this section: 97287

(1) "Covered skilled nursing facility services" has the same 97288
meaning as in the "Social Security Act," section 1888(e)(2)(A), 42 97289
U.S.C. 1395yy(e)(2)(A). 97290

(2) "Current medicare fee-for-service rate" means the 97291
fee-for-service rate in effect for a covered skilled nursing 97292
facility service under medicare at the time the service is 97293
provided. 97294

(3) "Skilled nursing facility" has the same meaning as in the 97295
"Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a). 97296

(B) Except as provided in division (C) of this section, a 97297
medicaid managed care organization shall pay a skilled nursing 97298
facility at least the current medicare fee-for-service rate, 97299
without deduction for any coinsurance, for covered skilled nursing 97300
facility services that the skilled nursing facility provides to a 97301
dual eligible individual if the medicaid managed care organization 97302
is responsible for the payment under the terms of a contract that 97303
the medicaid managed care organization, ~~medical assistance~~ 97304
medicaid director, and United States secretary of health and human 97305
services jointly enter into under the integrated care delivery 97306
system authorized by section ~~5111.981~~ 5164.91 of the Revised Code. 97307

(C) A medicaid managed care organization is required to pay 97308
the rate specified in division (B) of this section for covered 97309
skilled nursing facility services only if all of the following 97310
apply: 97311

(1) The United States secretary agrees to the payment rate as 97312
part of the contract that the medicaid managed care organization, 97313
~~medical assistance~~ medicaid director, and United States secretary 97314
jointly enter into under the integrated care delivery system; 97315

(2) The medicaid managed care organization receives a federal 97316

capitation payment that is an actuarially sufficient amount for 97317
the costs that the medicaid managed care organization incurs in 97318
paying the rate; 97319

(3) No state funds are used for any part of the costs that 97320
the medicaid managed care organization incurs in paying the rate; 97321

(4) The integrated care delivery system provides for dual 97322
eligible individuals to receive the covered skilled nursing 97323
facility services as part of the system. 97324

Sec. ~~5111.178~~ 5167.25. (A) The medicaid director ~~of job and~~ 97325
~~family services~~ shall determine whether a waiver of federal 97326
medicaid requirements is necessary to fulfill the requirements of 97327
section 3901.3814 of the Revised Code. If the director determines 97328
a waiver is necessary, the department of ~~job and family services~~ 97329
medicaid shall apply to the United States secretary of health and 97330
human services for the waiver. 97331

(B)(1) If the director determines that section 3901.3814 of 97332
the Revised Code can be implemented without a waiver or a waiver 97333
is granted, the department shall notify the department of 97334
insurance that the section can be implemented. Implementation of 97335
the section shall be effective eighteen months after the notice is 97336
sent. 97337

(2) At the time the notice is given under division (B)(1) of 97338
this section, the department shall also give notice to each health 97339
insuring corporation that provides coverage to medicaid 97340
recipients. The notice shall inform the corporation that sections 97341
3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to 97342
claims for services rendered to recipients on the date determined 97343
under division (B)(1) of this section, instead of the prompt 97344
payment requirements of 42 C.F.R. 447.46. That date shall be 97345
specified in the notice. 97346

Sec. ~~5111.175~~ 5167.26. For the purpose of determining the 97347
amount the department of ~~job and family services~~ medicaid pays 97348
hospitals under section ~~5112.08~~ 5168.09 of the Revised Code and 97349
the amount of disproportionate share hospital payments paid by the 97350
medicare program ~~established under Title XVIII of~~ pursuant to the 97351
"Social Security Act," ~~79 Stat. 286 (1965)~~ section 1915, 42 U.S.C. 97352
1396n, ~~as amended,~~ a medicaid managed care organization ~~under~~ 97353
~~contract with the department pursuant to section 5111.17 of the~~ 97354
~~Revised Code authorizing the organization to provide, or arrange~~ 97355
~~for the provision of, hospital services to medicaid recipients~~ 97356
shall keep detailed records for each hospital with which it 97357
contracts ~~about,~~ including records regarding the cost to the 97358
hospital of providing ~~the~~ hospital services for the organization, 97359
payments made by the organization to the hospital for the 97360
services, utilization of hospital services by medicaid recipients 97361
enrolled in the organization, and other utilization data required 97362
by the department. 97363

Sec. ~~5111.1711~~ 5167.30. (A)(1) The department of ~~job and~~ 97364
~~family services~~ medicaid shall establish a managed care 97365
performance payment program. Under the program, the department may 97366
provide payments to medicaid managed care organizations ~~under~~ 97367
~~contract with the department pursuant to section 5111.17 of the~~ 97368
~~Revised Code~~ that meet performance standards established by the 97369
department. 97370

(2) In establishing performance standards, the department may 97371
consult any of the following: 97372

(a) Any quality measurements developed under the pediatric 97373
quality measures program established pursuant to the "Social 97374
Security Act," section 1139A, 42 U.S.C. 1320b-9a; 97375

(b) Any core set of adult health quality measures for 97376

medicaid eligible adults used for purposes of the "Social Security Act," section 1139A, 42 U.S.C. 1320b-9b, and any adult health quality used for purposes of the medicaid quality measurement program when the program is established under ~~42 U.S.C. 1320b-9b~~ that section of the "Social Security Act";

(c) The most recent healthcare effectiveness data and information set and quality measurement tool established by the national committee for quality assurance.

(3) The standards that must be met to receive the payments may be specified in the contract the department enters into with a medicaid managed care organization.

(4) If a medicaid managed care organization meets the performance standards established by the department, the department shall make one or more performance payments to the organization. The amount of each performance payment, the number of payments, and the schedule for making the payments shall be established by the department. The payments shall be discontinued if the department determines that the organization no longer meets the performance standards. The department shall not make or discontinue payments based on any performance standard that has been in effect as part of the organization's contract for less than six months.

(B) For purposes of the program, the department shall establish an amount that is to be withheld each time a premium payment is made to a medicaid managed care organization. The amount shall be established as a percentage of each premium payment. The percentage shall be the same for all medicaid managed care organizations ~~under contract with the department~~. The sum of all withholdings under this division shall not exceed ~~one~~ two per cent of the total of all premium payments made to all medicaid managed care organizations ~~under contract with the department~~.

Each medicaid managed care organization shall agree to the 97408
withholding as a condition of receiving or maintaining its 97409
medicaid provider agreement with the department. 97410

When the amount is established and each time the amount is 97411
modified thereafter, the department shall certify the amount to 97412
the director of budget and management and begin withholding the 97413
amount from each premium the department pays to a medicaid managed 97414
care organization. 97415

~~(C) There is hereby created in the state treasury the managed 97416
care performance payment fund. The fund shall consist of amounts 97417
transferred to it by the director of budget and management for the 97418
purpose of the program. All investment earnings of the fund shall 97419
be credited to the fund. Amounts in the fund shall be used solely 97420
to make performance payments to managed care organizations in 97421
accordance with this section. 97422~~

~~(D) The department may adopt rules as necessary to implement 97423
this section. The rules shall be adopted in accordance with 97424
Chapter 119. of the Revised Code. 97425~~

Sec. ~~5111.171~~ 5167.31. The department of ~~job and family~~ 97426
~~services~~ medicaid may provide financial incentive awards to 97427
medicaid managed care organizations ~~under contract with the~~ 97428
~~department pursuant to section 5111.17 of the Revised Code that~~ 97429
meet or exceed performance standards specified in provider 97430
agreements or rules adopted by the ~~department~~ medicaid director 97431
under section 5167.02 of the Revised Code. The department may 97432
specify in a contract with a medicaid managed care organization 97433
the amounts of financial incentive awards, methodology for 97434
distributing awards, types of awards, and standards for 97435
administration by the department. 97436

Sec. ~~5111.173~~ 5167.40. The department of ~~job and family~~ 97437

~~services~~ medicaid shall appoint a temporary manager for a medicaid 97438
managed care organization ~~under contract with the department~~ 97439
~~pursuant to section 5111.17 of the Revised Code~~ if the department 97440
determines that the medicaid managed care organization has 97441
repeatedly failed to meet substantive requirements specified in 97442
~~section 1903(m) of the "Social Security Act," 79 Stat. 286 (1965)~~ 97443
sections 1903(m) and 1932, 42 U.S.C. 1396b(m), as amended; section 97444
~~1932 of the Social Security Act, 42 U.S.C. and 1396u-2, as~~ 97445
~~amended; or 42 C.F.R. 438 Part I.~~ The appointment of a temporary 97446
manager does not preclude the department from imposing other 97447
sanctions available to the department against the medicaid managed 97448
care organization. 97449

The medicaid managed care organization shall pay all costs of 97450
having the temporary manager perform the temporary manager's 97451
duties, including all costs the temporary manager incurs in 97452
performing those duties. If the temporary manager incurs costs or 97453
liabilities on behalf of the medicaid managed care organization, 97454
the medicaid managed care organization shall pay those costs and 97455
be responsible for those liabilities. 97456

The appointment of a temporary manager is not subject to 97457
Chapter 119. of the Revised Code, but the managed care 97458
organization may request a reconsideration of the appointment. 97459
Reconsiderations shall be requested and conducted in accordance 97460
with rules the ~~director of job and family services~~ medicaid 97461
director shall adopt ~~in accordance with Chapter 119. of~~ under 97462
section 5167.02 of the Revised Code. 97463

The appointment of a temporary manager does not cause the 97464
medicaid managed care organization to lose the right to appeal, in 97465
accordance with Chapter 119. of the Revised Code, any proposed 97466
termination or any decision not to ~~renew~~ revalidate the medicaid 97467
managed care organization's ~~medicaid~~ provider agreement or the 97468

right to initiate the sale of the medicaid managed care 97469
organization or its assets. 97470

~~In addition to the rules required to be adopted under this 97471
section, the director may adopt any other rules necessary to 97472
implement this section. The rules shall be adopted in accordance 97473
with Chapter 119. of the Revised Code. 97474~~

Sec. ~~5111.174~~ 5167.41. The department of ~~job and family 97475
services~~ medicaid may disenroll some or all medicaid recipients 97476
enrolled in a medicaid managed care organization ~~under contract 97477
with the department pursuant to section 5111.17 of the Revised 97478
Code~~ if the department proposes to terminate or not to ~~renew 97479
revalidate~~ the contract and determines that the recipients' access 97480
to medically necessary services is jeopardized by the proposal to 97481
terminate or not to ~~renew~~ revalidate the contract. The 97482
disenrollment is not subject to Chapter 119. of the Revised Code, 97483
but the medicaid managed care organization may request a 97484
reconsideration of the disenrollment. Reconsiderations shall be 97485
requested and conducted in accordance with rules the medicaid 97486
~~director of job and family services~~ shall adopt ~~in accordance with 97487
Chapter 119. under section 5167.02~~ of the Revised Code. The 97488
request for, or conduct of, a reconsideration regarding a proposed 97489
disenrollment shall not delay the disenrollment. 97490

~~In addition to the rules required to be adopted under this 97491
section, the director may adopt any other rules necessary to 97492
implement this section. The rules shall be adopted in accordance 97493
with Chapter 119. of the Revised Code. 97494~~

Sec. ~~5112.01~~ 5168.01. As used in sections ~~5112.03~~ 5168.01 to 97495
~~5112.21~~ 5168.14 of the Revised Code: 97496

(A) "Bad debt," "charity care," "courtesy care," and 97497
"contractual allowances" have the same meanings given these terms 97498

in regulations adopted under Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq. 97499
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(B) "Cost reporting period" means the twelve-month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq. 97501
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(C) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5168.02 of the Revised Code. 97504
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(D) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2). 97507
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(E) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state-owned and -operated hospital with more than five hundred registered beds. 97513
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(F)(1) "Hospital" means a nonfederal hospital to which either of the following applies: 97516
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(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital, and provides inpatient hospital services, as defined in 42 C.F.R. 440.10; 97518
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(b) The hospital is recognized under the medicare program established by ~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ as a cancer hospital and is exempt from the medicare prospective payment system. 97522
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(2) "Hospital" does not include a hospital operated by a health insuring corporation that has been issued a certificate of authority under section 1751.05 of the Revised Code or a hospital 97526
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that does not charge patients for services. 97529

~~(2) "Disproportionate share hospital" means a hospital that 97530
meets the definition of a disproportionate share hospital in rules 97531
adopted under section 5112.03 of the Revised Code. 97532~~

~~(B) "Bad debt," "charity care," "courtesy care," and 97533
"contractual allowances" have the same meanings given these terms 97534
in regulations adopted under Title XVIII of the "Social Security 97535
Act." 97536~~

~~(C) "Cost reporting period" means the twelve month period 97537
used by a hospital in reporting costs for purposes of Title XVIII 97538
of the "Social Security Act." 97539~~

~~(D) "Governmental hospital" means a county hospital with more 97540
than five hundred registered beds or a state owned and operated 97541
hospital with more than five hundred registered beds. 97542~~

~~(E)~~(G) "Indigent care pool" means the sum of the following: 97543

(1) The total of assessments to be paid in a program year by 97544
all hospitals under section ~~5112.06~~ 5168.06 of the Revised Code, 97545
less the assessments deposited into the legislative budget 97546
services fund under section ~~5112.19~~ 5168.12 of the Revised Code 97547
and into the health care services administration fund created 97548
under section ~~5111.94~~ 5162.54 of the Revised Code; 97549

(2) The total amount of intergovernmental transfers required 97550
to be made in the same program year by governmental hospitals 97551
under section ~~5112.07~~ 5168.07 of the Revised Code, less the amount 97552
of transfers deposited into the legislative budget services fund 97553
under section ~~5112.19~~ 5168.12 of the Revised Code and into the 97554
health care services administration fund created under section 97555
~~5111.94~~ 5162.54 of the Revised Code; 97556

(3) The total amount of federal matching funds that will be 97557
made available in the same program year as a result of funds 97558

distributed by the department of ~~job and family services~~ medicaid 97559
to hospitals under section ~~5112.08~~ 5168.09 of the Revised Code. 97560

~~(F)~~(H) "Intergovernmental transfer" means any transfer of 97561
money by a governmental hospital under section ~~5112.07~~ 5168.07 of 97562
the Revised Code. 97563

~~(G)~~ "Medical assistance program" means the program of medical 97564
assistance established under section ~~5111.01~~ of the Revised Code 97565
and Title XIX of the "Social Security Act." 97566

~~(H)~~(I) "Medicaid services" has the same meaning as in section 97567
5164.01 of the Revised Code. 97568

(J) "Program year" means a period beginning the first day of 97569
October, or a later date designated in rules adopted under section 97570
~~5112.03~~ 5168.02 of the Revised Code, and ending the thirtieth day 97571
of September, or an earlier date designated in rules adopted under 97572
that section. 97573

~~(I)~~(K) "Registered beds" means the total number of hospital 97574
beds registered with the department of health, as reported in the 97575
most recent "directory of registered hospitals" published by the 97576
department of health. 97577

~~(J)~~(L) "Third-party payer" means any person or government 97578
entity that may be liable by law or contract to make payment to or 97579
on behalf of an individual for health care services. "Third-party 97580
payer" does not include a hospital. 97581

(M) "Total facility costs" means the total costs for all 97582
services rendered to all patients, including the direct, indirect, 97583
and overhead cost to the hospital of all services, supplies, 97584
equipment, and capital related to the care of patients, regardless 97585
of whether patients are enrolled in a health insuring corporation, 97586
excluding costs associated with providing skilled nursing services 97587
in distinct-part nursing facility units, as shown on the 97588
hospital's cost report filed under section ~~5112.04~~ 5168.05 of the 97589

Revised Code. Effective October 1, 1993, if rules adopted under 97590
section ~~5112.03~~ 5168.02 of the Revised Code so provide, "total 97591
facility costs" may exclude costs associated with providing care 97592
to recipients of any of the governmental programs listed in 97593
division (B) of that section. 97594

~~(K)~~(N) "Uncompensated care" means bad debt and charity care. 97595

Sec. ~~5112.03~~ 5168.02. (A) The ~~director of job and family~~ 97596
~~services shall adopt, and may amend and rescind, medicaid director~~ 97597
shall adopt rules in accordance with Chapter 119. of the Revised 97598
Code for the purpose of administering sections ~~5112.01~~ 5168.01 to 97599
~~5112.21~~ 5168.14 of the Revised Code, including rules that do all 97600
of the following: 97601

(1) Define as a "disproportionate share hospital" any 97602
hospital included under ~~subsection (b) of section 1923 of the~~ 97603
"Social Security Act," ~~49 Stat. 620 (1935)~~ section 1923(b), 42 97604
U.S.C.A. 1396r-4(b), ~~as amended~~, and any other hospital the 97605
director determines appropriate; 97606

(2) Prescribe the form for submission of cost reports under 97607
section ~~5112.04~~ 5168.05 of the Revised Code; 97608

(3) Establish, in accordance with division (A) of section 97609
~~5112.06~~ 5168.06 of the Revised Code, the assessment rate or rates 97610
to be applied to hospitals under that section; 97611

(4) Establish schedules for hospitals to pay installments on 97612
their assessments under section ~~5112.06~~ 5168.06 of the Revised 97613
Code and for governmental hospitals to pay installments on their 97614
intergovernmental transfers under section ~~5112.07~~ 5168.07 of the 97615
Revised Code; 97616

(5) Establish procedures to notify hospitals of adjustments 97617
made under division (B)(2)(b) of section ~~5112.06~~ 5168.06 of the 97618
Revised Code in the amount of installments on their assessment; 97619

(6) Establish procedures to notify hospitals of adjustments 97620
made under division (D) of section ~~5112.09~~ 5168.08 of the Revised 97621
Code in the total amount of their assessment and to adjust for the 97622
remainder of the program year the amount of the installments on 97623
the assessments; 97624

(7) Establish, in accordance with section ~~5112.08~~ 5168.09 of 97625
the Revised Code, the methodology for paying hospitals under that 97626
section. 97627

The director shall consult with hospitals when adopting the 97628
rules required by divisions (A)(4) and (5) of this section in 97629
order to minimize hospitals' cash flow difficulties. 97630

(B) Rules adopted under this section may provide that "total 97631
facility costs" excludes costs associated with any of the 97632
following: 97633

(1) ~~Recipients of the medical assistance program~~ Medicaid 97634
recipients; 97635

(2) Recipients of disability financial assistance provided 97636
under Chapter 5115. of the Revised Code; 97637

(3) Recipients of the program for medically handicapped 97638
children established under section 3701.023 of the Revised Code; 97639

(4) ~~Recipients of the medicare program established under~~ 97640
~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 97641
~~U.S.C.A. 301, as amended;~~ Medicare beneficiaries; 97642

(5) Recipients of Title V of the "Social Security Act," 42 97643
U.S.C. 701 et seq.,; 97644

(6) Any other category of costs deemed appropriate by the 97645
director in accordance with Title XIX of the "Social Security 97646
Act," 42 U.S.C. 1396 et seq., and the rules adopted under that 97647
title. 97648

Sec. ~~5112.05~~ 5168.03. The requirements of sections ~~5112.06~~ 97649
~~5168.06~~ to ~~5112.09~~ 5168.09 of the Revised Code apply only as long 97650
as the United States health care financing administration 97651
determines that the assessment imposed under section ~~5112.06~~ 97652
~~5168.06~~ of the Revised Code is a permissible health care-related 97653
tax pursuant to ~~section 1903(w)~~ of the "Social Security Act," 49 97654
Stat. ~~620 (1935)~~ section 1903(w), 42 U.S.C.A. 1396b(w), ~~as~~ 97655
amended. Whenever the department of ~~job and family services~~ 97656
medicaid is informed that the assessment is an impermissible 97657
health care-related tax, the department shall promptly refund to 97658
each hospital the amount of money currently in the hospital care 97659
assurance program fund created by section ~~5112.18~~ 5168.11 of the 97660
Revised Code that has been paid by the hospital under section 97661
~~5112.06~~ 5168.06 or ~~5112.07~~ 5168.07 of the Revised Code, plus any 97662
investment earnings on that amount. 97663

Sec. ~~5112.10~~ 5168.04. The department of ~~job and family~~ 97664
~~services~~ medicaid shall operate the hospital care assurance 97665
program established by sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 97666
of the Revised Code on a program year basis. The department shall 97667
complete all program requirements on or before the thirtieth day 97668
of September each year. 97669

Sec. ~~5112.04~~ 5168.05. (A) Except as provided in division (C) 97670
of this section, each hospital, on or before the first day of July 97671
of each year or at a later date approved by the medicaid director 97672
~~of job and family services~~, shall submit to the department of ~~job~~ 97673
~~and family services~~ medicaid a financial statement for the 97674
preceding calendar year that accurately reflects the income, 97675
expenses, assets, liabilities, and net worth of the hospital, and 97676
accompanying notes. A hospital that has a fiscal year different 97677
from the calendar year shall file its financial statement within 97678

one hundred eighty days of the end of its fiscal year or at a 97679
later date approved by the director ~~of job and family services~~. 97680
The financial statement shall be prepared by an independent 97681
certified public accountant and reflect an official audit report 97682
prepared in a manner consistent with generally accepted accounting 97683
principles. The financial statement shall, to the extent that the 97684
hospital has sufficient financial records, show bad debt and 97685
charity care separately from courtesy care and contractual 97686
allowances. 97687

(B) Except as provided in division (C) of this section, each 97688
hospital, within one hundred eighty days after the end of the 97689
hospital's cost reporting period, shall submit to the department a 97690
cost report in a format prescribed in rules adopted ~~by the~~ 97691
~~director of job and family services~~ under section ~~5112.03~~ 5168.02 97692
of the Revised Code. The department shall grant a hospital an 97693
extension of the one hundred eighty day period if the health care 97694
financing administration of the United States department of health 97695
and human services extends the date by which the hospital must 97696
submit its cost report for the hospital's cost reporting period. 97697

(C) The director ~~of job and family services~~ may adopt rules 97698
under section ~~5112.03~~ 5168.02 of the Revised Code specifying 97699
financial information that must be submitted by hospitals for 97700
which no financial statement or cost report is available. The 97701
rules shall specify deadlines for submitting the information. Each 97702
such hospital shall submit the information specified in the rules 97703
not later than the deadline specified in the rules. 97704

Sec. ~~5112.06~~ 5168.06. (A) For the purpose of distributing 97705
funds to hospitals under the ~~medical assistance~~ medicaid program 97706
pursuant to sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the 97707
Revised Code and depositing funds into the legislative budget 97708
services fund under section ~~5112.19~~ 5168.12 of the Revised Code 97709

and into the health care services administration fund created 97710
under section ~~5111.94~~ 5162.54 of the Revised Code, there is hereby 97711
imposed an assessment on all hospitals. Each hospital's assessment 97712
shall be based on total facility costs. All hospitals shall be 97713
assessed according to the rate or rates established each program 97714
year ~~by the department of job and family services~~ in rules adopted 97715
under section ~~5112.03~~ 5168.02 of the Revised Code. The department 97716
shall assess all hospitals uniformly and in a manner consistent 97717
with federal statutes and regulations. During any program year, 97718
the department shall not assess any hospital more than two per 97719
cent of the hospital's total facility costs. 97720

The department shall establish an assessment rate or rates 97721
each program year that will do both of the following: 97722

(1) Yield funds that, when combined with intergovernmental 97723
transfers and federal matching funds, will produce a program of 97724
sufficient size to pay a substantial portion of the indigent care 97725
provided by hospitals; 97726

(2) Yield funds that, when combined with intergovernmental 97727
transfers and federal matching funds, will produce amounts for 97728
distribution to disproportionate share hospitals that do not 97729
exceed, in the aggregate, the limits prescribed by the United 97730
States health care financing administration under ~~subsection (f)~~ 97731
~~of section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ 97732
section 1923(f), 42 U.S.C.A. 1396r-4(f), as amended. 97733

(B)(1) Except as provided in division (B)(3) of this section, 97734
each hospital shall pay its assessment in periodic installments in 97735
accordance with a schedule established ~~by the director of job and~~ 97736
~~family services~~ in rules adopted under section ~~5112.03~~ 5168.02 of 97737
the Revised Code. 97738

(2) The installments shall be equal in amount, unless either 97739
of the following applies: 97740

(a) The department makes adjustments during a program year 97741
under division (D) of section ~~5112.09~~ 5168.08 of the Revised Code 97742
in the total amount of hospitals' assessments; 97743

(b) The medicaid director ~~of job and family services~~ 97744
determines that adjustments in the amounts of installments are 97745
necessary for the administration of sections ~~5112.01~~ 5168.01 to 97746
~~5112.21~~ 5168.14 of the Revised Code and that unequal installments 97747
will not create cash flow difficulties for hospitals. 97748

(3) The director may adopt rules under section ~~5112.03~~ 97749
5168.02 of the Revised Code establishing alternate schedules for 97750
hospitals to pay assessments under this section in order to reduce 97751
hospitals' cash flow difficulties. 97752

Sec. ~~5112.07~~ 5168.07. (A) The department of ~~job and family~~ 97753
~~services~~ medicaid may require governmental hospitals to make 97754
intergovernmental transfers each program year for the purpose of 97755
distributing funds to hospitals under the ~~medical assistance~~ 97756
medicaid program pursuant to sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 97757
5168.14 of the Revised Code and depositing funds into the 97758
legislative budget services fund under section ~~5112.19~~ 5168.12 of 97759
the Revised Code and into the health care services administration 97760
fund created under section ~~5111.94~~ 5162.54 of the Revised Code. 97761
The department shall not require transfers in an amount that, when 97762
combined with hospital assessments paid under section ~~5112.06~~ 97763
5168.06 of the Revised Code and federal matching funds, produce 97764
amounts for distribution to disproportionate share hospitals that, 97765
in the aggregate, exceed limits prescribed by the United States 97766
health care financing administration under ~~subsection (f) of~~ 97767
~~section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ 97768
section 1923(f), 42 U.S.C.A. 1396r-4(f), ~~as amended.~~ 97769

(B) Before or during each program year, the department shall 97770
notify each governmental hospital of the amount of the 97771

intergovernmental transfer it is required to make during the 97772
program year. Each governmental hospital shall make 97773
intergovernmental transfers as required by the department under 97774
this section in periodic installments, executed by electronic fund 97775
transfer, in accordance with a schedule established in rules 97776
adopted under section ~~5112.03~~ 5168.02 of the Revised Code. 97777

Sec. ~~5112.09~~ 5168.08. (A) Before or during each program year, 97778
the department of ~~job and family services~~ medicaid shall mail to 97779
each hospital by certified mail, return receipt requested, the 97780
preliminary determination of the amount that the hospital is 97781
assessed under section ~~5112.06~~ 5168.06 of the Revised Code during 97782
the program year. The preliminary determination of a hospital's 97783
assessment shall be calculated for a cost-reporting period that is 97784
specified in rules adopted under section ~~5112.03~~ 5168.02 of the 97785
Revised Code. 97786

The department shall consult with hospitals each year when 97787
determining the date on which it will mail the preliminary 97788
determinations in order to minimize hospitals' cash flow 97789
difficulties. 97790

If no hospital submits a request for reconsideration under 97791
division (B) of this section, the preliminary determination 97792
constitutes the final reconciliation of each hospital's assessment 97793
under section ~~5112.06~~ 5168.06 of the Revised Code. The final 97794
reconciliation is subject to adjustments under division (D) of 97795
this section. 97796

(B) Not later than fourteen days after the preliminary 97797
determinations are mailed, any hospital may submit to the 97798
department a written request to reconsider the preliminary 97799
determinations. The request shall be accompanied by written 97800
materials setting forth the basis for the reconsideration. If one 97801
or more hospitals submit a request, the department shall hold a 97802

public hearing not later than thirty days after the preliminary 97803
determinations are mailed to reconsider the preliminary 97804
determinations. The department shall mail to each hospital a 97805
written notice of the date, time, and place of the hearing at 97806
least ten days prior to the hearing. On the basis of the evidence 97807
submitted to the department or presented at the public hearing, 97808
the department shall reconsider and may adjust the preliminary 97809
determinations. The result of the reconsideration is the final 97810
reconciliation of the hospital's assessment under section ~~5112.06~~ 97811
5168.06 of the Revised Code. The final reconciliation is subject 97812
to adjustments under division (D) of this section. 97813

(C) The department shall mail to each hospital a written 97814
notice of its assessment for the program year under the final 97815
reconciliation. A hospital may appeal the final reconciliation of 97816
its assessment to the court of common pleas of Franklin county. 97817
While a judicial appeal is pending, the hospital shall pay, in 97818
accordance with the schedules required by division (B) of section 97819
~~5112.06~~ 5168.06 of the Revised Code, any amount of its assessment 97820
that is not in dispute into the hospital care assurance program 97821
fund created in section ~~5112.18~~ 5168.11 of the Revised Code. 97822

(D) In the course of any program year, the department may 97823
adjust the assessment rate or rates established in rules pursuant 97824
to section ~~5112.06~~ 5168.06 of the Revised Code or adjust the 97825
amounts of intergovernmental transfers required under section 97826
~~5112.07~~ 5168.07 of the Revised Code and, as a result of the 97827
adjustment, adjust each hospital's assessment and 97828
intergovernmental transfer, to reflect refinements made by the 97829
United States health care financing administration during that 97830
program year to the limits it prescribed under ~~subsection (f) of~~ 97831
~~section 1923 of the "Social Security Act," 49 Stat. 620 (1935)~~ 97832
section 1923(f), 42 U.S.C.A. 1396r-4(f), ~~as amended~~. When 97833
adjusted, the assessment rate or rates must comply with division 97834

(A) of section ~~5112.06~~ 5168.06 of the Revised Code. An adjusted 97835
intergovernmental transfer must comply with division (A) of 97836
section ~~5112.07~~ 5168.07 of the Revised Code. The department shall 97837
notify hospitals of adjustments made under this division and 97838
adjust for the remainder of the program year the installments paid 97839
by hospitals under sections ~~5112.06~~ 5168.06 and ~~5112.07~~ 5168.07 of 97840
the Revised Code in accordance with rules adopted under section 97841
~~5112.03~~ 5168.02 of the Revised Code. 97842

Sec. ~~5112.08~~ 5168.09. The medicaid director ~~of job and family~~ 97843
~~services~~ shall adopt rules under section ~~5112.03~~ 5168.02 of the 97844
Revised Code establishing a methodology to pay hospitals that is 97845
sufficient to expend all money in the indigent care pool. Under 97846
the rules: 97847

(A) The department of ~~job and family services~~ medicaid may 97848
classify similar hospitals into groups and allocate funds for 97849
distribution within each group. 97850

(B) The department shall establish a method of allocating 97851
funds to hospitals, taking into consideration the relative amount 97852
of indigent care provided by each hospital or group of hospitals. 97853
The amount to be allocated shall be based on any combination of 97854
the following indicators of indigent care that the director 97855
considers appropriate: 97856

(1) Total costs, volume, or proportion of services to 97857
recipients of the medical assistance program, including recipients 97858
enrolled in health insuring corporations; 97859

(2) Total costs, volume, or proportion of services to 97860
low-income patients in addition to medicaid recipients ~~of the~~ 97861
~~medical assistance program~~, which may include recipients of Title 97862
V of the "Social Security Act," ~~49 Stat. 620 (1935)~~, 42 U.S.C.A. 97863
~~301~~ 701 et seq., ~~as amended~~, and recipients of disability 97864
financial assistance provided under Chapter 5115. of the Revised 97865

Code; 97866

(3) The amount of uncompensated care provided by the hospital 97867
or group of hospitals; 97868

(4) Other factors that the director considers to be 97869
appropriate indicators of indigent care. 97870

(C) The department shall distribute funds to each hospital or 97871
group of hospitals in a manner that first may provide for an 97872
additional distribution to individual hospitals that provide a 97873
high proportion of indigent care in relation to the total care 97874
provided by the hospital or in relation to other hospitals. The 97875
department shall establish a formula to distribute the remainder 97876
of the funds. The formula shall be consistent with ~~section 1923~~ of 97877
the "Social Security Act," section 1923, 42 U.S.C.A. 1396r-4, as 97878
~~amended~~, and shall be based on any combination of the indicators 97879
of indigent care listed in division (B) of this section that the 97880
director considers appropriate. 97881

(D) The department shall distribute funds to each hospital in 97882
installments not later than ten working days after the deadline 97883
established in rules for each hospital to pay an installment on 97884
its assessment under section ~~5112.06~~ 5168.06 of the Revised Code. 97885
In the case of a governmental hospital that makes 97886
intergovernmental transfers, the department shall pay an 97887
installment under this section not later than ten working days 97888
after the earlier of that deadline or the deadline established in 97889
rules for the governmental hospital to pay an installment on its 97890
intergovernmental transfer. If the amount in the hospital care 97891
assurance program fund created under section ~~5112.18~~ 5168.11 of 97892
the Revised Code and the portion of the health care - federal fund 97893
created under section ~~5111.943~~ 5162.50 of the Revised Code that is 97894
credited to that fund pursuant to division (B) of section ~~5112.18~~ 97895
5168.11 of the Revised Code are insufficient to make the total 97896
distributions for which hospitals are eligible to receive in any 97897

period, the department shall reduce the amount of each 97898
distribution by the percentage by which the amount and portion are 97899
insufficient. The department shall distribute to hospitals any 97900
amounts not distributed in the period in which they are due as 97901
soon as moneys are available in the funds. 97902

Sec. ~~5112.11~~ 5168.10. Except for moneys deposited into the 97903
legislative budget services fund under section ~~5112.19~~ 5168.12 of 97904
the Revised Code and the health care services administration fund 97905
created under section ~~5111.94~~ 5162.54 of the Revised Code, the 97906
department of ~~job and family services~~ medicaid shall not use money 97907
paid to the department under sections ~~5112.06~~ 5168.06 and ~~5112.07~~ 97908
5168.07 of the Revised Code or money that the department pays to 97909
hospitals under section ~~5112.08~~ 5168.09 of the Revised Code to 97910
replace any funds appropriated by the general assembly for the 97911
~~medical assistance~~ medicaid program. 97912

Sec. ~~5112.18~~ 5168.11. (A) Except as provided in section 97913
~~5112.19~~ 5168.12 of the Revised Code, all payments of assessments 97914
by hospitals under section ~~5112.06~~ 5168.06 of the Revised Code and 97915
all intergovernmental transfers under section ~~5112.07~~ 5168.07 of 97916
the Revised Code shall be deposited in the state treasury to the 97917
credit of the hospital care assurance program fund, hereby 97918
created. All investment earnings of the hospital care assurance 97919
program fund shall be credited to the fund. The department of ~~job~~ 97920
~~and family services~~ medicaid shall maintain records that show the 97921
amount of money in the hospital care assurance program fund at any 97922
time that has been paid by each hospital and the amount of any 97923
investment earnings on that amount. All moneys credited to the 97924
hospital care assurance program fund shall be used solely to make 97925
payments to hospitals under division (D) of this section and 97926
section ~~5112.08~~ 5168.09 of the Revised Code. 97927

(B) All federal matching funds received as a result of the 97928

department distributing funds from the hospital care assurance 97929
program fund to hospitals under section ~~5112.08~~ 5168.09 of the 97930
Revised Code shall be credited to the health care - federal fund 97931
created under section ~~5111.943~~ 5162.50 of the Revised Code. 97932

(C) All distributions of funds to hospitals under section 97933
~~5112.08~~ 5168.09 of the Revised Code are conditional on: 97934

(1) Expiration of the time for appeals under section ~~5112.09~~ 97935
5168.08 of the Revised Code without the filing of an appeal, or on 97936
court determinations, in the event of appeals, that the hospital 97937
is entitled to the funds; 97938

(2) The sum of the following being sufficient to distribute 97939
the funds after the final determination of any appeals: 97940

(a) The available money in the hospital care assurance 97941
program fund; 97942

(b) The available portion of the money in the health care - 97943
federal fund that is credited to that fund pursuant to division 97944
(B) of this section. 97945

(3) The hospital's compliance with section ~~5112.17~~ 5168.14 of 97946
the Revised Code. 97947

(D) If an audit conducted by the department of the amounts of 97948
payments made and funds received by hospitals under sections 97949
~~5112.06~~ 5168.06, ~~5112.07~~ 5168.07, and ~~5112.08~~ 5168.09 of the 97950
Revised Code identifies amounts that, due to errors by the 97951
department, a hospital should not have been required to pay but 97952
did pay, should have been required to pay but did not pay, should 97953
not have received but did receive, or should have received but did 97954
not receive, the department shall: 97955

(1) Make payments to any hospital that the audit reveals paid 97956
amounts it should not have been required to pay or did not receive 97957
amounts it should have received; 97958

(2) Take action to recover from a hospital any amounts that 97959
the audit reveals it should have been required to pay but did not 97960
pay or that it should not have received but did receive. 97961

Payments made under division (D)(1) of this section shall be 97962
made from the hospital care assurance program fund. Amounts 97963
recovered under division (D)(2) of this section shall be deposited 97964
to the credit of that fund. Any hospital may appeal the amount the 97965
hospital is to be paid under division (D)(1) or the amount that is 97966
to be recovered from the hospital under division (D)(2) of this 97967
section to the court of common pleas of Franklin county. 97968

Sec. ~~5112.19~~ 5168.12. From the first installment of 97969
assessments paid under section ~~5112.06~~ 5168.06 of the Revised Code 97970
and intergovernmental transfers made under section ~~5112.07~~ 5168.07 97971
of the Revised Code during each program year beginning in an 97972
odd-numbered calendar year, the department of ~~job and family~~ 97973
~~services~~ medicaid shall deposit into the state treasury to the 97974
credit of the legislative budget services fund, which is hereby 97975
created, a total amount equal to the amount by which the biennial 97976
appropriation from that fund exceeds the amount of unexpended, 97977
unencumbered moneys in that fund. All investment earnings of the 97978
legislative budget services fund shall be credited to that fund. 97979
Money in the legislative budget services fund shall be used solely 97980
to pay the expenses of the legislative budget office of the 97981
legislative service commission. 97982

Sec. ~~5112.21~~ 5168.13. Except as specifically required by 97983
sections ~~5112.01~~ 5168.01 to ~~5112.19~~ 5168.14 of the Revised Code, 97984
information filed under those sections shall not include any 97985
patient-identifying material. Information that includes 97986
patient-identifying material is not a public record under section 97987
149.43 of the Revised Code, and no patient-identifying material 97988
shall be released publicly by the department of ~~job and family~~ 97989

services medicaid or by any person under contract with the 97990
department who has access to such information. 97991

Sec. ~~5112.17~~ 5168.14. (A) ~~As used in this section:~~ 97992

~~(1) "Federal poverty guideline" means the official poverty 97993
guideline as revised annually by the United States secretary of 97994
health and human services in accordance with section 673 of the 97995
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 97996
U.S.C.A. 9902, as amended, for a family size equal to the size of 97997
the family of the person whose income is being determined. 97998~~

~~(2) "Third party payer" means any private or public entity or 97999
program that may be liable by law or contract to make payment to 98000
or on behalf of an individual for health care services. 98001
"Third party payer" does not include a hospital. 98002~~

~~(B)~~ Each hospital that receives funds distributed under 98003
sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code 98004
shall provide, without charge to the individual, basic, medically 98005
necessary hospital-level services to individuals who are residents 98006
of this state, are not medicaid recipients ~~of the medical~~ 98007
~~assistance program~~, and whose income is at or below the federal 98008
poverty ~~guideline~~ line. Recipients of disability financial 98009
assistance provided under Chapter 5115. of the Revised Code 98010
qualify for services under this section. The medicaid director ~~of~~ 98011
~~job and family services~~ shall adopt rules under section ~~5112.03~~ 98012
5168.02 of the Revised Code specifying the hospital services to be 98013
provided under this section. 98014

~~(C)~~(B) Nothing in this section shall be construed to prevent 98015
a hospital from requiring an individual to apply for eligibility 98016
~~under the medical assistance~~ medicaid program before the hospital 98017
processes an application under this section. Hospitals may bill 98018
any third-party payer for services rendered under this section. 98019
Hospitals may bill the ~~medical assistance~~ medicaid program, in 98020

accordance with ~~Chapter 5111. of the Revised Code~~ state statutes 98021
governing the medicaid program and the rules adopted under ~~that~~ 98022
~~chapter~~ those statutes, for medicaid services rendered under this 98023
section if the individual becomes a medicaid recipient ~~of the~~ 98024
~~program~~. Hospitals may bill individuals for services under this 98025
section if all of the following apply: 98026

(1) The hospital has an established post-billing procedure 98027
for determining the individual's income and canceling the charges 98028
if the individual is found to qualify for services under this 98029
section. 98030

(2) The initial bill, and at least the first follow-up bill, 98031
is accompanied by a written statement that does all of the 98032
following: 98033

(a) Explains that individuals with income at or below the 98034
federal poverty ~~guideline~~ line are eligible for services without 98035
charge; 98036

(b) Specifies the federal poverty ~~guideline~~ line for 98037
individuals and families of various sizes at the time the bill is 98038
sent; 98039

(c) Describes the procedure required by division (C)(1) of 98040
this section. 98041

(3) The hospital complies with any additional rules ~~the~~ 98042
~~department adopts~~ adopted under section ~~5112.03~~ 5168.02 of the 98043
Revised Code. 98044

Notwithstanding division (B) of this section, a hospital 98045
providing care to an individual under this section is subrogated 98046
to the rights of any individual to receive compensation or 98047
benefits from any person or governmental entity for the hospital 98048
goods and services rendered. 98049

~~(D)~~(C) Each hospital shall collect and report to the 98050

department of medicaid, in the form and manner prescribed by the 98051
department, information on the number and identity of patients 98052
served pursuant to this section. 98053

~~(E)~~(D) This section applies beginning May 22, 1992, 98054
regardless of whether ~~the department has adopted~~ rules specifying 98055
the services to be provided have been adopted. Nothing in this 98056
section alters the scope or limits the obligation of any 98057
governmental entity or program, including the program awarding 98058
reparations to victims of crime under sections 2743.51 to 2743.72 98059
of the Revised Code and the program for medically handicapped 98060
children established under section 3701.023 of the Revised Code, 98061
to pay for hospital services in accordance with state or local 98062
law. 98063

Sec. ~~5112.40~~ 5168.20. As used in sections ~~5112.40~~ 5168.20 to 98064
~~5112.48~~ 5168.28 of the Revised Code: 98065

(A) "Applicable assessment percentage" means the percentage 98066
specified in rules adopted under section ~~5112.46~~ 5168.26 of the 98067
Revised Code that is used in calculating a hospital's assessment 98068
under section ~~5112.41~~ 5168.21 of the Revised Code. 98069

(B) "Assessment program year" means the twelve-month period 98070
beginning the first day of October of a calendar year and ending 98071
the last day of September of the following calendar year. 98072

(C) "Cost reporting period" means the period of time used by 98073
a hospital in reporting costs for purposes of the medicare 98074
program. 98075

(D) "Federal fiscal year" means the twelve-month period 98076
beginning the first day of October of a calendar year and ending 98077
the last day of September of the following calendar year. 98078

(E)(1) Except as provided in division (E)(2) of this section, 98079
"hospital" means a hospital to which any of the following applies: 98080

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10.

(b) The hospital is recognized under the medicare program as a cancer hospital and is exempt from the medicare prospective payment system.

(c) The hospital is a psychiatric hospital licensed under section ~~5119.20~~ 5119.33 of the Revised Code.

(2) "Hospital" does not include either of the following:

(a) A federal hospital;

(b) A hospital that does not charge any of its patients for its services.

(F) "Hospital care assurance program" means the program established under sections ~~5112.01~~ 5168.01 to ~~5112.21~~ 5168.14 of the Revised Code.

~~(G) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~

~~(H) "Medicare" means the program established under Title XVIII of the Social Security Act.~~

~~(I)~~ "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year.

~~(J)~~(H)(1) Except as provided in divisions ~~(J)~~(H)(2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation.

(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised Code:

(a) Skilled nursing services provided in distinct-part nursing facility units;

(b) Home health services;

(c) Hospice services;

(d) Ambulance services;

(e) Renting durable medical equipment;

(f) Selling durable medical equipment.

(3) "Total facility costs" excludes any costs excluded from a hospital's total facility costs pursuant to rules, if any, adopted under division (B)(1) of section ~~5112.46~~ 5168.26 of the Revised Code.

Sec. ~~5112.41~~ 5168.21. (A) For the purposes specified in section ~~5112.45~~ 5168.25 of the Revised Code and subject to section ~~5112.48~~ 5168.28 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal the applicable assessment percentage of the hospital's total facility costs for the period of time specified in division (B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of ~~job and family services~~ medicaid for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data

or financial statements used to determine a hospital's assessment 98141
is subject to the same type of adjustments made to the 98142
cost-reporting data under the hospital care assurance program. 98143
98144

(B) The period of time specified in this division is the 98145
hospital's cost reporting period that ends in the state fiscal 98146
year that ends in the federal fiscal year that precedes the 98147
federal fiscal year that precedes the assessment program year for 98148
which the assessment is imposed. 98149

(C) The assessment imposed by this section on a hospital is 98150
in addition to the assessment imposed by section ~~5112.06~~ 5168.06 98151
of the Revised Code. 98152

Sec. ~~5112.42~~ 5168.22. (A) Before or during each assessment 98153
program year, the department of ~~job and family services~~ medicaid 98154
shall mail to each hospital by certified mail, return receipt 98155
requested, the preliminary determination of the amount that the 98156
hospital is assessed under section ~~5112.41~~ 5168.21 of the Revised 98157
Code for the assessment program year. Except as provided in 98158
division (B) of this section, the preliminary determination 98159
becomes the final determination for the assessment program year 98160
fifteen days after the preliminary determination is mailed to the 98161
hospital. 98162

(B) A hospital may request that the department reconsider the 98163
preliminary determination mailed to the hospital under division 98164
(A) of this section by submitting to the department a written 98165
request for a reconsideration not later than fourteen days after 98166
the hospital's preliminary determination is mailed to the 98167
hospital. The request must be accompanied by written materials 98168
setting forth the basis for the reconsideration. On receipt of the 98169
timely request, the department shall reconsider the preliminary 98170

determination and may adjust the preliminary determination on the 98171
basis of the written materials accompanying the request. The 98172
result of the reconsideration is the final determination of the 98173
hospital's assessment under section ~~5112.41~~ 5168.21 of the Revised 98174
Code for the assessment program year. 98175

(C) The department shall mail to each hospital a written 98176
notice of the final determination of its assessment for the 98177
assessment program year. A hospital may appeal the final 98178
determination to the court of common pleas of Franklin county. 98179
While a judicial appeal is pending, the hospital shall pay, in 98180
accordance with section ~~5112.43~~ 5168.23 of the Revised Code, any 98181
amount of its assessment that is not in dispute. 98182

Sec. ~~5112.43~~ 5168.23. Unless rules adopted under section 98183
~~5112.46~~ 5168.26 of the Revised Code establish a different payment 98184
schedule, each hospital shall pay the amount it is assessed under 98185
section ~~5112.41~~ 5168.21 of the Revised Code in accordance with the 98186
following payment schedule: 98187

(A) Twenty-eight per cent of a hospital's assessment is due 98188
on the last business day of October of each assessment program 98189
year. 98190

(B) Thirty-one per cent of a hospital's assessment is due on 98191
the last business day of February of each assessment program year. 98192

(C) Forty-one per cent of a hospital's assessment is due on 98193
the last business day of May of each assessment program year. 98194

Sec. ~~5112.44~~ 5168.24. The department of ~~job and family~~ 98195
~~services~~ medicaid may audit a hospital to ensure that the hospital 98196
properly pays the amount it is assessed under section ~~5112.41~~ 98197
5168.21 of the Revised Code. The department shall take action to 98198
recover from a hospital any amount the audit reveals that the 98199
hospital should have paid but did not pay. 98200

Sec. ~~5112.45~~ 5168.25. There is hereby created in the state 98201
treasury the hospital assessment fund. All installment payments 98202
made by hospitals under section ~~5112.43~~ 5168.23 of the Revised 98203
Code and all recoveries the department of ~~job and family services~~ 98204
medicaid makes under section ~~5112.44~~ 5168.24 of the Revised Code 98205
shall be deposited into the fund. All investment earnings of the 98206
fund shall be credited to the fund. The department shall use money 98207
in the fund to pay for the costs of the medicaid program, 98208
including the program's administrative costs. 98209

Sec. ~~5112.46~~ 5168.26. (A) The ~~director of job and family~~ 98210
~~services shall adopt, amend, and rescind~~ medicaid director shall 98211
adopt rules in accordance with Chapter 119. of the Revised Code as 98212
necessary to implement sections ~~5112.40~~ 5168.20 to ~~5112.48~~ 5168.28 98213
of the Revised Code, including rules that specify the percentage 98214
of hospitals' total facility costs to be used in calculating 98215
hospitals' assessments under section ~~5112.41~~ 5168.21 of the 98216
Revised Code. 98217

(B) The rules adopted under this section may do the 98218
following: 98219

(1) Provide that a hospital's total facility costs for the 98220
purpose of the assessment under section ~~5112.41~~ 5168.21 of the 98221
Revised Code exclude any of the following: 98222

(a) A hospital's costs associated with providing care to 98223
recipients of any of the following: 98224

(i) The medicaid program; 98225

(ii) The medicare program; 98226

(iii) The disability financial assistance program established 98227
under Chapter 5115. of the Revised Code; 98228

(iv) The program for medically handicapped children 98229

established under section 3701.023 of the Revised Code; 98230

(v) Services provided under the maternal and child health 98231
services block grant established under Title V of the "Social 98232
Security Act," 42 U.S.C. 701 et seq. 98233

(b) Any other category of hospital costs the director deems 98234
appropriate under federal law and regulations governing the 98235
medicaid program. 98236

(2) Subject to division (C) of this section, provide for the 98237
percentage of hospitals' total facility costs used in calculating 98238
hospitals' assessments to vary for different hospitals; 98239

(3) To reduce hospitals' cash flow difficulties, establish a 98240
schedule for hospitals to pay their assessments that is different 98241
from the schedule established under section ~~5112.43~~ 5168.23 of the 98242
Revised Code. 98243

(C) Before adopting rules authorized by division (B)(2) of 98244
this section that establish varied percentages to be used in 98245
calculating hospitals' assessments, the director shall obtain a 98246
waiver from the United States secretary of health and human 98247
services under ~~section 1903(w)(3)(E)~~ of the "Social Security Act," 98248
~~105 Stat. 1796 (1991)~~ section 1903(w)(3)(E), 42 U.S.C. 98249
1396b(w)(3)(E), ~~as amended~~, if the varied percentages would cause 98250
the assessments to not be imposed uniformly. 98251

Sec. ~~5112.47~~ 5168.27. The medicaid director ~~of job and family~~ 98252
~~services~~ shall implement the assessment imposed by section ~~5112.41~~ 98253
5168.21 of the Revised Code in a manner that does not cause a 98254
reduction in federal financial participation for the medicaid 98255
program under the "Social Security Act," section 1903(w), 42 98256
U.S.C. 1396b(w). 98257

Sec. ~~5112.48~~ 5168.28. If the United States secretary of 98258
health and human services determines that the assessment imposed 98259

by section ~~5112.41~~ 5168.21 of the Revised Code is an impermissible 98260
health care-related tax under the "Social Security Act," section 98261
1903(w), 42 U.S.C. 1396b(w), the medicaid director ~~of job and~~ 98262
~~family services~~ shall take all necessary actions to cease 98263
implementation of sections ~~5112.40~~ 5168.20 to ~~5112.47~~ 5168.27 of 98264
the Revised Code and shall promptly refund to each hospital the 98265
amount of money in the hospital assessment fund at the time the 98266
refund is to be made that the hospital paid under section ~~5112.43~~ 98267
5168.23 of the Revised Code, plus any corresponding investment 98268
earnings on that amount. 98269

Sec. ~~3721.50~~ 5168.40. As used in sections ~~3721.50~~ 5168.40 to 98270
~~3721.58~~ 5168.56 of the Revised Code: 98271

(A) "Bed surrender" means the following: 98272

(1) In the case of a nursing home, the removal of a bed from 98273
a nursing home's licensed capacity in a manner that reduces the 98274
total licensed capacity of all nursing homes; 98275

(2) In the case of a hospital, the removal of a hospital bed 98276
from registration under section 3701.07 of the Revised Code as a 98277
skilled nursing facility bed or long-term care bed in a manner 98278
that reduces the total number of hospital beds registered under 98279
that section as skilled nursing facility beds or long-term care 98280
beds. 98281

(B) "Change of operator" means an entering operator becoming 98282
the operator of a nursing home or hospital in the place of the 98283
exiting operator. 98284

(1) Actions that constitute a change of operator include the 98285
following: 98286

(a) A change in an exiting operator's form of legal 98287
organization, including the formation of a partnership or 98288
corporation from a sole proprietorship; 98289

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;	98290 98291 98292 98293 98294
(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;	98295 98296 98297
(d) If the exiting operator is a partnership, dissolution of the partnership;	98298 98299
(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:	98300 98301
(i) The change in composition does not cause the partnership's dissolution under state law.	98302 98303
(ii) The partners agree that the change in composition does not constitute a change in operator.	98304 98305
(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.	98306 98307 98308 98309
(2) The following, alone, do not constitute a change of operator:	98310 98311
(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;	98312 98313 98314
(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;	98315 98316 98317 98318
(c) If the operator is a corporation, a change of one or more	98319

members of the corporation's governing body or transfer of 98320
ownership of one or more shares of the corporation's stock, if the 98321
same corporation continues to be the operator. 98322

(C) "Effective date of a change of operator" means the day an 98323
entering operator becomes the operator of a nursing home or 98324
hospital. 98325

(D) "Entering operator" means the person or government entity 98326
that will become the operator of a nursing home or hospital on the 98327
effective date of a change of operator. 98328

(E) "Exiting operator" means an operator that will cease to 98329
be the operator of a nursing home or hospital on the effective 98330
date of a change of operator. 98331

(F) "Franchise permit fee rate" means the ~~following~~: 98332

~~(1) For fiscal year 2012, eleven dollars and forty seven 98333
cents;~~ 98334

~~(2) For fiscal year 2013 and each fiscal year thereafter, 98335
eleven dollars and sixty seven cents rate determined in accordance 98336
with section 5168.41 of the Revised Code. 98337~~

(G) "Hospital" has the same meaning as in section 3727.01 of 98338
the Revised Code. 98339

(H) "Hospital long-term care unit" means any distinct part of 98340
a hospital in which any of the following beds are located: 98341

(1) Beds registered pursuant to section 3701.07 of the 98342
Revised Code as skilled nursing facility beds or long-term care 98343
beds; 98344

(2) Beds licensed as nursing home beds under section 3721.02 98345
or 3721.09 of the Revised Code. 98346

(I) "Indirect guarantee percentage" means the percentage 98347
specified in ~~section 1903(w)(4)(C)(ii) of the "Social Security~~ 98348
~~Act," 120 Stat. 2994 (2006)~~ section 1903(w)(4)(C)(ii), 42 U.S.C. 98349

1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

~~(J) "Medicaid days" has the same meaning as in section 5111.01 of the Revised Code.~~

~~(K) "Medicare" means the program established by Title XVIII.~~

~~(L) and "Nursing nursing facility" has have the same meaning meanings as in section 5111.20 5165.01 of the Revised Code.~~

~~(M)(K)(1) "Nursing home" means all of the following:~~

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code.

~~(N)(L) "Operator" means the person or government entity responsible for the daily operating and management decisions for a~~

nursing home or hospital. 98379

~~(O)~~(M) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended et seq. 98380
98381

~~(P)~~(N) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended et seq. 98382
98383
98384

Sec. 5168.41. (A) The franchise permit fee rate shall be determined for each fiscal year as follows: 98385
98386

(1) Determine the estimated total net patient revenues for all nursing homes and hospital long-term care units for the fiscal year; 98387
98388
98389

(2) Multiply the estimated total net patient revenues determined under division (A)(1) of this section by the lesser of the following: 98390
98391
98392

(a) The indirect guarantee percentage; 98393

(b) Six per cent. 98394

(3) Divide the product determined under division (A)(2) of this section by the number of days in the fiscal year; 98395
98396

(4) Determine the sum of the following: 98397

(a) The total number of beds in all nursing homes and hospital long-term care units that are subject to the franchise permit fee for the fiscal year; 98398
98399
98400

(b) The total number of nursing home beds that are exempt from the franchise permit fee for the fiscal year because of the waiver obtained pursuant to section 5168.43 of the Revised Code. 98401
98402
98403

(5) Divide the quotient determined under division (A)(3) of this section by the sum determined under division (A)(4) of this section. 98404
98405
98406

(B) In determining the estimated total net patient revenues for all nursing homes and hospital long-term care units for a fiscal year, the department of medicaid shall use at least all of the following: 98407
98408
98409
98410

(1) Information from medicaid cost reports filed under section 5165.10 of the Revised Code that are the most recent at the time the determination is made; 98411
98412
98413

(2) The projected total medicaid payment rates for nursing facility services for the fiscal year; 98414
98415

(3) The projected total number of medicaid days for the fiscal year. 98416
98417

Sec. ~~3721.51~~ 5168.42. The department of ~~job and family services~~ medicaid shall do all of the following: 98418
98419

(A) Subject to sections ~~3721.512~~ 5168.44, ~~3721.513~~ 5168.45, and ~~3721.531~~ 5168.48 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section ~~3721.56~~ 5168.54 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following: 98420
98421
98422
98423
98424
98425

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised Code; 98426
98427
98428
98429
98430
98431

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised Code. 98432
98433
98434
98435

(B) Subject to sections ~~3721.512~~ 5168.44, ~~3721.513~~ 5168.45, 98436

and ~~3721.531~~ 5168.48 of the Revised Code and divisions (C) and (D) 98437
of this section and for the purposes specified in section ~~3721.56~~ 98438
5168.54 of the Revised Code, determine an annual franchise permit 98439
fee on each hospital in an amount equal to the franchise permit 98440
fee rate multiplied by the product of the following: 98441

(1) The number of beds registered pursuant to section 3701.07 98442
of the Revised Code as skilled nursing facility beds or long-term 98443
care beds, plus any other beds licensed as nursing home beds under 98444
section 3721.02 or 3721.09 of the Revised Code, on the first day 98445
of May of the calendar year in which the fee is determined 98446
pursuant to division (A) of section ~~3721.53~~ 5168.47 of the Revised 98447
Code; 98448

(2) The number of days in the fiscal year beginning on the 98449
first day of July of the calendar year in which the fee is 98450
determined pursuant to division (A) of section ~~3721.53~~ 5168.47 of 98451
the Revised Code. 98452

(C) If the total amount of the franchise permit fee assessed 98453
under divisions (A) and (B) of this section for a fiscal year 98454
exceeds the indirect guarantee percentage of the actual net 98455
patient revenue for all nursing homes and hospital long-term care 98456
units for that fiscal year and seventy-five per cent or more of 98457
the combined total number of nursing homes and hospital long-term 98458
care units receive enhanced medicaid payments or other state 98459
payments equal to seventy-five per cent or more of their total 98460
franchise permit fee assessments, do both of the following: 98461

(1) Recalculate the assessments under divisions (A) and (B) 98462
of this section using a per bed per day rate equal to the indirect 98463
guarantee percentage of actual net patient revenue for all nursing 98464
homes and hospital long-term care units for that fiscal year; 98465

(2) Refund the difference between the amount of the franchise 98466
permit fee assessed for that fiscal year under divisions (A) and 98467

(B) of this section and the amount recalculated under division 98468
(C)(1) of this section as a credit against the assessments imposed 98469
under divisions (A) and (B) of this section for the subsequent 98470
fiscal year. 98471

(D) If the United States centers for medicare and medicaid 98472
services determines that the franchise permit fee established by 98473
sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised Code is 98474
an impermissible health care-related tax under ~~section 1903(w)~~ of 98475
the "Social Security Act," ~~49 Stat. 620 (1935)~~ section 1903(w), 42 98476
U.S.C. 1396b(w), ~~as amended~~, take all necessary actions to cease 98477
implementation of sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of 98478
the Revised Code in accordance with rules adopted under section 98479
~~3721.58~~ 5168.56 of the Revised Code. 98480

Sec. ~~3721.511~~ 5168.43. (A) Not later than four months after 98481
July 17, 2009, the department of ~~job and family services~~ medicaid 98482
shall apply to the United States secretary of health and human 98483
services for a waiver under the "Social Security Act," section 98484
1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), as necessary to do both 98485
of the following regarding the franchise permit fee assessed under 98486
section ~~3721.51~~ 5168.42 of the Revised Code: 98487

(1) Reduce the franchise permit fee rate to zero dollars for 98488
each nursing home licensed under section 3721.02 or 3721.09 of the 98489
Revised Code to which either of the following applies: 98490

(a) The nursing home: 98491

(i) Is exempt from state taxation under section 140.08 of the 98492
Revised Code or is exempt from state taxation as a home for the 98493
aged as defined in section 5701.13 of the Revised Code; 98494

(ii) Is exempt from federal income taxation under section 501 98495
of the Internal Revenue Code of 1986; 98496

(iii) Does not participate in medicaid or medicare; and 98497

(iv) Provides services for the life of each resident without regard to the resident's ability to secure payment for the services. 98498
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(b) The nursing home: 98501

(i) Has had a written affiliation agreement with a university in this state for education and research related to Alzheimer's disease for each of the twenty years preceding July 17, 2009, and has such an agreement on July 17, 2009; 98502
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(ii) Was constructed pursuant to a certificate of need granted under Section 3 of Am. Sub. S.B. 256 of the 116th general assembly; and 98506
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(iii) Does not participate in medicaid or medicare. 98509

(2) For each nursing facility with more than two hundred beds certified as nursing facility beds under Title XIX, reduce the franchise permit fee rate for a number of the nursing facility's beds specified by the department to the amount necessary to obtain approval of the waiver sought under this section. 98510
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(B) The effective date of the waiver sought under this section shall be the first day of the quarter beginning after the United States secretary approves the waiver. 98515
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Sec. ~~3721.512~~ 5168.44. If the United States secretary of health and human services approves the waiver sought under section ~~3721.511~~ 5168.43 of the Revised Code, the department of ~~job and family services~~ medicaid shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee rate under the waiver, reduce the franchise permit fee rate in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home 98518
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and hospital qualifying for the reduction notice of the reduction 98528
not later than the last day of the first month of the quarter that 98529
begins after the United States secretary approves the waiver. For 98530
purposes of subsequent fiscal years, the department shall make 98531
such determinations and mail such notices in accordance with 98532
section ~~3721.53~~ 5168.47 of the Revised Code. 98533

Sec. ~~3721.513~~ 5168.45. (A) If the United States secretary of 98534
health and human services approves the waiver sought under section 98535
~~3721.511~~ 5168.43 of the Revised Code, the department of ~~job and~~ 98536
~~family services~~ medicaid may do both of the following regarding 98537
the franchise permit fee assessed under section ~~3721.51~~ 5168.42 of 98538
the Revised Code: 98539

(1) Determine how much money the franchise permit fee would 98540
have raised in a fiscal year if not for the waiver; 98541

(2) For each nursing home and hospital subject to the 98542
franchise permit fee, other than a nursing home or hospital that 98543
has its franchise permit fee rate reduced under section ~~3721.512~~ 98544
5168.44 of the Revised Code, uniformly increase the amount of the 98545
franchise permit fee rate for a fiscal year to an amount that will 98546
have the franchise permit fee raise an amount of money that does 98547
not exceed the amount determined under division (A)(1) of this 98548
section for that fiscal year. 98549

(B) If the department increases the franchise permit fee rate 98550
in accordance with division (A) of this section for the first 98551
fiscal year during which the waiver takes effect, the department 98552
shall determine the amount of the increase not later than the 98553
effective date of the waiver and shall mail to each nursing home 98554
and hospital subject to the increase notice of the increase not 98555
later than the last day of the first month of the quarter that 98556
begins after the United States secretary approves the waiver. If 98557

the department increases the franchise permit fee rate in 98558
accordance with division (A) of this section for a subsequent 98559
fiscal year, the department shall make such determinations and 98560
mail such notices in accordance with section ~~3721.53~~ 5168.47 of 98561
the Revised Code. 98562

Sec. ~~3721.52~~ 5168.46. The department of health shall do all 98563
of the following: 98564

(A) For the purpose of the determinations made under 98565
divisions (A) and (B) of section ~~3721.51~~ 5168.42 of the Revised 98566
Code and not later than the first day of each June, report to the 98567
department of ~~job and family services~~ medicaid the following: 98568

(1) For each nursing home, the number of beds in the nursing 98569
home licensed on the preceding first day of May under section 98570
3721.02 or 3721.09 of the Revised Code or certified on that date 98571
under Title XVIII or Title XIX; 98572

(2) For each hospital, the number of beds in the hospital 98573
registered on the preceding first day of May pursuant to section 98574
3701.07 of the Revised Code as skilled nursing facility or 98575
long-term care beds or licensed on that date under section 3721.02 98576
or 3721.09 of the Revised Code as nursing home beds. 98577

(B) For the purpose of the redetermination under section 98578
~~3721.531~~ 5168.48 of the Revised Code and not later than the 98579
fifteenth day of each January, report to the department of ~~job and~~ 98580
~~family services~~ medicaid, for each nursing home and hospital, the 98581
number of beds for which a bed surrender occurred during the 98582
period beginning on the first day of May of the preceding calendar 98583
year and ending on the first day of January of the calendar year 98584
in which the redetermination is made. 98585

Sec. ~~3721.53~~ 5168.47. (A) Not later than the fifteenth day of 98586
September of each year, the department of ~~job and family services~~ 98587

medicaid shall determine the annual franchise permit fee for each 98588
nursing home and hospital in accordance with section ~~3721.51~~ 98589
5168.42 of the Revised Code and any adjustments made in accordance 98590
with sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised 98591
Code. 98592

(B) Not later than the first day of October of each year, the 98593
department shall mail to each nursing home and hospital notice of 98594
the amount of the franchise permit fee that has been determined 98595
for the nursing home or hospital. 98596

(C) Subject to section ~~3721.531~~ 5168.48 of the Revised Code, 98597
each nursing home and hospital shall pay its fee under section 98598
~~3721.51~~ 5168.42 of the Revised Code, as adjusted in accordance 98599
with sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the Revised 98600
Code, to the department in four installment payments not later 98601
than forty-five days after the last day of each October, December, 98602
March, and June. 98603

Sec. ~~3721.531~~ 5168.48. (A) Not later than the last day of 98604
February of each year, the department of ~~job and family services~~ 98605
medicaid shall redetermine each nursing home's and hospital's 98606
franchise permit fee if one or more bed surrenders occur during 98607
the period beginning on the first day of May of the preceding 98608
calendar year and ending on the first day of January of the 98609
calendar year in which the redetermination is made. 98610

(B) In redetermining nursing homes' and hospitals' franchise 98611
permit fees under this section, the department shall do both of 98612
the following: 98613

(1) Provide for the redetermination to be conducted in a 98614
manner consistent with the terms of the waiver sought under 98615
section ~~3721.511~~ 5168.43 of the Revised Code; 98616

(2) Recalculate each nursing home's and hospital's franchise 98617

permit fee in accordance with division (A) or (B) of section 98618
~~3721.51~~ 5168.42 of the Revised Code with the following changes: 98619

(a) In the case of a nursing home or hospital for which one 98620
or more bed surrenders occurred during the period beginning on the 98621
first day of May of the preceding calendar year and ending on the 98622
first day of January of the calendar year in which the 98623
redetermination is made, the number of beds included in the 98624
calculation for the purpose of division (A)(1) or (B)(1) of 98625
section ~~3721.51~~ 5168.42 of the Revised Code shall exclude the beds 98626
for which bed surrenders occurred during that period. 98627

(b) The number of days used in the calculation under division 98628
(A)(2) or (B)(2) of section ~~3721.51~~ 5168.42 of the Revised Code 98629
shall be the number of days in the first half of the calendar year 98630
in which the redetermination is made. 98631

(c) The franchise permit fee rate shall reflect adjustments 98632
made under sections ~~3721.512~~ 5168.44 and ~~3721.513~~ 5168.45 of the 98633
Revised Code. 98634

(C) Not later than the first day of March of each year, the 98635
department shall mail to each nursing home and hospital notice of 98636
the amount of its redetermined franchise permit fee. 98637

(D) Each nursing home and hospital shall pay its redetermined 98638
fee to the department in two installment payments not later than 98639
forty-five days after the last day of March and June of the 98640
calendar year in which the redetermination is made. 98641

Sec. ~~3721.532~~ 5168.49. If a nursing home or hospital 98642
undergoes a change of operator during a fiscal year, the 98643
responsibility for paying the franchise permit fee that was 98644
determined for the nursing home or hospital under section ~~3721.53~~ 98645
5168.47 of the Revised Code, or redetermined for the nursing home 98646
or hospital under section ~~3721.531~~ 5168.48 of the Revised Code, 98647

for that fiscal year shall be divided proportionally. The exiting operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that ends on the day before the effective date of the change of operator. The entering operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that begins on the effective date of the change of operator. The department of ~~job and family services~~ medicaid is not required to mail a notice to the entering operator regarding the amount of that fiscal year's fee for which the entering operator is responsible.

Sec. ~~3721.533~~ 5168.50. No nursing home or hospital shall directly bill its residents for the franchise permit fee paid under section ~~3721.53~~ 5168.47 or ~~3721.531~~ 5168.48 of the Revised Code or otherwise directly pass the fee through to its residents.

Sec. ~~3721.54~~ 5168.51. If a nursing home or hospital fails to pay the full amount of a franchise permit fee installment when due, the department of ~~job and family services~~ medicaid may assess a five per cent penalty on the amount due for each month or fraction thereof the installment is overdue.

Sec. ~~3721.541~~ 5168.52. (A) In addition to assessing a penalty pursuant to section ~~3721.54~~ 5168.51 of the Revised Code, the department of ~~job and family services~~ medicaid may do any of the following if a nursing facility or hospital fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount less than or equal to the installment and penalty assessed under section ~~3721.54~~ 5168.51 of the Revised Code from a medicaid payment due the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty;

(2) Offset an amount less than or equal to the installment 98677
and penalty assessed under section ~~3721.54~~ 5168.51 of the Revised 98678
Code from a ~~Medicaid~~ medicaid payment due the nursing facility or 98679
hospital; 98680

(3) Terminate the nursing facility or hospital's medicaid 98681
provider agreement. 98682

(B) The department may offset a medicaid payment under 98683
division (A) of this section without providing notice to the 98684
nursing facility or hospital and without conducting an 98685
adjudication under Chapter 119. of the Revised Code. 98686

Sec. ~~3721.55~~ 5168.53. (A) A nursing home or hospital may 98687
appeal the fee assessed under section ~~3721.51~~ 5168.42 of the 98688
Revised Code, as adjusted under section ~~3721.512~~ 5168.44 or 98689
~~3721.513~~ 5168.45 of the Revised Code, and redetermined under 98690
section ~~3721.531~~ 5168.48 of the Revised Code solely on the grounds 98691
that the department of ~~job and family services~~ medicaid committed 98692
a material error in determining or redetermining the amount of the 98693
fee. A request for an appeal must be received by the department 98694
not later than fifteen days after the date the department mails 98695
the notice of the fee and must include written materials setting 98696
forth the basis for the appeal. 98697

(B) If a nursing home or hospital submits a request for an 98698
appeal within the time required under division (A) of this 98699
section, the department ~~of job and family services~~ shall hold a 98700
public hearing in Columbus not later than thirty days after the 98701
date the department receives the request for an appeal. The 98702
department shall, not later than ten days before the date of the 98703
hearing, mail a notice of the date, time, and place of the hearing 98704
to the nursing home or hospital. The department may hear all the 98705
requested appeals in one public hearing. 98706

(C) On the basis of the evidence presented at the hearing or 98707

any other evidence submitted by the nursing home or hospital, the 98708
department may adjust a fee. The department's decision is final. 98709

Sec. ~~3721.56~~ 5168.54. (A) There is hereby created in the 98710
state treasury the nursing home franchise permit fee fund. All 98711
payments and penalties paid by nursing homes and hospitals under 98712
sections ~~3721.53~~ 5168.47, ~~3721.531~~ 5168.48, and ~~3721.54~~ 5168.51 of 98713
the Revised Code shall be deposited into the fund. The fund shall 98714
also consist of money deposited into it pursuant to sections 98715
3769.08 and 3769.26 of the Revised Code. Subject to division (B) 98716
of section 3769.08 of the Revised Code, the department of ~~job and~~ 98717
~~family services~~ medicaid shall use the money in the fund to make 98718
medicaid payments to providers of nursing facility services and 98719
providers of home and community-based services. Money in the fund 98720
may also be used for the residential state supplement program 98721
established under section ~~5119.69~~ 5119.41 of the Revised Code. 98722

(B) Any money remaining in the nursing home franchise permit 98723
fee fund after payments specified in division (A) of this section 98724
are made shall be retained in the fund. Any interest or other 98725
investment proceeds earned on money in the fund shall be credited 98726
to the fund and used to make medicaid payments in accordance with 98727
division (A) of this section. 98728

Sec. ~~3721.57~~ 5168.55. The department of ~~job and family~~ 98729
~~services~~ medicaid may make any investigation it considers 98730
appropriate to obtain information necessary to fulfill its duties 98731
under sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised 98732
Code. At the request of the department, the attorney general shall 98733
aid in any such investigations. The attorney general shall 98734
institute and prosecute all necessary actions for the enforcement 98735
of sections ~~3721.50~~ 5168.40 to ~~3721.58~~ 5168.56 of the Revised 98736
Code, except that at the request of the attorney general, the 98737
county prosecutor of the county in which a nursing home or 98738

hospital that has failed to comply with sections ~~3721.50~~ 5168.40 98739
to ~~3721.58~~ 5168.56 of the Revised Code is located shall institute 98740
and prosecute any necessary action against the nursing home or 98741
hospital. 98742

Sec. ~~3721.58~~ 5168.56. The medicaid director of ~~job and family~~ 98743
~~services~~ shall adopt rules in accordance with Chapter 119. of the 98744
Revised Code to do both of the following: 98745

(A) Prescribe the actions the department of ~~job and family~~ 98746
~~services~~ medicaid will take to cease implementation of sections 98747
~~3721.50 through 3721.57~~ 5168.40 to 5168.56 of the Revised Code if 98748
the United States centers for medicare and medicaid services 98749
determines that the franchise permit fee established by those 98750
sections is an impermissible health-care related tax under ~~section~~ 98751
~~1903(w)~~ of the "Social Security Act," ~~105 Stat. 1793 (1991)~~ 98752
section 1903(w), 42 U.S.C. 1396b(w), ~~as amended;~~ 98753

(B) Establish any requirements or procedures the director 98754
considers necessary to implement sections ~~3721.50~~ 5168.40 to 98755
~~3721.58~~ 5168.56 of the Revised Code. 98756

Sec. ~~5112.30~~ 5168.60. As used in sections ~~5112.30~~ 5168.60 to 98757
~~5112.39~~ 5168.71 of the Revised Code: 98758

(A) "Franchise permit fee rate" means the following: 98759

(1) For fiscal year ~~2012~~ 2014, ~~seventeen~~ eighteen dollars and 98760
~~ninety-nine~~ twenty-four cents; 98761

(2) For fiscal year ~~2013~~ 2015 and each fiscal year 98762
thereafter, eighteen dollars and ~~thirty-two~~ seventeen cents. 98763

(B) "Indirect guarantee percentage" means the percentage 98764
specified in ~~section 1903(w)(4)(C)(ii)~~ of the "Social Security 98765
Act," ~~120 Stat. 2994 (2006)~~ section 1903(w)(4)(C)(ii), 42 U.S.C. 98766
1396b(w)(4)(C)(ii), ~~as amended~~, that is to be used in determining 98767

whether a class of providers is indirectly held harmless for any 98768
portion of the costs of a broad-based health-care-related tax. If 98769
the indirect guarantee percentage changes during a fiscal year, 98770
the indirect guarantee percentage is the following: 98771

(1) For the part of the fiscal year before the change takes 98772
effect, the percentage in effect before the change; 98773

(2) For the part of the fiscal year beginning with the date 98774
the indirect guarantee percentage changes, the new percentage. 98775

(C) "~~Intermediate care facility for the mentally retarded~~ 98776
ICF/IID" has the same meaning as in section ~~5111.20~~ 5124.01 of the 98777
Revised Code, ~~except that, until August 1, 2009, it does not~~ 98778
~~include any such facility operated by the department of~~ 98779
~~developmental disabilities.~~ 98780

(D) "~~Medicaid~~ Medicaid-certified capacity" has the same 98781
meaning as in section ~~5111.01~~ 5124.01 of the Revised Code. 98782

(E) "Provider agreement" has the same meaning as in section 98783
5124.01 of the Revised Code. 98784

Sec. ~~5112.31~~ 5168.61. The department of ~~job and family~~ 98785
~~services~~ developmental disabilities shall do all of the following: 98786

(A) Subject to section ~~5112.331~~ 5168.64 of the Revised Code 98788
and divisions (B) and (C) of this section and for the purposes 98789
specified in section ~~5112.371~~ 5168.69 of the Revised Code, assess 98790
for each fiscal year each ~~intermediate care facility for the~~ 98791
~~mentally retarded~~ ICF/IID a franchise permit fee equal to the 98792
franchise permit fee rate multiplied by the product of the 98793
following: 98794

(1) The ~~number of beds certified under Title XIX of the~~ 98795
~~"Social Security Act"~~ ICF/IID's medicaid-certified capacity on the 98796
first day of May of the calendar year in which the assessment is 98797

determined pursuant to division (A) of section ~~5112.33~~ 5168.63 of the Revised Code; 98798
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(2) The number of days in the fiscal year. 98800

(B) If the total amount of the franchise permit fee assessed under division (A) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all ~~intermediate care facilities for the mentally retarded~~ ICFs/IID for that fiscal year and seventy-five per cent or more of the total number of ~~intermediate care facilities for the mentally retarded~~ ICFs/IID receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following: 98801
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(1) Recalculate the assessments under division (A) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all ~~intermediate care facilities for the mentally retarded~~ ICFs/IID for that fiscal year; 98810
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(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year. 98815
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(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the Revised Code would be an impermissible health care-related tax under ~~section 1903(w)~~ of the "Social Security Act," ~~105 Stat. 1793 (1991)~~ section 1903(w), 42 U.S.C. 1396b(w), ~~as amended~~, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section ~~5112.39~~ 5168.71 of the Revised Code. 98820
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Sec. ~~5112.32~~ 5168.62. For the purpose of the franchise permit 98829
fee imposed under section ~~5112.31~~ 5168.61 of the Revised Code and 98830
not later than the first day of each June, the department of 98831
developmental disabilities shall~~+~~ 98832

~~(A) Not later than August 1, 1993, report to the department 98833
of job and family services the number of beds in each intermediate 98834
care facility for the mentally retarded certified on July 1, 1993, 98835
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 98836
42 U.S.C.A. 301, as amended;~~ 98837

~~(B) Not later than June 1, 1994, and the first day of each 98838
June thereafter, report to the department of job and family 98839
services medicaid the number of beds in each ~~such~~ facility 98840
certified ICF/IID on the preceding first day of May ~~under that~~ 98841
title. 98842~~

Sec. ~~5112.33~~ 5168.63. (A) Not later than the fifteenth day of 98843
August of each year, the department of ~~job and family services~~ 98844
developmental disabilities shall determine the annual franchise 98845
permit fee for each ~~intermediate care facility for the mentally~~ 98846
~~retarded~~ ICF/IID in accordance with section ~~5112.31~~ 5168.61 of the 98847
Revised Code. 98848

(B) Not later than the first day of September of each year, 98849
the department shall mail to each ~~intermediate care facility for~~ 98850
~~the mentally retarded~~ ICF/IID notice of the amount of the 98851
franchise permit fee the ~~facility~~ ICF/IID has been assessed under 98852
section ~~5112.31~~ 5168.61 of the Revised Code. 98853

(C) Subject to section ~~5112.33~~ 5168.64 of the Revised Code, 98854
each ~~intermediate care facility for the mentally retarded~~ ICF/IID 98855
shall pay its fee under section ~~5112.31~~ 5168.61 of the Revised 98856
Code to the department in quarterly installment payments not later 98857
than forty-five days after the last day of each September, 98858

December, March, and June. 98859

Sec. ~~5112.331~~ 5168.64. (A) If, during the period beginning on 98860
the first day of May of a calendar year and ending on the first 98861
day of January of the immediately following calendar year, the 98862
operator of an ~~intermediate care facility for the mentally~~ 98863
~~retarded~~ ICF/IID converts, pursuant to section ~~5111.874~~ 5124.60 of 98864
the Revised Code, one or more of the ~~facility's~~ ICF/IID's beds to 98865
providing home and community-based services, the department of ~~job~~ 98866
~~and family services~~ developmental disabilities shall do the 98867
following: 98868

(1) If the ~~facility's~~ ICF/IID's medicaid certification is 98869
terminated because of the conversion, terminate the ~~facility's~~ 98870
ICF/IID's franchise permit fee effective on the first day of the 98871
quarter immediately following the quarter in which the department 98872
receives the notice of the conversion from the director of health; 98873

(2) If the ~~facility's certified~~ ICF/IID's medicaid-certified 98874
capacity ~~under medicaid~~ is reduced because of the conversion, 98875
redetermine the ~~facility's~~ ICF/IID's franchise permit fee in 98876
accordance with division (B) of this section for the second half 98877
of the fiscal year for which the fee is assessed. 98878

(B)(1) To redetermine an ~~intermediate care facility for the~~ 98879
~~mentally retarded's~~ ICF/IID's franchise permit fee, the department 98880
shall multiply the franchise permit fee rate by the product of the 98881
following: 98882

(a) The ~~number of the facility's beds that remain certified~~ 98883
~~under Title XIX of the "Social Security Act"~~ ICF/IID's 98884
medicaid-certified capacity as of the date the conversion takes 98885
effect; 98886

(b) The number of days in the second half of the fiscal year 98887
for which the redetermination is made. 98888

(2) The ~~intermediate care facility for the mentally retarded~~ ICF/IID shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made.

Sec. ~~5112.34~~ 5168.65. If an ~~intermediate care facility for the mentally retarded~~ ICF/IID fails to pay the full amount of an installment when due, the department of ~~job and family services~~ developmental disabilities may assess a five per cent penalty on the amount due for each month or fraction thereof the installment is overdue.

Sec. ~~5112.341~~ 5168.66. (A) In addition to assessing a penalty pursuant to section ~~5112.34~~ 5168.65 of the Revised Code, the department of ~~job and family services~~ developmental disabilities may do any of the following if an ~~intermediate care facility for the mentally retarded~~ ICF/IID fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount less than or equal to the installment and penalty assessed under section ~~5112.34~~ 5168.65 of the Revised Code from a medicaid payment due the ~~facility~~ ICF/IID until the ~~facility~~ ICF/IID pays the installment and penalty;

(2) Offset an amount less than or equal to the installment and penalty assessed under section ~~5112.34~~ 5168.65 of the Revised Code from a medicaid payment due the ~~facility~~ ICF/IID;

(3) ~~Terminate~~ Provide for the department of medicaid to terminate the ~~facility's medicaid~~ ICF/IID's provider agreement.

(B) The department may offset a medicaid payment under division (A) of this section without providing notice to the ~~intermediate care facility for the mentally retarded~~ ICF/IID and without conducting an adjudication under Chapter 119. of the

Revised Code. 98919

Sec. ~~5112.35~~ 5168.67. (A) An ~~intermediate care facility for~~ 98920
~~the mentally retarded~~ ICF/IID may appeal the franchise permit fee 98921
imposed under section ~~5112.31~~ 5168.61 of the Revised Code solely 98922
on the grounds that the department of ~~job and family services~~ 98923
developmental disabilities committed a material error in 98924
determining the amount of the fee. A request for an appeal must be 98925
received by the department not later than fifteen days after the 98926
date the department mails the notice of the fee and must include 98927
written materials setting forth the basis for the appeal. 98928

(B) If an ~~intermediate care facility for the mentally~~ 98929
~~retarded~~ ICF/IID submits a request for an appeal within the time 98930
required under division (A) of this section, the department shall 98931
hold a public hearing in Columbus not later than thirty days after 98932
the date the department receives the request for an appeal. The 98933
department shall, not later than ten days before the date of the 98934
hearing, mail a notice of the date, time, and place of the hearing 98935
to the ~~facility~~ ICF/IID. The department may hear all requested 98936
appeals in one public hearing. 98937

(C) On the basis of the evidence presented at the hearing or 98938
any other evidence submitted by the ~~intermediate care facility for~~ 98939
~~the mentally retarded~~ ICF/IID, the department may adjust a fee. 98940
The department's decision is final. 98941

Sec. ~~5112.37~~ 5168.68. There is hereby created in the state 98942
treasury the home and community-based services for the mentally 98943
retarded and developmentally disabled fund. All installment 98944
payments and penalties paid by an ~~intermediate care facility for~~ 98945
~~the mentally retarded~~ ICF/IID under sections ~~5112.33~~ 5168.63 and 98946
~~5112.34~~ 5168.65 of the Revised Code shall be deposited into the 98947
fund. As soon as possible after the end of each quarter, the 98948

~~medicaid~~ director of ~~job and family services~~ shall certify to the 98949
director of budget and management the amount of money that is in 98950
the fund as of the last day of that quarter. On receipt of a 98951
certification, the director of budget and management shall 98952
transfer the amount so certified from the home and community-based 98953
services for the mentally retarded and developmentally disabled 98954
fund to the department of developmental disabilities operating and 98955
services fund created under section ~~5112.371~~ 5168.69 of the 98956
Revised Code. 98957

Sec. ~~5112.371~~ 5168.69. There is hereby created in the state 98958
treasury the department of developmental disabilities operating 98959
and services fund. The fund shall consist of the money transferred 98960
to it under section ~~5112.37~~ 5168.68 of the Revised Code. The money 98961
in the fund shall be used for the expenses of the programs that 98962
the department of developmental disabilities administers and the 98963
department's administrative expenses. 98964

Sec. ~~5112.38~~ 5168.70. The department of ~~job and family~~ 98965
~~services~~ developmental disabilities may make any investigation it 98966
considers appropriate to obtain information necessary to fulfill 98967
its duties under sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of 98968
the Revised Code. At the request of the department, the attorney 98969
general shall aid in any such investigations. The attorney general 98970
shall institute and prosecute all necessary actions for the 98971
enforcement of sections ~~5112.30~~ 5168.60 to ~~5112.39~~ 5168.71 of the 98972
Revised Code, except that at the request of the attorney general, 98973
the county prosecutor of the county in which an ~~intermediate care~~ 98974
~~facility for the mentally retarded~~ ICF/IID that has failed to 98975
comply with those sections is located shall institute and 98976
prosecute any necessary action against the ~~facility~~ ICF/IID. 98977

Sec. ~~5112.39~~ 5168.71. ~~The~~ To the extent authorized by rules 98978

authorized by section 5162.021 of the Revised Code, the director 98979
of job and family services developmental disabilities shall adopt 98980
rules in accordance with Chapter 119. of the Revised Code to do 98981
both of the following: 98982

(A) Prescribe the actions the department of developmental 98983
disabilities will take to cease implementation of sections ~~5112.30~~ 98984
~~5168.60~~ to ~~5112.39~~ 5168.71 of the Revised Code if the United 98985
States secretary of health and human services determines that the 98986
franchise permit fee imposed under section ~~5112.31~~ 5168.61 of the 98987
Revised Code is an impermissible health care-related tax under 98988
~~section 1903(w) of the "Social Security Act," 105 Stat. 1793~~ 98989
~~(1991)~~ section 1903(w), 42 U.S.C. 1396b(w), ~~as amended;~~ 98990

(B) Establish any other requirements or procedures the 98991
director considers necessary to implement sections ~~5112.30~~ 5168.60 98992
to ~~5112.39~~ 5168.71 of the Revised Code. 98993

Sec. ~~5112.99~~ 5168.99. (A) The medicaid director ~~of job and~~ 98994
~~family services~~ shall impose a penalty for each day that a 98995
hospital fails to report the information required under section 98996
~~5112.04~~ 5168.05 of the Revised Code on or before the dates 98997
specified in that section. The amount of the penalty shall be 98998
established by the director in rules adopted under section ~~5112.03~~ 98999
5168.02 of the Revised Code. 99000

(B) In addition to any other remedy available to the 99001
department of ~~job and family services~~ medicaid under law to 99002
collect unpaid assessments and transfers under sections ~~5112.01~~ 99003
5168.01 to ~~5112.21~~ 5168.14 of the Revised Code, the director shall 99004
impose a penalty of ten per cent of the amount due on any hospital 99005
that fails to pay assessments or make intergovernmental transfers 99006
by the dates required by rules adopted under section ~~5112.03~~ 99007
5168.02 of the Revised Code. 99008

(C) In addition to any other remedy available to the 99009

department of ~~job and family services~~ medicaid under law to 99010
collect unpaid assessments imposed under section ~~5112.41~~ 5168.21 99011
of the Revised Code, the director shall impose a penalty of ten 99012
per cent of the amount due on any hospital that fails to pay the 99013
assessment by the date it is due. 99014

(D) The director shall waive the penalties provided for in 99015
this section for good cause shown by the hospital. 99016

(E) All penalties imposed under this section shall be 99017
deposited into the health care administration fund created by 99018
section ~~5111.94~~ 5162.54 of the Revised Code. 99019

Sec. ~~5112.991~~ 5168.991. The department of ~~job and family~~ 99020
~~services~~ medicaid may offset the amount of a hospital's unpaid 99021
penalty imposed under section ~~5112.99~~ 5168.99 of the Revised Code 99022
from one or more payments due the hospital under the medicaid 99023
program. The total amount that may be offset from one or more 99024
payments shall not exceed the amount of the unpaid penalty. 99025

Sec. 5302.221. (A) As used in this section: 99026

"Estate" has the same meaning as in section ~~5111.11~~ 5162.21 99027
of the Revised Code. 99028

"Medicaid estate recovery program" means the program 99029
instituted under section ~~5111.11~~ 5162.21 of the Revised Code. 99030

(B) The administrator of the medicaid estate recovery program 99031
shall prescribe a form on which a beneficiary of a transfer on 99032
death designation affidavit as provided in section 5302.22 of the 99033
Revised Code, who survives the deceased owner of the real property 99034
or an interest in the real property or that is in existence on the 99035
date of death of the deceased owner, or that beneficiary's 99036
representative is to indicate both of the following: 99037

(1) Whether the deceased owner was either of the following: 99038

(a) A decedent subject to the medicaid estate recovery program;	99039 99040
(b) The spouse of a decedent subject to the medicaid estate recovery program.	99041 99042
(2) Whether the real property or interest in the real property was part of the estate of a decedent subject to the medicaid estate recovery program.	99043 99044 99045
(C) A county recorder shall obtain a properly completed form prescribed under division (B) of this section from the beneficiary of a transfer on death designation affidavit or the beneficiary's representative and send a copy of the form to the administrator of the medicaid estate recovery program before recording the transfer of the real property or interest in the real property under section 5302.222 of the Revised Code.	99046 99047 99048 99049 99050 99051 99052
Sec. 5309.082. (A) As used in this section:	99053
"Estate" has the same meaning as in section 5111.11 <u>5162.21</u> of the Revised Code.	99054 99055
"Medicaid estate recovery program" means the program instituted under section 5111.11 <u>5162.21</u> of the Revised Code.	99056 99057
(B) The administrator of the medicaid estate recovery program shall prescribe a form on which a surviving tenant under a survivorship tenancy or such a surviving tenant's representative is to indicate both of the following:	99058 99059 99060 99061
(1) Whether the deceased survivorship tenant was either of the following:	99062 99063
(a) A decedent subject to the medicaid estate recovery program;	99064 99065
(b) The spouse of a decedent subject to the medicaid estate recovery program.	99066 99067

(2) Whether the registered land under a survivorship tenancy 99068
was part of the estate of a decedent subject to the medicaid 99069
estate recovery program. 99070

(C) A county recorder shall obtain a properly completed form 99071
prescribed under division (B) of this section from the surviving 99072
tenant under a survivorship tenancy or the surviving tenant's 99073
representative and send a copy of the form to the administrator of 99074
the medicaid estate recovery program before registering the title 99075
in the surviving tenants under section 5309.081 of the Revised 99076
Code. 99077

Sec. 5505.12. (A) The state highway patrol retirement board 99078
shall have prepared annually by or under the supervision of an 99079
actuary an actuarial valuation of the pension assets, liabilities, 99080
and funding requirements of the state highway patrol retirement 99081
system as established pursuant to this chapter. The actuary shall 99082
complete the valuation in accordance with actuarial standards of 99083
practice promulgated by the actuarial standards board of the 99084
American academy of actuaries and prepare a report of the 99085
valuation. The report shall include all of the following: 99086

(1) A summary of the benefit provisions evaluated; 99087

(2) A summary of the census data and financial information 99088
used in the valuation; 99089

(3) A description of the actuarial assumptions, actuarial 99090
cost method, and asset valuation method used in the valuation, 99091
including a statement of the assumed rate of payroll growth and 99092
assumed rate of growth or decline in the number of members 99093
contributing to the retirement system; 99094

(4) A summary of findings that includes a statement of the 99095
actuarial accrued pension liabilities and unfunded actuarial 99096
accrued pension liabilities; 99097

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of July following the year for which the valuation was made.

(B) At such times as the state highway patrol retirement board determines, and at least once in each five-year period after January 1, 1966, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended

changes in actuarial assumptions; 99129

(4) If the investigation required by this division includes 99130
the investigation required by division (F) of this section, a 99131
report of the result of that investigation. 99132

The board shall submit the report to the Ohio retirement 99133
study council and the standing committees of the house of 99134
representatives and the senate with primary responsibility for 99135
retirement legislation not later than the first day of November 99136
following the last fiscal year of the period the report covers. 99137

(C) The board may at any time request the actuary to make any 99138
studies or actuarial valuations to determine the adequacy of the 99139
rates of contributions provided by section 5505.15 of the Revised 99140
Code. 99141

(D) The board shall have prepared by or under the supervision 99142
of an actuary an actuarial analysis of any introduced legislation 99143
expected to have a measurable financial impact on the retirement 99144
system. The actuarial analysis shall be completed in accordance 99145
with the actuarial standards of practice promulgated by the 99146
actuarial standards board of the American academy of actuaries. 99147
The actuary shall prepare a report of the actuarial analysis, 99148
which shall include all of the following: 99149

(1) A summary of the statutory changes that are being 99150
evaluated; 99151

(2) A description of or reference to the actuarial 99152
assumptions and actuarial cost method used in the report; 99153

(3) A description of the participant group or groups included 99154
in the report; 99155

(4) A statement of the financial impact of the legislation, 99156
including the resulting increase, if any, in the employer normal 99157
cost percentage; the increase, if any, in actuarial accrued 99158

liabilities; and the per cent of payroll that would be required to 99159
amortize the increase in actuarial accrued liabilities as a level 99160
per cent of covered payroll for all active members over a period 99161
not to exceed thirty years; 99162

(5) A statement of whether the scheduled contributions to the 99163
system after the proposed change is enacted are expected to be 99164
sufficient to satisfy the funding objectives established by the 99165
board. 99166

Not later than sixty days from the date of introduction of 99167
the legislation, the board shall submit a copy of the actuarial 99168
analysis to the legislative service commission, the standing 99169
committees of the house of representatives and the senate with 99170
primary responsibility for retirement legislation, and the Ohio 99171
retirement study council. 99172

(E) The board shall have prepared annually a report giving a 99173
full accounting of the revenues and costs relating to the 99174
provision of benefits under section 5505.28 of the Revised Code. 99175
The report shall be made as of December 31, 1997, and the 99176
thirty-first day of December of each year thereafter. The report 99177
shall include the following: 99178

(1) A description of the statutory authority for the benefits 99179
provided; 99180

(2) A summary of the benefits; 99181

(3) A summary of the eligibility requirements for the 99182
benefits; 99183

(4) A statement of the number of participants eligible for 99184
the benefits; 99185

(5) A description of the accounting, asset valuation, and 99186
funding method used to provide the benefits; 99187

(6) A statement of the net assets available for the provision 99188

of the benefits as of the last day of the fiscal year; 99189

(7) A statement of any changes in the net assets available 99190
for the provision of benefits, including participant and employer 99191
contributions, net investment income, administrative expenses, and 99192
benefits provided to participants, as of the last day of the 99193
fiscal year; 99194

(8) For the last six consecutive fiscal years, a schedule of 99195
the net assets available for the benefits, the annual cost of 99196
benefits, administrative expenses incurred, and annual employer 99197
contributions allocated for the provision of benefits; 99198

(9) A description of any significant changes that affect the 99199
comparability of the report required under this division; 99200

(10) A statement of the amount paid under division (B) of 99201
section 5505.28 of the Revised Code. 99202

The board shall submit the report to the Ohio retirement 99203
study council, the director of budget and management, and the 99204
standing committees of the house of representatives and the senate 99205
with primary responsibility for retirement legislation immediately 99206
upon its availability and not later than the thirtieth day of June 99207
following the year for which the report was made. 99208

(F) At least once in each five-year period, the board shall 99209
have prepared by or under the supervision of an actuary an 99210
actuarial investigation of the deferred retirement option plan 99211
established under section 5505.50 of the Revised Code. The 99212
investigation shall include an examination of the financial 99213
impact, if any, on the retirement system of offering the plan to 99214
members. 99215

The actuary shall prepare a report of the actuarial 99216
investigation. The report shall include a determination of whether 99217
the plan, as established or modified, has a negative financial 99218
impact on the retirement system and, if so, recommendations on how 99219

to modify the plan to eliminate the negative financial impact. If 99220
the actuarial report indicates that the plan has a negative 99221
financial impact on the retirement system, the board shall modify 99222
the plan. If the board modifies the plan, the rights and 99223
obligations of members who have already elected to participate 99224
shall not be altered. 99225

The state's contributions to the employer accumulation fund 99226
shall not be increased to offset any negative financial impact of 99227
the deferred retirement option plan. 99228

The board may include the actuarial investigation required 99229
under this division as part of the actuarial investigation 99230
required under division (B) of this section. If the report of the 99231
actuarial investigation required by this division is not included 99232
in the report required by division (B) of this section, the board 99233
shall submit the report required by this division to the Ohio 99234
retirement study council and the standing committees of the house 99235
of representatives and the senate with primary responsibility for 99236
retirement legislation not later than the first day of November 99237
following the last fiscal year of the period the report covers. 99238

Sec. 5507.46. (A) Prior to January 1, 2014: 99239

(1) A wireless service provider or reseller, not later than 99240
the last day of each month, shall remit the full amount of all 99241
wireless 9-1-1 charges it collected under division (A) of section 99242
5507.42 of the Revised Code for the second preceding calendar 99243
month to the Ohio 9-1-1 coordinator, with the exception of charges 99244
equivalent to the amount authorized as a billing and collection 99245
fee under division (A)(2) of this section. In doing so, the 99246
provider or reseller may remit the requisite amount in any 99247
reasonable manner consistent with its existing operating or 99248
technological capabilities, such as by customer address, location 99249
associated with the wireless telephone number, or another 99250

allocation method based on comparable, relevant data. If the 99251
wireless service provider or reseller receives a partial payment 99252
for a bill from a wireless service subscriber, the wireless 99253
service provider or reseller shall apply the payment first against 99254
the amount the subscriber owes the wireless service provider or 99255
reseller and shall remit to the coordinator such lesser amount, if 99256
any, as results from that invoice. 99257

(2) A wireless service provider or reseller may retain as a 99258
billing and collection fee two per cent of the total wireless 99259
9-1-1 charges it collects in a month and shall account to the 99260
coordinator for the amount retained. 99261

(3) The coordinator shall return to, or credit against the 99262
next month's remittance of, a wireless service provider or 99263
reseller the amount of any remittances the coordinator determines 99264
were erroneously submitted by the provider or reseller. 99265

(B) Beginning January 1, 2014: 99266

(1) Each seller of a prepaid wireless calling service, 99267
wireless service provider, and reseller shall, on or before the 99268
twenty-third day of each month, except as provided in divisions 99269
(B)(2) and (3) of this section, do both of the following: 99270

(a) Make and file a return for the preceding month, in the 99271
form prescribed by the tax commissioner, showing the amount of the 99272
wireless 9-1-1 charges due under section 5507.42 of the Revised 99273
Code for that month; 99274

(b) Remit the full amount due, as shown on the return, with 99275
the exception of charges equivalent to the amount authorized as a 99276
collection fee under division (B)(4) of this section. 99277

(2) The commissioner may grant one or more thirty-day 99278
extensions for making and filing returns and remitting amounts 99279
due. 99280

(3) If a seller is required to collect prepaid wireless 9-1-1 charges in amounts that do not merit monthly returns, the commissioner may authorize the seller to make and file returns less frequently. The commissioner shall ascertain whether this authorization is warranted upon the basis of administrative costs to the state.

(4) A wireless service provider, reseller, and seller may each retain as a collection fee three per cent of the total wireless 9-1-1 charges required to be collected under section 5507.42 of the Revised Code, and shall account to the tax commissioner for the amount retained.

(5) The return required under division (B)(1)(a) of this section shall be filed electronically using the Ohio business gateway, as defined in section 718.051 of the Revised Code, the Ohio telefile system, or any other electronic means prescribed by the tax commissioner. Remittance of the amount due shall be made electronically in a manner approved by the commissioner. A wireless service provider, reseller, or seller may apply to the commissioner on a form prescribed by the commissioner to be excused from either electronic requirement of this division. For good cause shown, the commissioner may excuse the provider, reseller, or seller from either or both of the requirements and may permit the provider, reseller, or seller to file returns or make remittances by nonelectronic means.

(C)(1) Prior to January 1, 2014, each subscriber on which a wireless 9-1-1 charge is imposed under division (A) of section 5507.42 of the Revised Code is liable to the state for the amount of the charge. If a wireless service provider or reseller fails to collect the charge under that division from a subscriber of prepaid wireless service, or fails to bill any other subscriber for the charge, the wireless service provider or reseller is liable to the state for the amount not collected or billed. If a

wireless service provider or reseller collects charges under that 99313
division and fails to remit the money to the coordinator, the 99314
wireless service provider or reseller is liable to the state for 99315
any amount collected and not remitted. 99316

(2) Beginning January 1, 2014: 99317

(a) Each subscriber or consumer on which a wireless 9-1-1 99318
charge is imposed under section 5507.42 of the Revised Code is 99319
liable to the state for the amount of the charge. If a wireless 99320
service provider or reseller fails to bill or collect the charge, 99321
or if a seller fails to collect the charge, the provider, 99322
reseller, or seller is liable to the state for the amount not 99323
billed or collected. If a provider, reseller, or seller fails to 99324
remit money to the tax commissioner as required under this 99325
section, the provider, reseller, or seller is liable to the state 99326
for the amount not remitted, regardless of whether the amount was 99327
collected. 99328

(b) No provider of a prepaid wireless calling service shall 99329
be liable to the state for any wireless 9-1-1 charge imposed under 99330
division (B)(1) of section 5507.42 of the Revised Code that was 99331
not collected or remitted. 99332

(D) Prior to January 1, 2014: 99333

(1) If the public utilities commission has reason to believe 99334
that a wireless service provider or reseller has failed to bill, 99335
collect, or remit the wireless 9-1-1 charge as required by 99336
divisions (A)(1) and (C)(1) of this section or has retained more 99337
than the amount authorized under division (A)(2) of this section, 99338
and after written notice to the provider or reseller, the 99339
commission may audit the provider or reseller for the sole purpose 99340
of making such a determination. The audit may include, but is not 99341
limited to, a sample of the provider's or reseller's billings, 99342
collections, remittances, or retentions for a representative 99343

period, and the commission shall make a good faith effort to reach 99344
agreement with the provider or reseller in selecting that sample. 99345

(2) Upon written notice to the wireless service provider or 99346
reseller, the commission, by order after completion of the audit, 99347
may make an assessment against the provider or reseller if, 99348
pursuant to the audit, the commission determines that the provider 99349
or reseller has failed to bill, collect, or remit the wireless 99350
9-1-1 charge as required by divisions (A)(1) and (C)(1) of this 99351
section or has retained more than the amount authorized under 99352
division (A)(2) of this section. The assessment shall be in the 99353
amount of any remittance that was due and unpaid on the date 99354
notice of the audit was sent by the commission to the provider or 99355
reseller or, as applicable, in the amount of the excess amount 99356
under division (A)(2) of this section retained by the provider or 99357
reseller as of that date. 99358

(3) The portion of any assessment not paid within sixty days 99359
after the date of service by the commission of the assessment 99360
notice under division (D)(2) of this section shall bear interest 99361
from that date until paid at the rate per annum prescribed by 99362
section 5703.47 of the Revised Code. That interest may be 99363
collected by making an assessment under division (D)(2) of this 99364
section. An assessment under this division and any interest due 99365
shall be remitted in the same manner as the wireless 9-1-1 charge 99366
imposed under division (A) of section 5507.42 of the Revised Code. 99367

(4) An assessment is final and due and payable and shall be 99368
remitted to the commission unless the assessed party petitions for 99369
rehearing under section 4903.10 of the Revised Code. The 99370
proceedings of the commission specified in division (D)(4) of this 99371
section are subject to and governed by Chapter 4903. of the 99372
Revised Code, except that the court of appeals of Franklin county 99373
has exclusive, original jurisdiction to review, modify, or vacate 99374
an order of the commission under division (D)(2) of this section. 99375

The court shall hear and determine such appeal in the same manner 99376
and under the same standards as the Ohio supreme court hears and 99377
determines appeals under Chapter 4903. of the Revised Code. 99378

The judgment of the court of appeals is final and conclusive 99379
unless reversed, vacated, or modified on appeal. Such an appeal 99380
may be made by the commission or the person to whom the order 99381
under division (D)(2) of this section was issued and shall proceed 99382
as in the case of appeals in civil actions as provided in Chapter 99383
2505. of the Revised Code. 99384

(5) After an assessment becomes final, if any portion of the 99385
assessment remains unpaid, including accrued interest, a certified 99386
copy of the commission's entry making the assessment final may be 99387
filed in the office of the clerk of the court of common pleas in 99388
the county in which the place of business of the assessed party is 99389
located. If the party maintains no place of business in this 99390
state, the certified copy of the entry may be filed in the office 99391
of the clerk of the court of common pleas of Franklin county. 99392
Immediately upon the filing, the clerk shall enter a judgment for 99393
the state against the assessed party in the amount shown on the 99394
entry. The judgment may be filed by the clerk in a loose-leaf book 99395
entitled "special judgments for wireless 9-1-1 charges" and shall 99396
have the same effect as other judgments. The judgment shall be 99397
executed upon the request of the commission. 99398

(6) An assessment under this division does not discharge a 99399
subscriber's liability to reimburse the provider or reseller for 99400
the wireless 9-1-1 charge imposed under division (A) of section 99401
5507.42 of the Revised Code. If, after the date of service of the 99402
audit notice under division (D)(1) of this section, a subscriber 99403
pays a wireless 9-1-1 charge for the period covered by the 99404
assessment, the payment shall be credited against the assessment. 99405

(7) All money collected by the commission under division (D) 99406
of this section shall be paid to the treasurer of state, for 99407

deposit to the credit of the wireless 9-1-1 government assistance fund. 99408
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(E) Beginning January 1, 2014: 99410

(1) If the tax commissioner has reason to believe that a wireless service provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section 5507.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section, and after written notice to the provider, reseller, or seller, the tax commissioner may audit the provider, reseller, or seller for the sole purpose of making such a determination. The audit may include, but is not limited to, a sample of the provider's, reseller's, or seller's billings, collections, remittances, or retentions for a representative period, and the tax commissioner shall make a good faith effort to reach agreement with the provider, reseller, or seller in selecting that sample. 99411
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(2) Upon written notice to the wireless service provider, reseller, or seller, the tax commissioner, after completion of the audit, may make an assessment against the provider, reseller, or seller if, pursuant to the audit, the tax commissioner determines that the provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section 5507.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section. The assessment shall be in the amount of any remittance that was due and unpaid on the date notice of the audit was sent by the tax commissioner to the provider, reseller, or seller or, as applicable, in the amount of the excess amount under division (B)(4) of this section retained by the provider, reseller, or seller as of that date. 99424
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(3) The portion of any assessment consisting of wireless 9-1-1 charges due and not paid within sixty days after the date of 99438
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~~service by the tax commissioner of that the assessment notice was 99440
made under division (E)(2) of this section shall bear interest 99441
from that date until paid at the rate per annum prescribed by 99442
section 5703.47 of the Revised Code. That interest may be 99443
collected by making an assessment under division (E)(2) of this 99444
section. ~~An assessment under this division and any interest due 99445
shall be remitted in the same manner as the wireless 9-1-1 charges 99446
imposed under section 5507.42 of the Revised Code.~~ 99447~~

~~(4) The portion of the assessment not paid within sixty days 99448
after the day the assessment was issued shall bear interest at the 99449
rate per annum prescribed by section 5703.47 of the Revised Code 99450
from the day the commissioner issues the assessment until it is 99451
paid. Interest shall be remitted in the same manner as the 9-1-1 99452
charges and may be collected by the issuance of an assessment 99453
under division (E) of this section.~~ 99454

~~(5) Unless the provider, reseller, or seller assessed files 99455
with the tax commissioner within sixty days after service of the 99456
notice of assessment, either personally or by certified mail, a 99457
written petition for reassessment, signed by the party assessed or 99458
that party's authorized agent having knowledge of the facts, the 99459
assessment shall become final and the amount of the assessment 99460
shall be due and payable from the party assessed to the treasurer 99461
of state, for deposit to the next generation 9-1-1 fund, which is 99462
created under section 5507.54 of the Revised Code. The petition 99463
shall indicate the objections of the party assessed, but 99464
additional objections may be raised in writing if received by the 99465
commissioner prior to the date shown on the final determination. 99466
If the petition has been properly filed, the commissioner shall 99467
proceed under section 5703.60 of the Revised Code. 99468~~

~~(6)(5) After an assessment becomes final, if any portion of 99469
the assessment remains unpaid, including accrued interest, a 99470
certified copy of the final assessment may be filed in the office 99471~~

of the clerk of the court of common pleas in the county in which 99472
the business of the assessed party is conducted. If the party 99473
assessed maintains no place of business in this state, the 99474
certified copy of the final assessment may be filed in the office 99475
of the clerk of the court of common pleas of Franklin county. 99476
Immediately upon the filing, the clerk shall enter a judgment for 99477
the state against the assessed party in the amount shown on the 99478
final assessment. The judgment may be filed by the clerk in a 99479
loose-leaf book entitled "special judgments for wireless 9-1-1 99480
charges" and shall have the same effect as other judgments. The 99481
judgment shall be executed upon the request of the tax 99482
commissioner. 99483

~~(7)~~(6) If the commissioner determines that the commissioner 99484
erroneously has refunded a wireless 9-1-1 charge to any person, 99485
the commissioner may make an assessment against that person for 99486
recovery of the erroneously refunded charge. 99487

~~(8)~~(7) An assessment under division (E) of this section does 99488
not discharge a subscriber's or consumer's liability to reimburse 99489
the provider, reseller, or seller for a wireless 9-1-1 charge. If, 99490
after the date of service of the audit notice under division 99491
(E)(1) of this section, a subscriber or consumer pays a wireless 99492
9-1-1 charge for the period covered by the assessment, the payment 99493
shall be credited against the assessment. 99494

Sec. 5511.03. The director of transportation shall examine 99495
the existing highway facilities serving the several hospitals, 99496
educational institutions, and correctional and other similar 99497
institutions belonging to the state, and located outside municipal 99498
corporations. Where the director finds that any such state 99499
institution is not located on a state highway or connected with a 99500
highway by a suitable road, affording in its present condition 99501
adequate transportation facilities to those having occasion to 99502

visit such institution, the director may establish a state highway 99503
leading to such institution from a convenient point on an existing 99504
highway. Where the director finds that any such institution is not 99505
served by adequate highway facilities connecting it with the 99506
railroad delivery point from which it principally obtains fuel, 99507
provisions, and supplies, the director may establish a highway 99508
connecting such institution and railroad delivery point. 99509
Limitations imposed on the mileage of state highways shall not 99510
apply to highways established under this section. 99511

The director may construct at state expense all highways 99512
established under authority of this section and pay the entire 99513
cost thereof from the state highway operating fund. Such highways 99514
shall be maintained by the department of transportation and the 99515
cost shall be paid from the highway operating fund of the 99516
department. 99517

The directors of transportation, ~~mental health~~ mental health 99518
and addiction services, developmental disabilities, and 99519
rehabilitation and correction may cooperate in the establishment, 99520
construction, reconstruction, maintenance, and repair of roads 99521
within the limits of state institutions. The cost shall be paid 99522
from funds appropriated for highway purposes and from the funds 99523
appropriated to the department of ~~mental health~~ mental health and 99524
addiction services, department of developmental disabilities, or 99525
the department of rehabilitation and correction for capital 99526
improvements or maintenance in such proportion as may be agreed 99527
upon by the directors of transportation, ~~mental health~~ mental 99528
health and addiction services, developmental disabilities, and 99529
rehabilitation and correction. 99530

Sec. 5701.13. (A) As used in this section: 99531

(1) "Nursing home" means a nursing home or a home for the 99532
aging, as those terms are defined in section 3721.01 of the 99533

Revised Code, that is issued a license pursuant to section 3721.02 99534
of the Revised Code. 99535

(2) "Residential care facility" means a residential care 99536
facility, as defined in section 3721.01 of the Revised Code, that 99537
is issued a license pursuant to section 3721.02 of the Revised 99538
Code. 99539

(3) "Residential facility" means a residential facility 99540
licensed under section ~~5119.22~~ 5119.34 of the Revised Code that 99541
provides accommodations, supervision, and personal care services 99542
for three to sixteen unrelated adults. 99543

(B) As used in Title LVII of the Revised Code, and for the 99544
purpose of other sections of the Revised Code that refer 99545
specifically to Chapter 5701. or section 5701.13 of the Revised 99546
Code, a "home for the aged" means either of the following: 99547

(1) A place of residence for aged and infirm persons that 99548
satisfies divisions (B)(1)(a) to (e) of this section: 99549

(a) It is a nursing home, residential care facility, or 99550
residential facility. 99551

(b) It is owned by a corporation, unincorporated nonprofit 99552
association, or trust of a charitable, religious, or fraternal 99553
nature, that is organized and operated not for profit, is not 99554
formed for the pecuniary gain or profit of, and whose net earnings 99555
or any part of whose net earnings is not distributable to, its 99556
members, trustees, officers, or other private persons, and is 99557
exempt from federal income taxation under section 501 of the 99558
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 99559

(c) It is open to the public without regard to race, color, 99560
or national origin. 99561

(d) It does not pay, directly or indirectly, compensation for 99562
services rendered, interest on debts incurred, or purchase price 99563

for land, building, equipment, supplies, or other goods or 99564
chattels, which compensation, interest, or purchase price is 99565
unreasonably high. 99566

(e) It provides services for the life of each resident 99567
without regard to the resident's ability to continue payment for 99568
the full cost of the services. 99569

(2) A place of residence that satisfies divisions (B)(1)(b), 99570
(d), and (e) of this section; that satisfies the definition of 99571
"nursing home" or "residential care facility" under section 99572
3721.01 of the Revised Code or the definition of "residential 99573
facility" under division (A)(3) of this section regardless of 99574
whether it is licensed as such a home or facility; and that is 99575
provided at no charge to individuals on account of their service 99576
without compensation to a charitable, religious, fraternal, or 99577
educational institution, which individuals are aged or infirm and 99578
are members of the corporation, association, or trust that owns 99579
the place of residence. For the purposes of division (B)(2) of 99580
this section, "compensation" does not include furnishing room and 99581
board, clothing, health care, or other necessities, or stipends or 99582
other de minimis payments to defray the cost thereof. 99583

Exemption from taxation shall be accorded, on proper 99584
application, only to those homes or parts of homes that meet the 99585
standards and provide the services specified in this section. 99586

Nothing in this section shall be construed as preventing a 99587
home from requiring a resident with financial need to apply for 99588
any applicable financial assistance or requiring a home to retain 99589
a resident who willfully refuses to pay for services for which the 99590
resident has contracted even though the resident has sufficient 99591
resources to do so. 99592

(C)(1) If a corporation, unincorporated nonprofit 99593
association, or trust described in division (B)(1)(b) of this 99594

section is granted a certificate of need pursuant to section 99595
3702.52 of the Revised Code to construct, add to, or otherwise 99596
modify a nursing home, or is given approval pursuant to section 99597
3791.04 of the Revised Code to construct, add to, or otherwise 99598
modify a residential care facility or residential facility and if 99599
the corporation, association, or trust submits an affidavit to the 99600
tax commissioner stating that, commencing on the date of licensure 99601
and continuing thereafter, the home or facility will be operated 99602
in accordance with the requirements of divisions (B)(1)(a) to (e) 99603
of this section, the corporation, association, or trust shall be 99604
considered to be operating a "home for the aged" within the 99605
meaning of division (B)(1) of this section, beginning on the first 99606
day of January of the year in which such certificate is granted or 99607
approval is given. 99608

(2) If a corporation, association, or trust is considered to 99609
be operating a "home for the aged" pursuant to division (C)(1) of 99610
this section, the corporation, association, or trust shall notify 99611
the tax commissioner in writing upon the occurrence of any of the 99612
following events: 99613

(a) The corporation, association, or trust no longer intends 99614
to complete the construction of, addition to, or modification of 99615
the home or facility, to obtain the appropriate license for the 99616
home or facility, or to commence operation of the home or facility 99617
in accordance with the requirements of divisions (B)(1)(a) to (e) 99618
of this section; 99619

(b) The certificate of approval referred to in division 99620
(C)(1) of this section expires, is revoked, or is otherwise 99621
terminated prior to the completion of the construction of, 99622
addition to, or modification of the home or facility; 99623

(c) The license to operate the home or facility is not 99624
granted by the director of health within one year following 99625
completion of the construction of, addition to, or modification of 99626

the home or facility; 99627

(d) The license to operate the home or facility is not 99628
granted by the director of health within four years following the 99629
date upon which the certificate or approval referred to in 99630
division (C)(1) of this section was granted or given; 99631

(e) The home or facility is granted a license to operate as a 99632
nursing home, residential care facility, or residential facility. 99633

(3) Upon the occurrence of any of the events referred to in 99634
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 99635
corporation, association, or trust shall no longer be considered 99636
to be operating a "home for the aged" pursuant to division (C)(1) 99637
of this section, except that the tax commissioner, for good cause 99638
shown and to the extent the commissioner considers appropriate, 99639
may extend the time period specified in division (C)(2)(c) or (d) 99640
of this section, or both. Nothing in division (C)(3) of this 99641
section shall be construed to prevent a nursing home, residential 99642
care facility, or residential facility from qualifying as a "home 99643
for the aged" if, upon proper application made pursuant to 99644
division (B) of this section, it is found to meet the requirements 99645
of divisions (A) and (B) of this section. 99646

Sec. 5703.02. There is hereby created the board of tax 99647
appeals, which shall exercise the following powers and perform the 99648
following duties: 99649

(A) Exercise the authority provided by law to hear and 99650
determine all appeals of questions of law and fact arising under 99651
the tax laws of this state in appeals from decisions, orders, 99652
determinations, or actions of any tax administrative agency 99653
established by the law of this state, including but not limited to 99654
appeals from: 99655

(1) Actions of county budget commissions; 99656

(2) Decisions of county boards of revision;	99657
(3) Actions of any assessing officer or other public official under the tax laws of this state;	99658 99659
(4) Final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by him <u>the tax commissioner</u> ;	99660 99661 99662 99663
(5) Adoption and promulgation of rules of the tax commissioner.	99664 99665
(B) Appoint a secretary of the board of tax appeals, who shall serve in the unclassified civil service at the pleasure of the board, and any other employees as are necessary in the exercise of the powers and the performance of the duties and functions that the board is by law authorized and required to exercise, and prescribe the duties of all employees, and to fix their compensation as provided by law;	99666 99667 99668 99669 99670 99671 99672
(C) Maintain a journal, which shall be open to public inspection and in which the secretary shall keep a record of all of the proceedings and the vote of each of its members upon every action taken by it;	99673 99674 99675 99676
(D) Adopt and promulgate, in the manner provided by section 5703.14 of the Revised Code, and enforce all rules relating to the procedure of the board in hearing appeals it has the authority or duty to hear, and to the procedure of officers or employees whom the board may appoint; provided that section 5703.13 of the Revised Code shall apply to and govern the procedure of the board. <u>Such rules shall include, but need not be limited to, the following:</u>	99677 99678 99679 99680 99681 99682 99683 99684
<u>(1) Rules governing the creation and implementation of a mediation program, including procedures for requesting, requiring participation in, objecting to, and conducting a mediation;</u>	99685 99686 99687

(2) A requirement that the tax commissioner, county boards of revision, and municipal boards of appeal created under section 718.11 of the Revised Code electronically file any transcript required to be filed with the board of tax appeals, and instructions and procedures for the electronic filing of such transcripts. 99688
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Sec. 5703.021. (A) There is hereby established a small claims division of the board of tax appeals. 99694
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(B) The small claims division shall have jurisdiction over any proceeding that is filed as a small claims case by election of the appellant and written agreement of all the parties or reassigned by the board with the written consent of all the parties, and that is either of the following: 99696
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(1) Commenced under section 5717.01 of the Revised Code in which the property at issue qualifies for the partial tax exemption described in section 319.302 of the Revised Code; or 99701
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(2) Commenced under section 5717.011 or 5717.02 of the Revised Code when the amount in controversy claimed by the taxpayer does not exceed ten thousand dollars exclusive of interest and penalty. The board by rule may modify the jurisdictional dollar threshold for cases qualifying for the small claims division. 99704
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(C) Notwithstanding division (B) of this section, the board shall reassign an appeal initially assigned to the small claims division to the regular docket upon request of a party or when the appeal presents an issue of public or great general interest or presents a constitutional issue, or when the board determines that the appeal does not meet the requirements of division (B) of this section. 99710
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(D) The board may reassign to the small claims docket any 99717

appeal originally assigned to the regular docket with the written consent of all the parties. 99718
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(E) The board shall adopt rules to implement procedures to provide informal review of the taxpayers' appeals in the small claims division, which may include telephonic hearings. 99720
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(F) A decision or order of the small claims division shall be conclusive as to all parties and may not be appealed, and shall be recorded in the journal required by division (C) of section 5703.02 of the Revised Code, but such a decision or order shall not be considered as precedent in any other case, hearing, or proceeding. 99723
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(G) The appearance of an attorney at law licensed to practice law in this state on behalf of any party to an appeal assigned to the small claims docket is permitted but not required. A person other than a natural person, which is a real party in interest as taxpayer or claimant, or an entity that may participate by statute, may commence such an appeal or appear through an attorney at law licensed to practice law in this state. Such an organization may, through any bona fide officer, partner, member, trustee, or salaried employee, file and present its claim or defense in any appeal in the small claims division, provided the organization does not, in the absence of representation by an attorney at law licensed to practice law in this state, engage in cross-examination, argument, or other acts of advocacy. The board may provide by rule for additional guidelines applicable to practice before the board. 99729
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Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5726., 5728., 5729., 5731., 5733., 5735., 5739., 5741., 5743., 99744
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5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 99749
3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 99750
5727.81, and 5727.811 of the Revised Code. Refunds for fees 99751
illegally or erroneously assessed or collected, or for any other 99752
reason overpaid, that are levied by sections 3734.90 to 3734.9014 99753
of the Revised Code also shall be paid from the fund. ~~Refunds for~~ 99754
~~amounts illegally or erroneously assessed or collected by the tax~~ 99755
~~commissioner, or for any other reason overpaid, that are due under~~ 99756
~~section 1509.50 of the Revised Code shall be paid from the fund.~~ 99757
However, refunds for taxes levied under section 5739.101 of the 99758
Revised Code shall not be paid from the tax refund fund, but shall 99759
be paid as provided in section 5739.104 of the Revised Code. 99760

(B)(1) Upon certification by the tax commissioner to the 99761
treasurer of state of a tax refund, ~~a fee refund, or an other~~ 99762
another amount refunded, or by the superintendent of insurance of 99763
a domestic or foreign insurance tax refund, the treasurer of state 99764
shall place the amount certified to the credit of the fund. The 99765
certified amount transferred shall be derived from ~~current the~~ 99766
receipts of the same tax, or fee, ~~or other amount~~ from which the 99767
refund arose. ~~If current receipts from the tax, fee, or other~~ 99768
~~amount from which the refund arose are inadequate to make the~~ 99769
~~transfer of the amount so certified, the treasurer of state shall~~ 99770
~~transfer such certified amount from current receipts of the sales~~ 99771
~~tax levied by section 5739.02 of the Revised Code.~~ 99772

(2) When ~~the treasurer of state provides for the payment of a~~ 99773
~~refund of a tax, fee, or other amount from the current receipts of~~ 99774
~~the sales tax, and the a~~ refund is for a tax, or fee, ~~or other~~ 99775
~~amount~~ that is not levied by the state, the tax commissioner shall 99776
recover the amount of that refund from the next distribution of 99777
that tax, or fee, ~~or other amount~~ that otherwise would be made to 99778
the taxing jurisdiction. If the amount to be recovered would 99779
exceed twenty-five per cent of the next distribution of that tax, 99780

~~or fee, or other amount~~, the commissioner may spread the recovery 99781
over more than one future distribution, taking into account the 99782
amount to be recovered and the amount of the anticipated future 99783
distributions. In no event may the commissioner spread the 99784
recovery over a period to exceed twenty-four months. 99785

Sec. 5703.059. (A) The tax commissioner may adopt rules 99786
requiring returns, including any accompanying schedule or 99787
statement, for any of the following taxes to be filed 99788
electronically using the Ohio business gateway as defined in 99789
section 718.051 of the Revised Code, filed telephonically using 99790
the system known as the Ohio telefile system, or filed by any 99791
other electronic means prescribed by the commissioner: 99792

(1) Employer income tax withholding under Chapter 5747. of 99793
the Revised Code; 99794

(2) Motor fuel tax under Chapter 5735. of the Revised Code; 99795

(3) Cigarette and tobacco product tax under Chapter 5743. of 99796
the Revised Code; 99797

(4) Severance tax under Chapter 5749. of the Revised Code; 99798

(5) Use tax under Chapter 5741. of the Revised Code; 99799

(6) Commercial activity tax under Chapter 5751. of the 99800
Revised Code; 99801

(7) Financial institutions tax under Chapter 5726. of the 99802
Revised Code. 99803

(B) The tax commissioner may adopt rules requiring any 99804
payment of tax shown on such a return to be due to be made 99805
electronically in a manner approved by the commissioner. 99806

(C) A rule adopted under this section does not apply to 99807
returns or reports filed or payments made before six months after 99808
the effective date of the rule. The commissioner shall publicize 99809

any new electronic filing requirement on the department's web 99810
site. The commissioner shall educate the public of the requirement 99811
through seminars, workshops, conferences, or other outreach 99812
activities. 99813

(D) Any person required to file returns and make payments 99814
electronically under rules adopted under this section may apply to 99815
the commissioner, on a form prescribed by the commissioner, to be 99816
excused from that requirement. For good cause shown, the 99817
commissioner may excuse the applicant from the requirement and 99818
permit the applicant to file the returns or reports or make the 99819
payments required under this section by nonelectronic means. 99820

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) 99821
of this section, no agent of the department of taxation, except in 99822
the agent's report to the department or when called on to testify 99823
in any court or proceeding, shall divulge any information acquired 99824
by the agent as to the transactions, property, or business of any 99825
person while acting or claiming to act under orders of the 99826
department. Whoever violates this provision shall thereafter be 99827
disqualified from acting as an officer or employee or in any other 99828
capacity under appointment or employment of the department. 99829
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(B)(1) For purposes of an audit pursuant to section 117.15 of 99831
the Revised Code, or an audit of the department pursuant to 99832
Chapter 117. of the Revised Code, or an audit, pursuant to that 99833
chapter, the objective of which is to express an opinion on a 99834
financial report or statement prepared or issued pursuant to 99835
division (A)(7) or (9) of section 126.21 of the Revised Code, the 99836
officers and employees of the auditor of state charged with 99837
conducting the audit shall have access to and the right to examine 99838
any state tax returns and state tax return information in the 99839
possession of the department to the extent that the access and 99840

examination are necessary for purposes of the audit. Any 99841
information acquired as the result of that access and examination 99842
shall not be divulged for any purpose other than as required for 99843
the audit or unless the officers and employees are required to 99844
testify in a court or proceeding under compulsion of legal 99845
process. Whoever violates this provision shall thereafter be 99846
disqualified from acting as an officer or employee or in any other 99847
capacity under appointment or employment of the auditor of state. 99848

(2) For purposes of an internal audit pursuant to section 99849
126.45 of the Revised Code, the officers and employees of the 99850
office of internal ~~auditing~~ audit in the office of budget and 99851
management charged with ~~conducting~~ directing the internal audit 99852
shall have access to and the right to examine any state tax 99853
returns and state tax return information in the possession of the 99854
department to the extent that the access and examination are 99855
necessary for purposes of the internal audit. Any information 99856
acquired as the result of that access and examination shall not be 99857
divulged for any purpose other than as required for the internal 99858
audit or unless the officers and employees are required to testify 99859
in a court or proceeding under compulsion of legal process. 99860
Whoever violates this provision shall thereafter be disqualified 99861
from acting as an officer or employee or in any other capacity 99862
under appointment or employment of the office of internal ~~auditing~~ 99863
audit. 99864

(3) As provided by section 6103(d)(2) of the Internal Revenue 99865
Code, any federal tax returns or federal tax information that the 99866
department has acquired from the internal revenue service, through 99867
federal and state statutory authority, may be disclosed to the 99868
auditor of state or the office of internal ~~auditing~~ audit solely 99869
for purposes of an audit of the department. 99870

(4) For purposes of Chapter 3739. of the Revised Code, an 99871
agent of the department of taxation may share information with the 99872

division of state fire marshal that the agent finds during the 99873
course of an investigation. 99874

(C) Division (A) of this section does not prohibit any of the 99875
following: 99876

(1) Divulging information contained in applications, 99877
complaints, and related documents filed with the department under 99878
section 5715.27 of the Revised Code or in applications filed with 99879
the department under section 5715.39 of the Revised Code; 99880

(2) Providing information to the office of child support 99881
within the department of job and family services pursuant to 99882
section 3125.43 of the Revised Code; 99883

(3) Disclosing to the motor vehicle repair board any 99884
information in the possession of the department that is necessary 99885
for the board to verify the existence of an applicant's valid 99886
vendor's license and current state tax identification number under 99887
section 4775.07 of the Revised Code; 99888

(4) Providing information to the administrator of workers' 99889
compensation pursuant to sections 4123.271 and 4123.591 of the 99890
Revised Code; 99891

(5) Providing to the attorney general information the 99892
department obtains under division (J) of section 1346.01 of the 99893
Revised Code; 99894

(6) Permitting properly authorized officers, employees, or 99895
agents of a municipal corporation from inspecting reports or 99896
information pursuant to rules adopted under section 5745.16 of the 99897
Revised Code; 99898

(7) Providing information regarding the name, account number, 99899
or business address of a holder of a vendor's license issued 99900
pursuant to section 5739.17 of the Revised Code, a holder of a 99901
direct payment permit issued pursuant to section 5739.031 of the 99902

Revised Code, or a seller having a use tax account maintained 99903
pursuant to section 5741.17 of the Revised Code, or information 99904
regarding the active or inactive status of a vendor's license, 99905
direct payment permit, or seller's use tax account; 99906

(8) Releasing invoices or invoice information furnished under 99907
section 4301.433 of the Revised Code pursuant to that section; 99908

(9) Providing to a county auditor notices or documents 99909
concerning or affecting the taxable value of property in the 99910
county auditor's county. Unless authorized by law to disclose 99911
documents so provided, the county auditor shall not disclose such 99912
documents; 99913

(10) Providing to a county auditor sales or use tax return or 99914
audit information under section 333.06 of the Revised Code; 99915

(11) Subject to section 4301.441 of the Revised Code, 99916
disclosing to the appropriate state agency information in the 99917
possession of the department of taxation that is necessary to 99918
verify a permit holder's gallonage or noncompliance with taxes 99919
levied under Chapter 4301. or 4305. of the Revised Code; 99920

(12) Disclosing to the department of natural resources 99921
information in the possession of the department of taxation that 99922
is necessary for the department of taxation to verify the 99923
taxpayer's compliance with ~~division (A)(1), (5), (6), (8), or (9)~~ 99924
~~of section 5749.02 of the Revised Code and information received~~ 99925
~~pursuant to section 1509.50 of the Revised Code concerning the~~ 99926
~~amount due under that section or to allow the department of~~ 99927
natural resources to enforce Chapter 1509. of the Revised Code; 99928

(13) Disclosing to the department of job and family services, 99929
industrial commission, and bureau of workers' compensation 99930
information in the possession of the department of taxation solely 99931
for the purpose of identifying employers that misclassify 99932
employees as independent contractors or that fail to properly 99933

report and pay employer tax liabilities. The department of 99934
taxation shall disclose only such information that is necessary to 99935
verify employer compliance with law administered by those 99936
agencies. 99937

(14) Disclosing to the Ohio casino control commission 99938
information in the possession of the department of taxation that 99939
is necessary to verify a casino operator's compliance with section 99940
5747.063 or 5753.02 of the Revised Code and sections related 99941
thereto; 99942

(15) Disclosing to the state lottery commission information 99943
in the possession of the department of taxation that is necessary 99944
to verify a lottery sales agent's compliance with section 5747.064 99945
of the Revised Code. 99946

Sec. 5703.37. (A)(1) Except as provided in division (B) of 99947
this section, whenever service of a notice or order is required in 99948
the manner provided in this section, a copy of the notice or order 99949
shall be served upon the person affected thereby either by 99950
personal service, by certified mail, or by a delivery service 99951
authorized under section 5703.056 of the Revised Code that 99952
notifies the tax commissioner of the date of delivery. 99953

(2) In lieu of serving a copy of a notice or order through 99954
one of the means provided in division (A)(1) of this section, the 99955
commissioner may serve a notice or order upon the person affected 99956
thereby through alternative means as provided in this section, 99957
including, but not limited to, delivery by secure electronic mail 99958
as provided in division (F) of this section. Delivery by such 99959
means satisfies the requirements for delivery under this section. 99960

(B)(1)(a) If certified mail is returned because of an 99961
undeliverable address, the commissioner shall first utilize 99962
reasonable means to ascertain a new last known address, including 99963
the use of a change of address service offered by the United 99964

States postal service or an authorized delivery service under 99965
section 5703.056 of the Revised Code. If, after using reasonable 99966
means, the commissioner is unable to ascertain a new last known 99967
address, the assessment is final for purposes of section 131.02 of 99968
the Revised Code sixty days after the notice or order sent by 99969
certified mail is first returned to the commissioner, and the 99970
commissioner shall certify the notice or order, if applicable, to 99971
the attorney general for collection under section 131.02 of the 99972
Revised Code. 99973

(b) Notwithstanding certification to the attorney general 99974
under division (B)(1)(a) of this section, once the commissioner or 99975
attorney general, or the designee of either, makes an initial 99976
contact with the person to whom the notice or order is directed, 99977
the person may protest an assessment by filing a petition for 99978
reassessment within sixty days after the initial contact. The 99979
certification of an assessment under division (B)(1)(a) of this 99980
section is prima-facie evidence that delivery is complete and that 99981
the notice or order is served. 99982

(2) If mailing of a notice or order by certified mail is 99983
returned for some cause other than an undeliverable address or if 99984
a person does not access an electronic notice or order within the 99985
time provided in division (F) of this section, the commissioner 99986
shall resend the notice or order by ordinary mail. The notice or 99987
order shall show the date the commissioner sends the notice or 99988
order and include the following statement: 99989

"This notice or order is deemed to be served on the addressee 99990
under applicable law ten days from the date this notice or order 99991
was mailed by the commissioner as shown on the notice or order, 99992
and all periods within which an appeal may be filed apply from and 99993
after that date." 99994

Unless the mailing is returned because of an undeliverable 99995
address, the mailing of that information is prima-facie evidence 99996

that delivery of the notice or order was completed ten days after 99997
the commissioner sent the notice or order by ordinary mail and 99998
that the notice or order was served. 99999

If the ordinary mail is subsequently returned because of an 100000
undeliverable address, the commissioner shall proceed under 100001
division (B)(1)(a) of this section. A person may challenge the 100002
presumption of delivery and service under this division in 100003
accordance with division (C) of this section. 100004

(C)(1) A person disputing the presumption of delivery and 100005
service under division (B) of this section bears the burden of 100006
proving by a preponderance of the evidence that the address to 100007
which the notice or order was sent was not an address with which 100008
the person was associated at the time the commissioner originally 100009
mailed the notice or order by certified mail. For the purposes of 100010
this section, a person is associated with an address at the time 100011
the commissioner originally mailed the notice or order if, at that 100012
time, the person was residing, receiving legal documents, or 100013
conducting business at the address; or if, before that time, the 100014
person had conducted business at the address and, when the notice 100015
or order was mailed, the person's agent or the person's affiliate 100016
was conducting business at the address. For the purposes of this 100017
section, a person's affiliate is any other person that, at the 100018
time the notice or order was mailed, owned or controlled at least 100019
twenty per cent, as determined by voting rights, of the 100020
addressee's business. 100021

(2) If the person elects to protest an assessment certified 100022
to the attorney general for collection, the person must do so 100023
within sixty days after the attorney general's initial contact 100024
with the person. The attorney general may enter into a compromise 100025
with the person under sections 131.02 and 5703.06 of the Revised 100026
Code if the person does not file a petition for reassessment with 100027
the commissioner. 100028

(D) Nothing in this section prohibits the commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) The commissioner may serve a notice or order upon the person affected by the notice or order through secure electronic means only with the person's consent. The commissioner must inform the recipient, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. The recipient's electronic access of the notice or order satisfies the requirements for delivery under this section. If the recipient fails to access the notice or order electronically within ten business days, then the commissioner shall inform the recipient a second time, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. If the recipient fails to access the notice or order electronically within ten business days of the second notification, the notice or order shall be served upon the person through ~~one of~~ the means provided in division ~~(A)(1)~~(B)(2) of this section.

(G) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the

United States postal service or an authorized delivery service 100061
under section 5703.056 of the Revised Code. 100062

(2) "Undeliverable address" means an address to which the 100063
United States postal service or an authorized delivery service 100064
under section 5703.056 of the Revised Code is not able to deliver 100065
a notice or order, except when the reason for nondelivery is 100066
because the addressee fails to acknowledge or accept the notice or 100067
order. 100068

Sec. 5703.75. This section applies to any tax payable to the 100069
state and administered by the tax commissioner. If the total 100070
amount of any such tax shown to be due on a return, amended 100071
return, or notice does not exceed one dollar, the taxpayer shall 100072
not be required to remit the amount due. If the total amount of a 100073
taxpayer's overpayment of any such tax does not exceed one dollar, 100074
the tax commissioner shall not be required to refund the 100075
overpayment. 100076

Sec. 5703.76. Any payment or distribution of money that the 100077
tax commissioner is required by law to make to a political 100078
subdivision of this state, an officer thereof, or a political 100079
party shall be made by electronic funds transfer. The commissioner 100080
shall promulgate any rules necessary to administer this section. 100081

Sec. 5703.82. ~~(A)~~ Not later than April 1, 2009, the 100082
department of taxation shall acquire the necessary hardware, 100083
software, and services to establish and implement a tax discovery 100084
data system to increase the efficiency of tax collections in the 100085
state. The system must be fully integrated and pre-staged for the 100086
purposes of assisting in revenue analysis, discovering 100087
noncompliant taxpayers, and collecting taxes from those taxpayers. 100088
The system shall consolidate tax data from various mainframe 100089
systems and operate as a single tax discovery data system. The 100090

department shall contract, pursuant to a competitive bidding 100091
process, for the necessary hardware, software, and services to 100092
implement the tax discovery data system. 100093

~~(B) There is hereby created in the state treasury the 100094
discovery project fund. All money to the credit of the fund shall 100095
be used to pay the costs of implementing and operating the tax 100096
discovery data system and to defray the costs incurred by the 100097
department of taxation in administering the system. 100098~~

~~(C) Beginning July 1, 2009, on or before the first day of 100099
January, April, July, and October of each calendar year, the tax 100100
commissioner shall determine and certify to the director of budget 100101
and management the amount needed to pay the costs of operating the 100102
tax discovery data system in the previous calendar quarter and the 100103
costs incurred in the previous calendar quarter by the department 100104
of taxation in administering the system. The director shall 100105
provide for payment from the general revenue fund to the discovery 100106
project fund of the amount so certified. 100107~~

Sec. 5703.90. If any tax administered by the tax commissioner 100108
remains unpaid after the date the tax is due, the commissioner may 100109
issue an assessment for the unpaid tax, and for any related 100110
penalties and interest, against any person liable for the amount 100111
due, including, but not limited to, a person that is jointly and 100112
severally liable for the amount under Chapter 5726., 5748., 5749., 100113
or 5751. of the Revised Code, a partner liable for the tax 100114
liability of a partnership, a director, shareholder, or officer of 100115
a corporation that has dissolved or had its articles of 100116
incorporation canceled by the secretary of state, or any other 100117
person liable for the tax liability of another person under the 100118
Revised Code. The commissioner shall issue the assessment in 100119
accordance with any other provision of the Revised Code applicable 100120
to assessments for the tax for which the person to be assessed is 100121

liable. 100122

Sec. 5703.91. (A) If any corporation, wherever organized, 100123
that is required by law to file any report or return or to pay any 100124
tax or fee as a corporation organized under the laws of the state 100125
for profit, or as a foreign corporation for profit doing business 100126
in this state or owning or issuing a part or all of its capital or 100127
property in this state, fails to file the required report or 100128
return or to pay the required tax or fee for ninety days after the 100129
time prescribed by law for filing or payment, the tax commissioner 100130
shall certify the failure with the secretary of state. 100131

(B) The secretary of state, after receiving certification of 100132
a corporation's failure to file a report or return or to pay a tax 100133
or fee as described in division (A) of this section, shall do one 100134
of the following: 100135

(1) Cancel, by appropriate entry, the articles of 100136
incorporation of the corporation upon the margin of the relevant 100137
record; 100138

(2) If the corporation is a foreign corporation, cancel, by 100139
proper entry, the certificate of authority to do business in this 100140
state of the foreign corporation. 100141

Subject to section 1701.88 of the Revised Code, upon 100142
cancellation, all the powers, privileges, and franchises conferred 100143
on the corporation by articles of incorporation or a certificate 100144
of authority shall cease. 100145

(C) The secretary of state, upon canceling articles of 100146
incorporation or a certificate of authority pursuant to division 100147
(B) of this section, shall immediately notify the affected 100148
corporation of the cancellation action and shall forward for 100149
filing a certificate of the action to the county recorder of the 100150
county in which the corporation's principal place of business in 100151

this state is located. No filing fee shall be charged for the 100152
filing. 100153

Sec. 5703.92. No person shall exercise or attempt to exercise 100154
any powers, privileges, or franchises under the articles of 100155
incorporation or certificate of authority of a corporation after 100156
the articles or certificate has been canceled as provided in 100157
section 5703.91 of the Revised Code. A penalty of one hundred 100158
dollars shall be imposed for each day a violation of this section 100159
occurs, up to a maximum of five thousand dollars. 100160

Sec. 5703.93. (A)(1) Any corporation whose articles of 100161
incorporation or license certificate to do or transact business in 100162
this state has been canceled by the secretary of state pursuant to 100163
section 5703.91 of the Revised Code shall be reinstated and 100164
entitled to exercise its rights, privileges, and franchises in 100165
this state, and the secretary of state shall cancel the entry of 100166
cancellation to exercise its rights, privileges, and franchises, 100167
upon compliance with all of the following: 100168

(a) Payment to the secretary of state of any additional 100169
required fees and penalties; 100170

(b) Filing with the secretary of state a certificate from the 100171
tax commissioner affirming that the corporation has complied with 100172
all the requirements of the tax law as to all the taxes 100173
administered by the commissioner and has paid all taxes, fees, or 100174
penalties due for every year of delinquency; 100175

(c) Payment to the secretary of state of an additional fee of 100176
twenty-five dollars. 100177

(2) The secretary of state shall require, as a condition 100178
prerequisite to reinstatement, an applicant to amend its articles 100179
by changing its name if all of the following apply: 100180

(a) The reinstatement is not made within one year from the 100181

date of the cancellation of its articles of incorporation or date 100182
of cancellation of its license to do business. 100183

(b) It appears that the applicant's name is not 100184
distinguishable upon the record as required by section 1701.05 of 100185
the Revised Code. 100186

(3) A certificate of reinstatement may be filed in the 100187
recorder's office of any county in the state. The recorder shall 100188
charge and collect a base fee of three dollars for services and a 100189
low- and moderate-income housing trust fund fee of three dollars 100190
in accordance with section 317.36 of the Revised Code. 100191

(4) Any officer, shareholder, creditor, or receiver of any 100192
corporation described in divisions (A)(1) and (2) of this section 100193
may at any time take all steps required by this section to effect 100194
such reinstatement. 100195

(B) Except as otherwise provided in this section, the rights, 100196
privileges, and franchises of a corporation whose articles of 100197
incorporation have been reinstated in accordance with this section 100198
are subject to section 1701.922 of the Revised Code. 100199

(C) Notwithstanding a violation of section 5703.92 of the 100200
Revised Code, upon reinstatement of a corporation's articles of 100201
incorporation in accordance with this section, neither section 100202
5703.91 nor section 5703.92 of the Revised Code shall be applied 100203
to invalidate the exercise or attempt to exercise any right, 100204
privilege, or franchise on behalf of the corporation by an 100205
officer, agent, or employee of the corporation after cancellation 100206
and prior to the reinstatement of the articles, if the conditions 100207
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 100208
the Revised Code are met. 100209

Sec. 5705.221. (A) At any time, the board of county 100210
commissioners of any county by a majority vote of the full 100211

membership may declare by resolution and certify to the board of 100212
elections of the county that the amount of taxes which may be 100213
raised within the ten-mill limitation by levies on the current tax 100214
duplicate will be insufficient to provide the necessary 100215
requirements of the county's alcohol, drug addiction, and mental 100216
health service district established pursuant to Chapter 340. of 100217
the Revised Code, or the county's contribution to a joint-county 100218
district of which the county is a part, and that it is necessary 100219
to levy a tax in excess of such limitation for the operation of 100220
~~alcohol and drug~~ community addiction ~~programs~~ services providers 100221
and community mental health ~~programs~~ services providers and the 100222
acquisition, construction, renovation, financing, maintenance, and 100223
operation of alcohol and drug addiction facilities and mental 100224
health facilities. 100225

Such resolution shall conform to section 5705.19 of the 100226
Revised Code, except that the increased rate may be in effect for 100227
any number of years not exceeding ten. 100228

The resolution shall be certified and submitted in the manner 100229
provided in section 5705.25 of the Revised Code, except that it 100230
may be placed on the ballot in any election, and shall be 100231
certified to the board of elections not less than ninety days 100232
before the election at which it will be voted upon. 100233

If the majority of the electors voting on a levy to 100234
supplement general fund appropriations for the support of the 100235
comprehensive ~~alcohol and drug~~ community addiction and mental 100236
health ~~program~~ services providers vote in favor of the levy, the 100237
board may levy a tax within the county at the additional rate 100238
outside the ten-mill limitation during the specified or continuing 100239
period, for the purpose stated in the resolution. 100240

(B) When electors have approved a tax levy under this 100241
section, the board of county commissioners may anticipate a 100242
fraction of the proceeds of the levy and, from time to time, issue 100243

anticipation notes in accordance with section 5705.191 or 5705.193 100244
of the Revised Code. 100245

(C) The county auditor who is the fiscal officer of the 100246
alcohol, drug addiction, and mental health service district, upon 100247
receipt of a resolution from the board of alcohol, drug addiction, 100248
and mental health services, shall establish for the district a 100249
capital improvements account or a reserve balance account, or 100250
both, as specified in the resolution. The capital improvements 100251
account shall be a contingency fund for the necessary acquisition, 100252
replacement, renovation, or construction of facilities and movable 100253
and fixed equipment. Upon the request of the board, funds not 100254
needed to pay for current expenses may be appropriated to the 100255
capital improvements account, in amounts such that the account 100256
does not exceed twenty-five per cent of the replacement value of 100257
all capital facilities and equipment currently used by the board 100258
for programs and services. Other funds which are available for 100259
current capital expenses from federal, state, or local sources may 100260
also be appropriated to this account. 100261

The reserve balance account shall contain those funds that 100262
are not needed to pay for current operating expenses and not 100263
deposited in the capital improvements account but that will be 100264
needed to pay for operating expenses in the future. Upon the 100265
request of a board, such funds shall be appropriated to the 100266
reserve balance account. Payments from the capital improvements 100267
account and the reserve balance account shall be made by the 100268
county treasurer who is the custodian of funds for the district 100269
upon warrants issued by the county auditor who is the fiscal 100270
officer of the district pursuant to orders of the board. 100271

Sec. 5705.27. There is hereby created in each county a county 100272
budget commission consisting of the county auditor, the county 100273
treasurer, and the prosecuting attorney. Upon petition filed with 100274

the board of elections, signed by the number of electors of the 100275
county equal in amount to three per cent of the total number of 100276
votes cast for governor at the most recent election therefor, 100277
there shall be submitted to the electors of the county at the next 100278
general election occurring not sooner than ninety days after the 100279
filing of the petition, the question "Shall the county budget 100280
commission consist of two additional members to be elected from 100281
the county?" Provision shall be made on the ballot for the 100282
election from the county at large of two additional members of the 100283
county budget commission who shall be electors of the county if a 100284
majority of the electors voting on the question shall have voted 100285
in the affirmative. In such counties, where the electors have 100286
voted in the affirmative, the county budget commission shall 100287
consist of such two elected members in addition to the county 100288
auditor, the county treasurer and the prosecuting attorney. Such 100289
members, who shall not hold any other public office, shall serve 100290
for a term of four years. ~~The~~ 100291

The commission shall meet at the office of the county auditor 100292
~~in each county~~ on the first Monday in February and on the first 100293
Monday in August, annually, and shall complete its work on or 100294
before the first day of September, annually, unless for good cause 100295
the tax commissioner extends the time for completing the work. A 100296

The commission shall meet at the call of the county auditor 100297
to hold a hearing not later than forty days following the deposit 100298
of any money into an oil and gas escrow fund created under section 100299
321.49 of the Revised Code from the fee paid by an owner of a 100300
horizontal well under division (L) of section 1509.06 of the 100301
Revised Code for the purpose of distributing such money to taxing 100302
units in accordance with division (G) of section 5705.32 of the 100303
Revised Code. At least thirty days before the date of the hearing, 100304
the auditor shall notify the taxing authorities of all taxing 100305
units that levy a property tax in the taxing district in which the 100306

horizontal well is located that money has been deposited in the 100307
oil and gas escrow fund and that each taxing authority receiving 100308
notice may appear and testify to demonstrate the taxing unit's 100309
need, if any, for such money to defray costs associated with the 100310
presence of the horizontal well. If the fees have been deposited 100311
in the oil and gas escrow fund from owners of horizontal wells 100312
located in the same taxing district, the total amount of fees from 100313
wells in that taxing district shall be considered for distribution 100314
at the hearing and the auditor shall give only one notification to 100315
each taxing authority of each taxing unit that levies a property 100316
tax in that taxing district. The notification shall require a 100317
taxing authority to respond within fifteen days after the auditor 100318
sends the notification to the taxing units notifying the auditor 100319
that a representative of the taxing authority will appear and give 100320
testimony or evidence at the hearing. If no taxing authority 100321
responds within this period, the commission may cancel the 100322
scheduled hearing. Within five days after the commission cancels 100323
the meeting, the auditor shall notify the county treasurer, who 100324
shall distribute money in the fund from horizontal wells in that 100325
taxing district that were to be the subject of the hearing in 100326
accordance with division (G)(2) of section 5705.32 of the Revised 100327
Code. 100328

A majority of members shall constitute a quorum, provided 100329
that no action of the commission shall be valid unless agreed to 100330
by a majority of the members of the commission. The auditor shall 100331
be the secretary of the commission and shall keep a full and 100332
accurate record of all proceedings. ~~The~~ 100333

The county auditor shall appoint ~~such~~ messengers and clerks 100334
as the commission deems necessary, and the budget commissioners 100335
shall be allowed their actual and necessary expenses. The elected 100336
members of the commission shall also receive twenty dollars for 100337
each day in attendance at commission meetings and in discharge of 100338

official duties. Any vacancy among such elected members shall be 100339
filled by the presiding judge of the court of common pleas. ~~It~~ 100340

In adjusting the rates of taxation and fixing the amount of 100341
taxes to be levied each year, the commissioners shall be governed 100342
by the amount of the taxable property shown on the auditor's tax 100343
list for the current year; provided that if the auditor's tax list 100344
has not been completed, the auditor shall estimate, as nearly as 100345
practicable, the amount of the taxable property for such year, and 100346
such officers shall be governed by such estimate. 100347

In any county in which two members of the commission are 100348
elected, upon petition filed with the board of elections, signed 100349
by the number of electors of the county equal in amount to three 100350
per cent of the votes cast for governor at the most recent 100351
election therefor, there shall be submitted to the electors of the 100352
county at the next general election occurring not sooner than 100353
ninety days after the filing of the petition, the question "Shall 100354
the elected members be eliminated from the county budget 100355
commission?" If the majority of the electors voting thereon shall 100356
have voted in the affirmative, the county budget commission shall 100357
consist solely of the county auditor, the county treasurer, and 100358
the prosecuting attorney. 100359

Sec. 5705.32. (A) The county budget commission shall adjust 100360
the estimated amounts required from the general property tax for 100361
each fund, as shown by the tax budgets or other information 100362
required to be provided under section 5705.281 of the Revised 100363
Code, so as to bring the tax levies required therefor within the 100364
limitations specified in sections 5705.01 to 5705.47 of the 100365
Revised Code, for such levies, but no levy shall be reduced below 100366
a minimum fixed by law. The commission may revise and adjust the 100367
estimate of balances and receipts from all sources for each fund 100368
and shall determine the total appropriations that may be made 100369

therefrom. 100370

(B) The commission shall fix the amount of the county public 100371
library fund to be distributed to each board of public library 100372
trustees that has qualified under section 5705.28 of the Revised 100373
Code for participation in the proceeds of such fund. The amount 100374
paid to all libraries in the county from such fund shall never be 100375
a smaller per cent of the fund than the average of the percentages 100376
of the county's classified taxes that were distributed to 100377
libraries in 1982, 1983, and 1984, as determined by the county 100378
auditor. The commission shall base the amount for distribution on 100379
the needs of such library for the construction of new library 100380
buildings, parts of buildings, improvements, operation, 100381
maintenance, or other expenses. In determining the needs of each 100382
library board of trustees, and in calculating the amount to be 100383
distributed to any library board of trustees on the basis of its 100384
needs, the commission shall make no reduction in its allocation 100385
from the fund on account of additional revenues realized by a 100386
library from increased taxes or service charges voted by its 100387
electorate, from revenues received through federal or state 100388
grants, projects, or programs, or from grants from private 100389
sources. 100390

(C) Notwithstanding the fact that alternative methods of 100391
financing such needs are available, after fixing the amount to be 100392
distributed to libraries, the commission shall fix the amount, if 100393
any, of the county public library fund to be distributed to each 100394
board of township park commissioners, the county, and each 100395
municipal corporation in accordance with the following: 100396

(1) Each municipal corporation in the county shall receive a 100397
per cent of the remainder that equals the per cent that the county 100398
auditor determines the classified property taxes originating in 100399
such municipal corporation in 1984 were of the total of all of the 100400
county's classified property taxes in 1984. The commission may 100401

deduct from this amount any amount that the budget commission 100402
allows to the board of township park commissioners of a township 100403
park district, the boundaries of which are coextensive with or 100404
contained within the boundaries of the municipal corporation. 100405

(2) The county shall receive a per cent of the remainder that 100406
equals the per cent that the county auditor determines the 100407
classified property taxes originating outside of the boundaries of 100408
municipal corporations in the county in 1984 were of the total of 100409
all of the county's classified property taxes in 1984. The 100410
commission may deduct from this amount any amount that the budget 100411
commission allows to the board of township park commissioners of a 100412
township park district, the boundaries of which are not 100413
coextensive with or contained within those of any municipal 100414
corporation in the county. 100415

(D) The commission shall separately set forth the amounts 100416
fixed and determined under divisions (B) and (C) of this section 100417
in the "official certificate of estimated resources," as provided 100418
in section 5705.35 of the Revised Code, and separately certify 100419
such amount to the county auditor who shall be guided thereby in 100420
the distribution of the county public library fund for and during 100421
the fiscal year. In determining such amounts, the commission shall 100422
be guided by the estimate certified by the tax commissioner and 100423
presented by the auditor under section 5705.31 of the Revised 100424
Code, as to the total amount of revenue to be received in the 100425
county public library fund during such fiscal year. 100426

(E)(1) At least five days before the date of any meeting at 100427
which the budget commission plans to discuss the distribution of 100428
the county public library fund, it shall notify each legislative 100429
authority and board of public library trustees, county 100430
commissioners, and township park commissioners eligible to 100431
participate in the distribution of the fund of the date, time, 100432
place, and agenda for the meeting. Any legislative authority or 100433

board entitled to notice under this division may designate an 100434
officer or employee of such legislative authority or board to whom 100435
the commission shall deliver the notice. 100436

(2) Before the final determination of the amount to be 100437
allotted to each subdivision from any source, the commission shall 100438
permit representatives of each subdivision and of each board of 100439
public library trustees to appear before it to explain its 100440
financial needs. 100441

(F) If any public library receives and expends any funds 100442
allocated to it under this section for the construction of new 100443
library buildings or parts of buildings, such library shall be 100444
free and open to the inhabitants of the county in which it is 100445
located. Any board of library trustees that receives funds under 100446
this section and section 5747.48 of the Revised Code shall have 100447
its financial records open for public inspection at all reasonable 100448
times. 100449

(G)(1) The commission may decide to distribute money in an 100450
oil and gas escrow fund created under section 321.49 of the 100451
Revised Code after holding a hearing as authorized in section 100452
5705.27 of the Revised Code. A representative of a taxing 100453
authority that has received notice of such hearing from the county 100454
auditor may appear and give testimony and evidence demonstrating 100455
the need of the taxing unit for money from the fund to defray 100456
costs to the taxing unit from the horizontal well or wells in that 100457
taxing district for which the fee was paid under division (L) of 100458
section 1509.06 of the Revised Code. 100459

At the conclusion of the hearing, the commission may issue an 100460
order distributing the money attributable to that taxing district 100461
in the oil and gas escrow fund to taxing units on the basis of the 100462
relationship of each taxing unit's request to the overall impact 100463
of the horizontal well or wells on the taxing unit and the 100464
estimate of the cost to defray that impact. The commission shall 100465

state in its order the funds of a taxing unit into which such 100466
money shall be deposited. An order of the commission under this 100467
division may be appealed to the board of tax appeals not later 100468
than thirty days following the issuance of the order in the manner 100469
provided in section 5705.37 of the Revised Code. 100470

After the expiration of the period of time for appealing an 100471
order issued by the commission under this division, the county 100472
treasurer shall distribute money in the oil and gas escrow fund 100473
that was the subject of the hearing to the designated funds of 100474
taxing units in accordance with the order of the commission. Money 100475
received by a taxing unit under this division shall be repaid by 100476
the taxing unit to the owner of each horizontal well in accordance 100477
with section 5705.52 of the Revised Code. 100478

(2) If, after the hearing, the commission decides not to 100479
issue an order distributing money from the oil and gas escrow fund 100480
to taxing units, the county auditor shall notify the county 100481
treasurer. The county treasurer shall distribute money in the fund 100482
attributable to that taxing district as follows: 100483

(a) Sixty per cent to the board of county commissioners; 100484

(b) Forty per cent to the board of township trustees of the 100485
township in which the horizontal well or wells are located for 100486
which the fee was paid under division (L) of section 1509.06 of 100487
the Revised Code. 100488

A board of county commissioners or board of township trustees 100489
may deposit money received by the county or township under this 100490
division into any fund of the county or township, respectively. 100491
Such money shall be repaid by the county or township to the owner 100492
of each horizontal well in accordance with section 5705.52 of the 100493
Revised Code. 100494

Sec. 5705.37. The taxing authority of any subdivision, or the 100495

board of trustees of any public library, nonprofit corporation, or 100496
library association maintaining a free public library that has 100497
adopted and certified rules under section 5705.28 of the Revised 100498
Code, that is dissatisfied with any action of the county budget 100499
commission may, through its fiscal officer, appeal to the board of 100500
tax appeals within thirty days after the receipt by the 100501
subdivision of the official certificate or notice of the 100502
commission's action. In like manner, but through its clerk, any 100503
park district may appeal to the board of tax appeals. An appeal 100504
under this section shall be taken by the filing of a notice of 100505
appeal, either in person or by certified mail, express mail, or 100506
authorized delivery service as provided in section 5703.056 of the 100507
Revised Code, with the board and with the commission. If notice of 100508
appeal is filed by certified mail, express mail, or authorized 100509
delivery service, date of the United States postmark placed on the 100510
sender's receipt by the postal service or the date of receipt 100511
recorded by the authorized delivery service shall be treated as 100512
the date of filing. Upon receipt of the notice of appeal, the 100513
commission, by certified mail, shall notify all persons who were 100514
parties to the proceeding before the commission of the filing of 100515
the notice of appeal and shall file proof of notice with the board 100516
of tax appeals. The secretary of the commission shall forthwith 100517
certify to the board a transcript of the full and accurate record 100518
of all proceedings before the commission, together with all 100519
evidence presented in the proceedings or considered by the 100520
commission, pertaining to the action from which the appeal is 100521
taken. The secretary of the commission also shall certify to the 100522
board any additional information that the board may request. 100523

The board of tax appeals, in a de novo proceeding, shall 100524
forthwith consider the matter presented to the commission, and may 100525
modify any action of the commission with reference to the budget, 100526
the estimate of revenues and balances, the allocation of the 100527
public library fund, ~~or~~ the fixing of tax rates, or the allocation 100528

of money from an oil and gas escrow fund. The finding of the board 100529
of tax appeals shall be substituted for the findings of the 100530
commission, and shall be sent to the tax commissioner, the county 100531
auditor, and the taxing authority of the subdivision affected, or 100532
to the board of public library trustees affected, as the action of 100533
the commission under sections 5705.01 to 5705.47 of the Revised 100534
Code. At the request of the taxing authority, board of trustees, 100535
or park district that appealed an action of the county budget 100536
commission under this section, the findings of the board of tax 100537
appeals shall be sent by certified mail at the requestor's 100538
expense. 100539

This section does not give the board of tax appeals any 100540
authority to place any tax levy authorized by law within the 100541
ten-mill limitation outside of that limitation, or to reduce any 100542
levy below any minimum fixed by law. 100543

Sec. 5705.412. (A) As used in this section, "qualifying 100544
contract" means any agreement for the expenditure of money under 100545
which aggregate payments from the funds included in the school 100546
district's five-year forecast under section 5705.391 of the 100547
Revised Code will exceed the lesser of the following amounts: 100548

(1) Five hundred thousand dollars; 100549

(2) One per cent of the total revenue to be credited in the 100550
current fiscal year to the district's general fund, as specified 100551
in the district's most recent certificate of estimated resources 100552
certified under section 5705.36 of the Revised Code. 100553

(B)(1) Notwithstanding section 5705.41 of the Revised Code, 100554
no school district shall adopt any appropriation measure, make any 100555
qualifying contract, or increase during any school year any wage 100556
or salary schedule unless there is attached thereto a certificate, 100557
signed as required by this section, that the school district has 100558
in effect the authorization to levy taxes including the renewal or 100559

replacement of existing levies which, when combined with the 100560
estimated revenue from all other sources available to the district 100561
at the time of certification, are sufficient to provide the 100562
operating revenues necessary to enable the district to maintain 100563
all personnel and programs for all the days set forth in its 100564
adopted school calendars for the current fiscal year and for a 100565
number of days in succeeding fiscal years equal to the number of 100566
days instruction was held or is scheduled for the current fiscal 100567
year, as follows: 100568

(a) A certificate attached to an appropriation measure under 100569
this section shall cover only the fiscal year in which the 100570
appropriation measure is effective and shall not consider the 100571
renewal or replacement of an existing levy as the authority to 100572
levy taxes that are subject to appropriation in the current fiscal 100573
year unless the renewal or replacement levy has been approved by 100574
the electors and is subject to appropriation in the current fiscal 100575
year. 100576

(b) A certificate attached, in accordance with this section, 100577
to any qualifying contract shall cover the term of the contract. 100578

(c) A certificate attached under this section to a wage or 100579
salary schedule shall cover the term of the schedule. 100580

If the board of education has not adopted a school calendar 100581
for the school year beginning on the first day of the fiscal year 100582
in which a certificate is required, the certificate attached to an 100583
appropriation measure shall include the number of days on which 100584
instruction was held in the preceding fiscal year and other 100585
certificates required under this section shall include that number 100586
of days for the fiscal year in which the certificate is required 100587
and any succeeding fiscal years that the certificate must cover. 100588

The certificate shall be signed by the treasurer and 100589
president of the board of education and the superintendent of the 100590

school district, unless the district is in a state of fiscal 100591
emergency declared under Chapter 3316. of the Revised Code. In 100592
that case, the certificate shall be signed by a member of the 100593
district's financial planning and supervision commission who is 100594
designated by the commission for this purpose. 100595

(2) In lieu of the certificate required under division (B) of 100596
this section, an alternative certificate stating the following may 100597
be attached: 100598

(a) The contract is a multi-year contract for materials, 100599
equipment, or nonpayroll services essential to the education 100600
program of the district; 100601

(b) The multi-year contract demonstrates savings over the 100602
duration of the contract as compared to costs that otherwise would 100603
have been demonstrated in a single year contract, and the terms 100604
will allow the district to reduce the deficit it is currently 100605
facing in future years as demonstrated in its five-year forecast 100606
adopted in accordance with section 5705.391 of the Revised Code. 100607

The certificate shall be signed by the treasurer and 100608
president of the board of education and the superintendent of the 100609
school district, unless the district is in a state of fiscal 100610
emergency declared under Chapter 3316. of the Revised Code. In 100611
that case, the certificate shall be signed by a member of the 100612
district's financial planning and supervision commission who is 100613
designated by the commission for this purpose. 100614

(C) Every qualifying contract made or wage or salary schedule 100615
adopted or put into effect without such a certificate shall be 100616
void, and no payment of any amount due thereon shall be made. 100617

(D) The department of education and the auditor of state 100618
jointly shall adopt rules governing the methods by which 100619
treasurers, presidents of boards of education, superintendents, 100620
and members of financial planning and supervision commissions 100621

shall estimate revenue and determine whether such revenue is 100622
sufficient to provide necessary operating revenue for the purpose 100623
of making certifications required by this section. 100624

(E) The auditor of state shall be responsible for determining 100625
whether school districts are in compliance with this section. At 100626
the time a school district is audited pursuant to section 117.11 100627
of the Revised Code, the auditor of state shall review each 100628
certificate issued under this section since the district's last 100629
audit, and the appropriation measure, contract, or wage and salary 100630
schedule to which such certificate was attached. If the auditor of 100631
state determines that a school district has not complied with this 100632
section with respect to any qualifying contract or wage or salary 100633
schedule, the auditor of state shall notify the prosecuting 100634
attorney for the county, the city director of law, or other chief 100635
law officer of the school district. That officer may file a civil 100636
action in any court of appropriate jurisdiction to seek a 100637
declaration that the contract or wage or salary schedule is void, 100638
to recover for the school district from the payee the amount of 100639
payments already made under it, or both, except that the officer 100640
shall not seek to recover payments made under any collective 100641
bargaining agreement entered into under Chapter 4117. of the 100642
Revised Code. If the officer does not file such an action within 100643
one hundred twenty days after receiving notice of noncompliance 100644
from the auditor of state, any taxpayer may institute the action 100645
in the taxpayer's own name on behalf of the school district. 100646

~~(F) This section does not apply to any contract or increase 100647
in any wage or salary schedule that is necessary in order to 100648
enable a board of education to comply with division (B) of section 100649
3317.13 of the Revised Code, provided the contract or increase 100650
does not exceed the amount required to be paid to be in compliance 100651
with such division. 100652~~

~~(G) Any officer, employee, or other person who expends or 100653~~

authorizes the expenditure of any public funds or authorizes or 100654
executes any contract or schedule contrary to this section, 100655
expends or authorizes the expenditure of any public funds on the 100656
void contract or schedule, or issues a certificate under this 100657
section which contains any false statements is liable to the 100658
school district for the full amount paid from the district's funds 100659
on the contract or schedule. The officer, employee, or other 100660
person is jointly and severally liable in person and upon any 100661
official bond that the officer, employee, or other person has 100662
given to the school district to the extent of any payments on the 100663
void claim, not to exceed ten thousand dollars. However, no 100664
officer, employee, or other person shall be liable for a mistaken 100665
estimate of available resources made in good faith and based upon 100666
reasonable grounds. If an officer, employee, or other person is 100667
found to have complied with rules jointly adopted by the 100668
department of education and the auditor of state under this 100669
section governing methods by which revenue shall be estimated and 100670
determined sufficient to provide necessary operating revenue for 100671
the purpose of making certifications required by this section, the 100672
officer, employee, or other person shall not be liable under this 100673
section if the estimates and determinations made according to 100674
those rules do not, in fact, conform with actual revenue. The 100675
prosecuting attorney of the county, the city director of law, or 100676
other chief law officer of the district shall enforce this 100677
liability by civil action brought in any court of appropriate 100678
jurisdiction in the name of and on behalf of the school district. 100679
If the prosecuting attorney, city director of law, or other chief 100680
law officer of the district fails, upon the written request of any 100681
taxpayer, to institute action for the enforcement of the 100682
liability, the attorney general, or the taxpayer in the taxpayer's 100683
own name, may institute the action on behalf of the subdivision. 100684

~~(H)~~(G) This section does not require the attachment of an 100685
additional certificate beyond that required by section 5705.41 of 100686

the Revised Code for current payrolls of, or contracts of 100687
employment with, any employees or officers of the school district. 100688

This section does not require the attachment of a certificate 100689
to a temporary appropriation measure if all of the following 100690
apply: 100691

(1) The amount appropriated does not exceed twenty-five per 100692
cent of the total amount from all sources available for 100693
expenditure from any fund during the preceding fiscal year; 100694

(2) The measure will not be in effect on or after the 100695
thirtieth day following the earliest date on which the district 100696
may pass an annual appropriation measure; 100697

(3) An amended official certificate of estimated resources 100698
for the current year, if required, has not been certified to the 100699
board of education under division (B) of section 5705.36 of the 100700
Revised Code. 100701

Sec. 5705.52. (A) As used in this section, "current taxes" 100702
means taxes charged on the tax list of real and public utility 100703
property for a tax year that have not appeared on the list for a 100704
preceding tax year. "Current taxes" does not include penalty or 100705
interest charged for a preceding tax year or special assessments. 100706

(B) A taxing unit that receives money from an oil and gas 100707
escrow fund under division (G) of section 5705.32 of the Revised 100708
Code shall repay to the owner of each horizontal well that paid 100709
the fee required by division (L) of section 1509.06 of the Revised 100710
Code an amount equal to the amount of money the taxing unit 100711
received from the oil and gas escrow fund on the basis of each 100712
owner's well. Interest shall not accrue on any unpaid balance. 100713

Once per tax year, beginning with the tax year following the 100714
tax year in which the taxing unit receives such money, the fiscal 100715
officer of the taxing unit shall pay to each owner of such well an 100716

amount equal to fifty per cent of current taxes paid by the owner 100717
for the preceding tax year for oil and gas reserves resulting from 100718
the production of the owner's horizontal well and valued in 100719
accordance with section 5713.051 of the Revised Code to the extent 100720
those taxes were payable to that taxing unit for the tax year. 100721
Except as provided in division (C) of this section, the fiscal 100722
officer shall make such payments to an owner until the sum of such 100723
payments equals the amount the taxing unit received from the oil 100724
and gas escrow fund on the basis of that owner's horizontal well. 100725
If a payment would cause the total amount paid to any owner to 100726
exceed the amount of money the taxing unit received from the oil 100727
and gas escrow fund on the basis of that owner's well, the fiscal 100728
officer shall pay the owner only up to this amount. 100729

The fiscal officer shall draw such payments from the fund or 100730
funds of the taxing unit to which money from the oil and gas 100731
escrow fund were deposited in proportion to the amount deposited 100732
in each fund. If insufficient money exists in a fund such that the 100733
amount of the payment that is required to be paid from that fund 100734
cannot fully be paid from the fund, the fiscal officer shall pay 100735
the deficiency from the general fund of the taxing unit. 100736

(C) If, for a tax year, an owner that the fiscal officer is 100737
required to pay under this section does not pay current taxes on 100738
oil and gas reserves from the production of the owner's horizontal 100739
well, the fiscal officer shall make no payment to the owner in the 100740
succeeding tax year. 100741

Sec. 5713.01. (A) Each county shall be the unit for assessing 100742
real estate for taxation purposes. The county auditor shall be the 100743
assessor of all the real estate in the auditor's county for 100744
purposes of taxation, but this section does not affect the power 100745
conferred by Chapter 5727. of the Revised Code upon the tax 100746
commissioner regarding the valuation and assessment of real 100747

property used in railroad operations. 100748

(B) The auditor shall assess all the real estate situated in 100749
the county at its taxable value in accordance with sections 100750
5713.03, 5713.31, and 5715.01 of the Revised Code and with the 100751
rules and methods applicable to the auditor's county adopted, 100752
prescribed, and promulgated by the tax commissioner. The auditor 100753
shall view and appraise or cause to be viewed and appraised at its 100754
true value in money, each lot or parcel of real estate, including 100755
land devoted exclusively to agricultural use, and the improvements 100756
located thereon at least once in each six-year period ~~and the~~ 100757
unless the auditor is otherwise ordered by the commissioner under 100758
section 5715.33 of the Revised Code. The taxable values required 100759
to be derived therefrom shall be placed on the auditor's tax list 100760
and the county treasurer's duplicate for the tax year ordered by 100761
the commissioner pursuant to section 5715.34 of the Revised Code. 100762
The commissioner may grant an extension of one year or less if the 100763
commissioner finds that good cause exists for the extension. When 100764
the auditor so views and appraises, the auditor may enter each 100765
structure located thereon to determine by actual view what 100766
improvements have been made therein or additions made thereto 100767
since the next preceding valuation. The auditor shall revalue and 100768
assess at any time all or any part of the real estate in such 100769
county, including land devoted exclusively to agricultural use, 100770
where the auditor finds that the true or taxable values thereof 100771
have changed, and when a conservation easement is created under 100772
sections 5301.67 to 5301.70 of the Revised Code. The auditor may 100773
increase or decrease the true or taxable value of any lot or 100774
parcel of real estate in any township, municipal corporation, or 100775
other taxing district by an amount which will cause all real 100776
property on the tax list to be valued as required by law, or the 100777
auditor may increase or decrease the aggregate value of all real 100778
property, or any class of real property, in the county, township, 100779
municipal corporation, or other taxing district, or in any ward or 100780

other division of a municipal corporation by a per cent or amount 100781
which will cause all property to be properly valued and assessed 100782
for taxation in accordance with Section 36, Article II, Section 2, 100783
Article XIII, Ohio Constitution, this section, and sections 100784
5713.03, 5713.31, and 5715.01 of the Revised Code. 100785

(C) When the auditor determines to reappraise all the real 100786
estate in the county or any class thereof, when the tax 100787
commissioner orders an increase in the aggregate true or taxable 100788
value of the real estate in any taxing subdivision, or when the 100789
taxable value of real estate is increased by the application of a 100790
uniform taxable value per cent of true value pursuant to the order 100791
of the commissioner, the auditor shall advertise the completion of 100792
the reappraisal or equalization action in a newspaper of general 100793
circulation in the county once a week for the three consecutive 100794
weeks next preceding the issuance of the tax bills, or as provided 100795
in section 7.16 of the Revised Code for the two consecutive weeks 100796
next preceding the issuance of the tax bills. When the auditor 100797
changes the true or taxable value of any individual parcels of 100798
real estate, the auditor shall notify the owner of the real 100799
estate, or the person in whose name the same stands charged on the 100800
duplicate, by mail or in person, of the changes the auditor has 100801
made in the assessments of such property. Such notice shall be 100802
given at least thirty days prior to the issuance of the tax bills. 100803
Failure to receive notice shall not invalidate any proceeding 100804
under this section. 100805

(D) The auditor shall make the necessary abstracts from books 100806
of the auditor's office containing descriptions of real estate in 100807
such county, together with such platbooks and lists of transfers 100808
of title to land as the auditor deems necessary in the performance 100809
of the auditor's duties in valuing such property for taxation. 100810
Such abstracts, platbooks, and lists shall be in such form and 100811
detail as the tax commissioner prescribes. 100812

(E) The auditor, with the approval of the tax commissioner, 100813
may appoint and employ such experts, deputies, clerks, or other 100814
employees as the auditor deems necessary to the performance of the 100815
auditor's duties as assessor, or, with the approval of the tax 100816
commissioner, the auditor may enter into a contract with an 100817
individual, partnership, firm, company, or corporation to do all 100818
or any part of the work; the amount to be expended in the payment 100819
of the compensation of such employees shall be fixed by the board 100820
of county commissioners. If, in the opinion of the auditor, the 100821
board of county commissioners fails to provide a sufficient amount 100822
for the compensation of such employees, the auditor may apply to 100823
the tax commissioner for an additional allowance, and the 100824
additional amount of compensation allowed by the commissioner 100825
shall be certified to the board of county commissioners, and the 100826
same shall be final. The salaries and compensation of such 100827
experts, deputies, clerks, and employees shall be paid upon the 100828
warrant of the auditor out of the general fund or the real estate 100829
assessment fund of the county, or both. If the salaries and 100830
compensation are in whole or in part fixed by the commissioner, 100831
they shall constitute a charge against the county regardless of 100832
the amount of money in the county treasury levied or appropriated 100833
for such purposes. 100834

(F) Any contract for goods or services related to the 100835
auditor's duties as assessor, including contracts for mapping, 100836
computers, and reproduction on any medium of any documents, 100837
records, photographs, microfiche, or magnetic tapes, but not 100838
including contracts for the professional services of an appraiser, 100839
shall be awarded pursuant to the competitive bidding procedures 100840
set forth in sections 307.86 to 307.92 of the Revised Code and 100841
shall be paid for, upon the warrant of the auditor, from the real 100842
estate assessment fund. 100843

(G) Experts, deputies, clerks, and other employees, in 100844

addition to their other duties, shall perform such services as the auditor directs in ascertaining such facts, description, location, character, dimensions of buildings and improvements, and other circumstances reflecting upon the value of real estate as will aid the auditor in fixing its true and taxable value and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value. The auditor may also summon and examine any person under oath in respect to any matter pertaining to the value of any real property within the county.

Sec. 5713.05. On or before the thirty-first day of March, annually, the county auditor shall make a list of petroleum, oil, and ~~natural~~ gas wells, coal and ore mines, limestone quarries, fireclay pits, and works designed for the production of minerals which have been begun or constructed since the last preceding appraisal.

If, by reason of the discovery of such minerals, the construction of such works, the commencement of such operations, or the development of such minerals, or otherwise, within the year, the value of the lands containing or producing such minerals or the value of any right to such minerals, listed and taxed separately from such lands, has increased in value to one hundred dollars or more, the auditor shall increase the assessment of such land or right to the minerals therein to its taxable value in the name of the owner thereof. If the auditor finds that rights to minerals contained or produced in or upon any lot or parcel of land have been previously created and not separately assessed for taxation, ~~he~~ the auditor shall apportion the aggregate valuation of the lot or parcel and the right to minerals therein as provided in section 5713.06 of the Revised Code.

If the value of any lot or parcel of land containing or producing petroleum, oil, ~~natural~~ gas, coal, ore, limestone,

fireclay, or other minerals, or of any right to the minerals 100876
therein shall decrease within one year because of the exhaustion 100877
of any such minerals or the failure to find or develop such 100878
minerals, the auditor shall determine the decrease in value of 100879
such lot or parcel in consequence of such exhaustion or failure to 100880
find or develop, if the fee of the soil and the right to the 100881
minerals is owned by and assessed for taxation against the same 100882
person. If the title to the fee of the soil is in one or more 100883
persons and the right to the minerals therein is in another 100884
person, the auditor shall determine the decrease in value of such 100885
right to the mineral therein by reason of such exhaustion or 100886
failure to find or develop. If the auditor finds that the value of 100887
any such lot or parcel of land or any such right to the minerals 100888
therein has decreased by one hundred dollars or more by reason of 100889
such exhaustion or of such failure to find or develop, ~~he~~ the 100890
auditor may reduce the valuation of such lands or of such rights 100891
to the minerals therein so as to place such valuation at its 100892
taxable value. 100893

Sec. 5713.051. (A) As used in this section: 100894

(1) "Oil" means all grades of crude oil and condensate. 100895

(2) "Gas" means all ~~forms of natural gas~~ hydrocarbons that 100896
are in a gaseous state at standard temperature and pressure. 100897

(3) "Condensate" means liquid hydrocarbons that were 100898
originally in the gaseous phase in the reservoir. 100899

(4) "Well" means an oil or gas well or an oil and gas well. 100900

~~(4)~~(5) "M.C.F." means one thousand cubic feet. 100901

~~(5)~~(6) "British thermal unit" means the measure of heat 100902
energy required to raise the temperature of one pound of water by 100903
one degree fahrenheit at a specified temperature. 100904

(7) "Commonly metered wells" means two or more wells that 100905

share the same meter. 100906

~~(6)~~(8) "Total production" means the total amount of oil, 100907
measured in barrels, and the total amount of gas, measured in 100908
M.C.F., of all oil and gas actually produced and sold from a 100909
single well that is developed and producing on the tax lien date. 100910
For commonly metered wells, "total production" means the total 100911
amount of oil, measured in barrels, and the total amount of gas, 100912
measured in M.C.F., of all oil and gas actually produced and sold 100913
from the commonly metered wells divided by the number of the 100914
commonly metered wells. 100915

~~(7)~~(9) "Flush production" means total production from a 100916
single well during the first twelve calendar months during not 100917
more than two consecutive calendar years after a well first begins 100918
to produce. For commonly metered wells, "flush production" means 100919
total production during the first twelve calendar months during 100920
not more than two consecutive calendar years after a well first 100921
begins to produce from all wells with flush production divided by 100922
the number of those wells. 100923

~~(8)~~(10) "Production through secondary recovery methods" means 100924
total production from a single well where mechanically induced 100925
pressure, such as air, nitrogen, carbon dioxide, or water 100926
pressure, is used to stimulate and maintain production in the oil 100927
and gas reservoir, exclusive of any flush production. For commonly 100928
metered wells, "production through secondary recovery methods" 100929
means total production from all wells with production through 100930
secondary recovery methods divided by the number of ~~the~~ those 100931
wells. 100932

~~(9)~~(11) "Stabilized production" means total production 100933
reduced, if applicable, by the greater of forty-two and one-half 100934
per cent of flush production or fifty per cent of production 100935
through secondary recovery methods. 100936

~~(10)~~(12) "Average daily production" means stabilized
production divided by three hundred sixty-five, provided the well
was in production at the beginning of the calendar year. If the
well was not in production at the beginning of the calendar year,
"average daily production" means stabilized production divided by
the number of days beginning with the day the well went into
production in the calendar year and ending with the thirty-first
day of December.

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~~(11)~~(13)(a) "Gross price" means the unweighted average price
per barrel of oil, or the average price per M.C.F. of gas with a
British thermal unit measurement equal to or less than one
thousand fifty per cubic foot, produced from Ohio wells and first
sold during the five-year period ending with the calendar year
immediately preceding the tax lien date, as reported by the
department of natural resources.

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(b) For gas with a British thermal unit measurement of more
than one thousand fifty per cubic foot, "gross price" means:

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(i) If the British thermal unit measurement of the gas is
greater than one thousand fifty per cubic foot but less than or
equal to one thousand two hundred per cubic foot, the sum of the
price established for gas under division (A)(13)(a) of this
section multiplied by nine thousand three hundred twenty-nine
ten-thousandths, plus the gross price per gallon of natural gas
liquids multiplied by two and one-half.

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(ii) If the British thermal unit measurement of the gas is
greater than one thousand two hundred per cubic foot but less than
or equal to one thousand three hundred fifty per cubic foot, the
sum of the price established for gas under division (A)(13)(a) of
this section multiplied by eight thousand two hundred thirty-two
ten-thousandths, plus the gross price per gallon of natural gas
liquids multiplied by five and one-half.

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(iii) If the British thermal unit measurement of the gas is greater than one thousand three hundred fifty per cubic foot, the sum of the price established for gas under division (A)(13)(a) of this section multiplied by seven thousand three hundred sixty-six ten-thousandths, plus the gross price per gallon of natural gas liquids multiplied by eight and one-half.

(c) As used in division (A)(13) of this section, "gross price per gallon of natural gas liquids" means the sum of the spot prices per gallon of natural gas liquids established for each calendar quarter by the tax commissioner under division (D) of section 5749.02 of the Revised Code for calendar quarters in the preceding tax year, divided by four.

~~(12)~~(14) "Average annual decline rate" means the amount of yearly decline in oil and gas production of a well after flush production has ended. For the purposes of this section, the average annual decline rate is thirteen per cent.

~~(13)~~(15) "Gross revenue" means the gross revenue from a well during a ten-year discount period with production assumed to be one barrel of oil or one M.C.F. of gas during the first year of production and declining at the annual average annual decline rate during the remaining nine years of the ten-year discount period, as follows:

(a) First year: one barrel or one M.C.F. multiplied by gross price;

(b) Second year: 0.870 barrel or 0.870 M.C.F. multiplied by gross price;

(c) Third year: 0.757 barrel or 0.757 M.C.F. multiplied by gross price;

(d) Fourth year: 0.659 barrel or 0.659 M.C.F. multiplied by gross price;

(e) Fifth year: 0.573 barrel or 0.573 M.C.F. multiplied by 100998
gross price; 100999

(f) Sixth year: 0.498 barrel or 0.498 M.C.F. multiplied by 101000
gross price; 101001

(g) Seventh year: 0.434 barrel or 0.434 M.C.F. multiplied by 101002
gross price; 101003

(h) Eighth year: 0.377 barrel or 0.377 M.C.F. multiplied by 101004
gross price; 101005

(i) Ninth year: 0.328 barrel or 0.328 M.C.F. multiplied by 101006
gross price; 101007

(j) Tenth year: 0.286 barrel or 0.286 M.C.F. multiplied by 101008
gross price. 101009

~~(14)~~(16) "Average royalty expense" means the annual cost of 101010
royalties paid by all working interest owners in a well. For the 101011
purposes of this section, the average royalty expense is fifteen 101012
per cent of annual gross revenue. 101013

~~(15)~~(17) "Average operating expense" means the annual cost of 101014
operating and maintaining a producing well after it first begins 101015
production. For the purposes of this section, the average 101016
operating expense is forty per cent of annual gross revenue. 101017

~~(16)~~(18) "Average capital recovery expense" means the annual 101018
capitalized investment cost of a developed and producing well. For 101019
the purposes of this section, average capital recovery expense is 101020
thirty per cent of annual gross revenue. 101021

~~(17)~~(19) "Discount rate" means the rate used to determine the 101022
present net worth of one dollar during each year of the ten-year 101023
discount period assuming the net income stream projected for each 101024
year of the ten-year discount period is received at the half-year 101025
point. For the purposes of this section, the discount rate equals 101026
thirteen per cent plus the rate per annum prescribed by division 101027

(B) of section 5703.47 of the Revised Code and determined by the tax commissioner in October of the calendar year immediately preceding the tax lien date.

(B) The true value in money of oil reserves constituting real property on tax lien dates January 1, 2007, and thereafter with respect to a developed and producing well that has not been the subject of a recent arm's length sale, exclusive of personal property necessary to recover the oil, shall be determined under division (B)(1) or (2) of this section.

(1) For wells for which average daily production of oil is one barrel or more in the calendar year preceding the tax lien date, the true value in money equals the average daily production of oil from the well multiplied by the net present value of one barrel of oil, where:

(a) Net present value of one barrel of oil = 365 x the sum of [net income for each year of the discount period x discount rate factor for that year] for all years in the discount period; and

(b) Net income for a year of the discount period = gross revenue for that year minus the sum of the following for that year: average royalty expense, average operating expense, and average capital recovery expense.

(2) For wells for which average daily production of oil is less than one barrel in the calendar year preceding the tax lien date, the true value in money equals the average daily production of the well in the calendar year preceding the tax lien date multiplied by sixty per cent of the net present value of one barrel of oil as computed under division (B)(1) of this section.

(C) The true value in money of gas reserves constituting real property on tax lien dates January 1, 2007, and thereafter with respect to a developed and producing well that has not been the subject of a recent arm's length sale, exclusive of personal

property necessary to recover the gas, shall be determined under 101059
division (C)(1) or (2) of this section. 101060

(1) For wells for which average daily production of gas is 101061
eight M.C.F. or more in the calendar year preceding the tax lien 101062
date, the true value in money equals the average daily production 101063
of gas from the well multiplied by the net present value of one 101064
M.C.F. of gas, where: 101065

(a) Net present value of one M.C.F. of gas = 365 x the sum of 101066
[net income for each year of the discount period x discount rate 101067
factor for that year] for all years in the discount period; and 101068

(b) Net income for a year of the discount period = gross 101069
revenue for that year minus the sum of the following for that 101070
year: average royalty expense, average operating expense, and 101071
average capital recovery expense. 101072

(2) For wells for which average daily production of gas is 101073
less than eight M.C.F. in the calendar year preceding the tax lien 101074
date, the true value in money equals the average daily production 101075
of the well in the calendar year preceding the tax lien date 101076
multiplied by fifty per cent of the net present value of one 101077
M.C.F. as computed under division (C)(1) of this section. 101078

Sec. 5715.24. (A) The tax commissioner, annually, shall 101079
determine whether the real property and the various classes 101080
thereof in the several counties, municipal corporations, and 101081
taxing districts which have completed a sexennial reappraisal in 101082
the current year and which will have the new taxable values placed 101083
on the tax list and duplicate have been assessed as required by 101084
law, and whether the values set forth in the agricultural land tax 101085
list in such taxing districts correctly reflect the true and 101086
agricultural use values of the lands contained therein. The 101087
determination shall be made prior to the first Monday in August 101088
unless the commissioner, for good cause, extends the date. If the 101089

commissioner finds that the real property or any class thereof in 101090
any such county, municipal corporation, or taxing district, as 101091
reported to it by the several county auditors of the counties that 101092
have completed such reappraisal is not listed for taxation or 101093
recorded on the agricultural land tax list in accordance 101094
therewith, the commissioner shall increase or decrease the 101095
appropriate aggregate value of the real property or any class 101096
thereof in any such county, township, municipal corporation, 101097
taxing district, or ward or division of a municipal corporation, 101098
by a per cent or amount that will cause such property to be 101099
correctly valued on the agricultural land tax list and to be 101100
correctly assessed on the tax list at its taxable value so that 101101
every class of real property shall be listed and valued for 101102
taxation and valued for purposes of sections 5713.33 to 5713.35 of 101103
the Revised Code as required by law. In determining whether a 101104
class of real property has been assessed at its correct taxable 101105
value and in determining any per cent or amount by which the 101106
aggregate value of the class from a prior year shall be increased 101107
or decreased to be correctly assessed, the commissioner shall 101108
consider only the aggregate values of property that existed in the 101109
prior year and that is to be taxed in the current year. In 101110
addition to any other adjustments the commissioner considers 101111
necessary to comply with this requirement, the value of new 101112
construction shall not be regarded as an increase in such 101113
aggregate value from the prior year, and the value of property 101114
destroyed or demolished since the prior year shall be deducted 101115
from the aggregate value of that class for the prior year. 101116

In implementing any increase or decrease in valuation of real 101117
property ordered by the commissioner pursuant to this section, the 101118
county auditor shall, when practicable, increase or decrease the 101119
taxable valuation of parcels in accordance with actual changes in 101120
valuation of real property which occur in different subdivisions, 101121
neighborhoods, or among classes of real property in the county. 101122

(B) Division (A) of this section also applies to a county in 101123
the third calendar year following the year in which a sexennial 101124
reappraisal is completed. The tax commissioner may extend or 101125
shorten the reappraisal or reassessment cycle of any county for 101126
the purpose of equalizing and regionalizing real property 101127
assessment cycles, but the commissioner may not reschedule any 101128
reappraisal or reassessment required by law after tax year 2023 101129
under the authority granted by this division. 101130

Sec. 5715.33. The tax commissioner shall order a reappraisal 101131
of all real property in each county once in each six-year period. 101132
The commissioner may extend or shorten the six-year period for the 101133
purpose of equalizing and regionalizing real property assessment 101134
cycles, but the commissioner may not reschedule any reappraisal or 101135
reassessment required by law after tax year 2023 under the 101136
authority granted by this division. The commissioner may order the 101137
commencement of any sexennial reappraisal in sufficient time for 101138
the county auditor to complete the reappraisal as required by 101139
section 5713.01 of the Revised Code. The commissioner may order a 101140
reassessment of the real property or any class thereof in any 101141
taxing district or subdivision thereof in the third calendar year 101142
following the year in which a sexennial reappraisal is completed 101143
if, ~~in his~~ in the commissioner's opinion, such property has been 101144
unequally or improperly assessed, so that all classes of property 101145
in such district shall be assessed in compliance with law. 101146

Sec. 5717.01. An appeal from a decision of a county board of 101147
revision may be taken to the board of tax appeals within thirty 101148
days after notice of the decision of the county board of revision 101149
is mailed as provided in division (A) of section 5715.20 of the 101150
Revised Code. Such an appeal may be taken by the county auditor, 101151
the tax commissioner, or any board, legislative authority, public 101152
official, or taxpayer authorized by section 5715.19 of the Revised 101153

Code to file complaints against valuations or assessments with the auditor. Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, facsimile transmission, electronic transmission using electronic mail, or by authorized delivery service, with the board of tax appeals and with the county board of revision. If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. If notice of appeal is filed by facsimile transmission or electronic transmission using electronic mail, the date and time of transmission shall be treated as the date of filing. Upon receipt of such notice of appeal such county board of revision shall by certified mail notify all persons thereof who were parties to the proceeding before such county board of revision, and shall file proof of such notice with the board of tax appeals. The county board of revision shall thereupon certify to the board of tax appeals a transcript of the record of the proceedings of the county board of revision pertaining to the original complaint, and all evidence offered in connection therewith. Such appeal may be heard by the board of tax appeals at its offices in Columbus or in the county where the property is listed for taxation, or the board of tax appeals may cause its examiners to conduct such hearing and to report to it their findings for affirmation or rejection. An appeal may proceed pursuant to section 5703.021 of the Revised Code in the small claims division if the appeal qualifies under that section.

The board of tax appeals may order the appeal to be heard on the record and the evidence certified to it by the county board of revision, or it may order the hearing of additional evidence, and it may make such investigation concerning the appeal as it deems

proper. 101187

Sec. 5717.011. (A) As used in this chapter, "tax 101188
administrator" has the same meaning as in section 718.01 of the 101189
Revised Code. 101190

(B) Appeals from a municipal board of appeal created under 101191
section 718.11 of the Revised Code may be taken by the taxpayer or 101192
the tax administrator to the board of tax appeals or may be taken 101193
by the taxpayer or the tax administrator to a court of common 101194
pleas as otherwise provided by law. If the taxpayer or the tax 101195
administrator elects to make an appeal to the board of tax appeals 101196
or court of common pleas, and subject to section 5703.021 of the 101197
Revised Code with respect to small claims proceedings, the appeal 101198
shall be taken by the filing of a notice of appeal with the board 101199
of tax appeals or court of common pleas, the municipal board of 101200
appeal, and the opposing party. The notice of appeal shall be 101201
filed within sixty days after the day the appellant receives 101202
notice of the decision issued under section 718.11 of the Revised 101203
Code. The notice of appeal may be filed in person or by certified 101204
mail, express mail, facsimile transmission, electronic 101205
transmission using electronic mail, or by authorized delivery 101206
service as provided in section 5703.056 of the Revised Code. If 101207
the notice of appeal is filed by certified mail, express mail, or 101208
authorized delivery service as provided in section 5703.056 of the 101209
Revised Code, the date of the United States postmark placed on the 101210
sender's receipt by the postal service or the date of receipt 101211
recorded by the authorized delivery service shall be treated as 101212
the date of filing. If notice of appeal is filed by facsimile 101213
transmission or electronic transmission using electronic mail, the 101214
date and time of the transmission shall be treated as the date of 101215
filing. The notice of appeal shall have attached thereto and 101216
incorporated therein by reference a true copy of the decision 101217
issued under section 718.11 of the Revised Code and shall specify 101218

the errors therein complained of, but failure to attach a copy of 101219
such notice and incorporate it by reference in the notice of 101220
appeal does not invalidate the appeal. 101221

(C) Upon the filing of a notice of appeal with the board of 101222
tax appeals, the municipal board of appeal shall certify to the 101223
board of tax appeals a transcript of the record of the proceedings 101224
before it, together with all evidence considered by it in 101225
connection therewith. Such appeals may be heard by the board at 101226
its office in Columbus or in the county where the appellant 101227
resides, or it may cause its examiners to conduct such hearings 101228
and to report to it their findings for affirmation or rejection. 101229
The board may order the appeal to be heard upon the record and the 101230
evidence certified to it by the administrator, but upon the 101231
application of any interested party the board shall order the 101232
hearing of additional evidence, and the board may make such 101233
investigation concerning the appeal as it considers proper. An 101234
appeal may proceed pursuant to section 5703.021 of the Revised 101235
Code in the small claims division if the appeals qualifies under 101236
that section. 101237

(D) If an issue being appealed under this section is 101238
addressed in a municipal corporation's ordinance or regulation, 101239
the tax administrator, upon the request of the board of tax 101240
appeals, shall provide a copy of the ordinance or regulation to 101241
the board of tax appeals. 101242

Sec. 5717.02. (A) Except as otherwise provided by law, 101243
appeals from final determinations by the tax commissioner of any 101244
preliminary, amended, or final tax assessments, reassessments, 101245
valuations, determinations, findings, computations, or orders made 101246
by the commissioner may be taken to the board of tax appeals by 101247
the taxpayer, by the person to whom notice of the tax assessment, 101248
reassessment, valuation, determination, finding, computation, or 101249

order by the commissioner is required by law to be given, by the 101250
director of budget and management if the revenues affected by that 101251
decision would accrue primarily to the state treasury, or by the 101252
county auditors of the counties to the undivided general tax funds 101253
of which the revenues affected by that decision would primarily 101254
accrue. Appeals from the redetermination by the director of 101255
development services under division (B) of section 5709.64 or 101256
division (A) of section 5709.66 of the Revised Code may be taken 101257
to the board of tax appeals by the enterprise to which notice of 101258
the redetermination is required by law to be given. Appeals from a 101259
decision of the tax commissioner or county auditor concerning an 101260
application for a property tax exemption may be taken to the board 101261
of tax appeals by the applicant or by a school district that filed 101262
a statement concerning that application under division (C) of 101263
section 5715.27 of the Revised Code. Appeals from a 101264
redetermination by the director of job and family services under 101265
section 5733.42 of the Revised Code may be taken by the person to 101266
which the notice of the redetermination is required by law to be 101267
given under that section. 101268

(B) The appeals shall be taken by the filing of a notice of 101269
appeal with the board, and with the tax commissioner if the tax 101270
commissioner's action is the subject of the appeal, with the 101271
county auditor if the county auditor's action is the subject of 101272
the appeal, with the director of development services if that 101273
director's action is the subject of the appeal, or with the 101274
director of job and family services if that director's action is 101275
the subject of the appeal. The notice of appeal shall be filed 101276
within sixty days after service of the notice of the tax 101277
assessment, reassessment, valuation, determination, finding, 101278
computation, or order by the commissioner, property tax exemption 101279
determination by the commissioner or the county auditor, or 101280
redetermination by the director has been given as provided in 101281

section 5703.37, 5709.64, 5709.66, or 5733.42 of the Revised Code. 101282
The notice of appeal may be filed in person or by certified mail, 101283
express mail, facsimile transmission, electronic transmission 101284
using electronic mail, or by authorized delivery service. If the 101285
notice of appeal is filed by certified mail, express mail, or 101286
authorized delivery service as provided in section 5703.056 of the 101287
Revised Code, the date of the United States postmark placed on the 101288
sender's receipt by the postal service or the date of receipt 101289
recorded by the authorized delivery service shall be treated as 101290
the date of filing. If notice of appeal is filed by facsimile 101291
transmission or electronic transmission using electronic mail, the 101292
date and time of the transmission shall be treated as the date of 101293
filing. The notice of appeal shall have attached to it and 101294
incorporated in it by reference a true copy of the notice sent by 101295
the commissioner, county auditor, or director to the taxpayer, 101296
enterprise, or other person of the final determination or 101297
redetermination complained of, and shall also specify the errors 101298
therein complained of, but failure to attach a copy of that notice 101299
and to incorporate it by reference in the notice of appeal does 101300
not invalidate the appeal. 101301

(C) Upon the filing of a notice of appeal, the tax 101302
commissioner, county auditor, or the director, as appropriate, 101303
shall certify to the board a transcript of the record of the 101304
proceedings before the commissioner, auditor, or director, 101305
together with all evidence considered by the commissioner, 101306
auditor, or director in connection with the proceedings. Those 101307
appeals or applications may be heard by the board at its office in 101308
Columbus or in the county where the appellant resides, or it may 101309
cause its examiners to conduct the hearings and to report to it 101310
their findings for affirmation or rejection. The board shall 101311
institute procedures to control and manage appeals governed by 101312
this section. The procedures shall include the conduct of 101313
discovery such that, upon the filing of the statutory transcript 101314

in an appeal, the board, through its attorney examiners, shall 101315
establish a case management schedule subject to section 5703.021 101316
of the Revised Code. 101317

(D) The board may order the appeal to be heard upon the 101318
record and the evidence certified to it by the commissioner, 101319
county auditor, or director, but upon the application of any 101320
interested party the board shall order the hearing of additional 101321
evidence, and it may make an investigation concerning the appeal 101322
that it considers proper. An appeal may proceed pursuant to 101323
section 5703.021 of the Revised Code in the small claims division 101324
if the appeal qualifies under that section. 101325

Sec. 5717.04. The This section does not apply to any decision 101326
and order of the board made pursuant to section 5703.021 of the 101327
Revised Code. Any such decision and order shall be conclusive upon 101328
all parties and may not be appealed. 101329

The proceeding to obtain a reversal, vacation, or 101330
modification of a decision of the board of tax appeals shall be by 101331
appeal to the supreme court or the court of appeals for the county 101332
in which the property taxed is situate or in which the taxpayer 101333
resides. If the taxpayer is a corporation, then the proceeding to 101334
obtain such reversal, vacation, or modification shall be by appeal 101335
to the supreme court or to the court of appeals for the county in 101336
which the property taxed is situate, or the county of residence of 101337
the agent for service of process, tax notices, or demands, or the 101338
county in which the corporation has its principal place of 101339
business. In all other instances, the proceeding to obtain such 101340
reversal, vacation, or modification shall be by appeal to the 101341
court of appeals for Franklin county. 101342

Appeals from decisions of the board determining appeals from 101343
decisions of county boards of revision may be instituted by any of 101344
the persons who were parties to the appeal before the board of tax 101345

appeals, by the person in whose name the property involved in the appeal is listed or sought to be listed, if such person was not a party to the appeal before the board of tax appeals, or by the county auditor of the county in which the property involved in the appeal is located.

Appeals from decisions of the board of tax appeals determining appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be instituted by any of the persons who were parties to the appeal or application before the board, by the person in whose name the property is listed or sought to be listed, if the decision appealed from determines the valuation or liability of property for taxation and if any such person was not a party to the appeal or application before the board, by the taxpayer or any other person to whom the decision of the board appealed from was by law required to be sent, by the director of budget and management if the revenue affected by the decision of the board appealed from would accrue primarily to the state treasury, by the county auditor of the county to the undivided general tax funds of which the revenues affected by the decision of the board appealed from would primarily accrue, or by the tax commissioner.

Appeals from decisions of the board upon all other appeals or applications filed with and determined by the board may be instituted by any of the persons who were parties to such appeal or application before the board, by any persons to whom the decision of the board appealed from was by law required to be sent, or by any other person to whom the board sent the decision appealed from, as authorized by section 5717.03 of the Revised Code.

Such appeals shall be taken within thirty days after the date

of the entry of the decision of the board on the journal of its 101378
proceedings, as provided by such section, by the filing by 101379
appellant of a notice of appeal with the court to which the appeal 101380
is taken and the board. If a timely notice of appeal is filed by a 101381
party, any other party may file a notice of appeal within ten days 101382
of the date on which the first notice of appeal was filed or 101383
within the time otherwise prescribed in this section, whichever is 101384
later. A notice of appeal shall set forth the decision of the 101385
board appealed from and the errors therein complained of. Proof of 101386
the filing of such notice with the board shall be filed with the 101387
court to which the appeal is being taken. The court in which 101388
notice of appeal is first filed shall have exclusive jurisdiction 101389
of the appeal. 101390

In all such appeals the ~~tax~~ commissioner or all persons to 101391
whom the decision of the board appealed from is required by such 101392
section to be sent, other than the appellant, shall be made 101393
appellees. Unless waived, notice of the appeal shall be served 101394
upon all appellees by certified mail. The prosecuting attorney 101395
shall represent the county auditor in any such appeal in which the 101396
auditor is a party. 101397

The board, upon written demand filed by an appellant, shall 101398
within thirty days after the filing of such demand file with the 101399
court to which the appeal is being taken a certified transcript of 101400
the record of the proceedings of the board pertaining to the 101401
decision complained of and the evidence considered by the board in 101402
making such decision. 101403

If upon hearing and consideration of such record and evidence 101404
the court decides that the decision of the board appealed from is 101405
reasonable and lawful it shall affirm the same, but if the court 101406
decides that such decision of the board is unreasonable or 101407
unlawful, the court shall reverse and vacate the decision or 101408
modify it and enter final judgment in accordance with such 101409

modification. 101410

The clerk of the court shall certify the judgment of the 101411
court to the board, which shall certify such judgment to such 101412
public officials or take such other action in connection therewith 101413
as is required to give effect to the decision. The "taxpayer" 101414
includes any person required to return any property for taxation. 101415

Any party to the appeal shall have the right to appeal from 101416
the judgment of the court of appeals on questions of law, as in 101417
other cases. 101418

Sec. 5726.20. (A) The tax commissioner may make an 101419
assessment, based on any information in the commissioner's 101420
possession, against any person that fails to file a return or 101421
report or pay any tax as required by this chapter. The reporting 101422
person for a taxpayer shall file the annual report required under 101423
section 5726.02 of the Revised Code and remit the tax imposed by 101424
this chapter. Each person included in the annual report of the 101425
taxpayer is jointly and severally liable for the tax imposed by 101426
this chapter and any penalties and interest thereon. If the 101427
reporting person fails, for any reason, to file and remit any tax, 101428
the amount due may be collected by assessment against the 101429
reporting person and against any or all other persons required to 101430
be included in the annual report of the taxpayer ~~in the manner~~ 101431
~~provided by this section~~ as provided in section 5703.90 of the 101432
Revised Code. The commissioner shall make the assessment in the 101433
manner provided in this section. The commissioner shall give the 101434
person assessed written notice of the assessment as provided in 101435
section 5703.37 of the Revised Code. With the notice, the 101436
commissioner shall provide instructions on the manner in which to 101437
petition for reassessment and request a hearing with respect to 101438
the petition. 101439

(B) No assessment shall be made or issued against a person 101440

under this section more than four years after the later of the 101441
final date the report subject to assessment was required to be 101442
filed or the date such report was filed. Such time limit may be 101443
extended if both the person and the commissioner consent in 101444
writing to the extension or if an agreement waiving or extending 101445
the time limit has been entered into pursuant to section 122.171 101446
of the Revised Code. Any such extension shall extend the four-year 101447
time limit prescribed in division (A) of section 5726.30 of the 101448
Revised Code for the same period of time. There shall be no bar or 101449
limit to an assessment against a person that fails to file a 101450
report subject to assessment as required by this chapter, or that 101451
files a fraudulent report. 101452

(C) Unless the person assessed, within sixty days after 101453
service of the notice of assessment, files with the tax 101454
commissioner, either in person or by certified mail, a written 101455
petition for reassessment signed by the person or the person's 101456
authorized agent having knowledge of the facts, the assessment 101457
shall become final, and the amount of the assessment is due and 101458
payable from the person assessed to the treasurer of state. A 101459
petition shall indicate the objections of the person assessed, but 101460
additional objections may be raised in writing if received by the 101461
commissioner prior to the date shown on the final determination. 101462
If a petition for reassessment has been properly filed, the 101463
commissioner shall proceed under section 5703.60 of the Revised 101464
Code. 101465

(D)(1) After an assessment becomes final, if any portion of 101466
the assessment, including any accrued interest, remains unpaid, a 101467
certified copy of the tax commissioner's entry making the 101468
assessment final may be filed in the office of the clerk of the 101469
court of common pleas in the county in which the person resides or 101470
has its principal place of business in this state, or in the 101471
office of the clerk of court of common pleas of Franklin county. 101472

(2) Immediately upon the filing of the entry, the clerk shall enter judgment for the state against the person assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the financial institution tax" and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

(3) ~~The portion of~~ If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date the tax commissioner issues the assessment until the date the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(E) If the tax commissioner believes that collection of the tax imposed by this chapter will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (D) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized

agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed shall be immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (C) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the petition for reassessment.

(F) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section. Such amounts shall be considered as revenue arising from the tax imposed by this chapter.

(G) If the tax commissioner possesses information indicating that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the reporting person for the taxpayer paid, the tax commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The tax commissioner may apply a sampling method only if the commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the secretary of state is hereby deemed to be that person's agent for purposes of service of process or notice of any assessment, action, or proceedings instituted in this state against the person under this chapter. Such process or notice shall be served on such person by the commissioner or by an agent of the commissioner by leaving a true and attested copy of the process or notice at the office of the secretary of state at least fifteen days before the return day of

such process or notice, and by sending a copy of the process or 101537
notice to such person by ordinary mail, with an endorsement 101538
thereon of the service upon the secretary of state, addressed to 101539
such person at the person's last known address. 101540

Sec. 5727.01. As used in this chapter: 101541

(A) "Public utility" means each person referred to as a 101542
telephone company, telegraph company, electric company, natural 101543
gas company, pipe-line company, water-works company, water 101544
transportation company, heating company, rural electric company, 101545
railroad company, combined company, or energy company. 101546

(B) "Gross receipts" means the entire receipts for business 101547
done by any person from operations as a public utility, or 101548
incidental thereto, or in connection therewith, including any 101549
receipts received under Chapter 4928. of the Revised Code. The 101550
gross receipts for business done by an incorporated company 101551
engaged in operation as a public utility includes the entire 101552
receipts for business done by such company under the exercise of 101553
its corporate powers, whether from the operation as a public 101554
utility or from any other business. 101555

(C) "Rural electric company" means any nonprofit corporation, 101556
organization, association, or cooperative engaged in the business 101557
of supplying electricity to its members or persons owning an 101558
interest therein in an area the major portion of which is rural. 101559
"Rural electric company" excludes an energy company. 101560

(D) Any person: 101561

(1) Is a telegraph company when engaged in the business of 101562
transmitting telegraphic messages to, from, through, or in this 101563
state; 101564

(2) Is a telephone company when primarily engaged in the 101565
business of providing local exchange telephone service, excluding 101566

cellular radio service, in this state; 101567

(3) Is an electric company when engaged in the business of 101568
generating, transmitting, or distributing electricity within this 101569
state for use by others, but excludes a rural electric company or 101570
an energy company; 101571

(4) Is a natural gas company when engaged in the business of 101572
supplying or distributing natural gas for lighting, power, or 101573
heating purposes to consumers within this state, excluding a 101574
person that is a governmental aggregator or retail natural gas 101575
supplier as defined in section 4929.01 of the Revised Code; 101576

(5) Is a pipe-line company when engaged in the business of 101577
transporting natural gas, oil, or coal or its derivatives through 101578
pipes or tubing, either wholly or partially within this state; 101579

(6) Is a water-works company when engaged in the business of 101580
supplying water through pipes or tubing, or in a similar manner, 101581
to consumers within this state; 101582

(7) Is a water transportation company when engaged in the 101583
transportation of passengers or property, by boat or other 101584
watercraft, over any waterway, whether natural or artificial, from 101585
one point within this state to another point within this state, or 101586
between points within this state and points without this state; 101587

(8) Is a heating company when engaged in the business of 101588
supplying water, steam, or air through pipes or tubing to 101589
consumers within this state for heating purposes; 101590

(9) Is a railroad company when engaged in the business of 101591
owning or operating a railroad either wholly or partially within 101592
this state on rights-of-way acquired and held exclusively by such 101593
company, or otherwise, and includes a passenger, street, suburban, 101594
or interurban railroad company; 101595

(10) Is an energy company when engaged in the business of 101596

generating, transmitting, or distributing electricity within this 101597
state for use by others solely from an energy facility with an 101598
aggregate nameplate capacity in excess of two hundred fifty 101599
kilowatts. 101600

As used in division (D)(2) of this section, "local exchange 101601
telephone service" means making available or furnishing access and 101602
a dial tone to all persons within a local calling area for use in 101603
originating and receiving voice grade communications over a 101604
switched network operated by the provider of the service within 101605
the area and for gaining access to other telecommunication 101606
services. 101607

(E) "Taxable property" means the property required by section 101608
5727.06 of the Revised Code to be assessed by the tax 101609
commissioner, but does not include either of the following: 101610

(1) An item of tangible personal property that for the period 101611
subsequent to the effective date of an air, water, or noise 101612
pollution control certificate and continuing so long as the 101613
certificate is in force, has been certified as part of the 101614
pollution control facility with respect to which the certificate 101615
has been issued; 101616

(2) An item of tangible personal property that during the 101617
construction of a plant or facility and until the item is first 101618
capable of operation, whether actually used in operation or not, 101619
is incorporated in or being held exclusively for incorporation in 101620
that plant or facility. 101621

Notwithstanding section 5701.03 of the Revised Code, for tax 101622
year 2006 and thereafter, "taxable property" includes patterns, 101623
jigs, dies, and drawings of an electric company or a combined 101624
company for use in the activity of an electric company. 101625

(F) "Taxing district" means a municipal corporation or 101626
township, or part thereof, in which the aggregate rate of taxation 101627

is uniform. 101628

(G) "Telecommunications service" has the same meaning as in 101629
~~division (AA) of~~ section 5739.01 of the Revised Code. 101630

(H) "Interexchange telecommunications company" means a person 101631
that is engaged in the business of transmitting telephonic 101632
messages to, from, through, or in this state, but that is not a 101633
telephone company. 101634

(I) "Sale and leaseback transaction" means a transaction in 101635
which a public utility or interexchange telecommunications company 101636
sells any tangible personal property to a person other than a 101637
public utility or interexchange telecommunications company and 101638
leases that property back from the buyer. 101639

(J) "Production equipment" means all taxable steam, nuclear, 101640
hydraulic, renewable resource, clean coal technology, and other 101641
production plant equipment used to generate electricity. For tax 101642
years prior to 2001, "production equipment" includes taxable 101643
station equipment that is located at a production plant. 101644

(K) "Tax year" means the year for which property or gross 101645
receipts are subject to assessment under this chapter. This 101646
division does not limit the tax commissioner's ability to assess 101647
and value property or gross receipts outside the tax year. 101648

(L) "Combined company" means any person engaged in the 101649
activity of an electric company or rural electric company that is 101650
also engaged in the activity of a heating company or a natural gas 101651
company, or any combination thereof. 101652

(M) "Public utility property lessor" means any person, other 101653
than a public utility or an interexchange telecommunications 101654
company, that leases personal property, other than in a sale and 101655
leaseback transaction, to a public utility, other than a railroad, 101656
water transportation, telephone, or telegraph company if the 101657
property would be taxable property if owned by the public utility. 101658

A public utility property lessor is subject to this chapter only 101659
for the purposes of reporting and paying tax on taxable property 101660
it leases to a public utility other than a telephone or telegraph 101661
company. A public utility property lessor that leases property to 101662
a public utility other than a telephone or telegraph company is 101663
not a public utility, but it shall report its property and be 101664
assessed in the same manner as the utility to which it leases the 101665
property. 101666

(N) "Energy resource" means any of the following: 101667

(1) "Renewable energy resource" as defined in section 4928.01 101668
of the Revised Code; 101669

(2) "Clean coal technology" as described in division 101670
(A)(34)(c) of section 4928.01 of the Revised Code; 101671

(3) "Advanced nuclear technology" as described in division 101672
(A)(34)(d) of section 4928.01 of the Revised Code; 101673

(4) "Cogeneration technology" as described in division 101674
(A)(34)(b) of section 4928.01 of the Revised Code. 101675

(O) "Energy conversion equipment" means tangible personal 101676
property connected to a wind turbine tower, connected to and 101677
behind solar radiation collector areas and designed to convert the 101678
radiant energy of the sun into electricity or heat, or connected 101679
to any other property used to generate electricity from an energy 101680
resource, through which electricity is transferred to controls, 101681
transformers, or power electronics and to the transmission 101682
interconnection point. 101683

"Energy conversion equipment" includes, but is not limited 101684
to, inverters, batteries, switch gears, wiring, collection lines, 101685
substations, ancillary tangible personal property, or any lines 101686
and associated tangible personal property located between 101687
substations and the transmission interconnection point. 101688

(P) "Energy facility" means one or more interconnected wind turbines, solar panels, or other tangible personal property used to generate electricity from an energy resource owned by the same person, including:

(1) All interconnection equipment, devices, and related apparatus connected to such tangible personal property;

(2) All cables, equipment, devices, and related apparatus that connect the generators to an electricity grid or to a building or facility that directly consumes the electricity produced, that facilitate the transmission of electrical energy from the generators to the grid, building, or facility, and, where applicable, that transform voltage before ultimate delivery of electricity to the grid, building, or facility.

"Energy facility" includes buildings, structures, improvements, or fixtures exclusively used to house, support, or stabilize tangible personal property constituting the facility or that are otherwise necessary for the operation of that property; and so much of the land on which such tangible personal property is situated as is required for operation of the facility and is not devoted to some other use, not to exceed, in the case of wind turbines, one-half acre for each wind turbine, and regardless of whether the land is owned by the owner or lessee of the tangible personal property or by another person.

(Q) "Nameplate capacity" means the original interconnected maximum rated alternating current output of a generator or other electric production equipment under specific conditions designated by the manufacturer, expressed in the number of kilowatts or megawatts.

Sec. 5727.26. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas company or combined company

that fails to file a return or pay any tax, interest, or 101720
additional charge as required by sections 5727.24 to 5727.29 of 101721
the Revised Code. The commissioner shall give the company assessed 101722
written notice of the assessment as provided in section 5703.37 of 101723
the Revised Code. With the notice, the commissioner shall provide 101724
instructions on how to petition for reassessment and request a 101725
hearing on the petition. A penalty of up to fifteen per cent may 101726
be added to all amounts assessed under this section. The tax 101727
commissioner may adopt rules providing for the imposition and 101728
remission of the penalty. 101729

(B) Unless the company assessed, within sixty days after 101730
service of the notice of assessment, files with the tax 101731
commissioner, either personally or by certified mail, a written 101732
petition signed by the company's authorized agent having knowledge 101733
of the facts, the assessment becomes final, and the amount of the 101734
assessment is due and payable from the company assessed to the 101735
treasurer of state. The petition shall indicate the objections of 101736
the company assessed, but additional objections may be raised in 101737
writing if received by the commissioner prior to the date shown on 101738
the final determination. 101739

If a petition for reassessment has been properly filed, the 101740
commissioner shall proceed under section 5703.60 of the Revised 101741
Code. 101742

(C) After an assessment becomes final, if any portion of the 101743
assessment, including accrued interest, remains unpaid, a 101744
certified copy of the tax commissioner's entry making the 101745
assessment final may be filed in the office of the clerk of the 101746
court of common pleas in the county in which the natural gas 101747
company's or combined company's principal place of business is 101748
located, or in the office of the clerk of court of common pleas of 101749
Franklin county. 101750

Immediately on the filing of the entry, the clerk shall enter 101751

judgment for the state against the company assessed in the amount 101752
shown on the entry. The judgment may be filed by the clerk in a 101753
loose-leaf book entitled, "special judgments for the public 101754
utility excise tax on natural gas and combined companies," and 101755
shall have the same effect as other judgments. Execution shall 101756
issue upon the judgment at the request of the tax commissioner, 101757
and all laws applicable to sales on execution shall apply to sales 101758
made under the judgment. 101759

~~The portion of~~ If the assessment is not paid in its entirety 101760
within sixty days after the day the assessment was issued, the 101761
portion of the assessment consisting of tax due shall bear 101762
interest at the rate per annum prescribed by section 5703.47 of 101763
the Revised Code from the day the tax commissioner issues the 101764
assessment until it is paid or until it is certified to the 101765
attorney general for collection under section 131.02 of the 101766
Revised Code, whichever comes first. If the unpaid portion of the 101767
assessment is certified to the attorney general for collection, 101768
the entire unpaid portion of the assessment shall bear interest at 101769
the rate per annum prescribed by section 5703.47 of the Revised 101770
Code from the date of certification until the date it is paid in 101771
its entirety. Interest shall be paid in the same manner as the tax 101772
and may be collected by the issuance of an assessment under this 101773
section. 101774

(D) If the tax commissioner believes that collection of the 101775
tax will be jeopardized unless proceedings to collect or secure 101776
collection of the tax are instituted without delay, the 101777
commissioner may issue a jeopardy assessment against the company 101778
liable for the tax. Immediately upon the issuance of the jeopardy 101779
assessment, the commissioner shall file an entry with the clerk of 101780
the court of common pleas in the manner prescribed by division (C) 101781
of this section. Notice of the jeopardy assessment shall be served 101782
on the company assessed or the company's authorized agent in the 101783

manner provided in section 5703.37 of the Revised Code within five 101784
days of the filing of the entry with the clerk. The total amount 101785
assessed is immediately due and payable, unless the company 101786
assessed files a petition for reassessment in accordance with 101787
division (B) of this section and provides security in a form 101788
satisfactory to the commissioner and in an amount sufficient to 101789
satisfy the unpaid balance of the assessment. Full or partial 101790
payment of the assessment does not prejudice the commissioner's 101791
consideration of the petition for reassessment. 101792

(E) The tax commissioner shall immediately forward to the 101793
treasurer of state all amounts that the tax commissioner receives 101794
under this section, and such amounts shall be considered revenue 101795
arising from the tax imposed by section 5727.24 of the Revised 101796
Code. 101797

(F) No assessment shall be made or issued against a natural 101798
gas company or combined company for the tax imposed by section 101799
5727.24 of the Revised Code more than four years after the return 101800
date for the period in which the tax was reported, or more than 101801
four years after the return for the period was filed, whichever is 101802
later. 101803

Sec. 5727.84. (A) As used in this section and sections 101804
5727.85, 5727.86, and 5727.87 of the Revised Code: 101805

(1) "School district" means a city, local, or exempted 101806
village school district. 101807

(2) "Joint vocational school district" means a joint 101808
vocational school district created under section 3311.16 of the 101809
Revised Code, and includes a cooperative education school district 101810
created under section 3311.52 or 3311.521 of the Revised Code and 101811
a county school financing district created under section 3311.50 101812
of the Revised Code. 101813

(3) "Local taxing unit" means a subdivision or taxing unit, 101814
as defined in section 5705.01 of the Revised Code, a park district 101815
created under Chapter 1545. of the Revised Code, or a township 101816
park district established under section 511.23 of the Revised 101817
Code, but excludes school districts and joint vocational school 101818
districts. 101819

(4) "State education aid," for a school district, means the 101820
following: 101821

(a) For fiscal years prior to fiscal year 2010, the sum of 101822
state aid amounts computed for the district under former sections 101823
3317.029, 3317.052, and 3317.053 of the Revised Code and the 101824
following provisions, as they existed for the applicable fiscal 101825
year: divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 101826
3317.022; divisions (B), (C), and (D) of section 3317.023; 101827
divisions (G), (L), and (N) of section 3317.024; and sections 101828
~~3317.029~~, 3317.0216, 3317.0217, 3317.04, and 3317.05, ~~3317.052,~~ 101829
~~and 3317.053~~ of the Revised Code; and the adjustments required by: 101830
division (C) of section 3310.08; division (C)(2) of section 101831
3310.41; division (C) of section 3314.08; division (D)(2) of 101832
section 3314.091; division (D) of former section 3314.13; 101833
divisions (E), (K), (L), (M), and (N) of section 3317.023; 101834
division (C) of section 3317.20; and sections 3313.979 and 101835
3313.981 of the Revised Code. However, when calculating state 101836
education aid for a school district for fiscal years 2008 and 101837
2009, include the amount computed for the district under Section 101838
269.20.80 of H.B. 119 of the 127th general assembly, as 101839
subsequently amended, instead of division (D) of section 3317.022 101840
of the Revised Code; and include amounts calculated under Section 101841
269.30.80 of H.B. 119 of the 127th general assembly, as 101842
subsequently amended. 101843

(b) For fiscal years 2010 and 2011, the sum of the amounts 101844
computed for the district under former sections 3306.052, 3306.12, 101845

3306.13, 3306.19, 3306.191, ~~and 3306.192, 3317.052, and 3317.053~~ 101846
of the Revised Code and the following provisions, as they existed 101847
for the applicable fiscal year: division (G) of section 3317.024; 101848
~~sections section~~ section 3317.05, ~~3317.052, and 3317.053~~ of the Revised 101849
Code; and the adjustments required by division (C) of section 101850
3310.08; division (C)(2) of section 3310.41; division (C) of 101851
section 3314.08; division (D)(2) of section 3314.091; division (D) 101852
of former section 3314.13; divisions (E), (K), (L), (M), and (N) 101853
of section 3317.023; division (C) of section 3317.20; and sections 101854
3313.979, 3313.981, and 3326.33 of the Revised Code. 101855

(c) For fiscal years 2012 and 2013, the amount paid in 101856
accordance with the section of H.B. 153 of the 129th general 101857
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 101858
SCHOOL DISTRICTS" and the adjustments required by division (C) of 101859
section 3310.08; division (C)(2) of section 3310.41; section 101860
3310.55; division (C) of section 3314.08; division (D)(2) of 101861
section 3314.091; division (D) of former section 3314.13; 101862
divisions (B), (H), (I), (J), and (K) of section 3317.023; 101863
division (C) of section 3317.20; and sections 3313.979 and 101864
3313.981 of the Revised Code; 101865

(d) For fiscal year 2014 and each fiscal year thereafter, the 101866
sum of amounts computed for and paid to the district under section 101867
3317.022 of the Revised Code; and the adjustments required by 101868
division (C) of section 3310.08, division (C)(2) of section 101869
3310.41, section 3310.55, division (C) of section 3314.08, 101870
division (D)(2) of section 3314.091, divisions (B), (H), (J), and 101871
(K) of section 3317.023, and sections 3313.978, 3313.981, 101872
3317.0212, 3317.0213, 3317.0214, 3317.162, and 3326.33 of the 101873
Revised Code. However, for fiscal years 2014 and 2015, the amount 101874
computed for the district under the section of this act entitled 101875
"TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL 101876
DISTRICTS" also shall be included. 101877

- (5) "State education aid," for a joint vocational school district, means the following: 101878
101879
- (a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended. 101880
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- (b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS#." 101887
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- (c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 101891
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- (d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included. 101894
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- (6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code. 101900
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- (7) "Recognized valuation" ~~has the same meaning as in~~ means the amount computed for a school district pursuant to section 3317.02 3317.015 of the Revised Code. 101903
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- (8) "Electric company tax value loss" means the amount determined under division (D) of this section. 101906
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- (9) "Natural gas company tax value loss" means the amount determined under division (E) of this section. 101908
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- (10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 101910
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- (11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 101912
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- (12) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 101914
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- (13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies charged and payable pursuant to section 5705.194 of the Revised Code. 101916
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- (14) "Fixed-sum levy loss" means the amount determined under division (H) of this section. 101921
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- (15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor. 101923
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- (16) "Total resources" and "total library resources" have the same meanings as in section 5751.20 of the Revised Code. 101926
101927
- (17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are 101928
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attributable to the fixed-rate levy loss of that levy. 101938

(18) "2010 current expense S.B. 3 allocation" means the sum 101939
of payments received by a municipal corporation in calendar year 101940
2010 for current expense levy losses pursuant to division (A)(1) 101941
of section 5727.86 of the Revised Code, excluding any such 101942
payments received for current expense levy losses attributable to 101943
a tax levied under section 5705.23 of the Revised Code. If a 101944
fixed-rate levy eligible for reimbursement is not charged and 101945
payable in any year after tax year 2010, "2010 current expense 101946
S.B. 3 allocation" used to compute payments to be made under 101947
division (A)(1)(d) or (e) of section 5727.86 of the Revised Code 101948
in the tax years following the last year the levy is charged and 101949
payable shall be reduced to the extent that those payments are 101950
attributable to the fixed-rate levy loss of that levy. 101951

(19) "2010 S.B. 3 allocation" means the sum of payments 101952
received by a local taxing unit during calendar year 2010 pursuant 101953
to division (A)(1) of section 5727.86 of the Revised Code, 101954
excluding any such payments received for fixed-rate levy losses 101955
attributable to a tax levied under section 5705.23 of the Revised 101956
Code. If a fixed-rate levy eligible for reimbursement is not 101957
charged and payable in any year after tax year 2010, "2010 S.B. 3 101958
allocation" used to compute payments to be made under division 101959
(A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax 101960
years following the last year the levy is charged and payable 101961
shall be reduced to the extent that those payments are 101962
attributable to the fixed-rate levy loss of that levy. 101963

(20) "Total S.B. 3 allocation" means, in the case of a school 101964
district or joint vocational school district, the sum of the 101965
payments received in fiscal year 2011 pursuant to divisions (C)(2) 101966
and (D) of section 5727.85 of the Revised Code. In the case of a 101967
local taxing unit, "total S.B. 3 allocation" means the sum of 101968
payments received by the unit in calendar year 2010 pursuant to 101969

divisions (A)(1) and (4) of section 5727.86 of the Revised Code, 101970
excluding any such payments received for fixed-rate levy losses 101971
attributable to a tax levied under section 5705.23 of the Revised 101972
Code. If a fixed-rate levy eligible for reimbursement is not 101973
charged and payable in any year after tax year 2010, "total S.B. 3 101974
allocation" used to compute payments to be made under division 101975
(C)(3) of section 5727.85 or division (A)(1)(d) or (e) of section 101976
5727.86 of the Revised Code in the tax years following the last 101977
year the levy is charged and payable shall be reduced to the 101978
extent that those payments are attributable to the fixed-rate levy 101979
loss of that levy as would be computed under division (C)(2) of 101980
section 5727.85 or division (A)(1)(b) of section 5727.86 of the 101981
Revised Code. 101982

(21) "2011 non-current expense S.B. 3 allocation" means the 101983
difference of a school district's or joint vocational school 101984
district's total S.B. 3 allocation minus the sum of the school 101985
district's 2011 current expense S.B. 3 allocation and the portion 101986
of the school district's total S.B. 3 allocation constituting 101987
reimbursement for debt levies pursuant to division (D) of section 101988
5727.85 of the Revised Code. 101989

(22) "2010 non-current expense S.B. 3 allocation" means the 101990
difference of a municipal corporation's total S.B. 3 allocation 101991
minus the sum of its 2010 current expense S.B. 3 allocation and 101992
the portion of its total S.B. 3 allocation constituting 101993
reimbursement for debt levies pursuant to division (A)(4) of 101994
section 5727.86 of the Revised Code. 101995

(23) "S.B. 3 allocation for library purposes" means, in the 101996
case of a county, municipal corporation, school district, or 101997
township public library that receives the proceeds of a tax levied 101998
under section 5705.23 of the Revised Code, the sum of the payments 101999
received by the public library in calendar year 2010 pursuant to 102000
section 5727.86 of the Revised Code for fixed-rate levy losses 102001

attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy authorized under section 5705.23 of the Revised Code that is eligible for reimbursement is not charged and payable in any year after tax year 2010, "S.B. 3 allocation for library purposes" used to compute payments to be made under division (A)(1)(f) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1)(b) of section 5727.86 of the Revised Code.

(24) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit or public library that receives the proceeds of a tax levied under section 5705.23 of the Revised Code, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
2001-2011	63.0%	25.4%	11.6%
2012 and thereafter	88.0%	9.0%	3.0%

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the

fund shall be credited as follows: 102031

(1) For fiscal years before fiscal year 2012: 102032

(a) Sixty-eight and seven-tenths per cent shall be credited 102033
to the school district property tax replacement fund for the 102034
purpose of making the payments described in section 5727.85 of the 102035
Revised Code. 102036

(b) Thirty-one and three-tenths per cent shall be credited to 102037
the local government property tax replacement fund for the purpose 102038
of making the payments described in section 5727.86 of the Revised 102039
Code. 102040

(2) For fiscal years 2012 and thereafter, one hundred per 102041
cent to the general revenue fund. 102042

(D) Not later than January 1, 2002, the tax commissioner 102043
shall determine for each taxing district its electric company tax 102044
value loss, which is the sum of the applicable amounts described 102045
in divisions (D)(1) to (4) of this section: 102046

(1) The difference obtained by subtracting the amount 102047
described in division (D)(1)(b) from the amount described in 102048
division (D)(1)(a) of this section. 102049

(a) The value of electric company and rural electric company 102050
tangible personal property as assessed by the tax commissioner for 102051
tax year 1998 on a preliminary assessment, or an amended 102052
preliminary assessment if issued prior to March 1, 1999, and as 102053
apportioned to the taxing district for tax year 1998; 102054

(b) The value of electric company and rural electric company 102055
tangible personal property as assessed by the tax commissioner for 102056
tax year 1998 had the property been apportioned to the taxing 102057
district for tax year 2001, and assessed at the rates in effect 102058
for tax year 2001. 102059

(2) The difference obtained by subtracting the amount 102060

described in division (D)(2)(b) from the amount described in 102061
division (D)(2)(a) of this section. 102062

(a) The three-year average for tax years 1996, 1997, and 1998 102063
of the assessed value from nuclear fuel materials and assemblies 102064
assessed against a person under Chapter 5711. of the Revised Code 102065
from the leasing of them to an electric company for those 102066
respective tax years, as reflected in the preliminary assessments; 102067

(b) The three-year average assessed value from nuclear fuel 102068
materials and assemblies assessed under division (D)(2)(a) of this 102069
section for tax years 1996, 1997, and 1998, as reflected in the 102070
preliminary assessments, using an assessment rate of twenty-five 102071
per cent. 102072

(3) In the case of a taxing district having a nuclear power 102073
plant within its territory, any amount, resulting in an electric 102074
company tax value loss, obtained by subtracting the amount 102075
described in division (D)(1) of this section from the difference 102076
obtained by subtracting the amount described in division (D)(3)(b) 102077
of this section from the amount described in division (D)(3)(a) of 102078
this section. 102079

(a) The value of electric company tangible personal property 102080
as assessed by the tax commissioner for tax year 2000 on a 102081
preliminary assessment, or an amended preliminary assessment if 102082
issued prior to March 1, 2001, and as apportioned to the taxing 102083
district for tax year 2000; 102084

(b) The value of electric company tangible personal property 102085
as assessed by the tax commissioner for tax year 2001 on a 102086
preliminary assessment, or an amended preliminary assessment if 102087
issued prior to March 1, 2002, and as apportioned to the taxing 102088
district for tax year 2001. 102089

(4) In the case of a taxing district having a nuclear power 102090
plant within its territory, the difference obtained by subtracting 102091

the amount described in division (D)(4)(b) of this section from 102092
the amount described in division (D)(4)(a) of this section, 102093
provided that such difference is greater than ten per cent of the 102094
amount described in division (D)(4)(a) of this section. 102095

(a) The value of electric company tangible personal property 102096
as assessed by the tax commissioner for tax year 2005 on a 102097
preliminary assessment, or an amended preliminary assessment if 102098
issued prior to March 1, 2006, and as apportioned to the taxing 102099
district for tax year 2005; 102100

(b) The value of electric company tangible personal property 102101
as assessed by the tax commissioner for tax year 2006 on a 102102
preliminary assessment, or an amended preliminary assessment if 102103
issued prior to March 1, 2007, and as apportioned to the taxing 102104
district for tax year 2006. 102105

(E) Not later than January 1, 2002, the tax commissioner 102106
shall determine for each taxing district its natural gas company 102107
tax value loss, which is the sum of the amounts described in 102108
divisions (E)(1) and (2) of this section: 102109

(1) The difference obtained by subtracting the amount 102110
described in division (E)(1)(b) from the amount described in 102111
division (E)(1)(a) of this section. 102112

(a) The value of all natural gas company tangible personal 102113
property, other than property described in division (E)(2) of this 102114
section, as assessed by the tax commissioner for tax year 1999 on 102115
a preliminary assessment, or an amended preliminary assessment if 102116
issued prior to March 1, 2000, and apportioned to the taxing 102117
district for tax year 1999; 102118

(b) The value of all natural gas company tangible personal 102119
property, other than property described in division (E)(2) of this 102120
section, as assessed by the tax commissioner for tax year 1999 had 102121
the property been apportioned to the taxing district for tax year 102122

2001, and assessed at the rates in effect for tax year 2001. 102123

(2) The difference in the value of current gas obtained by 102124
subtracting the amount described in division (E)(2)(b) from the 102125
amount described in division (E)(2)(a) of this section. 102126

(a) The three-year average assessed value of current gas as 102127
assessed by the tax commissioner for tax years 1997, 1998, and 102128
1999 on a preliminary assessment, or an amended preliminary 102129
assessment if issued prior to March 1, 2001, and as apportioned in 102130
the taxing district for those respective years; 102131

(b) The three-year average assessed value from current gas 102132
under division (E)(2)(a) of this section for tax years 1997, 1998, 102133
and 1999, as reflected in the preliminary assessment, using an 102134
assessment rate of twenty-five per cent. 102135

(F) The tax commissioner may request that natural gas 102136
companies, electric companies, and rural electric companies file a 102137
report to help determine the tax value loss under divisions (D) 102138
and (E) of this section. The report shall be filed within thirty 102139
days of the commissioner's request. A company that fails to file 102140
the report or does not timely file the report is subject to the 102141
penalty in section 5727.60 of the Revised Code. 102142

(G) Not later than January 1, 2002, the tax commissioner 102143
shall determine for each school district, joint vocational school 102144
district, and local taxing unit its fixed-rate levy loss, which is 102145
the sum of its electric company tax value loss multiplied by the 102146
tax rate in effect in tax year 1998 for fixed-rate levies and its 102147
natural gas company tax value loss multiplied by the tax rate in 102148
effect in tax year 1999 for fixed-rate levies. 102149

(H) Not later than January 1, 2002, the tax commissioner 102150
shall determine for each school district, joint vocational school 102151
district, and local taxing unit its fixed-sum levy loss, which is 102152
the amount obtained by subtracting the amount described in 102153

division (H)(2) of this section from the amount described in 102154
division (H)(1) of this section: 102155

(1) The sum of the electric company tax value loss multiplied 102156
by the tax rate in effect in tax year 1998, and the natural gas 102157
company tax value loss multiplied by the tax rate in effect in tax 102158
year 1999, for fixed-sum levies for all taxing districts within 102159
each school district, joint vocational school district, and local 102160
taxing unit. For the years 2002 through 2006, this computation 102161
shall include school district emergency levies that existed in 102162
1998 in the case of the electric company tax value loss, and 1999 102163
in the case of the natural gas company tax value loss, and all 102164
other fixed-sum levies that existed in 1998 in the case of the 102165
electric company tax value loss and 1999 in the case of the 102166
natural gas company tax value loss and continue to be charged in 102167
the tax year preceding the distribution year. For the years 2007 102168
through 2016 in the case of school district emergency levies, and 102169
for all years after 2006 in the case of all other fixed-sum 102170
levies, this computation shall exclude all fixed-sum levies that 102171
existed in 1998 in the case of the electric company tax value loss 102172
and 1999 in the case of the natural gas company tax value loss, 102173
but are no longer in effect in the tax year preceding the 102174
distribution year. For the purposes of this section, an emergency 102175
levy that existed in 1998 in the case of the electric company tax 102176
value loss, and 1999 in the case of the natural gas company tax 102177
value loss, continues to exist in a year beginning on or after 102178
January 1, 2007, but before January 1, 2017, if, in that year, the 102179
board of education levies a school district emergency levy for an 102180
annual sum at least equal to the annual sum levied by the board in 102181
tax year 1998 or 1999, respectively, less the amount of the 102182
payment certified under this division for 2002. 102183

(2) The total taxable value in tax year 1999 less the tax 102184
value loss in each school district, joint vocational school 102185

district, and local taxing unit multiplied by one-fourth of one mill. 102186
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If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (F) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 102188
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(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss. 102199
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(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement. 102209
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(K) Not later than September 1, 2001, the tax commissioner 102217

shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.89. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas distribution company, electric distribution company, self-assessing purchaser, or qualified end user that fails to file a return or pay any tax, interest, or additional charge as required by sections 5727.80 to 5727.95 of the Revised Code.

When information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5727.81 or 5727.811 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on the audit. The commissioner shall give the person assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

The tax commissioner may issue an assessment for which the tax imposed by section 5727.81 or 5727.811 of the Revised Code was due and unpaid on the date the person was informed by an agent of the tax commissioner of an investigation or audit of the person. Any payment of the tax for the period covered by the assessment, after the person is so informed, shall be credited against the assessment.

A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The commissioner may adopt rules providing for the imposition and remission of penalties.

(B) Unless the party assessed files with the tax commissioner

within sixty days after service of the notice of assessment, 102249
either personally or by certified mail, a written petition for 102250
reassessment signed by the party assessed or that party's 102251
authorized agent having knowledge of the facts, the assessment 102252
becomes final and the amount of the assessment is due and payable 102253
from the party assessed to the treasurer of state. The petition 102254
shall indicate the objections of the party assessed, but 102255
additional objections may be raised in writing if received by the 102256
commissioner prior to the date shown on the final determination. 102257
If the petition has been properly filed, the commissioner shall 102258
proceed under section 5703.60 of the Revised Code. 102259

(C) After an assessment becomes final, if any portion of the 102260
assessment, including accrued interest, remains unpaid, a 102261
certified copy of the tax commissioner's entry making the 102262
assessment final may be filed in the office of the clerk of the 102263
court of common pleas in the county in which the party assessed 102264
resides or in which the party's business is conducted. If the 102265
party assessed maintains no place of business in this state and is 102266
not a resident of this state, the certified copy of the entry may 102267
be filed in the office of the clerk of the court of common pleas 102268
of Franklin county. 102269

Immediately upon the filing of the entry, the clerk shall 102270
enter a judgment for the state against the person assessed in the 102271
amount shown on the entry. The judgment may be filed by the clerk 102272
in a loose-leaf book entitled "special judgments for the 102273
distribution excise taxes," and shall have the same effect as 102274
other judgments. Execution shall issue upon the judgment at the 102275
request of the tax commissioner, and all laws applicable to sales 102276
on execution shall apply to sales made under the judgment. 102277

~~The portion of~~ If the assessment is not paid in its entirety 102278
within sixty days after the day the assessment was issued, the 102279
portion of the assessment consisting of tax due shall bear 102280

interest at the rate per annum prescribed by section 5703.47 of 102281
the Revised Code from the day the tax commissioner issues the 102282
assessment until the day the assessment is paid or until it is 102283
certified to the attorney general for collection under section 102284
131.02 of the Revised Code, whichever comes first. If the unpaid 102285
portion of the assessment is certified to the attorney general for 102286
collection, the entire unpaid portion of the assessment shall bear 102287
interest at the rate per annum prescribed by section 5703.47 of 102288
the Revised Code from the date of certification until the date it 102289
is paid in its entirety. Interest shall be paid in the same manner 102290
as the tax and may be collected by the issuance of an assessment 102291
under this section. 102292

(D) If the tax commissioner believes that collection of the 102293
tax imposed by section 5727.81 or 5727.811 of the Revised Code 102294
will be jeopardized unless proceedings to collect or secure 102295
collection of the tax are instituted without delay, the 102296
commissioner may issue a jeopardy assessment against the person 102297
liable for the tax. Immediately upon the issuance of the jeopardy 102298
assessment, the commissioner shall file an entry with the clerk of 102299
the court of common pleas in the manner prescribed by division (C) 102300
of this section. Notice of the jeopardy assessment shall be served 102301
on the party assessed or the party's legal representative within 102302
five days of the filing of the entry with the clerk. The total 102303
amount assessed is immediately due and payable, unless the party 102304
assessed files a petition for reassessment in accordance with 102305
division (B) of this section and provides security in a form 102306
satisfactory to the commissioner and in an amount sufficient to 102307
satisfy the unpaid balance of the assessment. Full or partial 102308
payment of the assessment does not prejudice the commissioner's 102309
consideration of the petition for reassessment. 102310

(E) All money collected by the tax commissioner under this 102311
section shall be paid to the treasurer of state, and when paid 102312

shall be considered as revenue arising from the taxes imposed by 102313
sections 5727.81 and 5727.811 of the Revised Code. 102314

Sec. 5728.10. (A) If any person required to file a fuel use 102315
tax return by sections 5728.01 to 5728.14 of the Revised Code, 102316
fails to file the return within the time prescribed by those 102317
sections, files an incomplete return, files an incorrect return, 102318
or fails to remit the full amount of the tax due for the period 102319
covered by the return, the tax commissioner may make an assessment 102320
against the person, based upon any information in the 102321
commissioner's possession, for the period for which the tax was 102322
due. 102323

No assessment shall be made against any person for any tax 102324
imposed by this chapter more than four years after the return date 102325
for the period for which the tax was due or more than four years 102326
after the return for the period was filed, whichever is later. 102327
This section does not bar an assessment against any person who 102328
fails to file a fuel use tax return as required by this chapter, 102329
or who files a fraudulent fuel use tax return. 102330

A penalty of up to fifteen per cent may be added to the 102331
amount of every assessment made pursuant to this section. The 102332
commissioner may adopt rules providing for the imposition and 102333
remission of penalties added to assessments made under this 102334
section. 102335

The commissioner shall give the party assessed written notice 102336
of the assessment in the manner provided in section 5703.37 of the 102337
Revised Code. With the notice, the commissioner shall provide 102338
instructions on how to petition for reassessment and request a 102339
hearing on the petition. 102340

(B) Unless the party assessed files with the tax commissioner 102341
within sixty days after service of the notice of assessment, 102342
either personally or by certified mail, a written petition for 102343

reassessment, signed by the party assessed, or by the party's 102344
authorized agent having knowledge of the facts, the assessment 102345
becomes final and the amount of the assessment is due and payable 102346
from the party assessed to the treasurer of state. The petition 102347
shall indicate the objections of the party assessed, but 102348
additional objections may be raised in writing if received by the 102349
commissioner prior to the date shown on the final determination. 102350
If the petition has been properly filed, the commissioner shall 102351
proceed under section 5703.60 of the Revised Code. 102352

(C) After an assessment becomes final, if any portion of the 102353
assessment remains unpaid, including accrued interest, a certified 102354
copy of the tax commissioner's entry making the assessment final 102355
may be filed in the office of the clerk of the court of common 102356
pleas in the county in which the party's place of business is 102357
located or the county in which the party assessed resides. If the 102358
party maintains no office in this state and is not a resident of 102359
this state, the certified copy of the entry may be filed in the 102360
office of the clerk of the court of common pleas of Franklin 102361
county. 102362

Immediately upon the filing of the entry, the clerk shall 102363
enter a judgment for the state of Ohio against the party assessed 102364
in the amount shown on the entry. The judgment may be filed by the 102365
clerk in a loose-leaf book entitled "special judgments for state 102366
fuel use tax," and shall have the same effect as other judgments. 102367
Execution shall issue upon the judgment upon the request of the 102368
commissioner, and all laws applicable to sales on execution shall 102369
apply to sales made under the judgment. 102370

~~The portion of~~ If the assessment is not paid within sixty 102371
days after the day the assessment was issued, the portion of the 102372
assessment consisting of tax due shall bear interest at the rate 102373
per annum prescribed by section 5703.47 of the Revised Code from 102374
the day the commissioner issues the assessment until it is paid or 102375

until it is certified to the attorney general for collection under 102376
section 131.02 of the Revised Code, whichever comes first. If the 102377
unpaid portion of the assessment is certified to the attorney 102378
general for collection, the entire unpaid portion of the 102379
assessment shall bear interest at the rate per annum prescribed by 102380
section 5703.47 of the Revised Code from the date of certification 102381
until the date it is paid in its entirety. Interest shall be paid 102382
in the same manner as the tax and may be collected by the issuance 102383
of an assessment under this section. 102384

(D) All money collected by the tax commissioner under this 102385
section shall be paid into the state treasury in the same manner 102386
as the revenues deriving from the taxes imposed by section 5728.06 102387
of the Revised Code. 102388

Sec. 5731.39. This section does not apply to, and the written 102389
permission of the tax commissioner is not required for asset 102390
transfers with respect to, decedents dying on or after January 1, 102391
2013. 102392

(A) No corporation organized or existing under the laws of 102393
this state shall transfer on its books or issue a new certificate 102394
for any share of its capital stock registered in the name of a 102395
decedent, or in trust for a decedent, or in the name of a decedent 102396
and another person or persons, without the written consent of the 102397
tax commissioner. 102398

(B) No safe deposit company, trust company, financial 102399
institution as defined in division (A) of section 5725.01 of the 102400
Revised Code, or other corporation or person, having in 102401
possession, control, or custody a deposit standing in the name of 102402
a decedent, or in trust for a decedent, or in the name of a 102403
decedent and another person or persons, shall deliver or transfer 102404
an amount in excess of three-fourths of the total value of such 102405
deposit, including accrued interest and dividends, as of the date 102406

of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or

transfer any such securities, assets, or other property which have 102439
a value as of the date of decedent's death in excess of 102440
three-fourths of the total value thereof, without the written 102441
consent of the tax commissioner. The written consent of the tax 102442
commissioner need not be obtained prior to the delivery or 102443
transfer of any such securities, assets, or other property having 102444
a value of three-fourths or less of said total value. 102445

(F) No safe deposit company, financial institution as defined 102446
in division (A) of section 5725.01 of the Revised Code, or other 102447
corporation or person having possession or control of a safe 102448
deposit box or similar receptacle standing in the name of a 102449
decedent or in the name of the decedent and another person or 102450
persons, or to which the decedent had a right of access, except 102451
when such safe deposit box or other receptacle stands in the name 102452
of a corporation or partnership, or in the name of the decedent as 102453
guardian or executor, shall deliver any of the contents thereof 102454
unless the safe deposit box or similar receptacle has been opened 102455
and inventoried in the presence of the tax commissioner or the 102456
commissioner's agent, and a written consent to transfer issued; 102457
provided, however, that a safe deposit company, financial 102458
institution, or other corporation or person having possession or 102459
control of a safe deposit box may deliver wills, deeds to burial 102460
lots, and insurance policies to a representative of the decedent, 102461
but that a representative of the safe deposit company, financial 102462
institution, or other corporation or person must supervise the 102463
opening of the box and make a written record of the wills, deeds, 102464
and policies removed. Such written record shall be included in the 102465
tax commissioner's inventory records. 102466

(G) Notwithstanding any provision of this section: 102467

(1) The tax commissioner may authorize any delivery or 102468
transfer or waive any of the foregoing requirements under such 102469
terms and conditions as the commissioner may prescribe; 102470

(2) A home, as defined in section 3721.10 of the Revised Code, or a residential facility licensed under section ~~5119.22~~ 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, may transfer or use the money in a personal needs allowance account in accordance with section ~~5111.113~~ 5162.22 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

Failure to comply with this section shall render such safe deposit company, trust company, life insurance company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person liable for the amount of the taxes and interest due under the provisions of Chapter 5731. of the Revised Code on the transfer of such stock, deposit, proceeds of an annuity or matured endowment contract or of a life insurance contract payable to the estate of a decedent, or other insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit-sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign

corporations shall be the amount charged against each corporation 102503
organized for profit and each nonprofit corporation organized or 102504
operating in the same or similar manner as nonprofit corporations 102505
organized under Chapter 1729. of the Revised Code, under the laws 102506
of any state or country other than this state, except as provided 102507
in sections 5733.09 and 5733.10 of the Revised Code, for the 102508
privilege of doing business in this state, owning or using a part 102509
or all of its capital or property in this state, holding a 102510
certificate of compliance with the laws of this state authorizing 102511
it to do business in this state, or otherwise having nexus in or 102512
with this state under the Constitution of the United States, 102513
during the calendar year in which that amount is payable. 102514

(B) A corporation is subject to the tax imposed by section 102515
5733.06 of the Revised Code for each calendar year prior to 2014 102516
that it is so organized, doing business, owning or using a part or 102517
all of its capital or property, holding a certificate of 102518
compliance, or otherwise having nexus in or with this state under 102519
the Constitution of the United States, on the first day of January 102520
of that calendar year. No credit authorized by this chapter may be 102521
claimed for tax year 2014 or any tax year thereafter. 102522

(C) Any corporation subject to this chapter that is not 102523
subject to the federal income tax shall file its returns and 102524
compute its tax liability as required by this chapter in the same 102525
manner as if that corporation were subject to the federal income 102526
tax. 102527

(D) For purposes of this chapter, a federally chartered 102528
financial institution shall be deemed to be organized under the 102529
laws of the state within which its principal office is located. 102530

(E) For purposes of this chapter, any person, as defined in 102531
section 5701.01 of the Revised Code, shall be treated as a 102532
corporation if the person is classified for federal income tax 102533
purposes as an association taxable as a corporation, and an equity 102534

interest in the person shall be treated as capital stock of the person. 102535
102536

(F) For the purposes of this chapter, "disregarded entity" 102537
has the same meaning as in division (D) of section 5745.01 of the 102538
Revised Code. 102539

(1) A person's interest in a disregarded entity, whether held 102540
directly or indirectly, shall be treated as the person's ownership 102541
of the assets and liabilities of the disregarded entity, and the 102542
income, including gain or loss, shall be included in the person's 102543
net income under this chapter. 102544

(2) Any sale, exchange, or other disposition of the person's 102545
interest in the disregarded entity, whether held directly or 102546
indirectly, shall be treated as a sale, exchange, or other 102547
disposition of the person's share of the disregarded entity's 102548
underlying assets or liabilities, and the gain or loss from such 102549
sale, exchange, or disposition shall be included in the person's 102550
net income under this chapter. 102551

(3) The disregarded entity's payroll, property, and sales 102552
factors shall be included in the person's factors. 102553

(G) The tax a corporation is required to pay under this 102554
chapter shall be as follows: 102555

(1)(a) For financial institutions, the greater of the minimum 102556
payment required under division (E) of section 5733.06 of the 102557
Revised Code or the difference between all taxes charged the 102558
financial institution under this chapter, without regard to 102559
division (G)(2) of this section, less any credits allowable 102560
against such tax. 102561

(b) A corporation satisfying the description in division 102562
(E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised 102563
Code, as that section existed before its amendment by H.B. 510 of 102564
the 129th general assembly, that is not a financial institution, 102565

insurance company, or dealer in intangibles is subject to the 102566
taxes imposed under this chapter as a corporation and not subject 102567
to tax as a financial institution, and shall pay the greater of 102568
the minimum payment required under division (E) of section 5733.06 102569
of the Revised Code or the difference between all the taxes 102570
charged under this chapter, without regard to division (G)(2) of 102571
this section, less any credits allowable against such tax. 102572

(2) For all corporations other than those persons described 102573
in division (G)(1)(a) or (b) of this section, the amount under 102574
division (G)(2)(a) of this section applicable to the tax year 102575
specified less the amount under division (G)(2)(b) of this 102576
section: 102577

(a)(i) For tax year 2005, the greater of the minimum payment 102578
required under division (E) of section 5733.06 of the Revised Code 102579
or the difference between all taxes charged the corporation under 102580
this chapter and any credits allowable against such tax; 102581

(ii) For tax year 2006, the greater of the minimum payment 102582
required under division (E) of section 5733.06 of the Revised Code 102583
or four-fifths of the difference between all taxes charged the 102584
corporation under this chapter and any credits allowable against 102585
such tax, except the qualifying pass-through entity tax credit 102586
described in division (A)(30) and the refundable credits described 102587
in divisions (A)(31) to (35) of section 5733.98 of the Revised 102588
Code; 102589

(iii) For tax year 2007, the greater of the minimum payment 102590
required under division (E) of section 5733.06 of the Revised Code 102591
or three-fifths of the difference between all taxes charged the 102592
corporation under this chapter and any credits allowable against 102593
such tax, except the qualifying pass-through entity tax credit 102594
described in division (A)(30) and the refundable credits described 102595
in divisions (A)(31) to (35) of section 5733.98 of the Revised 102596
Code; 102597

(iv) For tax year 2008, the greater of the minimum payment 102598
required under division (E) of section 5733.06 of the Revised Code 102599
or two-fifths of the difference between all taxes charged the 102600
corporation under this chapter and any credits allowable against 102601
such tax, except the qualifying pass-through entity tax credit 102602
described in division (A)(30) and the refundable credits described 102603
in divisions (A)(31) to (35) of section 5733.98 of the Revised 102604
Code; 102605

(v) For tax year 2009, the greater of the minimum payment 102606
required under division (E) of section 5733.06 of the Revised Code 102607
or one-fifth of the difference between all taxes charged the 102608
corporation under this chapter and any credits allowable against 102609
such tax, except the qualifying pass-through entity tax credit 102610
described in division (A)(30) and the refundable credits described 102611
in divisions (A)(31), (32), (33), and (34) of section 5733.98 of 102612
the Revised Code; 102613

(vi) For tax year 2010 and each tax year thereafter, no tax. 102614

(b) A corporation shall subtract from the amount calculated 102615
under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 102616
any qualifying pass-through entity tax credit described in 102617
division (A)(30) and any refundable credits described in divisions 102618
(A)(31) to (35) of section 5733.98 of the Revised Code to which 102619
the corporation is entitled. Any unused qualifying pass-through 102620
entity tax credit is not refundable. 102621

(c) For the purposes of computing the amount of a credit that 102622
may be carried forward to a subsequent tax year under division 102623
(G)(2) of this section, a credit is utilized against the tax for a 102624
tax year to the extent the credit applies against the tax for that 102625
tax year, even if the difference is then multiplied by the 102626
applicable fraction under division (G)(2)(a) of this section. 102627

(d) References in division (G)(2) of this section to section 102628

5733.98 of the Revised Code is to that section before its 102629
amendment by H.B. ... of the 130th general assembly. 102630

(3) Nothing in division (G) of this section eliminates or 102631
reduces the tax imposed by section 5733.41 of the Revised Code on 102632
a qualifying pass-through entity. 102633

Sec. 5733.04. As used in this chapter: 102634

(A) "Issued and outstanding shares of stock" applies to 102635
nonprofit corporations, as provided in section 5733.01 of the 102636
Revised Code, and includes, but is not limited to, membership 102637
certificates and other instruments evidencing ownership of an 102638
interest in such nonprofit corporations, and with respect to a 102639
financial institution that does not have capital stock, "issued 102640
and outstanding shares of stock" includes, but is not limited to, 102641
ownership interests of depositors in the capital employed in such 102642
an institution. 102643

(B) "Taxpayer" means a corporation subject to the tax imposed 102644
by section 5733.06 of the Revised Code. 102645

(C) "Resident" means a corporation organized under the laws 102646
of this state. 102647

(D) "Commercial domicile" means the principal place from 102648
which the trade or business of the taxpayer is directed or 102649
managed. 102650

(E) "Taxable year" means the period prescribed by division 102651
(A) of section 5733.031 of the Revised Code upon the net income of 102652
which the value of the taxpayer's issued and outstanding shares of 102653
stock is determined under division (B) of section 5733.05 of the 102654
Revised Code or the period prescribed by division (A) of section 102655
5733.031 of the Revised Code that immediately precedes the date as 102656
of which the total value of the corporation is determined under 102657
division (A) or (C) of section 5733.05 of the Revised Code. 102658

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever

occurs first. 102691

(b) For losses incurred in taxable years ending on or before 102692
December 31, 1981, the designated carryover period shall be the 102693
five consecutive taxable years after the taxable year in which the 102694
net operating loss occurred. For losses incurred in taxable years 102695
ending on or after January 1, 1982, and beginning before August 6, 102696
1997, the designated carryover period shall be the fifteen 102697
consecutive taxable years after the taxable year in which the net 102698
operating loss occurs. For losses incurred in taxable years 102699
beginning on or after August 6, 1997, the designated carryover 102700
period shall be the twenty consecutive taxable years after the 102701
taxable year in which the net operating loss occurs. 102702

(c) The tax commissioner may require a taxpayer to furnish 102703
any information necessary to support a claim for deduction under 102704
division (I)(1)(a) of this section and no deduction shall be 102705
allowed unless the information is furnished. 102706

(2) Deduct any amount included in net income by application 102707
of section 78 or 951 of the Internal Revenue Code, amounts 102708
received for royalties, technical or other services derived from 102709
sources outside the United States, and dividends received from a 102710
subsidiary, associate, or affiliated corporation that neither 102711
transacts any substantial portion of its business nor regularly 102712
maintains any substantial portion of its assets within the United 102713
States. For purposes of determining net foreign source income 102714
deductible under division (I)(2) of this section, the amount of 102715
gross income from all such sources other than dividend income and 102716
income derived by application of section 78 or 951 of the Internal 102717
Revenue Code shall be reduced by: 102718

(a) The amount of any reimbursed expenses for personal 102719
services performed by employees of the taxpayer for the 102720
subsidiary, associate, or affiliated corporation; 102721

(b) Ten per cent of the amount of royalty income and 102722
technical assistance fees; 102723

(c) Fifteen per cent of the amount of all other income. 102724

The amounts described in divisions (I)(2)(a) to (c) of this 102725
section are deemed to be the expenses attributable to the 102726
production of deductible foreign source income unless the taxpayer 102727
shows, by clear and convincing evidence, less actual expenses, or 102728
the tax commissioner shows, by clear and convincing evidence, more 102729
actual expenses. 102730

(3) Add any loss or deduct any gain resulting from the sale, 102731
exchange, or other disposition of a capital asset, or an asset 102732
described in section 1231 of the Internal Revenue Code, to the 102733
extent that such loss or gain occurred prior to the first taxable 102734
year on which the tax provided for in section 5733.06 of the 102735
Revised Code is computed on the corporation's net income. For 102736
purposes of division (I)(3) of this section, the amount of the 102737
prior loss or gain shall be measured by the difference between the 102738
original cost or other basis of the asset and the fair market 102739
value as of the beginning of the first taxable year on which the 102740
tax provided for in section 5733.06 of the Revised Code is 102741
computed on the corporation's net income. At the option of the 102742
taxpayer, the amount of the prior loss or gain may be a percentage 102743
of the gain or loss, which percentage shall be determined by 102744
multiplying the gain or loss by a fraction, the numerator of which 102745
is the number of months from the acquisition of the asset to the 102746
beginning of the first taxable year on which the fee provided in 102747
section 5733.06 of the Revised Code is computed on the 102748
corporation's net income, and the denominator of which is the 102749
number of months from the acquisition of the asset to the sale, 102750
exchange, or other disposition of the asset. The adjustments 102751
described in this division do not apply to any gain or loss where 102752
the gain or loss is recognized by a qualifying taxpayer, as 102753

defined in section 5733.0510 of the Revised Code, with respect to 102754
a qualifying taxable event, as defined in that section. 102755

(4) Deduct the dividend received deduction provided by 102756
section 243 of the Internal Revenue Code. 102757

(5) Deduct any interest or interest equivalent on public 102758
obligations and purchase obligations to the extent included in 102759
federal taxable income. As used in divisions (I)(5) and (6) of 102760
this section, "public obligations," "purchase obligations," and 102761
"interest or interest equivalent" have the same meanings as in 102762
section 5709.76 of the Revised Code. 102763

(6) Add any loss or deduct any gain resulting from the sale, 102764
exchange, or other disposition of public obligations to the extent 102765
included in federal taxable income. 102766

(7) To the extent not otherwise allowed, deduct any dividends 102767
or distributions received by a taxpayer from a public utility, 102768
excluding an electric company and a combined company, and, for tax 102769
years 2005 and thereafter, a telephone company, if the taxpayer 102770
owns at least eighty per cent of the issued and outstanding common 102771
stock of the public utility. As used in division (I)(7) of this 102772
section, "public utility" means a public utility as defined in 102773
Chapter 5727. of the Revised Code, whether or not the public 102774
utility is doing business in the state. 102775

(8) To the extent not otherwise allowed, deduct any dividends 102776
received by a taxpayer from an insurance company, if the taxpayer 102777
owns at least eighty per cent of the issued and outstanding common 102778
stock of the insurance company. As used in division (I)(8) of this 102779
section, "insurance company" means an insurance company that is 102780
taxable under Chapter 5725. or 5729. of the Revised Code. 102781

(9) Deduct expenditures for modifying existing buildings or 102782
structures to meet American national standards institute standard 102783
A-117.1-1961 (R-1971), as amended; provided, that no deduction 102784

shall be allowed to the extent that such deduction is not 102785
permitted under federal law or under rules of the tax 102786
commissioner. Those deductions as are allowed may be taken over a 102787
period of five years. The tax commissioner shall adopt rules under 102788
Chapter 119. of the Revised Code establishing reasonable 102789
limitations on the extent that expenditures for modifying existing 102790
buildings or structures are attributable to the purpose of making 102791
the buildings or structures accessible to and usable by physically 102792
handicapped persons. 102793

(10) Deduct the amount of wages and salaries, if any, not 102794
otherwise allowable as a deduction but that would have been 102795
allowable as a deduction in computing federal taxable income 102796
before operating loss deduction and special deductions for the 102797
taxable year, had the targeted jobs credit allowed and determined 102798
under sections 38, 51, and 52 of the Internal Revenue Code not 102799
been in effect. 102800

(11) Deduct net interest income on obligations of the United 102801
States and its territories and possessions or of any authority, 102802
commission, or instrumentality of the United States to the extent 102803
the laws of the United States prohibit inclusion of the net 102804
interest for purposes of determining the value of the taxpayer's 102805
issued and outstanding shares of stock under division (B) of 102806
section 5733.05 of the Revised Code. As used in division (I)(11) 102807
of this section, "net interest" means interest net of any expenses 102808
taken on the federal income tax return that would not have been 102809
allowed under section 265 of the Internal Revenue Code if the 102810
interest were exempt from federal income tax. 102811

(12)(a) Except as set forth in division (I)(12)(d) of this 102812
section, to the extent not included in computing the taxpayer's 102813
federal taxable income before operating loss deduction and special 102814
deductions, add gains and deduct losses from direct or indirect 102815
sales, exchanges, or other dispositions, made by a related entity 102816

~~who~~ that is not a taxpayer, of the taxpayer's indirect, 102817
beneficial, or constructive investment in the stock or debt of 102818
another entity, unless the gain or loss has been included in 102819
computing the federal taxable income before operating loss 102820
deduction and special deductions of another taxpayer with a more 102821
closely related investment in the stock or debt of the other 102822
entity. The amount of gain added or loss deducted shall not exceed 102823
the product obtained by multiplying such gain or loss by the 102824
taxpayer's proportionate share, directly, indirectly, 102825
beneficially, or constructively, of the outstanding stock of the 102826
related entity immediately prior to the direct or indirect sale, 102827
exchange, or other disposition. 102828

(b) Except as set forth in division (I)(12)(e) of this 102829
section, to the extent not included in computing the taxpayer's 102830
federal taxable income before operating loss deduction and special 102831
deductions, add gains and deduct losses from direct or indirect 102832
sales, exchanges, or other dispositions made by a related entity 102833
~~who~~ that is not a taxpayer, of intangible property other than 102834
stock, securities, and debt, if such property was owned, or used 102835
in whole or in part, at any time prior to or at the time of the 102836
sale, exchange, or disposition by either the taxpayer or by a 102837
related entity that was a taxpayer at any time during the related 102838
entity's ownership or use of such property, unless the gain or 102839
loss has been included in computing the federal taxable income 102840
before operating loss deduction and special deductions of another 102841
taxpayer with a more closely related ownership or use of such 102842
intangible property. The amount of gain added or loss deducted 102843
shall not exceed the product obtained by multiplying such gain or 102844
loss by the taxpayer's proportionate share, directly, indirectly, 102845
beneficially, or constructively, of the outstanding stock of the 102846
related entity immediately prior to the direct or indirect sale, 102847
exchange, or other disposition. 102848

(c) As used in division (I)(12) of this section, "related entity" means ~~those entities described in divisions (I)(12)(c)(i) to (iii)~~ either of this section the following:

(i) ~~An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own,~~ A person that owns directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's ~~outstanding stock ownership interests;~~

(ii) ~~A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate,~~ person that has an ownership interest at least fifty per cent of the aggregate value of the ~~taxpayer's outstanding stock;~~

~~(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns,~~ which is owned directly, indirectly, beneficially, or constructively, at least fifty per cent of by the value of the corporation's ~~outstanding stock~~ taxpayer.

~~(iv)~~ The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in ~~divisions~~ division (I)(12)(c)(i) ~~to (iii)~~ of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly,

beneficially, or constructively own, in the aggregate, at any time 102880
during the twenty-four month period commencing one year prior to 102881
the direct or indirect sale, exchange, or other disposition of 102882
such investment at least fifty per cent or more of the value of 102883
either the outstanding stock or such debt of such other entity. 102884

(e) For purposes of division (I)(12) of this section, 102885
"taxpayer" includes any person subject to any tax imposed under 102886
Chapter 5747. of the Revised Code. 102887

(f) For the purposes of the adjustments required by division 102888
(I)(12)(b) of this section, the term "related entity" excludes all 102889
of the following: 102890

(i) Foreign corporations as defined in section 7701 of the 102891
Internal Revenue Code; 102892

(ii) Foreign partnerships as defined in section 7701 of the 102893
Internal Revenue Code; 102894

(iii) Corporations, partnerships, estates, and trusts created 102895
or organized in or under the laws of the Commonwealth of Puerto 102896
Rico or any possession of the United States; 102897

(iv) Foreign estates and foreign trusts as defined in section 102898
7701 of the Internal Revenue Code. 102899

The exclusions described in divisions (I)(12)~~(e)~~(f)(i) to 102900
(iv) of this section do not apply if the corporation, partnership, 102901
estate, or trust is described in any one of divisions (C)(1) to 102902
(5) of section 5733.042 of the Revised Code. 102903

~~(f)~~(g) Nothing in division (I)(12) of this section shall 102904
require or permit a taxpayer to add any gains or deduct any losses 102905
described in divisions (I)(12)~~(f)~~(g)(i) and (ii) of this section: 102906

(i) Gains or losses recognized for federal income tax 102907
purposes by an individual, estate, or trust without regard to the 102908
attribution rules described in division (I)(12)(c) of this 102909

section;	102910
(ii) A related entity's gains or losses described in division	102911
(I)(12)(b) of this section if the taxpayer's ownership of or use	102912
of such intangible property was limited to a period not exceeding	102913
nine months and was attributable to a transaction or a series of	102914
transactions executed in accordance with the election or elections	102915
made by the taxpayer or a related entity pursuant to section 338	102916
of the Internal Revenue Code.	102917
(13) Any adjustment required by section 5733.042 of the	102918
Revised Code.	102919
(14) Add any amount claimed as a credit under section	102920
5733.0611 of the Revised Code to the extent that such amount	102921
satisfies either of the following:	102922
(a) It was deducted or excluded from the computation of the	102923
corporation's taxable income before operating loss deduction and	102924
special deductions as required to be reported for the	102925
corporation's taxable year under the Internal Revenue Code;	102926
(b) It resulted in a reduction of the corporation's taxable	102927
income before operating loss deduction and special deductions as	102928
required to be reported for any of the corporation's taxable years	102929
under the Internal Revenue Code.	102930
(15) Deduct the amount contributed by the taxpayer to an	102931
individual development account program established by a county	102932
department of job and family services pursuant to sections 329.11	102933
to 329.14 of the Revised Code for the purpose of matching funds	102934
deposited by program participants. On request of the tax	102935
commissioner, the taxpayer shall provide any information that, in	102936
the tax commissioner's opinion, is necessary to establish the	102937
amount deducted under division (I)(15) of this section.	102938
(16) Any adjustment required by section 5733.0510 or	102939
5733.0511 of the Revised Code.	102940

(17)(a)(i) Add five-sixths of the amount of depreciation 102941
expense allowed under subsection (k) of section 168 of the 102942
Internal Revenue Code, including a person's proportionate or 102943
distributive share of the amount of depreciation expense allowed 102944
by that subsection to any pass-through entity in which the person 102945
has direct or indirect ownership. 102946

(ii) Add five-sixths of the amount of qualifying section 179 102947
depreciation expense, including a person's proportionate or 102948
distributive share of the amount of qualifying section 179 102949
depreciation expense allowed to any pass-through entity in which 102950
the person has a direct or indirect ownership. For the purposes of 102951
this division, "qualifying section 179 depreciation expense" means 102952
the difference between (I) the amount of depreciation expense 102953
directly or indirectly allowed to the taxpayer under section 179 102954
of the Internal Revenue Code, and (II) the amount of depreciation 102955
expense directly or indirectly allowed to the taxpayer under 102956
section 179 of the Internal Revenue Code as that section existed 102957
on December 31, 2002. 102958

The tax commissioner, under procedures established by the 102959
commissioner, may waive the add-backs related to a pass-through 102960
entity if the person owns, directly or indirectly, less than five 102961
per cent of the pass-through entity. 102962

(b) Nothing in division (I)(17) of this section shall be 102963
construed to adjust or modify the adjusted basis of any asset. 102964

(c) To the extent the add-back is attributable to property 102965
generating income or loss allocable under section 5733.051 of the 102966
Revised Code, the add-back shall be allocated to the same location 102967
as the income or loss generated by that property. Otherwise, the 102968
add-back shall be apportioned, subject to division (B)(2)(d) of 102969
section 5733.05 of the Revised Code. 102970

(18)(a) If a person is required to make the add-back under 102971

division (I)(17)(a) of this section for a tax year, the person 102972
shall deduct one-fifth of the amount added back for each of the 102973
succeeding five tax years. 102974

(b) If the amount deducted under division (I)(18)(a) of this 102975
section is attributable to an add-back allocated under division 102976
(I)(17)(c) of this section, the amount deducted shall be allocated 102977
to the same location. Otherwise, the amount shall be apportioned 102978
using the apportionment factors for the taxable year in which the 102979
deduction is taken, subject to division (B)(2)(d) of section 102980
5733.05 of the Revised Code. 102981

(J) Except as otherwise expressly provided or clearly 102982
appearing from the context, any term used in this chapter has the 102983
same meaning as when used in a comparable context in the laws of 102984
the United States relating to federal income taxes. Any reference 102985
in this chapter to the Internal Revenue Code includes other laws 102986
of the United States relating to federal income taxes. 102987

(K) "Financial institution" has the meaning given by section 102988
5725.01 of the Revised Code but does not include a production 102989
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 102990

(L)(1) A "qualifying holding company" is any corporation 102991
satisfying all of the following requirements: 102992

(a) Subject to divisions (L)(2) and (3) of this section, the 102993
net book value of the corporation's intangible assets is greater 102994
than or equal to ninety per cent of the net book value of all of 102995
its assets and at least fifty per cent of the net book value of 102996
all of its assets represents direct or indirect investments in the 102997
equity of, loans and advances to, and accounts receivable due from 102998
related members; 102999

(b) At least ninety per cent of the corporation's gross 103000
income for the taxable year is attributable to the following: 103001

(i) The maintenance, management, ownership, acquisition, use, 103002

and disposition of its intangible property, its aircraft the use 103003
of which is not subject to regulation under 14 C.F.R. part 121 or 103004
part 135, and any real property described in division (L)(2)(c) of 103005
this section; 103006

(ii) The collection and distribution of income from such 103007
property. 103008

(c) The corporation is not a financial institution on the 103009
last day of the taxable year ending prior to the first day of the 103010
tax year; 103011

(d) The corporation's related members make a good faith and 103012
reasonable effort to make timely and fully the adjustments 103013
required by division (D) of section 5733.05 of the Revised Code 103014
and to pay timely and fully all uncontested taxes, interest, 103015
penalties, and other fees and charges imposed under this chapter; 103016

(e) Subject to division (L)(4) of this section, the 103017
corporation elects to be treated as a qualifying holding company 103018
for the tax year. 103019

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 103020
of this section that does not elect to be a qualifying holding 103021
company is not a qualifying holding company for the purposes of 103022
this chapter. 103023

(2)(a)(i) For purposes of making the ninety per cent 103024
computation under division (L)(1)(a) of this section, the net book 103025
value of the corporation's assets shall not include the net book 103026
value of aircraft or real property described in division 103027
(L)(1)(b)(i) of this section. 103028

(ii) For purposes of making the fifty per cent computation 103029
under division (L)(1)(a) of this section, the net book value of 103030
assets shall include the net book value of aircraft or real 103031
property described in division (L)(1)(b)(i) of this section. 103032

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii),

(2)(a)(i), and (2)(a)(ii) of this section, real property is 103065
described in division (L)(2)(c) of this section only if all of the 103066
following conditions are present at all times during the taxable 103067
year ending prior to the first day of the tax year: 103068

(i) The real property serves as the headquarters of the 103069
corporation's trade or business, or is the place from which the 103070
corporation's trade or business is principally managed or 103071
directed; 103072

(ii) Not more than ten per cent of the value of the real 103073
property and not more than ten per cent of the square footage of 103074
the building or buildings that are part of the real property is 103075
used, made available, or occupied for the purpose of providing, 103076
acquiring, transferring, selling, or disposing of tangible 103077
property or services in the normal course of business to persons 103078
other than related members, the corporation's employees and their 103079
families, and such related members' employees and their families. 103080

(d) As used in division (L) of this section, "related member" 103081
has the same meaning as in division (A)(6) of section 5733.042 of 103082
the Revised Code without regard to division (B) of that section. 103083

(3) The percentages described in division (L)(1)(a) of this 103084
section shall be equal to the quarterly average of those 103085
percentages as calculated during the corporation's taxable year 103086
ending prior to the first day of the tax year. 103087

(4) With respect to the election described in division 103088
(L)(1)(e) of this section: 103089

(a) The election need not accompany a timely filed report; 103090

(b) The election need not accompany the report; rather, the 103091
election may accompany a subsequently filed but timely application 103092
for refund and timely amended report, or a subsequently filed but 103093
timely petition for reassessment; 103094

(c) The election is not irrevocable;	103095
(d) The election applies only to the tax year specified by the corporation;	103096 103097
(e) The corporation's related members comply with division (L)(1)(d) of this section.	103098 103099
Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.	103100 103101
(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.	103102 103103 103104
(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.	103105 103106 103107
(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.	103108 103109 103110 103111 103112 103113 103114
(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.	103115 103116 103117
(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or	103118 103119 103120 103121 103122 103123 103124

loss, from a partial or complete liquidation of a business, 103125
including, but not limited to, gain or loss from the sale or other 103126
disposition of goodwill. 103127

(R) "Nonbusiness income" means all income other than business 103128
income. 103129

Sec. 5733.06. For tax years prior to tax year 2014, the tax 103130
hereby charged each corporation subject to this chapter shall be 103131
the greater of the sum of divisions (A) and (B) of this section, 103132
after the reduction, if any, provided by division (J) of this 103133
section, or division (C) of this section, after the reduction, if 103134
any, provided by division (J) of this section, except that the tax 103135
hereby charged each financial institution subject to this chapter 103136
shall be the amount computed under division (D) of this section: 103137

(A) Except as set forth in division (F) of this section, five 103138
and one-tenth per cent upon the first fifty thousand dollars of 103139
the value of the taxpayer's issued and outstanding shares of stock 103140
as determined under division (B) of section 5733.05 of the Revised 103141
Code; 103142

(B) Except as set forth in division (F) of this section, 103143
eight and one-half per cent upon the value so determined in excess 103144
of fifty thousand dollars; or 103145

(C)(1) Except as otherwise provided under division (G) of 103146
this section, four mills times that portion of the value of the 103147
issued and outstanding shares of stock as determined under 103148
division (C) of section 5733.05 of the Revised Code. For the 103149
purposes of division (C) of this section, division (C)(2) of 103150
section 5733.065, and division (C) of section 5733.066 of the 103151
Revised Code, the value of the issued and outstanding shares of 103152
stock of an eligible corporation for tax year 2003 through tax 103153
year 2007, or of a qualifying holding company, is zero. 103154

(2) As used in division (C) of this section, "eligible corporation" means a person treated as a corporation for federal income tax purposes that meets all of the following criteria: 103155
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(a) The corporation conducts business for an entire taxable year as a qualified trade or business as defined by division (C) of section 122.15 of the Revised Code, as that section existed before its repeal by H.B. ... of the 130th general assembly. 103158
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(b) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code, as that section existed before its repeal by H.B. ... of the 130th general assembly. 103162
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(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions. 103168
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(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business. 103172
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(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and 103184
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outstanding shares of stock as determined under division (A) of 103186
section 5733.05 of the Revised Code, multiplied by the following 103187
amounts: 103188

(1) For tax years prior to the 1999 tax year, fifteen mills; 103189

(2) For the 1999 tax year, fourteen mills; 103190

(3) For tax year 2000 and thereafter, thirteen mills. 103191

(E) No tax shall be charged from any corporation that has 103192
been adjudicated bankrupt, or for which a receiver has been 103193
appointed, or that has made a general assignment for the benefit 103194
of creditors, except for the portion of the then current tax year 103195
during which the tax commissioner finds such corporation had the 103196
power to exercise its corporate franchise unimpaired by such 103197
proceedings or act. The minimum payment for each corporation shall 103198
be as follows: 103199

(1) One thousand dollars in the case of a corporation having 103200
gross receipts for the taxable year equal to at least five million 103201
dollars from activities within or outside this state or in the 103202
case of a corporation employing at least three hundred employees 103203
at some time during the taxable year within or outside this state; 103204

(2) Fifty dollars in the case of any other corporation. 103205

The tax charged to corporations under this chapter for the 103206
privilege of engaging in business in this state, which is an 103207
excise tax levied on the value of the issued and outstanding 103208
shares of stock, shall in no manner be construed as prohibiting or 103209
otherwise limiting the powers of municipal corporations, joint 103210
economic development zones created under section 715.691 of the 103211
Revised Code, and joint economic development districts created 103212
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 103213
Revised Code in this state to impose an income tax on the income 103214
of such corporations. 103215

(F) If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For the purpose of making that computation, the taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion

of the immediately preceding calendar year, the corporation had 103247
net income that was not included in a report filed by the 103248
corporation or its transferee pursuant to section 5733.02, 103249
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 103250

(f) The corporation would have been subject to the tax 103251
computed under divisions (A), (B), (C), (F), and (G) of this 103252
section if the corporation is assumed to be a corporation 103253
described in division (A) of section 5733.01 of the Revised Code 103254
on the first day of January immediately following the calendar 103255
year to which division (H)(1)(a) of this section refers. 103256

(2) For the purposes of division (H) of this section, 103257
"unreported net income" means net income that was not previously 103258
included in a report filed pursuant to section 5733.02, 5733.021, 103259
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 103260
realized or recognized during the calendar year to which division 103261
(H)(1) of this section refers or the immediately preceding 103262
calendar year. 103263

(3) Each exiting corporation shall pay a tax computed by 103264
first allocating and apportioning the unreported net income 103265
pursuant to division (B) of section 5733.05 and section 5733.051 103266
and, if applicable, section 5733.052 of the Revised Code. The 103267
exiting corporation then shall compute the tax due on its 103268
unreported net income allocated and apportioned to this state by 103269
applying divisions (A), (B), and (F) of this section to that 103270
income. 103271

(4) Divisions (C) and (G) of this section, division (D)(2) of 103272
section 5733.065, and division (C) of section 5733.066 of the 103273
Revised Code do not apply to an exiting corporation, but exiting 103274
corporations are subject to every other provision of this chapter. 103275

(5) Notwithstanding division (B) of section 5733.01 or 103276
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 103277

contrary, each exiting corporation shall report and pay the tax 103278
due under division (H) of this section on or before the 103279
thirty-first day of May immediately following the calendar year to 103280
which division (H)(1)(a) of this section refers. The exiting 103281
corporation shall file that report on the form most recently 103282
prescribed by the tax commissioner for the purposes of complying 103283
with sections 5733.02 and 5733.03 of the Revised Code. Upon 103284
request by the corporation, the tax commissioner may extend the 103285
date for filing the report. 103286

(6) If, on account of the application of section 5733.053 of 103287
the Revised Code, net income is subject to the tax imposed by 103288
divisions (A) and (B) of this section, such income shall not be 103289
subject to the tax imposed by division (H)(3) of this section. 103290

(7) The amendments made to division (H) of this section by 103291
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 103292
any transfer, as defined in section 5733.053 of the Revised Code, 103293
for which negotiations began prior to January 1, 2001, and that 103294
was commenced in and completed during calendar year 2001, unless 103295
the taxpayer makes an election prior to December 31, 2001, to 103296
apply those amendments. 103297

(8) The tax commissioner may adopt rules governing division 103298
(H) of this section. 103299

(I) Any reference in the Revised Code to "the tax imposed by 103300
section 5733.06 of the Revised Code" or "the tax due under section 103301
5733.06 of the Revised Code" includes the taxes imposed under 103302
sections 5733.065 and 5733.066 of the Revised Code. 103303

(J)(1) Division (J) of this section applies solely to a 103304
combined company. Section 5733.057 of the Revised Code shall apply 103305
when calculating the adjustments required by division (J) of this 103306
section. 103307

(2) Subject to division (J)(4) of this section, the total tax 103308

calculated in divisions (A) and (B) of this section shall be 103309
reduced by an amount calculated by multiplying such tax by a 103310
fraction, the numerator of which is the total taxable gross 103311
receipts attributed to providing public utility activity other 103312
than as an electric company under section 5727.03 of the Revised 103313
Code for the year upon which the taxable gross receipts are 103314
measured immediately preceding the tax year, and the denominator 103315
of which is the total gross receipts from all sources for the year 103316
upon which the taxable gross receipts are measured immediately 103317
preceding the tax year. Nothing herein shall be construed to 103318
exclude from the denominator any item of income described in 103319
section 5733.051 of the Revised Code. 103320

(3) Subject to division (J)(4) of this section, the total tax 103321
calculated in division (C) of this section shall be reduced by an 103322
amount calculated by multiplying such tax by the fraction 103323
described in division (J)(2) of this section. 103324

(4) In no event shall the reduction provided by division 103325
(J)(2) or (J)(3) of this section exceed the amount of the excise 103326
tax paid in accordance with section 5727.38 of the Revised Code, 103327
for the year upon which the taxable gross receipts are measured 103328
immediately preceding the tax year. 103329

Sec. 5733.11. (A) If any corporation required to file a 103330
report under this chapter fails to file the report within the time 103331
prescribed, files an incorrect report, or fails to remit the full 103332
amount of the tax due for the period covered by the report, the 103333
tax commissioner may make an assessment against the corporation 103334
for any deficiency for the period for which the report or tax is 103335
due, based upon any information in the commissioner's possession. 103336

No assessment shall be made or issued against a corporation 103337
more than three years after the later of the final date the report 103338
subject to assessment was required to be filed or the date the 103339

report was filed. Such time limit may be extended if both the 103340
corporation and the commissioner consent in writing to the 103341
extension or if an agreement waiving or extending the time limit 103342
has been entered into pursuant to section 122.171 of the Revised 103343
Code. Any such extension shall extend the three-year time limit in 103344
division (B) of section 5733.12 of the Revised Code for the same 103345
period of time. There shall be no bar or limit to an assessment 103346
against a corporation that fails to file a report subject to 103347
assessment as required by this chapter, or that files a fraudulent 103348
report. 103349

The commissioner shall give the corporation assessed written 103350
notice of the assessment in the manner provided in section 5703.37 103351
of the Revised Code. With the notice, the commissioner shall 103352
provide instructions on how to petition for reassessment and 103353
request a hearing on the petition. 103354

(B) Unless the corporation assessed files with the tax 103355
commissioner within sixty days after service of the notice of 103356
assessment, either personally or by certified mail, a written 103357
petition for reassessment, signed by the ~~corporations~~ 103358
corporation's authorized agent having knowledge of the facts, ⁷ the 103359
assessment becomes final, and the amount of the assessment is due 103360
and payable from the corporation assessed to the treasurer of 103361
state. The petition shall indicate the corporation's objections, 103362
but additional objections may be raised in writing if received by 103363
the commissioner prior to the date shown on the final 103364
determination. If the petition has been properly filed, the 103365
commissioner shall proceed under section 5703.60 of the Revised 103366
Code. 103367

(C) After an assessment becomes final, if any portion of the 103368
assessment remains unpaid, including accrued interest, a certified 103369
copy of the tax commissioner's entry making the assessment final 103370
may be filed in the office of the clerk of the court of common 103371

pleas in the county in which the corporation has an office or 103372
place of business in this state, the county in which the 103373
corporation's statutory agent is located, or Franklin county. 103374

Immediately upon the filing of the entry, the clerk shall 103375
enter a judgment against the corporation assessed in the amount 103376
shown on the entry. The judgment may be filed by the clerk in a 103377
loose-leaf book entitled "special judgments for state corporate 103378
franchise and litter taxes," and shall have the same effect as 103379
other judgments. Execution shall issue upon the judgment upon the 103380
request of the tax commissioner, and all laws applicable to sales 103381
on execution shall apply to sales made under the judgment. 103382

~~The portion of an~~ If the assessment is not paid within sixty 103383
days after the day the assessment was issued, the portion of the 103384
assessment consisting of tax due shall bear interest at the rate 103385
per annum prescribed by section 5703.47 of the Revised Code from 103386
the day the tax commissioner issues the assessment until the 103387
assessment is paid or until it is certified to the attorney 103388
general for collection under section 131.02 of the Revised Code, 103389
whichever comes first. If the unpaid portion of the assessment is 103390
certified to the attorney general for collection, the entire 103391
unpaid portion of the assessment shall bear interest at the rate 103392
per annum prescribed by section 5703.47 of the Revised Code from 103393
the date of certification until the date it is paid in its 103394
entirety. Interest shall be paid in the same manner as the tax and 103395
may be collected by issuing an assessment under this section. 103396

(D) All money collected under this section shall be 103397
considered as revenue arising from the taxes imposed by this 103398
chapter. 103399

(E) The portion of an assessment that must be paid upon the 103400
filing of a petition for reassessment shall be as follows: 103401

(1) If the sole item objected to is the assessed penalty or 103402

interest, payment of the assessment, including interest but not penalty, is required; 103403
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(2) If the corporation assessed failed to file, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, any amended report required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, or any amended report required by division (D) of section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, payment of the assessment, including interest but not penalty, is required; 103405
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(3) If the corporation assessed filed, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, all amended reports required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, and all amended reports required by division (D) of section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, and a balance of the taxes shown due on the reports as computed on the reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required; 103413
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(4) If the corporation assessed does not dispute that it is a taxpayer but claims the protections of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only that portion of the assessment representing any balance of taxes shown due on the corporation's annual report required by section 5733.02 of the Revised Code, as computed on the report, that remains unpaid, and that represents taxes imposed by division (C) of section 5733.06, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, together with all related interest, is required; 103424
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(5) If none of the conditions specified in divisions (E)(1) 103434

to (4) of this section apply, or if the corporation assessed 103435
disputes that it is a taxpayer, no payment is required. 103436

(F) Notwithstanding the fact that a petition for reassessment 103437
is pending, the corporation may pay all or a portion of the 103438
assessment that is the subject of the petition. The acceptance of 103439
a payment by the treasurer of state does not prejudice any claim 103440
for refund upon final determination of the petition. 103441

If upon final determination of the petition an error in the 103442
assessment is corrected by the tax commissioner, upon petition so 103443
filed or pursuant to a decision of the board of tax appeals or any 103444
court to which the determination or decision has been appealed, so 103445
that the amount due from the corporation under the corrected 103446
assessment is less than the portion paid, there shall be issued to 103447
the corporation, its assigns, or legal representative a refund in 103448
the amount of the overpayment as provided by section 5733.12 of 103449
the Revised Code, with interest on that amount as provided by 103450
section 5733.26 of the Revised Code, subject to section 5733.121 103451
of the Revised Code. 103452

Sec. 5733.98. (A) To provide a uniform procedure for 103453
calculating the amount of tax imposed by section 5733.06 of the 103454
Revised Code that is due under this chapter, a taxpayer shall 103455
claim any credits to which it is entitled in the following order, 103456
except as otherwise provided in section 5733.058 of the Revised 103457
Code: 103458

(1) For tax year 2005, the credit for taxes paid by a 103459
qualifying pass-through entity allowed under section 5733.0611 of 103460
the Revised Code; 103461

(2) The credit allowed for financial institutions under 103462
section 5733.45 of the Revised Code; 103463

(3) The credit for qualifying affiliated groups under section 103464

5733.068 of the Revised Code;	103465
(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	103466 103467
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	103468 103469
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	103470 103471
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	103472 103473
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	103474 103475
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	103476 103477
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	103478 103479
(11) The nonrefundable job retention credit under division (B) of section 5733.0610 of the Revised Code;	103480 103481
(12) The credit for tax years 2008 and 2009 for selling alternative fuel under section 5733.48 of the Revised Code;	103482 103483
(13) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	103484 103485
(14) The job training credit under section 5733.42 of the Revised Code;	103486 103487
(15) The credit for qualified research expenses under section 5733.351 of the Revised Code;	103488 103489
(16) The enterprise zone credit under section 5709.66 of the Revised Code;	103490 103491
(17) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	103492 103493

(18) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	103494 103495
(19) The ethanol plant investment credit under section 5733.46 of the Revised Code;	103496 103497
(20) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	103498 103499
(21) The export sales credit under section 5733.069 of the Revised Code;	103500 103501
(22) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	103502 103503
(23) The enterprise zone credits under section 5709.65 of the Revised Code;	103504 103505
(24) <u>(23)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	103506 103507
(25) <u>(24)</u> The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;	103508 103509
(26) <u>(25)</u> The credit for small telephone companies under section 5733.57 of the Revised Code;	103510 103511
(27) <u>(26)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	103512 103513
(28) <u>(27)</u> For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	103514 103515 103516
(29) <u>(28)</u> The research and development credit under section 5733.352 of the Revised Code;	103517 103518
(30) <u>(29)</u> For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	103519 103520 103521
(31) <u>(30)</u> The refundable credit for rehabilitating a historic	103522

building under section 5733.47 of the Revised Code; 103523

~~(32)~~(31) The refundable jobs creation credit or job retention 103524
credit under division (A) of section 5733.0610 of the Revised 103525
Code; 103526

~~(33)~~(32) The refundable credit for tax withheld under 103527
division (B)(2) of section 5747.062 of the Revised Code; 103528

~~(34)~~(33) The refundable credit under section 5733.49 of the 103529
Revised Code for losses on loans made to the Ohio venture capital 103530
program under sections 150.01 to 150.10 of the Revised Code; 103531

~~(35)~~(34) For tax years 2006, 2007, and 2008, the refundable 103532
credit allowable under division (B) of section 5733.56 of the 103533
Revised Code; 103534

~~(36)~~(35) The refundable motion picture production credit 103535
under section 5733.59 of the Revised Code. 103536

(B) For any credit except the refundable credits enumerated 103537
in this section, the amount of the credit for a tax year shall not 103538
exceed the tax due after allowing for any other credit that 103539
precedes it in the order required under this section. Any excess 103540
amount of a particular credit may be carried forward if authorized 103541
under the section creating that credit. 103542

Sec. 5735.12. (A) Any motor fuel dealer required by this 103543
chapter to file reports and pay the tax levied by this chapter who 103544
fails to file the report within the time prescribed, may be liable 103545
for an additional charge not exceeding the greater of ten per cent 103546
of the motor fuel dealer's tax liability for that month or fifty 103547
dollars. The tax commissioner may remit all or a portion of the 103548
additional charge and may adopt rules relating to the remission of 103549
all or a portion of the charge. 103550

If any person required by this chapter to file reports and 103551
pay the taxes, interest, or additional charge levied by this 103552

chapter fails to file the report, files an incomplete or incorrect 103553
report, or fails to remit the full amount of the tax, interest, or 103554
additional charge due for the period covered by the report, the 103555
commissioner may make an assessment against the person based upon 103556
any information in the commissioner's possession. 103557

No assessment shall be made against any motor fuel dealer for 103558
taxes imposed by this chapter more than four years after the date 103559
on which the report on which the assessment was based was due or 103560
was filed, whichever is later. This section does not bar an 103561
assessment against any motor fuel dealer who fails to file a 103562
report required by section 5735.06 of the Revised Code, or who 103563
files a fraudulent motor fuel tax report. 103564

A penalty of up to fifteen per cent may be added to the 103565
amount of every assessment made under this section. The 103566
commissioner may adopt rules providing for the imposition and 103567
remission of penalties added to assessments made under this 103568
section. 103569

The commissioner shall give the party assessed written notice 103570
of the assessment in the manner provided in section 5703.37 of the 103571
Revised Code. With the notice, the commissioner shall provide 103572
instructions on how to petition for reassessment and request a 103573
hearing on the petition. 103574

(B) Unless the party assessed files with the tax commissioner 103575
within sixty days after service of the notice of assessment, 103576
either personally or by certified mail, a written petition for 103577
reassessment in writing, signed by the party assessed or that 103578
party's authorized agent having knowledge of the facts, the 103579
assessment becomes final and the amount of the assessment is due 103580
and payable from the party assessed to the treasurer of state. The 103581
petition shall indicate the objections of the party assessed, but 103582
additional objections may be raised in writing if received by the 103583
commissioner prior to the date shown on the final determination. 103584

If the petition has been properly filed, the commissioner shall 103585
proceed under section 5703.60 of the Revised Code. 103586

(C) After an assessment becomes final, if any portion of the 103587
assessment remains unpaid, including accrued interest, a certified 103588
copy of the tax commissioner's entry making the assessment final 103589
may be filed in the office of the clerk of the court of common 103590
pleas in the county in which the party assessed resides or in 103591
which the business of the party assessed is conducted. If the 103592
party assessed maintains no place of business in this state and is 103593
not a resident of this state, the certified copy of the entry may 103594
be filed in the office of the clerk of the court of common pleas 103595
of Franklin county. 103596

Immediately upon the filing of the entry, the clerk shall 103597
enter a judgment for the state against the party assessed in the 103598
amount shown on the entry. The judgment may be filed by the clerk 103599
in a loose-leaf book entitled "special judgments for state motor 103600
fuel tax," and shall have the same effect as other judgments. 103601
Execution shall issue upon the judgment upon the request of the 103602
tax commissioner, and all laws applicable to sales on execution 103603
shall apply to sales made under the judgment. 103604

~~The portion of~~ If the assessment is not paid in its entirety 103605
within sixty days after the day the assessment was issued, the 103606
portion of the assessment consisting of tax due shall bear 103607
interest at the rate per annum prescribed by section 5703.47 of 103608
the Revised Code from the day the commissioner issues the 103609
assessment until it is paid or until it is certified to the 103610
attorney general for collection under section 131.02 of the 103611
Revised Code, whichever comes first. If the unpaid portion of the 103612
assessment is certified to the attorney general for collection, 103613
the entire unpaid portion of the assessment shall bear interest at 103614
the rate per annum prescribed by section 5703.47 of the Revised 103615
Code from the date of certification until the date it is paid in 103616

its entirety. Interest shall be paid in the same manner as the tax 103617
and may be collected by the issuance of an assessment under this 103618
section. 103619

(D) All money collected by the tax commissioner under this 103620
section shall be paid to the treasurer of state, and when paid 103621
shall be considered as revenue arising from the tax imposed by 103622
this chapter. 103623

(E) If the tax commissioner determines that the commissioner 103624
has erroneously refunded motor fuel tax to any person, the 103625
commissioner may make an assessment against the person for 103626
recovery of the erroneously refunded tax. 103627

Sec. 5735.34. (A) If any motor fuel dealer sells that motor 103628
fuel dealer's entire business or discontinues operating that 103629
business, the taxes and any interest and penalties imposed under 103630
this chapter that arose prior to the date of sale or 103631
discontinuation become due and payable immediately. ~~The~~ Within 103632
fifteen days after the date of the sale or discontinuation of the 103633
business, the motor fuel dealer shall make a final return ~~within~~ 103634
~~fifteen days after the date of the sale or discontinuation of the~~ 103635
~~business and provide written notification to the tax commissioner~~ 103636
of the sale or discontinuation and the name and contact 103637
information of the purchaser, if applicable. The purchaser of the 103638
business shall withhold a sufficient amount of the purchase money 103639
to cover the amount of such taxes, interest, and penalties due and 103640
unpaid until the seller produces a receipt from the tax 103641
commissioner showing that the taxes, interest, and penalties have 103642
been paid, or until the seller produces a certificate indicating 103643
that no taxes, interest, and penalties are due. 103644

(B) If the purchaser of the business fails to withhold the 103645
purchase money required to be withheld under this section, the 103646
purchaser of the business is personally liable for the payment of 103647

the taxes, interest, and penalties accrued and unpaid during the 103648
operation of the business by the seller, but only to the extent of 103649
the consideration offered for the entire business. 103650

(C) For purposes of this section, "entire business" means 103651
substantially all of the seller's assets determined without regard 103652
to any then existing mortgages, liens, security interests or other 103653
encumbrances attaching to those assets. A person is considered to 103654
have sold the entire business only if the person ceases to qualify 103655
as a motor fuel dealer and has relinquished or the tax 103656
commissioner has canceled the person's motor fuel dealer's 103657
license. 103658

Sec. 5739.01. As used in this chapter: 103659

(A) "Person" includes individuals, receivers, assignees, 103660
trustees in bankruptcy, estates, firms, partnerships, 103661
associations, joint-stock companies, joint ventures, clubs, 103662
societies, corporations, the state and its political subdivisions, 103663
and combinations of individuals of any form. 103664

(B) "Sale" and "selling" include all of the following 103665
transactions for a consideration in any manner, whether absolutely 103666
or conditionally, whether for a price or rental, in money or by 103667
exchange, and by any means whatsoever: 103668

(1) All transactions by which title or possession, or both, 103669
of tangible personal property, is or is to be transferred, or a 103670
license to use or consume tangible personal property is or is to 103671
be granted; 103672

(2) All transactions by which lodging by a hotel is or is to 103673
be furnished to transient guests; 103674

(3) All transactions by which+ 103675

~~(a) An item of tangible personal property is or is to be 103676
repaired, except property, the purchase of which would not be 103677~~

~~subject to the tax imposed by section 5739.02 of the Revised Code;~~ 103678

~~(b) An item of tangible personal property is or is to be 103679
installed, except property, the purchase of which would not be 103680
subject to the tax imposed by section 5739.02 of the Revised Code 103681
or property that is or is to be incorporated into and will become 103682
a part of a production, transmission, transportation, or 103683
distribution system for the delivery of a public utility service;~~ 103684

~~(c) The service of washing, cleaning, waxing, polishing, or 103685
painting a motor vehicle is or is to be furnished;~~ 103686

~~(d) Until August 1, 2003, industrial laundry cleaning 103687
services are or are to be provided and, on and after August 1, 103688
2003, laundry and dry cleaning services are or are to be provided;~~ 103689

~~(e) Automatic data processing, computer services, or 103690
electronic information services are or are to be provided for use 103691
in business when the true object of the transaction is the receipt 103692
by the consumer of automatic data processing, computer services, 103693
or electronic information services rather than the receipt of 103694
personal or professional services to which automatic data 103695
processing, computer services, or electronic information services 103696
are incidental or supplemental. Notwithstanding any other 103697
provision of this chapter, such transactions that occur between 103698
members of an affiliated group are not sales. An "affiliated 103699
group" means two or more persons related in such a way that one 103700
person owns or controls the business operation of another member 103701
of the group. In the case of corporations with stock, one 103702
corporation owns or controls another if it owns more than fifty 103703
per cent of the other corporation's common stock with voting 103704
rights.~~ 103705

~~(f) Telecommunications service, including prepaid calling 103706
service, prepaid wireless calling service, or ancillary service, 103707
is or is to be provided, but not including coin operated telephone 103708~~

service;	103709
(g) Landscaping and lawn care service is or is to be provided;	103710
(h) Private investigation and security service is or is to be provided;	103711
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	103712
(j) Building maintenance and janitorial service is or is to be provided;	103713
(k) Employment service is or is to be provided;	103714
(l) Employment placement service is or is to be provided;	103715
(m) Exterminating service is or is to be provided;	103716
(n) Physical fitness facility service is or is to be provided;	103717
(o) Recreation and sports club service is or is to be provided;	103718
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	103719
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	103720
(r) On and after August 1, 2003, a service is or is to be provided;	103721
(4) All transactions by which intangible property is or is to	103722
(4) All transactions by which intangible property is or is to	103723
(4) All transactions by which intangible property is or is to	103724
(4) All transactions by which intangible property is or is to	103725
(4) All transactions by which intangible property is or is to	103726
(4) All transactions by which intangible property is or is to	103727
(4) All transactions by which intangible property is or is to	103728
(4) All transactions by which intangible property is or is to	103729
(4) All transactions by which intangible property is or is to	103730
(4) All transactions by which intangible property is or is to	103731
(4) All transactions by which intangible property is or is to	103732
(4) All transactions by which intangible property is or is to	103733
(4) All transactions by which intangible property is or is to	103734
(4) All transactions by which intangible property is or is to	103735
(4) All transactions by which intangible property is or is to	103736
(4) All transactions by which intangible property is or is to	103737

be transferred, or a license to use intangible property is or is 103738
to be granted; 103739

(5) All transactions by which the transportation of persons 103740
by motor vehicle or aircraft is or is to be provided, when the 103741
transportation is entirely within this state, except for 103742
transportation provided by an ambulance service, by a transit bus, 103743
as defined in section 5735.01 of the Revised Code, and 103744
transportation provided by a citizen of the United States holding 103745
a certificate of public convenience and necessity issued under 49 103746
U.S.C. 41102; 103747

~~(s) On and after August 1, 2003, motor vehicle towing service~~ 103748
~~is or is to be provided. As used in this division, "motor vehicle~~ 103749
~~towing service" means the towing or conveyance of a wrecked,~~ 103750
~~disabled, or illegally parked motor vehicle.~~ 103751

~~(t) On and after August 1, 2003, snow removal service is or~~ 103752
~~is to be provided. As used in this division, "snow removal~~ 103753
~~service" means the removal of snow by any mechanized means, but~~ 103754
~~does not include the providing of such service by a person that~~ 103755
~~has less than five thousand dollars in sales of such service~~ 103756
~~during the calendar year.~~ 103757

~~(u) Electronic publishing service is or is to be provided to~~ 103758
~~a consumer for use in business, except that such transactions~~ 103759
~~occurring between members of an affiliated group, as defined in~~ 103760
~~division (B)(3)(e) of this section, are not sales.~~ 103761

~~(4) All transactions by which printed, imprinted,~~ 103762
~~overprinted, lithographic, multilithic, blueprinted, photostatic,~~ 103763
~~or other productions or reproductions of written or graphic matter~~ 103764
~~are or are to be furnished or transferred;~~ 103765

+5)(6) All transactions by which a specified digital product 103766
is provided for permanent use or less than permanent use, 103767
regardless of whether continued payment is required; 103768

(7) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the ~~provision~~ transfer of tangible personal property as part of a landscaping and lawn care service ~~and the transfer of property as part of such service~~ is never a construction contract.

As used in division (B)~~(5)~~(7) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without

significant damage to its component parts. 103801

~~(6)~~(8) All transactions in which all of the shares of stock 103802
of a closely held corporation are transferred, or an ownership 103803
interest in a pass-through entity, as defined in section 5733.04 103804
of the Revised Code, is transferred, if the corporation or 103805
pass-through entity is not engaging in business and its entire 103806
assets consist of boats, planes, motor vehicles, or other tangible 103807
personal property operated primarily for the use and enjoyment of 103808
the shareholders or owners; 103809

~~(7) All transactions in which a warranty, maintenance or 103810
service contract, or similar agreement by which the vendor of the 103811
warranty, contract, or agreement agrees to repair or maintain the 103812
tangible personal property of the consumer is or is to be 103813
provided;~~ 103814

~~(8)~~(9) The transfer of copyrighted motion picture films used 103815
solely for advertising purposes, except that the transfer of such 103816
films for exhibition purposes is not a sale; 103817

~~(9) On and after August 1, 2003, all transactions by which 103818
tangible personal property is or is to be stored, except such 103819
property that the consumer of the storage holds for sale in the 103820
regular course of business;~~ 103821

~~(10) All transactions in which "guaranteed auto protection" 103822
is provided whereby a person promises to pay to the consumer the 103823
difference between the amount the consumer receives from motor 103824
vehicle insurance and the amount the consumer owes to a person 103825
holding title to or a lien on the consumer's motor vehicle in the 103826
event the consumer's motor vehicle suffers a total loss under the 103827
terms of the motor vehicle insurance policy or is stolen and not 103828
recovered, if the protection and its price are included in the 103829
purchase or lease agreement;~~ 103830

~~(11)~~(10)(a) Except as provided in division (B)~~(11)~~(10)(b) of 103831

this section, on and after October 1, 2009, all transactions by 103832
which health care services are paid for, reimbursed, provided, 103833
delivered, arranged for, or otherwise made available by a medicaid 103834
health insuring corporation pursuant to the corporation's contract 103835
with the state. 103836

(b) If the centers for medicare and medicaid services of the 103837
United States department of health and human services determines 103838
that the taxation of transactions described in division 103839
(B)~~(11)~~(10)(a) of this section constitutes an impermissible health 103840
care-related tax under ~~section 1903(w)~~ of the "Social Security 103841
Act," ~~49 Stat. 620 (1935)~~ section 1903(w), 42 U.S.C. 1396b(w), ~~as~~ 103842
~~amended~~, and regulations adopted thereunder, the medicaid director 103843
~~of job and family services~~ shall notify the tax commissioner of 103844
that determination. Beginning with the first day of the month 103845
following that notification, the transactions described in 103846
division (B)~~(11)~~(10)(a) of this section are not sales for the 103847
purposes of this chapter or Chapter 5741. of the Revised Code. The 103848
tax commissioner shall order that the collection of taxes under 103849
sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 103850
5741.022, and 5741.023 of the Revised Code shall cease for 103851
transactions occurring on or after that date. 103852

~~Except as provided in this section, "sale" and "selling" do 103853
not include transfers of interest in leased property where the 103854
original lessee and the terms of the original lease agreement 103855
remain unchanged, or professional, insurance, or personal service 103856
transactions that involve the transfer of tangible personal 103857
property as an inconsequential element, for which no separate 103858
charges are made. 103859~~

(C) "Vendor" means the person providing the service or by 103860
whom the transfer effected or license given by a sale is or is to 103861
be made or given ~~and, for sales described in division (B)(3)(i) of 103862
this section, the telecommunications service vendor that provides 103863~~

~~the nine hundred telephone service; if.~~ If two or more persons are 103864
engaged in business at the same place of business under a single 103865
trade name in which all collections on account of sales by each 103866
are made, such persons shall constitute a single vendor. 103867

Physicians, dentists, hospitals, and veterinarians who are 103868
engaged in selling tangible personal property as received from 103869
others, such as eyeglasses, mouthwashes, ~~dentifrices~~ toothbrushes, 103870
or similar articles, are vendors. Veterinarians who are engaged in 103871
transferring to others for a consideration drugs, the dispensing 103872
of which does not require an order of a licensed veterinarian or 103873
physician under federal law, are vendors. 103874

(D)(1) "Consumer" means the person for whom the service is 103875
provided, to whom the service is charged, or to whom the transfer 103876
effected or license given by a sale is or is to be made or given, 103877
~~to whom the service described in division (B)(3)(f) or (i) of this~~ 103878
~~section is charged, or to whom the admission is granted.~~ 103879

(2) Physicians, dentists, hospitals, and blood banks operated 103880
by nonprofit institutions and persons licensed to practice 103881
veterinary medicine, surgery, and dentistry are consumers of all 103882
tangible personal property and services purchased by them in 103883
connection with the practice of medicine, dentistry, the rendition 103884
of hospital or blood bank service, or the practice of veterinary 103885
medicine, surgery, and dentistry. In addition to being consumers 103886
of drugs administered by them or by their assistants according to 103887
their direction, veterinarians also are consumers of drugs that 103888
under federal law may be dispensed only by or upon the order of a 103889
licensed veterinarian or physician, when transferred by them to 103890
others for a consideration to provide treatment to animals as 103891
directed by the veterinarian. 103892

(3) A person who performs a facility management, or similar 103893
service contract for a contractee is a consumer of all tangible 103894
personal property and services purchased for use in connection 103895

with the performance of such contract, regardless of whether title 103896
to any such property vests in the contractee. The purchase of such 103897
property and services is not subject to the exception for resale 103898
under division (E)(1) of this section. 103899

(4)(a) In the case of a person who purchases printed matter 103900
for the purpose of distributing it or having it distributed to the 103901
public or to a designated segment of the public, free of charge, 103902
that person is the consumer of that printed matter, and the 103903
purchase of that printed matter for that purpose is a sale. 103904

(b) In the case of a person who produces, rather than 103905
purchases, printed matter for the purpose of distributing it or 103906
having it distributed to the public or to a designated segment of 103907
the public, free of charge, that person is the consumer of all 103908
tangible personal property and services purchased for use or 103909
consumption in the production of that printed matter. That person 103910
is not entitled to claim exemption under division (B)(42)(f) of 103911
section 5739.02 of the Revised Code for any material incorporated 103912
into the printed matter or any equipment, supplies, or services 103913
primarily used to produce the printed matter. 103914

(c) The distribution of printed matter to the public or to a 103915
designated segment of the public, free of charge, is not a sale to 103916
the members of the public to whom the printed matter is 103917
distributed or to any persons who purchase space in the printed 103918
matter for advertising or other purposes. 103919

(5) A person who makes sales of ~~any of the services listed in~~ 103920
~~division (B)(3) of this section~~ is the consumer of any tangible 103921
personal property or service used in performing the service. The 103922
purchase of that property or service is not subject to the resale 103923
exception under division (E)~~(1)~~ of this section. 103924

(6) A person who engages in highway transportation for hire 103925
is the consumer of all packaging materials purchased by that 103926

person and used in performing the service, except for packaging 103927
materials sold by such person in a transaction separate from the 103928
service. 103929

(7) In the case of a transaction for health care services 103930
under division (B)~~(11)~~(10) of this section, a medicaid health 103931
insuring corporation is the consumer of such services. The 103932
purchase of such services by a medicaid health insuring 103933
corporation is not subject to the exception for resale under 103934
division (E)~~(1)~~ of this section or to the exemptions provided 103935
under divisions (B)(12), (18), (19), and (22) of section 5739.02 103936
of the Revised Code. 103937

(8) An insurance company is the consumer of all services 103938
purchased for use in connection with the performance of an 103939
insurance contract. 103940

(E) "Retail sale" and "sales at retail" include all sales, 103941
except those in which the purpose of the consumer is to resell the 103942
thing transferred or benefit of the service provided, by a person 103943
engaging in business, in the form in which the same is, or is to 103944
be, received by the person. 103945

(F) "Business" includes any activity engaged in by any person 103946
with the object of gain, benefit, or advantage, either direct or 103947
indirect. "Business" does not include the activity of a person in 103948
managing and investing the person's own funds. 103949

(G) "Engaging in business" means commencing, conducting, or 103950
continuing in business, and liquidating a business when the 103951
liquidator thereof holds itself out to the public as conducting 103952
such business. Making a casual sale is not engaging in business. 103953

(H)(1)(a) "Price," except as provided in divisions (H)(2), 103954
(3), and (4) of this section, means the total amount of 103955
consideration, including cash, credit, property, and services, for 103956
which tangible personal property or services are sold, leased, or 103957

rented, valued in money, whether received in money or otherwise, 103958
without any deduction for any of the following: 103959

(i) The vendor's cost of the property sold; 103960

(ii) The cost of materials used, labor or service costs, 103961
interest, losses, all costs of transportation to the vendor, all 103962
taxes imposed on the vendor, including the tax imposed under 103963
Chapter 5751. of the Revised Code, and any other expense of the 103964
vendor; 103965

(iii) Charges by the vendor for any services necessary to 103966
complete the sale; 103967

(iv) On and after August 1, 2003, delivery charges. As used 103968
in this division, "delivery charges" means charges by the vendor 103969
for preparation and delivery to a location designated by the 103970
consumer of tangible personal property or a service, including 103971
transportation, shipping, postage, handling, crating, and packing. 103972

(v) Installation charges; 103973

(vi) Credit for any trade-in. 103974

(b) "Price" includes consideration received by the vendor 103975
from a third party, if the vendor actually receives the 103976
consideration from a party other than the consumer, and the 103977
consideration is directly related to a price reduction or discount 103978
on the sale; the vendor has an obligation to pass the price 103979
reduction or discount through to the consumer; the amount of the 103980
consideration attributable to the sale is fixed and determinable 103981
by the vendor at the time of the sale of the item to the consumer; 103982
and one of the following criteria is met: 103983

(i) The consumer presents a coupon, certificate, or other 103984
document to the vendor to claim a price reduction or discount 103985
where the coupon, certificate, or document is authorized, 103986
distributed, or granted by a third party with the understanding 103987

that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a

vendor or purchased by a consumer and that is redeemed by the 104018
consumer in purchasing tangible personal property or services if 104019
the vendor is not reimbursed and does not receive compensation 104020
from a third party to cover all or part of the gift card value. 104021
For the purposes of this division, a gift card is not sold by a 104022
vendor or purchased by a consumer if it is distributed pursuant to 104023
an awards, loyalty, or promotional program. Past and present 104024
purchases of tangible personal property or services by the 104025
consumer shall not be treated as consideration exchanged for a 104026
gift card. 104027

(2) In the case of a sale of any new motor vehicle by a new 104028
motor vehicle dealer, as defined in section 4517.01 of the Revised 104029
Code, in which another motor vehicle is accepted by the dealer as 104030
part of the consideration received, "price" has the same meaning 104031
as in division (H)(1) of this section, reduced by the credit 104032
afforded the consumer by the dealer for the motor vehicle received 104033
in trade. 104034

(3) In the case of a sale of any watercraft or outboard motor 104035
by a watercraft dealer licensed in accordance with section 104036
1547.543 of the Revised Code, in which another watercraft, 104037
watercraft and trailer, or outboard motor is accepted by the 104038
dealer as part of the consideration received, "price" has the same 104039
meaning as in division (H)(1) of this section, reduced by the 104040
credit afforded the consumer by the dealer for the watercraft, 104041
watercraft and trailer, or outboard motor received in trade. As 104042
used in this division, "watercraft" includes an outdrive unit 104043
attached to the watercraft. 104044

(4) In the case of transactions for health care services 104045
under division (B)~~(11)~~(10) of this section, "price" means the 104046
amount of managed care premiums received each month by a medicaid 104047
health insuring corporation. 104048

(I) "Receipts" means the total amount of the prices of the 104049

sales of vendors, provided that the dollar value of gift cards 104050
distributed pursuant to an awards, loyalty, or promotional 104051
program, and cash discounts allowed and taken on sales at the time 104052
they are consummated are not included, minus any amount deducted 104053
as a bad debt pursuant to section 5739.121 of the Revised Code. 104054
"Receipts" does not include the sale price of property returned or 104055
services rejected by consumers when the full sale price and tax 104056
are refunded either in cash or by credit. 104057

(J) "Place of business" means any location at which a person 104058
engages in business. 104059

(K) "Premises" includes any real property or portion thereof 104060
upon which any person engages in selling tangible personal 104061
property at retail or making retail sales and also includes any 104062
real property or portion thereof designated for, or devoted to, 104063
use in conjunction with the business engaged in by such person. 104064

(L) "Casual sale" means a sale of an item of tangible 104065
personal property that was obtained by the person making the sale, 104066
through purchase or otherwise, for the person's own use and was 104067
previously subject to any state's taxing jurisdiction on its sale 104068
or use, and includes such items acquired for the seller's use that 104069
are sold by an auctioneer employed directly by the person for such 104070
purpose, provided the location of such sales is not the 104071
auctioneer's permanent place of business. As used in this 104072
division, "permanent place of business" includes any location 104073
where such auctioneer has conducted more than two auctions during 104074
the year. 104075

(M) "Hotel" means every establishment kept, used, maintained, 104076
advertised, or held out to the public to be a place where sleeping 104077
accommodations are offered to guests, in which five or more rooms 104078
are used for the accommodation of such guests, whether the rooms 104079
are in one or several structures, except as otherwise provided in 104080
division (G) of section 5739.09 of the Revised Code. 104081

(N) "Transient guests" means persons occupying a room or 104082
rooms for sleeping accommodations for less than thirty consecutive 104083
days. 104084

(O) "Making retail sales" means the effecting of transactions 104085
wherein one party is obligated to pay the price and the other 104086
party is obligated to provide a service or to transfer title to or 104087
possession of the item sold. "Making retail sales" does not 104088
include the preliminary acts of promoting or soliciting the retail 104089
sales, other than the distribution of printed matter which 104090
displays or describes and prices the item offered for sale, nor 104091
does it include delivery of a predetermined quantity of tangible 104092
personal property or transportation of property or personnel to or 104093
from a place where a service is performed. 104094

(P) "Used directly in the rendition of a public utility 104095
service" means that property that is to be incorporated into and 104096
will become a part of the consumer's production, transmission, 104097
transportation, or distribution system and that retains its 104098
classification as tangible personal property after such 104099
incorporation; fuel or power used in the production, transmission, 104100
transportation, or distribution system; and tangible personal 104101
property used in the repair and maintenance of the production, 104102
transmission, transportation, or distribution system, including 104103
only such motor vehicles as are specially designed and equipped 104104
for such use. Tangible personal property and services used 104105
primarily in providing highway transportation for hire are not 104106
used directly in the rendition of a public utility service. In 104107
this definition, "public utility" includes a citizen of the United 104108
States holding, and required to hold, a certificate of public 104109
convenience and necessity issued under 49 U.S.C. 41102. 104110

(Q) "Refining" means removing or separating a desirable 104111
product from raw or contaminated materials by distillation or 104112
physical, mechanical, or chemical processes. 104113

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the

area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) ~~"Providing a service Service" means providing or furnishing anything described in division (B)(3) of this section for consideration.~~

~~(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.~~

~~(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.~~

~~(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:~~

~~(i) Examining or acquiring data stored in or accessible to the computer equipment;~~

~~(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.~~

~~For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.~~

~~(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.~~ 104176
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~~(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:~~ 104179
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~~(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;~~ 104183
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~~(b) Analyzing business policies and procedures;~~ 104188

~~(c) Identifying management information needs;~~ 104189

~~(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;~~ 104190
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~~(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;~~ 104193
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~~(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;~~ 104197
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~~(g) Testing of business procedures;~~ 104200

~~(h) Training personnel in business procedure applications;~~ 104201

~~(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering,~~ 104202
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organizing, analyzing, recording, and furnishing such information	104206
by any oral, written, graphic, or electronic medium;	104207
(j) Providing debt collection services by any oral, written,	104208
graphic, or electronic means.	104209
The services listed in divisions (Y)(2)(a) to (j) of this	104210
section are not automatic data processing or computer services.	104211
(Z) <u>an act performed for another person for a fee, retainer,</u>	104212
<u>commission, or other consideration, including any fee or other</u>	104213
<u>amount charged for access to a physical fitness facility or</u>	104214
<u>recreation and sports club. "Service" does not include any of the</u>	104215
<u>following:</u>	104216
(1) <u>Medical and health care services;</u>	104217
(2) <u>Educational services and tutoring services;</u>	104218
(3) <u>Real property construction services;</u>	104219
(4) <u>The lease or rental of a house, apartment, condominium,</u>	104220
<u>mobile home, or similar dwelling to a person, provided that the</u>	104221
<u>person occupies the dwelling for thirty or more consecutive days</u>	104222
<u>and that the dwelling is the person's primary residence;</u>	104223
(5) <u>Transactions by which a consumer obtains insurance;</u>	104224
(6) <u>Adult and child day care services;</u>	104225
(7) <u>Social assistance services;</u>	104226
(8) <u>Services used directly in producing tangible personal</u>	104227
<u>property by mining.</u>	104228
(9) <u>Residential trash pick-up and disposal. As used in</u>	104229
<u>division (X)(9) of this section, "residential" means property</u>	104230
<u>improved with single-family, two-family, or three-family</u>	104231
<u>dwelling.</u>	104232
(10) <u>Services rendered for an employer by the employer's</u>	104233
<u>employees within the employment relationship.</u>	104234

(11) Funeral services described in section 4717.01 of the Revised Code except to the extent that a sale of tangible personal property or services by the provider of services described in that section is a retail sale subject to the tax levied by section 5739.02 of the Revised Code under another division of this section and is not exempted under division (B) of section 5739.02 of the Revised Code. Division (X)(11) of this section does not affect the liability of a provider of funeral services for tax imposed under this chapter or Chapter 5741. of the Revised Code on the provider as a consumer of tangible personal property or services.

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(Y) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

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(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

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(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division ~~(Z)~~(Y)(1) of this section;

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(3) A person who leases a motor vehicle to and operates it for a person described by division ~~(Z)~~(Y)(1) or (2) of this section.

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~~(AA)~~(Z)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or

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among points. "Telecommunications service" includes such 104266
transmission, conveyance, or routing in which computer processing 104267
applications are used to act on the form, code, or protocol of the 104268
content for purposes of transmission, conveyance, or routing 104269
without regard to whether the service is referred to as voice-over 104270
internet protocol service or is classified by the federal 104271
communications commission as enhanced or value-added. 104272
"Telecommunications service" does not include any of the 104273
following: 104274

(a) Data processing and information services that allow data 104275
to be generated, acquired, stored, processed, or retrieved and 104276
delivered by an electronic transmission to a consumer where the 104277
consumer's primary purpose for the underlying transaction is the 104278
processed data or information; 104279

(b) Installation or maintenance of wiring or equipment on a 104280
customer's premises; 104281

(c) Tangible personal property; 104282

(d) Advertising, including directory advertising; 104283

(e) Billing and collection services provided to third 104284
parties; 104285

(f) Internet access service; 104286

(g) Radio and television audio and video programming 104287
services, regardless of the medium, including the furnishing of 104288
transmission, conveyance, and routing of such services by the 104289
programming service provider. Radio and television audio and video 104290
programming services include, but are not limited to, cable 104291
service, as defined in 47 U.S.C. 522(6), and audio and video 104292
programming services delivered by commercial mobile radio service 104293
providers, as defined in 47 C.F.R. 20.3; 104294

(h) Ancillary service; 104295

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	104296 104297
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	104298 104299 104300 104301 104302
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	104303 104304 104305 104306 104307
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	104308 104309 104310
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	104311 104312
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.	104313 104314 104315 104316 104317
(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.	104318 104319 104320 104321 104322
(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name	104323 104324 104325 104326

"900~~u~~ service" and any subsequent numbers designated by the 104327
federal communications commission. "900 service" does not include 104328
the charge for collection services provided by the seller of the 104329
telecommunications service to the subscriber, or services or 104330
products sold by the subscriber to the subscriber's customer. 104331

(4) "Prepaid calling service" means the right to access 104332
exclusively telecommunications services, which must be paid for in 104333
advance and which enables the origination of calls using an access 104334
number or authorization code, whether manually or electronically 104335
dialed, and that is sold in predetermined units or dollars of 104336
which the number declines with use in a known amount. 104337

(5) "Prepaid wireless calling service" means a 104338
telecommunications service that provides the right to utilize 104339
mobile telecommunications service as well as other 104340
non-telecommunications services, including the download of digital 104341
products delivered electronically, and content and ancillary 104342
services, that must be paid for in advance and that is sold in 104343
predetermined units or dollars of which the number declines with 104344
use in a known amount. 104345

(6) "Value-added non-voice data service" means a 104346
telecommunications service in which computer processing 104347
applications are used to act on the form, content, code, or 104348
protocol of the information or data primarily for a purpose other 104349
than transmission, conveyance, or routing. 104350

(7) "Coin-operated telephone service" means a 104351
telecommunications service paid for by inserting money into a 104352
telephone accepting direct deposits of money to operate. 104353

(8) "Customer" has the same meaning as in section 5739.034 of 104354
the Revised Code. 104355

~~(BB)~~(AA) "Laundry and dry cleaning services" means removing 104356
soil or dirt from towels, linens, articles of clothing, or other 104357

fabric items that belong to others and supplying towels, linens, 104358
articles of clothing, or other fabric items. "Laundry and dry 104359
cleaning services" does not include the provision of self-service 104360
facilities for use by consumers to remove soil or dirt from 104361
towels, linens, articles of clothing, or other fabric items. 104362

~~(CC)~~(BB) "Magazines distributed as controlled circulation 104363
publications" means magazines containing at least twenty-four 104364
pages, at least twenty-five per cent editorial content, issued at 104365
regular intervals four or more times a year, and circulated 104366
without charge to the recipient, provided that such magazines are 104367
not owned or controlled by individuals or business concerns which 104368
conduct such publications as an auxiliary to, and essentially for 104369
the advancement of the main business or calling of, those who own 104370
or control them. 104371

~~(DD)~~(CC) "Landscaping and lawn care service" means the 104372
services of planting, seeding, sodding, removing, cutting, 104373
trimming, pruning, mulching, aerating, applying chemicals, 104374
watering, fertilizing, and providing similar services to 104375
establish, promote, or control the growth of trees, shrubs, 104376
flowers, grass, ground cover, and other flora, or otherwise 104377
maintaining a lawn or landscape grown or maintained by the owner 104378
for ornamentation or other nonagricultural purpose. However, 104379
"landscaping and lawn care service" does not include the providing 104380
of such services by a person who has less than five thousand 104381
dollars in sales of such services during the calendar year. 104382

~~(EE)~~ "Private investigation and security service" means the 104383
performance of any activity for which the provider of such service 104384
is required to be licensed pursuant to Chapter 4749. of the 104385
Revised Code, or would be required to be so licensed in performing 104386
such services in this state, and also includes the services of 104387
conducting polygraph examinations and of monitoring or overseeing 104388
the activities on or in, or the condition of, the consumer's home, 104389

~~business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.~~ 104390
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~~(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.~~ 104395
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~~(GG)(DD) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.~~ 104402
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~~(HH)(EE) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.~~ 104409
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~~(II) "Building maintenance and janitorial service" means~~ 104421

~~cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.~~

~~(JJ) "Employment service" means providing or supplying personnel, on a temporary or long term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:~~

~~(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.~~

~~(2) Medical and health care services.~~

~~(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.~~

~~(4) Transactions between members of an affiliated group, as defined in division (B)(3)(c) of this section.~~

~~(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.~~

~~(KK) "Employment placement service" means locating or finding~~

~~employment for a person or finding or locating an employee to fill~~ 104453
~~an available position.~~ 104454

~~(LL) "Exterminating service" means eradicating or attempting~~ 104455
~~to eradicate vermin infestations from a building or structure, or~~ 104456
~~the area surrounding a building or structure, and includes~~ 104457
~~activities to inspect, detect, or prevent vermin infestation of a~~ 104458
~~building or structure.~~ 104459

~~(MM)~~(FF) "Physical fitness facility service" means all 104460
transactions by which a membership is granted, maintained, or 104461
renewed, including initiation fees, membership dues, renewal fees, 104462
monthly minimum fees, and other similar fees and dues, by a 104463
physical fitness facility such as an athletic club, health spa, or 104464
gymnasium, which entitles the member to use the facility for 104465
physical exercise. 104466

~~(NN)~~(GG) "Recreation and sports club service" means all 104467
transactions by which a membership is granted, maintained, or 104468
renewed, including initiation fees, membership dues, renewal fees, 104469
monthly minimum fees, and other similar fees and dues, by a 104470
recreation and sports club, which entitles the member to use the 104471
facilities of the organization. "Recreation and sports club" means 104472
an organization that has ownership of, or controls or leases on a 104473
continuing, long-term basis, the facilities used by its members 104474
and includes an aviation club, gun or shooting club, yacht club, 104475
card club, swimming club, tennis club, golf club, country club, 104476
riding club, amateur sports club, or similar organization. 104477

~~(OO)~~(HH) "Livestock" means farm animals commonly raised for 104478
food, food production, or other agricultural purposes, including, 104479
but not limited to, cattle, sheep, goats, swine, poultry, and 104480
captive deer. "Livestock" does not include invertebrates, 104481
amphibians, reptiles, domestic pets, animals for use in 104482
laboratories or for exhibition, or other animals not commonly 104483
raised for food or food production. 104484

~~(PP)~~(II) "Livestock structure" means a building or structure 104485
used exclusively for the housing, raising, feeding, or sheltering 104486
of livestock, and includes feed storage or handling structures and 104487
structures for livestock waste handling. 104488

~~(QQ)~~(JJ) "Horticulture" means the growing, cultivation, and 104489
production of flowers, fruits, herbs, vegetables, sod, and 104490
mushrooms, and nursery stock. ~~As used in this division, "nursery~~ 104491
~~stock" has the same meaning as~~ defined in section 927.51 of the 104492
Revised Code. 104493

~~(RR)~~(KK) "Horticulture structure" means a building or 104494
structure used exclusively for the commercial growing, raising, or 104495
overwintering of horticultural products, and includes the area 104496
used for stocking, storing, and packing horticultural products 104497
when done in conjunction with the production of those products. 104498

~~(SS)~~(LL) "Newspaper" means an unbound publication bearing a 104499
title or name that is regularly published, at least as frequently 104500
as biweekly, and distributed from a fixed place of business to the 104501
public in a specific geographic area, and that contains a 104502
substantial amount of news matter of international, national, or 104503
local events of interest to the general public. 104504

~~(TT)~~(MM) "Professional racing team" means a person that 104505
employs at least twenty full-time employees for the purpose of 104506
conducting a motor vehicle racing business for profit. The person 104507
must conduct the business with the purpose of racing one or more 104508
motor racing vehicles in at least ten competitive professional 104509
racing events each year that comprise all or part of a motor 104510
racing series sanctioned by one or more motor racing sanctioning 104511
organizations. A "motor racing vehicle" means a vehicle for which 104512
the chassis, engine, and parts are designed exclusively for motor 104513
racing, and does not include a stock or production model vehicle 104514
that may be modified for use in racing. For the purposes of this 104515
division: 104516

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

~~(UU)~~(NN)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

~~(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.~~

~~(3)~~ "Lease" and "rental" have the same meaning as in division ~~(UU)~~(NN)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

~~(VV)~~(OO) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

~~(WW)~~(PP) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

~~(XX)~~(OO) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

~~(YY)~~(RR) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of

this chapter and Chapter 5741. of the Revised Code, "tangible 104579
personal property" includes motor vehicles, electricity, water, 104580
gas, steam, and prewritten computer software. 104581

~~(ZZ)~~(SS) "Direct mail" means printed material delivered or 104582
distributed by United States mail or other delivery service to a 104583
mass audience or to addressees on a mailing list provided by the 104584
consumer or at the direction of the consumer when the cost of the 104585
items are not billed directly to the recipients. "Direct mail" 104586
includes tangible personal property supplied directly or 104587
indirectly by the consumer to the direct mail vendor for inclusion 104588
in the package containing the printed material. "Direct mail" does 104589
not include multiple items of printed material delivered to a 104590
single address. 104591

~~(AAA)~~(TT) "Computer" means an electronic device that accepts 104592
information in digital or similar form and manipulates it for a 104593
result based on a sequence of instructions. 104594

~~(BBB)~~(UU) "Computer software" means a set of coded 104595
instructions designed to cause a computer or automatic data 104596
processing equipment to perform a task. 104597

~~(CCC)~~(VV) "Delivered electronically" means delivery of 104598
computer software from the seller to the purchaser by means other 104599
than tangible storage media. 104600

~~(DDD)~~(WW) "Prewritten computer software" means computer 104601
software, including prewritten upgrades, that is not designed and 104602
developed by the author or other creator to the specifications of 104603
a specific purchaser. The combining of two or more prewritten 104604
computer software programs or prewritten portions thereof does not 104605
cause the combination to be other than prewritten computer 104606
software. "Prewritten computer software" includes software 104607
designed and developed by the author or other creator to the 104608
specifications of a specific purchaser when it is sold to a person 104609

other than the purchaser. If a person modifies or enhances 104610
computer software of which the person is not the author or 104611
creator, the person shall be deemed to be the author or creator 104612
only of such person's modifications or enhancements. Prewritten 104613
computer software or a prewritten portion thereof that is modified 104614
or enhanced to any degree, where such modification or enhancement 104615
is designed and developed to the specifications of a specific 104616
purchaser, remains prewritten computer software; provided, 104617
however, that where there is a reasonable, separately stated 104618
charge or an invoice or other statement of the price given to the 104619
purchaser for the modification or enhancement, the modification or 104620
enhancement shall not constitute prewritten computer software. 104621

~~(EEE)~~(XX)(1) "Food" means substances, whether in liquid, 104622
concentrated, solid, frozen, dried, or dehydrated form, that are 104623
sold for ingestion or chewing by humans and are consumed for their 104624
taste or nutritional value. "Food" does not include alcoholic 104625
beverages, dietary supplements, soft drinks, or tobacco. 104626

(2) As used in division ~~(EEE)~~(XX)(1) of this section: 104627

(a) "Alcoholic beverages" means beverages that are suitable 104628
for human consumption and contain one-half of one per cent or more 104629
of alcohol by volume. 104630

(b) "Dietary supplements" means any product, other than 104631
tobacco, that is intended to supplement the diet and that is 104632
intended for ingestion in tablet, capsule, powder, softgel, 104633
gelcap, or liquid form, or, if not intended for ingestion in such 104634
a form, is not represented as conventional food for use as a sole 104635
item of a meal or of the diet; that is required to be labeled as a 104636
dietary supplement, identifiable by the "supplement facts" box 104637
found on the label, as required by 21 C.F.R. 101.36; and that 104638
contains one or more of the following dietary ingredients: 104639

(i) A vitamin; 104640

(ii) A mineral; 104641

(iii) An herb or other botanical; 104642

(iv) An amino acid; 104643

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; 104644
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(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions ~~(EEE)~~(XX)(2)(b)(i) to (v) of this section. 104646
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(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume. 104649
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 104654
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~~(FFF)~~(YY) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body. 104656
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~~(GGG)~~(ZZ) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription. 104665
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~~(HHH)~~(AAA) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that 104669
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can withstand repeated use, is primarily and customarily used to 104671
serve a medical purpose, generally is not useful to a person in 104672
the absence of illness or injury, and is not worn in or on the 104673
body. "Durable medical equipment" does not include mobility 104674
enhancing equipment. 104675

~~(III)~~(BBB) "Mobility enhancing equipment" means equipment, 104676
including repair and replacement parts for such equipment, that is 104677
primarily and customarily used to provide or increase the ability 104678
to move from one place to another and is appropriate for use 104679
either in a home or a motor vehicle, that is not generally used by 104680
persons with normal mobility, and that does not include any motor 104681
vehicle or equipment on a motor vehicle normally provided by a 104682
motor vehicle manufacturer. "Mobility enhancing equipment" does 104683
not include durable medical equipment. 104684

~~(JJJ)~~(CCC) "Prosthetic device" means a replacement, 104685
corrective, or supportive device, including repair and replacement 104686
parts for the device, worn on or in the human body to artificially 104687
replace a missing portion of the body, prevent or correct physical 104688
deformity or malfunction, or support a weak or deformed portion of 104689
the body. As used in this division, "prosthetic device" does not 104690
include corrective eyeglasses, contact lenses, or dental 104691
prosthesis. 104692

~~(KKK)~~(DDD)(1) "Fractional aircraft ownership program" means a 104693
program in which persons within an affiliated group sell and 104694
manage fractional ownership program aircraft, provided that at 104695
least one hundred airworthy aircraft are operated in the program 104696
and the program meets all of the following criteria: 104697

(a) Management services are provided by at least one program 104698
manager within an affiliated group on behalf of the fractional 104699
owners. 104700

(b) Each program aircraft is owned or possessed by at least 104701

one fractional owner. 104702

(c) Each fractional owner owns or possesses at least a 104703
one-sixteenth interest in at least one fixed-wing program 104704
aircraft. 104705

(d) A dry-lease aircraft interchange arrangement is in effect 104706
among all of the fractional owners. 104707

(e) Multi-year program agreements are in effect regarding the 104708
fractional ownership, management services, and dry-lease aircraft 104709
interchange arrangement aspects of the program. 104710

(2) As used in division ~~(KKK)~~(DDD)(1) of this section: 104711

(a) "Affiliated group" ~~has the same meaning as in division~~ 104712
~~(B)(3)(e) of this section~~ means two or more persons related in 104713
such a way that one person owns or controls the business operation 104714
of another member of the group. In the case of corporations with 104715
stock, one corporation owns or controls another if it owns more 104716
than fifty per cent of the other corporation's common stock with 104717
voting rights. 104718

(b) "Fractional owner" means a person that owns or possesses 104719
at least a one-sixteenth interest in a program aircraft and has 104720
entered into the agreements described in division ~~(KKK)~~(DDD)(1)(e) 104721
of this section. 104722

(c) "Fractional ownership program aircraft" or "program 104723
aircraft" means a turbojet aircraft that is owned or possessed by 104724
a fractional owner and that has been included in a dry-lease 104725
aircraft interchange arrangement and agreement under divisions 104726
~~(KKK)~~(DDD)(1)(d) and (e) of this section, or an aircraft a program 104727
manager owns or possesses primarily for use in a fractional 104728
aircraft ownership program. 104729

(d) "Management services" means administrative and aviation 104730
support services furnished under a fractional aircraft ownership 104731

program in accordance with a management services agreement under 104732
division ~~(KKK)~~(DDD)(1)(e) of this section, and offered by the 104733
program manager to the fractional owners, including, at a minimum, 104734
the establishment and implementation of safety guidelines; the 104735
coordination of the scheduling of the program aircraft and crews; 104736
program aircraft maintenance; program aircraft insurance; crew 104737
training for crews employed, furnished, or contracted by the 104738
program manager or the fractional owner; the satisfaction of 104739
record-keeping requirements; and the development and use of an 104740
operations manual and a maintenance manual for the fractional 104741
aircraft ownership program. 104742

(e) "Program manager" means the person that offers management 104743
services to fractional owners pursuant to a management services 104744
agreement under division ~~(KKK)~~(DDD)(1)(e) of this section. 104745

~~(LLL)~~(EEE) "Electronic publishing" means providing access to 104746
one or more of the following primarily for business customers, 104747
including the federal government or a state government or a 104748
political subdivision thereof, to conduct research: news; 104749
business, financial, legal, consumer, or credit materials; 104750
editorials, columns, reader commentary, or features; photos or 104751
images; archival or research material; legal notices, identity 104752
verification, or public records; scientific, educational, 104753
instructional, technical, professional, trade, or other literary 104754
materials; or other similar information which has been gathered 104755
and made available by the provider to the consumer in an 104756
electronic format. Providing electronic publishing includes the 104757
functions necessary for the acquisition, formatting, editing, 104758
storage, and dissemination of data or information that is the 104759
subject of a sale. 104760

~~(MMM)~~(FFF) "Medicaid health insuring corporation" means a 104761
health insuring corporation that holds a certificate of authority 104762
under Chapter 1751. of the Revised Code and is under contract with 104763

the department of ~~job and family services~~ medicaid pursuant to 104764
section ~~5111.17~~ 5167.10 of the Revised Code. 104765

~~(NNN)~~(GGG) "Managed care premium" means any premium, 104766
capitation, or other payment a medicaid health insuring 104767
corporation receives for providing or arranging for the provision 104768
of health care services to its members or enrollees residing in 104769
this state. 104770

~~(OOO)~~(HHH) "Captive deer" means deer and other cervidae that 104771
have been legally acquired, or their offspring, that are privately 104772
owned for agricultural or farming purposes. 104773

~~(PPP)~~(III) "Gift card" means a document, card, certificate, 104774
or other record, whether tangible or intangible, that may be 104775
redeemed by a consumer for a dollar value when making a purchase 104776
of tangible personal property or services. 104777

(JJJ) "Specified digital product" means an electronically 104778
transferred digital audiovisual work, digital audio work, or 104779
digital book. 104780

As used in division (JJJ) of this section: 104781

(1) "Digital audiovisual work" means a series of related 104782
images that, when shown in succession, impart an impression of 104783
motion, together with accompanying sounds, if any. 104784

(2) "Digital audio work" means a work that results from the 104785
fixation of a series of musical, spoken, or other sounds, 104786
including digitized sound files that are downloaded onto a device 104787
and that may be used to alert the customer with respect to a 104788
communication. 104789

(3) "Digital book" means a work that is generally recognized 104790
in the ordinary and usual sense as a book. 104791

(4) "Electronically transferred" means obtained by the 104792
purchaser by means other than tangible storage media. 104793

(KKK) "Insurance company" means every corporation, association, and society engaged in the business of insurance of any character, or engaged in the business of entering into contracts substantially amounting to insurance of any character, or of indemnifying or guaranteeing against loss or damage, or acting as surety on bonds or undertakings. "Insurance company" also includes any health insuring corporation as defined in section 1751.01 of the Revised Code. 104794
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(LLL) "Insurance" includes, but is not limited to, life insurance, credit life insurance, credit accident and health insurance, sickness and accident insurance, health insurance, casualty insurance, motor vehicle insurance, and property insurance. 104802
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(MMM) "Medical and health care services" means services provided to an individual by a professionally trained and licensed medical practitioner or other provider who plays an active role in the diagnosis, treatment, or care of patients. "Medical and health care services" includes services provided in a hospital, clinic, doctor or dentist office, laboratory, or any other location where patient care is provided. "Medical and health care services" includes the provision of drugs by a pharmacist, patient care by nursing home staff, and in-home care or companionship by a provider engaged to sustain the health and well-being of individuals with diminished physical or mental capacity. 104807
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(NNN) "Social assistance services" means welfare activities organized by a private individual or entity for the purpose of improving the well-being or quality of life of an individual, group, or community. As used in this division, "welfare activities" includes, but is not limited to, teaching, adoption services, foster care placement services, services that improve the quality of life of elderly or disabled persons, clinical psychological and psychiatric counseling services, substance abuse 104818
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counseling, vocational rehabilitation services, crisis 104826
intervention services, the collection, distribution, and delivery 104827
of free or reduced-cost goods such as food or clothing to the 104828
needy or to victims of natural disasters, and similar services. 104829

(OOO) "Adult and child day-care services" means services that 104830
involve attending to the needs of children or adults who require 104831
assistance with daily life activities, including services provided 104832
by an individual related to the child or adult by blood, marriage, 104833
or adoption. 104834

(PPP) "Educational services" means the services enumerated in 104835
sector 61 of the North American industry classification manual 104836
published by the United States office of management and budget in 104837
the executive office of the president. 104838

(OOO) "Intangible property" means personal property that has 104839
value but that cannot be seen, weighed, measured, felt, or 104840
touched. "Intangible property" includes, but is not limited to, 104841
trademarks, copyrights, patents, franchises, and licenses. 104842
"Intangible property" does not include interest, gains, or 104843
dividends received from the sale or exchange of a financial 104844
instrument. 104845

(RRR) "Financial instrument" means stock, notes, bonds, and 104846
debentures traded on a national securities exchange, margin stock 104847
as defined in 12 C.F.R. 221.2, commercial paper, negotiable 104848
certificates of deposit, bankers' acceptances, and shares in a 104849
money market or mutual fund that issues shares in which banks may 104850
perfect a security interest. A "financial instrument" may be 104851
denominated in a foreign currency that is freely convertible to 104852
United States dollars. "Financial instrument" does not include 104853
mortgages. 104854

Sec. 5739.011. (A) As used in this section: 104855

(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale and, solely for the purposes of division (B)(12) of this section, a person who meets all the qualifications of that division.

(2) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.

(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

(6) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or preproduction storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

(B) For purposes of division (B)(42)(g) of section 5739.02 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following:

(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation;	104887 104888 104889
(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person;	104890 104891 104892 104893 104894 104895 104896 104897
(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;	104898 104899 104900
(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;	104901 104902 104903 104904 104905
(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;	104906 104907 104908 104909
(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;	104910 104911 104912
(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;	104913 104914 104915
(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and	104916 104917

fuel consumed in, producing or extracting those substances; 104918
machinery, equipment, and other tangible personal property used to 104919
treat, filter, pump, or otherwise make the substance suitable for 104920
use in the manufacturing operation; and machinery and equipment 104921
used for, and fuel consumed in, producing electricity for use in 104922
the manufacturing operation; 104923

(9) Machinery, equipment, and other tangible personal 104924
property used to transport or transmit electricity, coke, gas, 104925
water, steam, or similar substances used in the manufacturing 104926
operation from the point of generation, if produced by the 104927
manufacturer, or from the point where the substance enters the 104928
manufacturing facility, if purchased by the manufacturer, to the 104929
manufacturing operation; 104930

(10) Machinery, equipment, and other tangible personal 104931
property that treats, filters, cools, refines, or otherwise 104932
renders water, steam, acid, oil, solvents, or similar substances 104933
used in the manufacturing operation reusable, provided that the 104934
substances are intended for reuse and not for disposal, sale, or 104935
transportation from the manufacturing facility; 104936

(11) Parts, components, and repair and installation services 104937
for items described in division (B) of this section; 104938

(12) Machinery and equipment, detergents, supplies, solvents, 104939
and any other tangible personal property located at a 104940
manufacturing facility that are used in the process of removing 104941
soil, dirt, or other contaminants from, or otherwise preparing in 104942
a suitable condition for use, towels, linens, articles of 104943
clothing, floor mats, mop heads, or other similar items, to be 104944
supplied to a consumer as part of laundry and dry cleaning 104945
services as defined in ~~division (BB)~~ of section 5739.01 of the 104946
Revised Code, only when the towels, linens, articles of clothing, 104947
floor mats, mop heads, or other similar items belong to the 104948
provider of the services; 104949

(13) Equipment and supplies used to clean processing equipment that is part of a continuous manufacturing operation to produce milk, ice cream, yogurt, cheese, and similar dairy products for human consumption.

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(C) For purposes of division (B)(42)(g) of section 5739.02 of the Revised Code, the "thing transferred" does not include any of the following:

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(1) Tangible personal property or services used in administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions;

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(2) Tangible personal property or services used in storing raw materials or parts prior to the commencement of the manufacturing operation or used to handle or store a completed product, including storage that actively maintains a completed product in a marketable state or form;

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(3) Tangible personal property or services used to handle or store scrap or waste intended for disposal, sale, or other disposition, other than reuse in the manufacturing operation at the same manufacturing facility;

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(4) Tangible personal property that is or is to be incorporated into realty;

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(5) Machinery, equipment, and other tangible personal property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur;

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(6) Tangible personal property or services used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a

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continuous manufacturing operation; 104981

(7) Tangible personal property used to store fuel, water, 104982
solvents, acid, oil, or similar items consumed in the 104983
manufacturing operation; 104984

(8) Except as provided in division (B)(13) of this section, 104985
machinery, equipment, and other tangible personal property or 104986
services used to clean, repair, or maintain real or personal 104987
property in the manufacturing facility; 104988

(9) Motor vehicles registered for operation on public 104989
highways. 104990

(D) For purposes of division (B)(42)(g) of section 5739.02 of 104991
the Revised Code, if the "thing transferred" is a machine used by 104992
a manufacturer in both a taxable and an exempt manner, it shall be 104993
totally taxable or totally exempt from taxation based upon its 104994
quantified primary use. If the "things transferred" are fungibles, 104995
they shall be taxed based upon the proportion of the fungibles 104996
used in a taxable manner. 104997

Sec. 5739.02. For the purpose of providing revenue with which 104998
to meet the needs of the state, for the use of the general revenue 104999
fund of the state, for the purpose of securing a thorough and 105000
efficient system of common schools throughout the state, for the 105001
purpose of affording revenues, in addition to those from general 105002
property taxes, permitted under constitutional limitations, and 105003
from other sources, for the support of local governmental 105004
functions, and for the purpose of reimbursing the state for the 105005
expense of administering this chapter, an excise tax is hereby 105006
levied on each retail sale made in this state. 105007

(A)(1) The tax shall be collected as provided in section 105008
5739.025 of the Revised Code. The rate of the tax shall be five 105009
~~and one-half~~ per cent. The tax applies and is collectible when the 105010

sale is made, regardless of the time when the price is paid or delivered. 105011
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(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft. 105013
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A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a 105035
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sham transaction. 105043

(3) Except as provided in division (A)(2) of this section, in 105044
the case of a sale, the price of which consists in whole or in 105045
part of the lease or rental of tangible personal property, the tax 105046
shall be measured by the installments of that lease or rental. 105047

(4) In the case of a sale of a physical fitness facility 105048
service or recreation and sports club service, the price of which 105049
consists in whole or in part of a membership for the receipt of 105050
the benefit of the service, the tax applicable to the sale shall 105051
be measured by the installments thereof. 105052

(B) The tax does not apply to the following: 105053

(1) Sales to the state or any of its political subdivisions, 105054
or to any other state or its political subdivisions if the laws of 105055
that state exempt from taxation sales made to this state and its 105056
political subdivisions; 105057

(2) Sales of food for human consumption off the premises 105058
where sold; 105059

(3) Sales of food sold to students only in a cafeteria, 105060
dormitory, fraternity, or sorority maintained in a private, 105061
public, or parochial school, college, or university; 105062

(4) Sales of newspapers ~~and of magazine subscriptions~~ and 105063
sales or transfers of magazines distributed as controlled 105064
circulation publications; 105065

(5) The furnishing, preparing, or serving of meals without 105066
charge by an employer to an employee provided the employer records 105067
the meals as part compensation for services performed or work 105068
done; 105069

(6) Sales of motor fuel upon receipt, use, distribution, or 105070
sale of which in this state a tax is imposed by the law of this 105071
state, but this exemption shall not apply to the sale of motor 105072

fuel on which a refund of the tax is allowable under division (A) 105073
of section 5735.14 of the Revised Code; and the tax commissioner 105074
may deduct the amount of tax levied by this section applicable to 105075
the price of motor fuel when granting a refund of motor fuel tax 105076
pursuant to division (A) of section 5735.14 of the Revised Code 105077
and shall cause the amount deducted to be paid into the general 105078
revenue fund of this state; 105079

(7) Sales of natural gas by a natural gas company, of water 105080
by a water-works company, or of steam by a heating company, if in 105081
each case the thing sold is delivered to consumers through pipes 105082
or conduits, and all sales of communications services by a 105083
telegraph company, all terms as defined in section 5727.01 of the 105084
Revised Code, and sales of electricity delivered through wires; 105085

(8) Casual sales by a person, or auctioneer employed directly 105086
by the person to conduct such sales, except as to such sales of 105087
motor vehicles, watercraft or outboard motors required to be 105088
titled under section 1548.06 of the Revised Code, watercraft 105089
documented with the United States coast guard, snowmobiles, and 105090
all-purpose vehicles as defined in section 4519.01 of the Revised 105091
Code; 105092

(9)(a) Sales of services or tangible personal property, other 105093
than motor vehicles, mobile homes, and manufactured homes, by 105094
churches, organizations exempt from taxation under section 105095
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 105096
organizations operated exclusively for charitable purposes as 105097
defined in division (B)(12) of this section, provided that the 105098
number of days on which such tangible personal property or 105099
services, other than items never subject to the tax, are sold does 105100
not exceed six in any calendar year, except as otherwise provided 105101
in division (B)(9)(b) of this section. If the number of days on 105102
which such sales are made exceeds six in any calendar year, the 105103
church or organization shall be considered to be engaged in 105104

business and all subsequent sales by it shall be subject to the 105105
tax. In counting the number of days, all sales by groups within a 105106
church or within an organization shall be considered to be sales 105107
of that church or organization. 105108

(b) The limitation on the number of days on which tax-exempt 105109
sales may be made by a church or organization under division 105110
(B)(9)(a) of this section does not apply to sales made by student 105111
clubs and other groups of students of a primary or secondary 105112
school, or a parent-teacher association, booster group, or similar 105113
organization that raises money to support or fund curricular or 105114
extracurricular activities of a primary or secondary school. 105115

(c) Divisions (B)(9)(a) and (b) of this section do not apply 105116
to sales by a noncommercial educational radio or television 105117
broadcasting station. 105118

(10) Sales not within the taxing power of this state under 105119
the Constitution of the United States; 105120

(11) ~~Except for transactions that are sales under division~~ 105121
~~(B)(3)(r) of section 5739.01 of the Revised Code, the~~ 105122
~~transportation of persons or property, unless the transportation~~ 105123
~~is by a private investigation and security service~~ Any transfer or 105124
lease of tangible personal property between the state and a 105125
successful proposer in accordance with sections 126.60 to 126.605 105126
of the Revised Code, provided the property is part of a project as 105127
defined in section 126.60 of the Revised Code and the state 105128
retains ownership of the project or part thereof that is being 105129
transferred or leased, between the state and JobsOhio in 105130
accordance with section 4313.02 of the Revised Code; 105131

(12) Sales of tangible personal property or services to 105132
churches, to organizations exempt from taxation under section 105133
501(c)(3) of the Internal Revenue Code of 1986, and to any other 105134
nonprofit organizations operated exclusively for charitable 105135

purposes in this state, no part of the net income of which inures 105136
to the benefit of any private shareholder or individual, and no 105137
substantial part of the activities of which consists of carrying 105138
on propaganda or otherwise attempting to influence legislation; 105139
sales to offices administering one or more homes for the aged or 105140
one or more hospital facilities exempt under section 140.08 of the 105141
Revised Code; and sales to organizations described in division (D) 105142
of section 5709.12 of the Revised Code. 105143

"Charitable purposes" means the relief of poverty; the 105144
improvement of health through the alleviation of illness, disease, 105145
or injury; the operation of an organization exclusively for the 105146
provision of professional, laundry, printing, and purchasing 105147
services to hospitals or charitable institutions; the operation of 105148
a home for the aged, as defined in section 5701.13 of the Revised 105149
Code; the operation of a radio or television broadcasting station 105150
that is licensed by the federal communications commission as a 105151
noncommercial educational radio or television station; the 105152
operation of a nonprofit animal adoption service or a county 105153
humane society; the promotion of education by an institution of 105154
learning that maintains a faculty of qualified instructors, 105155
teaches regular continuous courses of study, and confers a 105156
recognized diploma upon completion of a specific curriculum; the 105157
operation of a parent-teacher association, booster group, or 105158
similar organization primarily engaged in the promotion and 105159
support of the curricular or extracurricular activities of a 105160
primary or secondary school; the operation of a community or area 105161
center in which presentations in music, dramatics, the arts, and 105162
related fields are made in order to foster public interest and 105163
education therein; the production of performances in music, 105164
dramatics, and the arts; or the promotion of education by an 105165
organization engaged in carrying on research in, or the 105166
dissemination of, scientific and technological knowledge and 105167
information primarily for the public. 105168

Nothing in this division shall be deemed to exempt sales to 105169
any organization for use in the operation or carrying on of a 105170
trade or business, or sales to a home for the aged for use in the 105171
operation of independent living facilities as defined in division 105172
(A) of section 5709.12 of the Revised Code. 105173

(13) Building and construction materials and services sold to 105174
construction contractors for incorporation into a structure or 105175
improvement to real property under a construction contract with 105176
this state or a political subdivision of this state, or with the 105177
United States government or any of its agencies; building and 105178
construction materials and services sold to construction 105179
contractors for incorporation into a structure or improvement to 105180
real property that are accepted for ownership by this state or any 105181
of its political subdivisions, or by the United States government 105182
or any of its agencies at the time of completion of the structures 105183
or improvements; building and construction materials sold to 105184
construction contractors for incorporation into a horticulture 105185
structure or livestock structure for a person engaged in the 105186
business of horticulture or producing livestock; building 105187
materials and services sold to a construction contractor for 105188
incorporation into a house of public worship or religious 105189
education, or a building used exclusively for charitable purposes 105190
under a construction contract with an organization whose purpose 105191
is as described in division (B)(12) of this section; building 105192
materials and services sold to a construction contractor for 105193
incorporation into a building under a construction contract with 105194
an organization exempt from taxation under section 501(c)(3) of 105195
the Internal Revenue Code of 1986 when the building is to be used 105196
exclusively for the organization's exempt purposes; building and 105197
construction materials sold for incorporation into the original 105198
construction of a sports facility under section 307.696 of the 105199
Revised Code; building and construction materials and services 105200
sold to a construction contractor for incorporation into real 105201

property outside this state if such materials and services, when 105202
sold to a construction contractor in the state in which the real 105203
property is located for incorporation into real property in that 105204
state, would be exempt from a tax on sales levied by that state; 105205
and, until one calendar year after the construction of a 105206
convention center that qualifies for property tax exemption under 105207
section 5709.084 of the Revised Code is completed, building and 105208
construction materials and services sold to a construction 105209
contractor for incorporation into the real property comprising 105210
that convention center; 105211

(14) Sales of ships or vessels or rail rolling stock used or 105212
to be used principally in interstate or foreign commerce, and 105213
repairs, alterations, fuel, and lubricants for such ships or 105214
vessels or rail rolling stock; 105215

(15) Sales to persons primarily engaged in any of the 105216
activities mentioned in division (B)(42)(a), (g), or (h) of this 105217
section, to persons engaged in making retail sales, or to persons 105218
who purchase for sale from a manufacturer tangible personal 105219
property that was produced by the manufacturer in accordance with 105220
specific designs provided by the purchaser, of packages, including 105221
material, labels, and parts for packages, and of machinery, 105222
equipment, and material for use primarily in packaging tangible 105223
personal property produced for sale, including any machinery, 105224
equipment, and supplies used to make labels or packages, to 105225
prepare packages or products for labeling, or to label packages or 105226
products, by or on the order of the person doing the packaging, or 105227
sold at retail. "Packages" includes bags, baskets, cartons, 105228
crates, boxes, cans, bottles, bindings, wrappings, and other 105229
similar devices and containers, but does not include motor 105230
vehicles or bulk tanks, trailers, or similar devices attached to 105231
motor vehicles. "Packaging" means placing in a package. Division 105232
(B)(15) of this section does not apply to persons engaged in 105233

highway transportation for hire. 105234

(16) Sales of food to persons using supplemental nutrition 105235
assistance program benefits to purchase the food. As used in this 105236
division, "food" has the same meaning as in 7 U.S.C. 2012 and 105237
federal regulations adopted pursuant to the Food and Nutrition Act 105238
of 2008. 105239

(17) Sales to persons engaged in farming, agriculture, 105240
horticulture, or floriculture, of tangible personal property for 105241
use or consumption primarily in the production by farming, 105242
agriculture, horticulture, or floriculture of other tangible 105243
personal property for use or consumption primarily in the 105244
production of tangible personal property for sale by farming, 105245
agriculture, horticulture, or floriculture; or material and parts 105246
for incorporation into any such tangible personal property for use 105247
or consumption in production; and of tangible personal property 105248
for such use or consumption in the conditioning or holding of 105249
products produced by and for such use, consumption, or sale by 105250
persons engaged in farming, agriculture, horticulture, or 105251
floriculture, except where such property is incorporated into real 105252
property; 105253

(18) Sales of drugs for a human being that may be dispensed 105254
only pursuant to a prescription; insulin as recognized in the 105255
official United States pharmacopoeia; urine and blood testing 105256
materials when used by diabetics or persons with hypoglycemia to 105257
test for glucose or acetone; hypodermic syringes and needles when 105258
used by diabetics for insulin injections; epoetin alfa when 105259
purchased for use in the treatment of persons with medical 105260
disease; hospital beds when purchased by hospitals, nursing homes, 105261
or other medical facilities; and medical oxygen and medical 105262
oxygen-dispensing equipment when purchased by hospitals, nursing 105263
homes, or other medical facilities; 105264

(19) Sales of prosthetic devices, durable medical equipment 105265

for home use, or mobility enhancing equipment, when made pursuant 105266
to a prescription and when such devices or equipment are for use 105267
by a human being. 105268

(20) Sales of emergency and fire protection vehicles and 105269
equipment to nonprofit organizations for use solely in providing 105270
fire protection and emergency services, including trauma care and 105271
emergency medical services, for political subdivisions of the 105272
state; 105273

(21) Sales of tangible personal property manufactured in this 105274
state, if sold by the manufacturer in this state to a retailer for 105275
use in the retail business of the retailer outside of this state 105276
and if possession is taken from the manufacturer by the purchaser 105277
within this state for the sole purpose of immediately removing the 105278
same from this state in a vehicle owned by the purchaser; 105279

(22) Sales of services provided by the state or any of its 105280
political subdivisions, agencies, instrumentalities, institutions, 105281
or authorities, or by governmental entities of the state or any of 105282
its political subdivisions, agencies, instrumentalities, 105283
institutions, or authorities; 105284

(23) Sales of motor vehicles to nonresidents of this state 105285
under the circumstances described in division (B) of section 105286
5739.029 of the Revised Code; 105287

(24) Sales to persons engaged in the preparation of eggs for 105288
sale of tangible personal property used or consumed directly in 105289
such preparation, including such tangible personal property used 105290
for cleaning, sanitizing, preserving, grading, sorting, and 105291
classifying by size; packages, including material and parts for 105292
packages, and machinery, equipment, and material for use in 105293
packaging eggs for sale; and handling and transportation equipment 105294
and parts therefor, except motor vehicles licensed to operate on 105295
public highways, used in intraplant or interplant transfers or 105296

shipment of eggs in the process of preparation for sale, when the 105297
plant or plants within or between which such transfers or 105298
shipments occur are operated by the same person. "Packages" 105299
includes containers, cases, baskets, flats, fillers, filler flats, 105300
cartons, closure materials, labels, and labeling materials, and 105301
"packaging" means placing therein. 105302

(25)(a) Sales of water to a consumer for residential use; 105303

(b) Sales of water by a nonprofit corporation engaged 105304
exclusively in the treatment, distribution, and sale of water to 105305
consumers, if such water is delivered to consumers through pipes 105306
or tubing. 105307

(26) Fees charged for inspection or reinspection of motor 105308
vehicles under section 3704.14 of the Revised Code; 105309

(27) Sales to persons licensed to conduct a food service 105310
operation pursuant to section 3717.43 of the Revised Code, of 105311
tangible personal property primarily used directly for the 105312
following: 105313

(a) To prepare food for human consumption for sale; 105314

(b) To preserve food that has been or will be prepared for 105315
human consumption for sale by the food service operator, not 105316
including tangible personal property used to display food for 105317
selection by the consumer; 105318

(c) To clean tangible personal property used to prepare or 105319
serve food for human consumption for sale. 105320

(28) Sales of animals by nonprofit animal adoption services 105321
or county humane societies; 105322

(29) Sales of services to a corporation described in division 105323
(A) of section 5709.72 of the Revised Code, and sales of tangible 105324
personal property that qualifies for exemption from taxation under 105325
section 5709.72 of the Revised Code; 105326

(30) Sales and installation of agricultural land tile, as 105327
defined in division (B)~~(5)~~(7)(a) of section 5739.01 of the Revised 105328
Code; 105329

(31) Sales and erection or installation of portable grain 105330
bins, as defined in division (B)~~(5)~~(7)(b) of section 5739.01 of 105331
the Revised Code; 105332

(32) The sale, lease, repair, and maintenance of, parts for, 105333
or items attached to or incorporated in, motor vehicles that are 105334
primarily used for transporting tangible personal property 105335
belonging to others by a person engaged in highway transportation 105336
for hire, except for packages and packaging used for the 105337
transportation of tangible personal property; 105338

(33) Sales to the state headquarters of any veterans' 105339
organization in this state that is either incorporated and issued 105340
a charter by the congress of the United States or is recognized by 105341
the United States veterans administration, for use by the 105342
headquarters; 105343

(34) Sales to a telecommunications service vendor, mobile 105344
telecommunications service vendor, or satellite broadcasting 105345
service vendor of tangible personal property and services used 105346
directly and primarily in transmitting, receiving, switching, or 105347
recording any interactive, one- or two-way electromagnetic 105348
communications, including voice, image, data, and information, 105349
through the use of any medium, including, but not limited to, 105350
poles, wires, cables, switching equipment, computers, and record 105351
storage devices and media, and component parts for the tangible 105352
personal property. The exemption provided in this division shall 105353
be in lieu of all other exemptions under division (B)(42)(a) or 105354
(n) of this section to which the vendor may otherwise be entitled, 105355
based upon the use of the thing purchased in providing the 105356
telecommunications, mobile telecommunications, or satellite 105357
broadcasting service. 105358

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

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(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section;

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(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

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(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

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For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

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(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

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(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary

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or a secondary school in this state for use by that individual in 105390
preparation for teaching elementary or secondary school students; 105391

(38) Sales to a professional racing team of any of the 105392
following: 105393

(a) Motor racing vehicles; 105394

(b) Repair services for motor racing vehicles; 105395

(c) Items of property that are attached to or incorporated in 105396
motor racing vehicles, including engines, chassis, and all other 105397
components of the vehicles, and all spare, replacement, and 105398
rebuilt parts or components of the vehicles; except not including 105399
tires, consumable fluids, paint, and accessories consisting of 105400
instrumentation sensors and related items added to the vehicle to 105401
collect and transmit data by means of telemetry and other forms of 105402
communication. 105403

(39) Sales of used manufactured homes and used mobile homes, 105404
as defined in section 5739.0210 of the Revised Code, made on or 105405
after January 1, 2000; 105406

(40) Sales of tangible personal property and services to a 105407
provider of electricity used or consumed directly and primarily in 105408
generating, transmitting, or distributing electricity for use by 105409
others, including property that is or is to be incorporated into 105410
and will become a part of the consumer's production, transmission, 105411
or distribution system and that retains its classification as 105412
tangible personal property after incorporation; fuel or power used 105413
in the production, transmission, or distribution of electricity; 105414
energy conversion equipment as defined in section 5727.01 of the 105415
Revised Code; and tangible personal property and services used in 105416
the repair and maintenance of the production, transmission, or 105417
distribution system, including only those motor vehicles as are 105418
specially designed and equipped for such use. The exemption 105419
provided in this division shall be in lieu of all other exemptions 105420

in division (B)(42)(a) or (n) of this section to which a provider 105421
of electricity may otherwise be entitled based on the use of the 105422
tangible personal property or service purchased in generating, 105423
transmitting, or distributing electricity. 105424

(41) Sales to a person providing services under division 105425
(B)~~(3)~~~~(4)~~(5) of section 5739.01 of the Revised Code of tangible 105426
personal property and services used directly and primarily in 105427
providing taxable services under that section. 105428

(42) Sales where the purpose of the purchaser is to do any of 105429
the following: 105430

(a) To incorporate the thing transferred as a material or a 105431
part into tangible personal property to be produced for sale by 105432
manufacturing, assembling, processing, or refining; or to use or 105433
consume the thing transferred directly in producing tangible 105434
personal property for sale by mining, including, without 105435
limitation, the extraction from the earth of all substances that 105436
are classed geologically as minerals, production of crude oil and 105437
natural gas, or directly in the rendition of a public utility 105438
service, except that the sales tax levied by this section shall be 105439
collected upon all meals, drinks, and food for human consumption 105440
sold when transporting persons. Persons engaged in rendering 105441
services in the exploration for, and production of, crude oil and 105442
natural gas for others are deemed engaged directly in the 105443
exploration for, and production of, crude oil and natural gas. 105444
This paragraph does not exempt from "retail sale" or "sales at 105445
retail" the sale of tangible personal property that is to be 105446
incorporated into a structure or improvement to real property. 105447

(b) To hold the thing transferred as security for the 105448
performance of an obligation of the vendor; 105449

(c) To resell, hold, use, or consume the thing transferred as 105450
evidence of a contract of insurance; 105451

(d) To use or consume the thing directly in commercial fishing;	105452 105453
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	105454 105455 105456 105457
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	105458 105459 105460 105461 105462
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	105463 105464 105465
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	105466 105467 105468 105469 105470 105471
(i) To use the thing transferred as qualified research and development equipment;	105472 105473
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As	105474 105475 105476 105477 105478 105479 105480 105481 105482

used in this division, "affiliated group" has the same meaning as 105483
in division ~~(B)(3)(e)(DDD)~~ of section 5739.01 of the Revised Code 105484
and "direct marketing" has the same meaning as in division (B)(35) 105485
of this section. 105486

(k) To use or consume the thing transferred to fulfill a 105487
contractual obligation incurred by a warrantor pursuant to a 105488
warranty provided as a part of the price of the tangible personal 105489
property sold or by a vendor of a warranty, maintenance or service 105490
contract, or similar agreement ~~the provision of which is defined~~ 105491
~~as a sale under division (B)(7) of section 5739.01 of the Revised~~ 105492
~~Code;~~ 105493

(l) To use or consume the thing transferred in the production 105494
of a newspaper for distribution to the public; 105495

(m) To use tangible personal property to perform a service 105496
~~listed in division (B)(3) of section 5739.01 of the Revised Code,~~ 105497
if the property is or is to be permanently transferred to the 105498
consumer of the service as an integral part of the performance of 105499
the service; 105500

(n) To use or consume the thing transferred primarily in 105501
producing tangible personal property for sale by farming, 105502
agriculture, horticulture, or floriculture. Persons engaged in 105503
rendering farming, agriculture, horticulture, or floriculture 105504
services for others are deemed engaged primarily in farming, 105505
agriculture, horticulture, or floriculture. This paragraph does 105506
not exempt from "retail sale" or "sales at retail" the sale of 105507
tangible personal property that is to be incorporated into a 105508
structure or improvement to real property. 105509

(o) To use or consume the thing transferred in acquiring, 105510
formatting, editing, storing, and disseminating data or 105511
information by electronic publishing. 105512

~~As used in division (B)(42) of this section, "thing" includes~~ 105513

~~all transactions included in divisions (B)(3)(a), (b), and (c) of
section 5739.01 of the Revised Code.~~ 105514
105515

(43) Sales conducted through a coin operated device that 105516
activates vacuum equipment or equipment that dispenses water, 105517
whether or not in combination with soap or other cleaning agents 105518
or wax, to the consumer for the consumer's use on the premises in 105519
washing, cleaning, or waxing a motor vehicle, provided no other 105520
personal property or personal service is provided as part of the 105521
transaction. 105522

(44) Sales of replacement and modification parts for engines, 105523
airframes, instruments, and interiors in, and paint for, aircraft 105524
used primarily in a fractional aircraft ownership program, and 105525
sales of services for the repair, modification, and maintenance of 105526
such aircraft, and machinery, equipment, and supplies primarily 105527
used to provide those services. 105528

(45) Sales of telecommunications service that is used 105529
directly and primarily to perform the functions of a call center. 105530
As used in this division, "call center" means any physical 105531
location where telephone calls are placed or received in high 105532
volume for the purpose of making sales, marketing, customer 105533
service, technical support, or other specialized business 105534
activity, and that employs at least fifty individuals that engage 105535
in call center activities on a full-time basis, or sufficient 105536
individuals to fill fifty full-time equivalent positions. 105537

(46) Sales by a telecommunications service vendor of 900 105538
service to a subscriber. This division does not apply to 105539
information services, ~~as defined in division (FF) of section~~ 105540
~~5739.01 of the Revised Code.~~ "Information services" means 105541
providing conversation, giving consultation or advice, playing or 105542
making a voice or other recording, making or keeping a record of 105543
the number of callers, and any other service provided to a 105544
consumer by means of a nine hundred telephone call, except when 105545

the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity. 105546
105547

(47) Sales of value-added non-voice data service. This 105548
division does not apply to any similar service that is not 105549
otherwise a telecommunications service. 105550

(48)(a) Sales of machinery, equipment, and software to a 105551
qualified direct selling entity for use in a warehouse or 105552
distribution center primarily for storing, transporting, or 105553
otherwise handling inventory that is held for sale to independent 105554
salespersons who operate as direct sellers and that is held 105555
primarily for distribution outside this state; 105556

(b) As used in division (B)(48)(a) of this section: 105557

(i) "Direct seller" means a person selling consumer products 105558
to individuals for personal or household use and not from a fixed 105559
retail location, including selling such product at in-home product 105560
demonstrations, parties, and other one-on-one selling. 105561

(ii) "Qualified direct selling entity" means an entity 105562
selling to direct sellers at the time the entity enters into a tax 105563
credit agreement with the tax credit authority pursuant to section 105564
122.17 of the Revised Code, provided that the agreement was 105565
entered into on or after January 1, 2007. Neither contingencies 105566
relevant to the granting of, nor later developments with respect 105567
to, the tax credit shall impair the status of the qualified direct 105568
selling entity under division (B)(48) of this section after 105569
execution of the tax credit agreement by the tax credit authority. 105570

(c) Division (B)(48) of this section is limited to machinery, 105571
equipment, and software first stored, used, or consumed in this 105572
state within the period commencing June 24, 2008, and ending on 105573
the date that is five years after that date. 105574

(49) Sales of materials, parts, equipment, or engines used in 105575
the repair or maintenance of aircraft or avionics systems of such 105576

aircraft, and sales of repair, remodeling, replacement, or 105577
maintenance services in this state performed on aircraft or on an 105578
aircraft's avionics, engine, or component materials or parts. As 105579
used in division (B)(49) of this section, "aircraft" means 105580
aircraft of more than six thousand pounds maximum certified 105581
takeoff weight or used exclusively in general aviation. 105582

(50) Sales of full flight simulators that are used for pilot 105583
or flight-crew training, sales of repair or replacement parts or 105584
components, and sales of repair or maintenance services for such 105585
full flight simulators. "Full flight simulator" means a replica of 105586
a specific type, or make, model, and series of aircraft cockpit. 105587
It includes the assemblage of equipment and computer programs 105588
necessary to represent aircraft operations in ground and flight 105589
conditions, a visual system providing an out-of-the-cockpit view, 105590
and a system that provides cues at least equivalent to those of a 105591
three-degree-of-freedom motion system, and has the full range of 105592
capabilities of the systems installed in the device as described 105593
in appendices A and B of part 60 of chapter 1 of title 14 of the 105594
Code of Federal Regulations. 105595

~~(51) Any transfer or lease of tangible personal property 105596
between the state and a successful proposer in accordance with 105597
sections 126.60 to 126.605 of the Revised Code, provided the 105598
property is part of a project as defined in section 126.60 of the 105599
Revised Code and the state retains ownership of the project or 105600
part thereof that is being transferred or leased, between the 105601
state and JobsOhio in accordance with section 4313.02 of the 105602
Revised Code. 105603~~

(C) For the purpose of the proper administration of this 105604
chapter, and to prevent the evasion of the tax, it is presumed 105605
that all sales made in this state are subject to the tax until the 105606
contrary is established. 105607

(D) The levy of this tax on retail sales of recreation and 105608

sports club service shall not prevent a municipal corporation from 105609
levying any tax on recreation and sports club dues or on any 105610
income generated by recreation and sports club dues. 105611

(E) The tax collected by the vendor from the consumer under 105612
this chapter is not part of the price, but is a tax collection for 105613
the benefit of the state, and of counties levying an additional 105614
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 105615
Code and of transit authorities levying an additional sales tax 105616
pursuant to section 5739.023 of the Revised Code. Except for the 105617
discount authorized under section 5739.12 of the Revised Code and 105618
the effects of any rounding pursuant to section 5703.055 of the 105619
Revised Code, no person other than the state or such a county or 105620
transit authority shall derive any benefit from the collection or 105621
payment of the tax levied by this section or section 5739.021, 105622
5739.023, or 5739.026 of the Revised Code. 105623

Sec. 5739.021. ~~(A) For the purpose of providing additional 105624
general revenues for the county or supporting criminal and 105625
administrative justice services in the county, or both, and to pay 105626
the expenses of administering such levy, Any additional tax levied 105627
by a county under this section that is in effect on August 31, 105628
2013, is hereby repealed, effective September 1, 2013. 105629~~

(B) Beginning September 1, 2013, and continuing until 105630
otherwise changed by a board of county commissioners as allowed in 105631
division (C) of this section, the rate of additional tax imposed 105632
under this section in a county is the rate prescribed for that 105633
county by section 5739.0211 of the Revised Code. 105634

(C) Beginning July 1, 2016, the board of county commissioners 105635
of any county may levy a tax at the rate of not more than ~~one per 105636
cent~~ the rate reported by the tax commissioner under division (G) 105637
of section 5739.0211 of the Revised Code at any multiple of 105638
~~one-fourth~~ five one-hundredths of one per cent upon every retail 105639

sale made in the county, except sales of watercraft and outboard 105640
motors required to be titled pursuant to Chapter 1548. of the 105641
Revised Code and sales of motor vehicles, and may increase the 105642
rate of an existing tax to not more than ~~one per cent~~ the rate 105643
reported by the tax commissioner under division (G) of section 105644
5739.0211 of the Revised Code at any multiple of ~~one-fourth~~ five 105645
one-hundredths of one per cent to provide revenue for any one or 105646
more of the purposes described in divisions (C)(1) to (11) of this 105647
section and to pay the expenses of administering the tax. 105648

(1) The county general fund. 105649

(2) The payment of bonds or notes issued in anticipation of 105650
bonds issued by a convention facilities authority established by 105651
the board of county commissioners under Chapter 351. of the 105652
Revised Code and to operate the convention facilities authority, 105653
but only if the board of county commissioners has adopted a 105654
resolution under section 351.02 of the Revised Code creating the 105655
convention facilities authority. 105656

(3) A transit authority operating in the county. 105657

(4) Permanent improvements within the county to be 105658
distributed by the community improvements board in accordance with 105659
section 307.283 of the Revised Code and to pay principal, 105660
interest, and premium on bonds issued under section 307.284 of the 105661
Revised Code, but only if the board of county commissioners has 105662
adopted a resolution under section 307.283 of the Revised Code 105663
creating the community improvements board. 105664

(5) The acquisition, construction, equipping, or repair of 105665
any specific permanent improvement or any class or group of 105666
permanent improvements, which improvement or class or group of 105667
improvements shall be enumerated in the resolution required by 105668
division (D) of this section, and to pay principal, interest, 105669
premium, and other costs associated with the issuance of bonds or 105670

notes in anticipation of bonds issued pursuant to Chapter 133. of 105671
the Revised Code for the acquisition, construction, equipping, or 105672
repair of the specific permanent improvement or class or group of 105673
permanent improvements. 105674

(6) The implementation and operation of a 9-1-1 system in the 105675
county. If the tax is levied or the rate increased exclusively for 105676
such purpose, the tax shall not be levied or the rate increased 105677
for more than five years. At the end of the last year the tax is 105678
levied or the rate increased, any balance remaining in the special 105679
fund established for such purpose shall remain in that fund and be 105680
used exclusively for such purpose until the fund is completely 105681
expended, and, notwithstanding section 5705.16 of the Revised 105682
Code, the board of county commissioners shall not petition for the 105683
transfer of money from such special fund, and the tax commissioner 105684
shall not approve such a petition. 105685

If the tax is levied or the rate increased for such purpose 105686
for more than five years, the board of county commissioners also 105687
shall levy the tax or increase the rate of the tax for one or more 105688
of the purposes described in divisions (C)(1) to (5) of this 105689
section and shall prescribe the method for allocating the revenues 105690
from the tax each year in the manner required by division (J) of 105691
this section. 105692

Pursuant to section 755.171 of the Revised Code, a board of 105693
county commissioners may pledge and contribute revenue from a tax 105694
levied for the purpose of division (C)(6) of this section to the 105695
payment of debt charges on bonds issued under section 755.17 of 105696
the Revised Code. 105697

(7) The operation or maintenance of a detention facility as 105698
defined in section 2921.01 of the Revised Code. 105699

(8) The acquisition of agricultural easements as defined in 105700
section 5301.67 of the Revised Code; to pay principal, interest, 105701

and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county. 105702
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(9) The provision of ambulance, paramedic, or other emergency medical services. 105705
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(10) The construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code. 105707
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As used in division (C)(10) of this section: 105710

(a) "Sports facility" means a facility intended to house major league professional athletic teams. 105711
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(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment. 105713
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(11) Supporting criminal and administrative justice services in the county. If the tax is levied for this purpose, the board shall proceed as required by division (K) of this section. 105715
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(D) The tax authorized by division (C) of this section shall be levied and the rate increased pursuant to a resolution of the board of county commissioners, except that no resolution to increase the rate may be adopted by the board from July 1, 2013, through June 30, 2016. The resolution shall state the purpose or purposes for which the tax is to be levied and the number of years for which the tax is to be levied, or that it is for a continuing period of time. If the tax is to be levied for the purpose of providing additional general revenues and for the purpose of supporting criminal and administrative justice services, the resolution shall state the rate or amount of the tax to be apportioned to each such purpose. The rate or amount may be different for each year the tax is to be levied, but the rates or amounts actually apportioned each year shall not be different from that stated in the resolution for that year. If the resolution is 105718
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~~adopted as an emergency measure necessary for the immediate
preservation of the public peace, health, or safety, it must
receive an affirmative vote of all of the members of the board of
county commissioners and shall state the reasons for such
necessity. The board shall deliver a certified copy of the
resolution to the tax commissioner, not later than the sixty fifth
day prior to the date on which the tax is to become effective,
which shall be the first day of the calendar quarter more than one
of the purposes set forth in divisions (C)(1) to (11) of this
section, the board of county commissioners shall establish in the
resolution the method for allocating revenue from the tax among
those purposes as prescribed by division (J) of this section. If
the resolution is required to be submitted to the electors of the
county under division (E)(1) of this section, the resolution shall
state the date of the election at which the proposal is to be
submitted to the electors.~~

Prior to the adoption of any resolution under this section,
the board of county commissioners shall conduct two public
hearings on the resolution, the second hearing to be not less than
three nor more than ten days after the first. Notice of the date,
time, and place of the hearings shall be given by publication in a
newspaper of general circulation in the county, or as provided in
section 7.16 of the Revised Code, once a week on the same day of
the week for two consecutive weeks, the second publication being
not less than ten nor more than thirty days prior to the first
hearing.

~~Except as provided in division (B)(3) of this section, the
resolution shall be subject to a referendum as provided in
sections 305.31 to 305.41 of the Revised Code.~~

If (E) A resolution adopted under division (D) of this
section takes effect as provided under division (E)(1) or (2) of
this section. For the purposes of division (E) of this section, a

copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and exact reproduction of the original resolution. 105765
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(1) If the tax is exclusively for one of the purposes set forth in divisions (C)(2) to (9) of this section or is for one of those purposes and for any other purpose set forth in divisions (C)(1) to (11) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax. The board of county commissioners shall certify a copy of the resolution to the board of elections of the county at least ninety days before the date of the general or special election at which the question is to be placed on the ballot. Upon certifying the copy to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the question to be submitted to electors. If the question is approved by a majority of the electors voting on it, the tax shall take effect on the first day of the calendar quarter that begins at least sixty-five days after the day the board of county commissioners and the tax commissioner receive from the board of elections the certification of the results of the election, subject to division (F)(4) of this section. 105768
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(2) If the tax is for one or both of the purposes set forth in divisions (C)(1) and (11) of this section, the resolution may go into effect without the prior approval of a majority of electors voting on the question as provided in division (E)(2)(a) or (b) of this section. 105786
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(a) If the resolution is not adopted as an emergency measure, the resolution must receive an affirmative vote by a majority of the board of county commissioners and shall take effect on the first day of the calendar quarter that begins at least sixty-five days after the board delivers a certified copy of the resolution to the tax commissioner, except as provided under division (F)(4) 105791
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of this section, unless a referendum petition is filed as provided 105797
in division (F)(1) of this section or unless the resolution 105798
directs the board of elections to submit the question of the tax 105799
to the electors of the county as provided under division (F)(2) of 105800
this section. 105801

(b) If the resolution is adopted as an emergency measure 105802
necessary for the immediate preservation of the public peace, 105803
health, or safety, the resolution must receive an affirmative vote 105804
of all the members of the board of county commissioners and shall 105805
state the reasons for that necessity. The resolution shall take 105806
effect on the first day of the calendar quarter that begins at 105807
least sixty-five days after the board of county commissioners 105808
delivers a certified copy of the resolution to the tax 105809
commissioner, except as provided under division (F)(4) of this 105810
section, unless a referendum petition is filed as provided in 105811
division (F)(1) of this section or unless the resolution directs 105812
the board of elections to submit the question of repealing the tax 105813
to the electors of the county as provided under division (F)(3) of 105814
this section. 105815

(F)(1) A resolution adopted under this section may be 105816
submitted to a referendum under sections 305.31 to 305.41 of the 105817
Revised Code unless the resolution is required to be submitted to 105818
electors or the resolution directs the board of elections to 105819
submit the question of the tax or repealing the tax to electors as 105820
provided in division (E)(1) or (2) of this section. 105821

If a petition for a referendum is filed, the county auditor 105822
with whom the petition was filed shall, within five days, notify 105823
the board of county commissioners and the tax commissioner of the 105824
filing of the petition by certified mail. If the board of 105825
elections with which the petition was filed declares the petition 105826
invalid, the board of elections, within five days, shall notify 105827
the board of county commissioners and the tax commissioner of that 105828

declaration by certified mail. If the petition is declared to be 105829
invalid, the effective date of the tax or increased rate of tax 105830
levied by this section shall be the first day of a calendar 105831
quarter following the expiration of sixty-five days from the date 105832
the commissioner receives notice from the board of elections that 105833
the petition is invalid. 105834

~~(B)(1)(2)~~ A resolution that is not adopted as an emergency 105835
measure as described in division (E)(2)(a) of this section may 105836
direct the board of elections to submit the question of levying 105837
the tax or increasing the rate of tax to the electors of the 105838
county at a special election held on the date specified by the 105839
board of county commissioners in the resolution, provided that the 105840
election occurs not less than ninety days after a certified copy 105841
of such resolution is transmitted to the board of elections and 105842
the election is not held in February or August of any year. Upon 105843
transmission of the resolution to the board of elections, the 105844
board of county commissioners shall notify the tax commissioner in 105845
writing of the levy question to be submitted to the electors. No 105846
resolution adopted under this division shall go into effect unless 105847
approved by a majority of those voting upon it, and, except as 105848
provided in division ~~(B)(3)~~(F)(4) of this section, shall become 105849
effective on the first day of a calendar quarter following the 105850
expiration of sixty-five days from the date the tax commissioner 105851
receives notice from the board of elections of the affirmative 105852
vote. 105853

~~(2)(3)~~ A resolution that is adopted as an emergency measure 105854
as described in division (E)(2)(b) of this section shall go into 105855
effect as provided in that division ~~(A) of this section~~, but may 105856
direct the board of elections to submit the question of repealing 105857
the tax or increase in the rate of the tax to the electors of the 105858
county at the next general election in the county occurring not 105859
less than ninety days after a certified copy of the resolution is 105860

transmitted to the board of elections. Upon transmission of the 105861
resolution to the board of elections, the board of county 105862
commissioners shall notify the tax commissioner in writing of the 105863
levy question to be submitted to the electors. The ballot question 105864
shall be the same as that prescribed in section 5739.022 of the 105865
Revised Code. The board of elections shall notify the board of 105866
county commissioners and the tax commissioner of the result of the 105867
election immediately after the result has been declared. If a 105868
majority of the qualified electors voting on the question of 105869
repealing the tax or increase in the rate of the tax vote for 105870
repeal of the tax or repeal of the increase, the board of county 105871
commissioners, on the first day of a calendar quarter following 105872
the expiration of sixty-five days after the date the board and tax 105873
commissioner receive notice of the result of the election, shall, 105874
in the case of a repeal of the tax, cease to levy the tax, or, in 105875
the case of a repeal of an increase in the rate of the tax, cease 105876
to levy the increased rate and levy the tax at the rate at which 105877
it was imposed immediately prior to the increase in rate. 105878

~~(3)~~(4) If a vendor makes a sale in this state by printed 105879
catalog and the consumer computed the tax on the sale based on 105880
local rates published in the catalog, any tax levied or repealed 105881
or rate changed under this section shall not apply to such a sale 105882
until the first day of a calendar quarter following the expiration 105883
of one hundred twenty days from the date of notice by the tax 105884
commissioner pursuant to division ~~(H)~~(L) of this section. 105885

~~(C)~~(G) If a resolution is rejected at a referendum or if a 105886
resolution adopted after January 1, 1982, as an emergency measure 105887
is repealed by the electors pursuant to division ~~(B)~~(2)(F)(3) of 105888
this section or section 5739.022 of the Revised Code, then for one 105889
year after the date of the election at which the resolution was 105890
rejected or repealed the board of county commissioners may not 105891
adopt any resolution authorized by this section as an emergency 105892

measure. 105893

~~(D)~~(H) The board of county commissioners, at any time while a 105894
tax levied under this section is in effect, may by resolution 105895
reduce the rate at which the tax is levied to a lower rate 105896
authorized by this section. Any reduction in the rate at which the 105897
tax is levied shall be made effective on the first day of a 105898
calendar quarter next following the sixty-fifth day after a 105899
certified copy of the resolution is delivered to the tax 105900
commissioner. 105901

~~(E)~~(I) The tax on every retail sale subject to a tax levied 105902
pursuant to this section shall be in addition to the tax levied by 105903
section 5739.02 of the Revised Code and any tax levied pursuant to 105904
section 5739.023 ~~or 5739.026~~ of the Revised Code. 105905

A county that levies a tax pursuant to this section shall 105906
levy a tax at the same rate pursuant to section 5741.021 of the 105907
Revised Code. 105908

The additional tax levied by the county shall be collected 105909
pursuant to section 5739.025 of the Revised Code. If the 105910
additional tax or some portion thereof is levied for the purpose 105911
of criminal and administrative justice services, the revenue from 105912
the tax, or the amount or rate apportioned to that purpose, shall 105913
be credited to a special fund created in the county treasury for 105914
receipt of that revenue. 105915

Any tax levied pursuant to this section is subject to the 105916
exemptions provided in section 5739.02 of the Revised Code and ~~in~~ 105917
~~addition shall not be applicable~~ does not apply to sales not 105918
within the taxing power of a county under the Constitution of the 105919
United States or the Ohio Constitution. 105920

~~(F) For purposes of this section, a copy of a resolution is 105921
"certified" when it contains a written statement attesting that 105922
the copy is a true and exact reproduction of the original 105923~~

resolution. 105924

~~(G)~~(J)(1) If revenue from a tax levied under division (C) of this section is to be used for more than one of the purposes set forth in divisions (C)(1) to (11) of this section, the board of county commissioners shall establish in the resolution levying that tax the method that will be used to determine the amount or proportion of the revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (J)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax. 105925
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(2) If, during the life of the tax, the board of county commissioners intends to amend the allocation method established under division (J)(1) of this section for any year, the board shall hold a public hearing on the proposed amendment. An amendment to the allocation that would reduce the amount of revenue to be received by any of the entities receiving revenue under the existing allocation method may not take effect unless the amendment is approved by the governing board of each such entity, and any amendment is subject to divisions (J)(2)(a), (b), (c), and (d) of this section. In the case of a tax that is levied for a continuing period of time, the board may not amend the allocation method for any year before the sixth year the tax is in effect. 105941
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(a) If any of the revenue is for a convention facilities authority and is pledged by the authority for the payment of 105954
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convention facilities authority revenue bonds for as long as such 105956
bonds are outstanding, no reduction of the authority's allocation 105957
of the tax shall be made for any year except to the extent that 105958
the reduced authority allocation, when combined with the 105959
authority's other revenues pledged for that purpose, is sufficient 105960
to meet the debt service requirements for that year on such bonds. 105961

(b) If any of the revenue is pledged by the county for the 105962
payment of bonds or notes described in division (C)(4) or (5) of 105963
this section, no reduction of the county's or the community 105964
improvements board's allocation of the tax shall be made for any 105965
year for as long as such bonds or notes are outstanding, except to 105966
the extent that the reduced county or community improvements board 105967
allocation is sufficient to meet the debt service requirements for 105968
that year on such bonds or notes. 105969

(c) If any of the revenue is for a transit authority and is 105970
pledged by the authority for the payment of revenue bonds issued 105971
under section 306.37 of the Revised Code, no reduction of the 105972
authority's allocation of tax shall be made for any year for as 105973
long as such bonds are outstanding, except to the extent that the 105974
authority's reduced allocation, when combined with the authority's 105975
other revenues pledged for that purpose, is sufficient to meet the 105976
debt service requirements for that year on such bonds. 105977

(d) If any of the revenue is pledged by the county for the 105978
payment of bonds or notes issued under section 133.60 of the 105979
Revised Code, no reduction of the county's allocation of the tax 105980
shall be made for any year for so long as the bonds or notes are 105981
outstanding, except to the extent that the reduced county 105982
allocation is sufficient to meet the debt service requirements for 105983
that year on the bonds or notes. 105984

(K) If a board of commissioners intends to adopt a resolution 105985
to levy a tax in whole or in part for the purpose of criminal and 105986
administrative justice services, the board shall prepare and make 105987

available at the first public hearing at which the resolution is considered a statement containing the following information:

(1) For each of the two preceding fiscal years, the amount of expenditures made by the county from the county general fund for the purpose of criminal and administrative justice services;

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division ~~(E)~~(I) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

~~(H)~~(L) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division ~~(A)~~(E) or ~~(D)~~(H) of this section, or from the board of elections of a notice of the results of an election ~~required by~~ under division ~~(A)~~ ~~or~~

~~(E)(1) or (2)~~ (E) or (F)(2) or (3) of this section, the tax 106019
commissioner shall provide notice of a tax rate change in a manner 106020
that is reasonably accessible to all affected vendors. The 106021
commissioner shall provide this notice at least sixty days prior 106022
to the effective date of the rate change. The commissioner, by 106023
rule, may establish the method by which notice will be provided. 106024

~~(I)~~(M) As used in this section, "criminal and administrative 106025
justice services" means the exercise by the county sheriff of all 106026
powers and duties vested in that office by law; the exercise by 106027
the county prosecuting attorney of all powers and duties vested in 106028
that office by law; the exercise by any court in the county of all 106029
powers and duties vested in that court; the exercise by the clerk 106030
of the court of common pleas, any clerk of a municipal court 106031
having jurisdiction throughout the county, or the clerk of any 106032
county court of all powers and duties vested in the clerk by law 106033
except, in the case of the clerk of the court of common pleas, the 106034
titling of motor vehicles or watercraft pursuant to Chapter 1548. 106035
or 4505. of the Revised Code; the exercise by the county coroner 106036
of all powers and duties vested in that office by law; making 106037
payments to any other public agency or a private, nonprofit 106038
agency, the purposes of which in the county include the diversion, 106039
adjudication, detention, or rehabilitation of criminals or 106040
juvenile offenders; the operation and maintenance of any detention 106041
facility, as defined in section 2921.01 of the Revised Code; and 106042
the construction, acquisition, equipping, or repair of such a 106043
detention facility, including the payment of any debt charges 106044
incurred in the issuance of securities pursuant to Chapter 133. of 106045
the Revised Code for the purpose of constructing, acquiring, 106046
equipping, or repairing such a facility. 106047

Sec. 5739.023. ~~(A)(1) For~~ Any additional tax levied by a 106048
transit authority under this section that is in effect on August 106049
31, 2013, is hereby repealed, effective September 1, 2013. 106050

(B) Beginning September 1, 2013, and continuing until 106051
otherwise changed by a transit authority as allowed in division 106052
(C) of this section, the rate of additional tax imposed under this 106053
section in the territory of a transit authority is the rate 106054
prescribed by section 5739.0211 of the Revised Code. 106055

(C)(1) Beginning July 1, 2016, for the purpose of providing 106056
additional general revenues for a transit authority and paying the 106057
expenses of administering such levy, any transit authority as 106058
defined in ~~division (U)~~ of section 5739.01 of the Revised Code may 106059
levy a tax upon every retail sale made in the territory of the 106060
transit authority, except sales of watercraft and outboard motors 106061
required to be titled pursuant to Chapter 1548. of the Revised 106062
Code and sales of motor vehicles, at a rate of not more than ~~one~~ 106063
~~and one half per cent at any multiple of one fourth of one per~~ 106064
~~cent and may increase the existing rate of tax to not more than~~ 106065
~~one and one half per cent~~ the rate reported by the tax 106066
commissioner under division (G) of section 5739.0211 of the 106067
Revised Code at any multiple of ~~one fourth~~ five one-hundredths of 106068
one per cent. The tax authorized by division (C) of this section 106069
shall be levied and the rate increased pursuant to a resolution of 106070
the legislative authority of the transit authority and a certified 106071
copy of the resolution shall be delivered by the fiscal officer to 106072
the board of elections as provided in section 3505.071 of the 106073
Revised Code and to the tax commissioner. The resolution shall 106074
specify the number of years for which the tax is to be in effect 106075
or that the tax is for a continuing period of time, and the date 106076
of the election on the question of the tax pursuant to section 106077
306.70 of the Revised Code. The board of elections shall certify 106078
the results of the election to the transit authority and tax 106079
commissioner. 106080

(2) Except as provided in division ~~(C)~~(E) of this section, 106081
the tax levied by the resolution shall become effective on the 106082

first day of a calendar quarter next following the sixty-fifth day 106083
following the date the tax commissioner receives from the board of 106084
elections the certification of the results of the election on the 106085
question of the tax. 106086

~~(B)~~ (D) Except during the period beginning July 1, 2013, 106087
and ending June 30, 2016, the legislative authority may, at any 106088
time while the tax is in effect, by resolution fix the rate of the 106089
tax at any rate authorized by this section and not in excess of 106090
that approved by the voters pursuant to section 306.70 of the 106091
Revised Code. Except as provided in division ~~(C)~~ (E) of this 106092
section, any change in the rate of the tax shall be made effective 106093
on the first day of a calendar quarter next following the 106094
sixty-fifth day following the date the tax commissioner receives 106095
the certification of the resolution; provided, that in any case 106096
where bonds, or notes in anticipation of bonds, of a regional 106097
transit authority have been issued under section 306.40 of the 106098
Revised Code without a vote of the electors while the tax proposed 106099
to be reduced was in effect, the board of trustees of the regional 106100
transit authority shall continue to levy and collect under 106101
authority of the original election authorizing the tax a rate of 106102
tax that the board of trustees reasonably estimates will produce 106103
an amount in that year equal to the amount of principal of and 106104
interest on those bonds as is payable in that year. 106105

~~(C)~~ (E) Upon receipt from the board of elections of the 106106
certification of the results of the election required by division 106107
~~(A)~~ (C) of this section, or from the legislative authority of the 106108
certification of a resolution under division ~~(B)~~ (D) of this 106109
section, the tax commissioner shall provide notice of a tax rate 106110
change in a manner that is reasonably accessible to all affected 106111
vendors. The commissioner shall provide this notice at least sixty 106112
days prior to the effective date of the rate change. The 106113
commissioner, by rule, may establish the method by which notice 106114

will be provided. 106115

~~(D)~~(F) If a vendor makes a sale in this state by printed 106116
catalog and the consumer computed the tax on the sale based on 106117
local rates published in the catalog, any tax levied or rate 106118
changed under this section shall not apply to such a sale until 106119
the first day of a calendar quarter following the expiration of 106120
one hundred twenty days from the date of notice by the tax 106121
commissioner pursuant to division ~~(C)~~(E) of this section. 106122

~~(E)~~(G) The tax on every retail sale subject to a tax levied 106123
pursuant to this section is in addition to the tax levied by 106124
section 5739.02 of the Revised Code and any tax levied pursuant to 106125
section 5739.021 or 5739.026 of the Revised Code. 106126

~~(F)~~(H) The additional tax levied by the transit authority 106127
shall be collected pursuant to section 5739.025 of the Revised 106128
Code. 106129

~~(G)~~(I) Any tax levied pursuant to this section is subject to 106130
the exemptions provided in section 5739.02 of the Revised Code and 106131
in addition shall not be applicable to sales not within the taxing 106132
power of a transit authority under the constitution of the United 106133
States or the constitution of this state. 106134

~~(H)~~(J) The rate of a tax levied under this section is subject 106135
to reduction under section 5739.028 of the Revised Code, if a 106136
ballot question is approved by voters pursuant to that section. 106137

Sec. 5739.026. (A) A The authority granted under this section 106138
terminates on the effective date of this section as amended by 106139
....B. ... of the 130th general assembly. Any tax levied by a 106140
county under this section that is in effect on August 31, 2013, is 106141
hereby repealed, effective September 1, 2013. 106142

A board of county commissioners may levy a tax of one-fourth 106143
or one-half of one per cent on every retail sale in the county, 106144

except sales of watercraft and outboard motors required to be 106145
titled pursuant to Chapter 1548. of the Revised Code and sales of 106146
motor vehicles, and may increase an existing rate of one-fourth of 106147
one per cent to one-half of one per cent, to pay the expenses of 106148
administering the tax and, except as provided in division (A)(6) 106149
of this section, for any one or more of the following purposes 106150
provided that the aggregate levy for all such purposes does not 106151
exceed one-half of one per cent: 106152

(1) To provide additional revenues for the payment of bonds 106153
or notes issued in anticipation of bonds issued by a convention 106154
facilities authority established by the board of county 106155
commissioners under Chapter 351. of the Revised Code and to 106156
provide additional operating revenues for the convention 106157
facilities authority; 106158

(2) To provide additional revenues for a transit authority 106159
operating in the county; 106160

(3) To provide additional revenue for the county's general 106161
fund; 106162

(4) To provide additional revenue for permanent improvements 106163
within the county to be distributed by the community improvements 106164
board in accordance with section 307.283 and to pay principal, 106165
interest, and premium on bonds issued under section 307.284 of the 106166
Revised Code; 106167

(5) To provide additional revenue for the acquisition, 106168
construction, equipping, or repair of any specific permanent 106169
improvement or any class or group of permanent improvements, which 106170
improvement or class or group of improvements shall be enumerated 106171
in the resolution required by division (D) of this section, and to 106172
pay principal, interest, premium, and other costs associated with 106173
the issuance of bonds or notes in anticipation of bonds issued 106174
pursuant to Chapter 133. of the Revised Code for the acquisition, 106175

construction, equipping, or repair of the specific permanent 106176
improvement or class or group of permanent improvements; 106177

(6) To provide revenue for the implementation and operation 106178
of a 9-1-1 system in the county. If the tax is levied or the rate 106179
increased exclusively for such purpose, the tax shall not be 106180
levied or the rate increased for more than five years. At the end 106181
of the last year the tax is levied or the rate increased, any 106182
balance remaining in the special fund established for such purpose 106183
shall remain in that fund and be used exclusively for such purpose 106184
until the fund is completely expended, and, notwithstanding 106185
section 5705.16 of the Revised Code, the board of county 106186
commissioners shall not petition for the transfer of money from 106187
such special fund, and the tax commissioner shall not approve such 106188
a petition. 106189

If the tax is levied or the rate increased for such purpose 106190
for more than five years, the board of county commissioners also 106191
shall levy the tax or increase the rate of the tax for one or more 106192
of the purposes described in divisions (A)(1) to (5) of this 106193
section and shall prescribe the method for allocating the revenues 106194
from the tax each year in the manner required by division (C) of 106195
this section. 106196

(7) To provide additional revenue for the operation or 106197
maintenance of a detention facility, as that term is defined under 106198
division (F) of section 2921.01 of the Revised Code; 106199

(8) To provide revenue to finance the construction or 106200
renovation of a sports facility, but only if the tax is levied for 106201
that purpose in the manner prescribed by section 5739.028 of the 106202
Revised Code. 106203

As used in division (A)(8) of this section: 106204

(a) "Sports facility" means a facility intended to house 106205
major league professional athletic teams. 106206

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners

shall conduct two public hearings on the resolution, the second 106238
hearing to be no fewer than three nor more than ten days after the 106239
first. Notice of the date, time, and place of the hearings shall 106240
be given by publication in a newspaper of general circulation in 106241
the county, or as provided in section 7.16 of the Revised Code, 106242
once a week on the same day of the week for two consecutive weeks. 106243
The second publication shall be no fewer than ten nor more than 106244
thirty days prior to the first hearing. Except as provided in 106245
division (E) of this section, the resolution shall be subject to a 106246
referendum as provided in sections 305.31 to 305.41 of the Revised 106247
Code. If the resolution is adopted as an emergency measure 106248
necessary for the immediate preservation of the public peace, 106249
health, or safety, it must receive an affirmative vote of all of 106250
the members of the board of county commissioners and shall state 106251
the reasons for the necessity. 106252

If the tax is for more than one of the purposes set forth in 106253
divisions (A)(1) to (7), (9), and (10) of this section, or is 106254
exclusively for one of the purposes set forth in division (A)(1), 106255
(2), (4), (5), (6), (7), (9), or (10) of this section, the 106256
resolution shall not go into effect unless it is approved by a 106257
majority of the electors voting on the question of the tax. 106258

(B) The board of county commissioners shall adopt a 106259
resolution under section 351.02 of the Revised Code creating the 106260
convention facilities authority, or under section 307.283 of the 106261
Revised Code creating the community improvements board, before 106262
adopting a resolution levying a tax for the purpose of a 106263
convention facilities authority under division (A)(1) of this 106264
section or for the purpose of a community improvements board under 106265
division (A)(4) of this section. 106266

(C)(1) If the tax is to be used for more than one of the 106267
purposes set forth in divisions (A)(1) to (7), (9), and (10) of 106268
this section, the board of county commissioners shall establish 106269

the method that will be used to determine the amount or proportion 106270
of the tax revenue received by the county during each year that 106271
will be distributed for each of those purposes, including, if 106272
applicable, provisions governing the reallocation of a convention 106273
facilities authority's allocation if the authority is dissolved 106274
while the tax is in effect. The allocation method may provide that 106275
different proportions or amounts of the tax shall be distributed 106276
among the purposes in different years, but it shall clearly 106277
describe the method that will be used for each year. Except as 106278
otherwise provided in division (C)(2) of this section, the 106279
allocation method established by the board is not subject to 106280
amendment during the life of the tax. 106281

(2) Subsequent to holding a public hearing on the proposed 106282
amendment, the board of county commissioners may amend the 106283
allocation method established under division (C)(1) of this 106284
section for any year, if the amendment is approved by the 106285
governing board of each entity whose allocation for the year would 106286
be reduced by the proposed amendment. In the case of a tax that is 106287
levied for a continuing period of time, the board may not so amend 106288
the allocation method for any year before the sixth year that the 106289
tax is in effect. 106290

(a) If the additional revenues provided to the convention 106291
facilities authority are pledged by the authority for the payment 106292
of convention facilities authority revenue bonds for as long as 106293
such bonds are outstanding, no reduction of the authority's 106294
allocation of the tax shall be made for any year except to the 106295
extent that the reduced authority allocation, when combined with 106296
the authority's other revenues pledged for that purpose, is 106297
sufficient to meet the debt service requirements for that year on 106298
such bonds. 106299

(b) If the additional revenues provided to the county are 106300
pledged by the county for the payment of bonds or notes described 106301

in division (A)(4) or (5) of this section, for as long as such 106302
bonds or notes are outstanding, no reduction of the county's or 106303
the community improvements board's allocation of the tax shall be 106304
made for any year, except to the extent that the reduced county or 106305
community improvements board allocation is sufficient to meet the 106306
debt service requirements for that year on such bonds or notes. 106307

(c) If the additional revenues provided to the transit 106308
authority are pledged by the authority for the payment of revenue 106309
bonds issued under section 306.37 of the Revised Code, for as long 106310
as such bonds are outstanding, no reduction of the authority's 106311
allocation of tax shall be made for any year, except to the extent 106312
that the authority's reduced allocation, when combined with the 106313
authority's other revenues pledged for that purpose, is sufficient 106314
to meet the debt service requirements for that year on such bonds. 106315

(d) If the additional revenues provided to the county are 106316
pledged by the county for the payment of bonds or notes issued 106317
under section 133.60 of the Revised Code, for so long as the bonds 106318
or notes are outstanding, no reduction of the county's allocation 106319
of the tax shall be made for any year, except to the extent that 106320
the reduced county allocation is sufficient to meet the debt 106321
service requirements for that year on the bonds or notes. 106322

(D)(1) The resolution levying the tax or increasing the rate 106323
of tax shall state the rate of the tax or the rate of the 106324
increase; the purpose or purposes for which it is to be levied; 106325
the number of years for which it is to be levied or that it is for 106326
a continuing period of time; the allocation method required by 106327
division (C) of this section; and if required to be submitted to 106328
the electors of the county under division (A) of this section, the 106329
date of the election at which the proposal shall be submitted to 106330
the electors of the county, which shall be not less than ninety 106331
days after the certification of a copy of the resolution to the 106332
board of elections and, if the tax is to be levied exclusively for 106333

the purpose set forth in division (A)(3) of this section, shall 106334
not occur in February or August of any year. Upon certification of 106335
the resolution to the board of elections, the board of county 106336
commissioners shall notify the tax commissioner in writing of the 106337
levy question to be submitted to the electors. If approved by a 106338
majority of the electors, the tax shall become effective on the 106339
first day of a calendar quarter next following the sixty-fifth day 106340
following the date the board of county commissioners and tax 106341
commissioner receive from the board of elections the certification 106342
of the results of the election, except as provided in division (E) 106343
of this section. 106344

(2)(a) A resolution specifying that the tax is to be used 106345
exclusively for the purpose set forth in division (A)(3) of this 106346
section that is not adopted as an emergency measure may direct the 106347
board of elections to submit the question of levying the tax or 106348
increasing the rate of the tax to the electors of the county at a 106349
special election held on the date specified by the board of county 106350
commissioners in the resolution, provided that the election occurs 106351
not less than ninety days after the resolution is certified to the 106352
board of elections and the election is not held in February or 106353
August of any year. Upon certification of the resolution to the 106354
board of elections, the board of county commissioners shall notify 106355
the tax commissioner in writing of the levy question to be 106356
submitted to the electors. No resolution adopted under division 106357
(D)(2)(a) of this section shall go into effect unless approved by 106358
a majority of those voting upon it and, except as provided in 106359
division (E) of this section, not until the first day of a 106360
calendar quarter following the expiration of sixty-five days from 106361
the date the tax commissioner receives notice from the board of 106362
elections of the affirmative vote. 106363

(b) A resolution specifying that the tax is to be used 106364
exclusively for the purpose set forth in division (A)(3) of this 106365

section that is adopted as an emergency measure shall become 106366
effective as provided in division (A) of this section, but may 106367
direct the board of elections to submit the question of repealing 106368
the tax or increase in the rate of the tax to the electors of the 106369
county at the next general election in the county occurring not 106370
less than ninety days after the resolution is certified to the 106371
board of elections. Upon certification of the resolution to the 106372
board of elections, the board of county commissioners shall notify 106373
the tax commissioner in writing of the levy question to be 106374
submitted to the electors. The ballot question shall be the same 106375
as that prescribed in section 5739.022 of the Revised Code. The 106376
board of elections shall notify the board of county commissioners 106377
and the tax commissioner of the result of the election immediately 106378
after the result has been declared. If a majority of the qualified 106379
electors voting on the question of repealing the tax or increase 106380
in the rate of the tax vote for repeal of the tax or repeal of the 106381
increase, the board of county commissioners, on the first day of a 106382
calendar quarter following the expiration of sixty-five days after 106383
the date the board and tax commissioner received notice of the 106384
result of the election, shall, in the case of a repeal of the tax, 106385
cease to levy the tax, or, in the case of a repeal of an increase 106386
in the rate of the tax, cease to levy the increased rate and levy 106387
the tax at the rate at which it was imposed immediately prior to 106388
the increase in rate. 106389

(c) A board of county commissioners, by resolution, may 106390
reduce the rate of a tax levied exclusively for the purpose set 106391
forth in division (A)(3) of this section to a lower rate 106392
authorized by this section. Any such reduction shall be made 106393
effective on the first day of the calendar quarter next following 106394
the sixty-fifth day after the tax commissioner receives a 106395
certified copy of the resolution from the board. 106396

(E) If a vendor makes a sale in this state by printed catalog 106397

and the consumer computed the tax on the sale based on local rates 106398
published in the catalog, any tax levied or repealed or rate 106399
changed under this section shall not apply to such a sale until 106400
the first day of a calendar quarter following the expiration of 106401
one hundred twenty days from the date of notice by the tax 106402
commissioner pursuant to division (G) of this section. 106403

(F) The tax levied pursuant to this section shall be in 106404
addition to the tax levied by section 5739.02 of the Revised Code 106405
and any tax levied pursuant to section 5739.021 or 5739.023 of the 106406
Revised Code. 106407

A county that levies a tax pursuant to this section shall 106408
levy a tax at the same rate pursuant to section 5741.023 of the 106409
Revised Code. 106410

The additional tax levied by the county shall be collected 106411
pursuant to section 5739.025 of the Revised Code. 106412

Any tax levied pursuant to this section is subject to the 106413
exemptions provided in section 5739.02 of the Revised Code and in 106414
addition shall not be applicable to sales not within the taxing 106415
power of a county under the Constitution of the United States or 106416
the Ohio Constitution. 106417

(G) Upon receipt from a board of county commissioners of a 106418
certified copy of a resolution required by division (A) of this 106419
section, or from the board of elections a notice of the results of 106420
an election required by division (D)(1), (2)(a), (b), or (c) of 106421
this section, the tax commissioner shall provide notice of a tax 106422
rate change in a manner that is reasonably accessible to all 106423
affected vendors. The commissioner shall provide this notice at 106424
least sixty days prior to the effective date of the rate change. 106425
The commissioner, by rule, may establish the method by which 106426
notice will be provided. 106427

Sec. 5739.027. (A) Notwithstanding sections 5739.02, 106428
5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 106429
5741.023 of the Revised Code, the tax due on the sale to a 106430
consumer who is a nonresident of this state of a watercraft or 106431
outboard motor required to be titled pursuant to Chapter 1548. of 106432
the Revised Code, or on the sale of a watercraft documented or to 106433
be documented with the United States coast guard, shall be the 106434
lesser of the combined tax rate in effect at the location of the 106435
vendor or the sales, use, or similar excise tax that the consumer 106436
would owe in the state of the consumer's intended titling, 106437
registration, or use of the watercraft or outboard motor, if all 106438
of the following apply: 106439

(1) The consumer immediately will remove the watercraft or 106440
outboard motor from this state for use outside this state; 106441

(2) The consumer will title or register the watercraft or 106442
outboard motor in another state, if such titling or registration 106443
is required; 106444

(3) The consumer will pay all applicable sales, use, or 106445
similar excise taxes due in the state of titling, registration, or 106446
use; 106447

(4) The state of titling, registration, or use grants a 106448
credit against its sales, use, or similar excise tax for tax paid 106449
to this state; 106450

(5) The consumer executes the affidavit specified in division 106451
(C) of this section. 106452

The vendor shall collect the tax and remit it to the state in 106453
the manner specified by the tax commissioner. 106454

(B) If all of the conditions specified in division (A) of 106455
this section exist, except that the state of titling, 106456
registration, or use does not grant a credit for sales or use tax 106457

paid to this state, or that the consumer's ownership or use of the 106458
watercraft or outboard motor is exempt or otherwise not taxable in 106459
such other state, the consumer may take title to and possession of 106460
the watercraft or outboard motor without payment of any sales or 106461
use tax to this state. 106462

(C) Every nonresident consumer who purchases a watercraft or 106463
outboard motor, as described in division (A) of this section, for 106464
immediate removal from this state shall execute an affidavit in 106465
triplicate, in such form as the tax commissioner specifies, 106466
affirming such facts and specifying the consumer's tax liability 106467
in the intended state of titling, registration, or use. The 106468
affidavit shall be given to the vendor. The vendor shall retain a 106469
copy of the affidavit and file another copy with the clerk of the 106470
court of common pleas if the vendor is procuring an Ohio title on 106471
behalf of the consumer. The original copy of the affidavit shall 106472
be filed with the tax commissioner in the manner prescribed by the 106473
tax commissioner. 106474

(D) If the vendor procures a title on behalf of the 106475
nonresident consumer from the clerk of the court of common pleas 106476
of the county where the vendor is located on the sale of a 106477
watercraft or outboard motor, the vendor shall file the affidavit 106478
specified in division (C) of this section with the clerk. The 106479
clerk shall issue the title without requiring payment of a sales 106480
or use tax. 106481

(E) If the watercraft or outboard motor is purchased by a 106482
corporation described in division (B)~~(6)~~(8) of section 5739.01 of 106483
the Revised Code, for purposes of this section the state of 106484
residence of the consumer shall be the state of residence of the 106485
principal shareholder. 106486

(F) For purposes of this section, the consideration received 106487
for watercraft trailers not required to be titled pursuant to 106488
Chapter 4505. of the Revised Code and other accessories, which are 106489

transferred to a nonresident consumer with the watercraft or 106490
outboard motor, is part of the price of the watercraft or outboard 106491
motor, provided that such consideration is included in the price 106492
of the watercraft or outboard motor as reported by the vendor. 106493
Tangible personal property sold separately to the nonresident 106494
consumer shall be taxed as otherwise provided in this chapter and 106495
Chapter 5741. of the Revised Code. 106496

(G) A vendor who in good faith accepts an affidavit provided 106497
by a nonresident consumer pursuant to division (C) of this section 106498
may rely upon the representations made in the affidavit. 106499

(H) All provisions of this chapter and of Chapter 5741. of 106500
the Revised Code that are not inconsistent with this section apply 106501
to transactions described in this section. 106502

(I) Any vendor who makes sales described in this section 106503
shall file with the tax commissioner any supplemental report or 106504
return the tax commissioner considers necessary for the efficient 106505
administration and enforcement of this section. 106506

Sec. 5739.029. (A) Notwithstanding sections 5739.02, 106507
5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 106508
5741.023 of the Revised Code, and except as otherwise provided in 106509
division (B) of this section, the tax due under this chapter on 106510
the sale of a motor vehicle required to be titled under Chapter 106511
4505. of the Revised Code by a motor vehicle dealer to a consumer 106512
that is a nonresident of this state shall be the lesser of the 106513
amount of tax that would be due under this chapter and Chapter 106514
5741. of the Revised Code if the total combined rate were six per 106515
cent, or the amount of tax that would be due to the state in which 106516
the consumer titles or registers the motor vehicle or to which the 106517
consumer removes the vehicle for use. 106518

(B) No tax is due under this section, any other section of 106519
this chapter, or Chapter 5741. of the Revised Code under any of 106520

the following circumstances: 106521

(1)(a) The consumer intends to immediately remove the motor 106522
vehicle from this state for use outside this state; 106523

(b) Upon removal of the motor vehicle from this state, the 106524
consumer intends to title or register the vehicle in another state 106525
if such titling or registration is required; 106526

(c) The consumer executes an affidavit as required under 106527
division (C) of this section affirming the consumer's intentions 106528
under divisions (B)(1)(a) and (b) of this section; and 106529

(d) The state in which the consumer titles or registers the 106530
motor vehicle or to which the consumer removes the vehicle for use 106531
provides an exemption under circumstances substantially similar to 106532
those described in division (B)(1) of this section. 106533

(2) The state in which the consumer titles or registers the 106534
motor vehicle or to which the consumer removes the vehicle for use 106535
does not provide a credit against its sales or use tax or similar 106536
excise tax for sales or use tax paid to this state. 106537

(3) The state in which the consumer titles or registers the 106538
motor vehicle or to which the consumer removes the vehicle for use 106539
does not impose a sales or use tax or similar excise tax on the 106540
ownership or use of motor vehicles. 106541

(C) Any nonresident consumer that purchases a motor vehicle 106542
from a motor vehicle dealer in this state under the circumstances 106543
described in divisions (B)(1)(a) and (b) of this section shall 106544
execute an affidavit affirming the intentions described in those 106545
divisions. The affidavit shall be executed in triplicate and in 106546
the form specified by the tax commissioner. The affidavit shall be 106547
given to the motor vehicle dealer. 106548

A motor vehicle dealer that accepts in good faith an 106549
affidavit presented under this division by a nonresident consumer 106550

may rely upon the representations made in the affidavit. 106551

(D) A motor vehicle dealer making a sale subject to the tax 106552
under division (A) of this section shall collect the tax due 106553
unless the sale is subject to the exception under division (B) of 106554
this section or unless the sale is not otherwise subject to taxes 106555
levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 106556
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code. In 106557
the case of a sale under the circumstances described in division 106558
(B)(1) of this section, the dealer shall retain one copy of the 106559
affidavit and file the original and the other copy with the clerk 106560
of the court of common pleas. If tax is due under division (A) of 106561
this section, the dealer shall remit the tax collected to the 106562
clerk at the time the dealer obtains the Ohio certificate of title 106563
in the name of the consumer as required under section 4505.06 of 106564
the Revised Code. The clerk shall forward the original affidavit 106565
to the tax commissioner in the manner prescribed by the 106566
commissioner. 106567

Unless a sale is excepted from taxation under division (B) of 106568
this section, upon receipt of an application for certificate of 106569
title a clerk of the court of common pleas shall collect the sales 106570
tax due under division (A) of this section. The clerk shall remit 106571
the tax collected to the tax commissioner in the manner prescribed 106572
by the commissioner. 106573

(E) If a motor vehicle is purchased by a corporation 106574
described in division (B)~~(6)~~(8) of section 5739.01 of the Revised 106575
Code, the state of residence of the consumer for the purposes of 106576
this section is the state of residence of the corporation's 106577
principal shareholder. 106578

(F) Any provision of this chapter or of Chapter 5741. of the 106579
Revised Code that is not inconsistent with this section applies to 106580
sales described in division (A) of this section. 106581

(G) As used in this section: 106582

(1) For the purposes of this section only, the sale or 106583
purchase of a motor vehicle does not include a lease or rental of 106584
a motor vehicle subject to division (A)(2) or (3) of section 106585
5739.02 or division (A)(2) or (3) of section 5741.02 of the 106586
Revised Code; 106587

(2) "State," except in reference to "this state," means any 106588
state, district, commonwealth, or territory of the United States 106589
and any province of Canada. 106590

Sec. 5739.0211. (A) For the period September 1, 2013, through 106591
March 31, 2015, the additional tax imposed in each county under 106592
section 5739.021 of the Revised Code shall be as follows: 106593

<u>County</u>	<u>Tax Rate</u>	<u>County</u>	<u>Tax Rate</u>	
<u>Adams</u>	<u>1.35%</u>	<u>Licking</u>	<u>1.20%</u>	106594
<u>Allen</u>	<u>0.80%</u>	<u>Logan</u>	<u>1.10%</u>	106595
<u>Ashland</u>	<u>1.00%</u>	<u>Lorain</u>	<u>0.60%</u>	106596
<u>Ashtabula</u>	<u>0.80%</u>	<u>Lucas</u>	<u>1.00%</u>	106597
<u>Athens</u>	<u>1.10%</u>	<u>Madison</u>	<u>1.00%</u>	106598
<u>Auglaize</u>	<u>1.20%</u>	<u>Mahoning</u>	<u>0.80%</u>	106599
<u>Belmont</u>	<u>1.20%</u>	<u>Marion</u>	<u>0.80%</u>	106600
<u>Brown</u>	<u>1.35%</u>	<u>Medina</u>	<u>0.80%</u>	106601
<u>Butler</u>	<u>0.60%</u>	<u>Meigs</u>	<u>1.35%</u>	106602
<u>Carroll</u>	<u>0.90%</u>	<u>Mercer</u>	<u>1.20%</u>	106603
<u>Champaign</u>	<u>1.20%</u>	<u>Miami</u>	<u>1.00%</u>	106604
<u>Clark</u>	<u>1.20%</u>	<u>Monroe</u>	<u>1.20%</u>	106605
<u>Clermont</u>	<u>0.80%</u>	<u>Montgomery</u>	<u>0.75%</u>	106606
<u>Clinton</u>	<u>1.20%</u>	<u>Morgan</u>	<u>1.35%</u>	106607
<u>Columbiana</u>	<u>1.20%</u>	<u>Morrow</u>	<u>1.35%</u>	106608
<u>Coshocton</u>	<u>1.20%</u>	<u>Muskingum</u>	<u>1.20%</u>	106609
<u>Crawford</u>	<u>1.20%</u>	<u>Noble</u>	<u>1.35%</u>	106610

<u>Cuyahoga</u>	<u>0.80%</u>	<u>Ottawa</u>	<u>1.00%</u>	106613
<u>Darke</u>	<u>1.20%</u>	<u>Paulding</u>	<u>1.20%</u>	106614
<u>Defiance</u>	<u>0.80%</u>	<u>Perry</u>	<u>1.35%</u>	106615
<u>Delaware</u>	<u>0.80%</u>	<u>Pickaway</u>	<u>1.20%</u>	106616
<u>Erie</u>	<u>0.65%</u>	<u>Pike</u>	<u>1.20%</u>	106617
<u>Fairfield</u>	<u>0.80%</u>	<u>Portage</u>	<u>0.80%</u>	106618
<u>Fayette</u>	<u>1.20%</u>	<u>Preble</u>	<u>1.20%</u>	106619
<u>Franklin</u>	<u>0.50%</u>	<u>Putnam</u>	<u>1.20%</u>	106620
<u>Fulton</u>	<u>1.20%</u>	<u>Richland</u>	<u>1.00%</u>	106621
<u>Gallia</u>	<u>1.00%</u>	<u>Ross</u>	<u>1.20%</u>	106622
<u>Geauga</u>	<u>0.75%</u>	<u>Sandusky</u>	<u>1.20%</u>	106623
<u>Greene</u>	<u>0.80%</u>	<u>Scioto</u>	<u>1.20%</u>	106624
<u>Guernsey</u>	<u>1.20%</u>	<u>Seneca</u>	<u>1.20%</u>	106625
<u>Hamilton</u>	<u>0.65%</u>	<u>Shelby</u>	<u>1.10%</u>	106626
<u>Hancock</u>	<u>0.75%</u>	<u>Stark</u>	<u>0.40%</u>	106627
<u>Hardin</u>	<u>1.35%</u>	<u>Summit</u>	<u>0.35%</u>	106628
<u>Harrison</u>	<u>1.35%</u>	<u>Trumbull</u>	<u>0.80%</u>	106629
<u>Henry</u>	<u>1.20%</u>	<u>Tuscarawas</u>	<u>0.80%</u>	106630
<u>Highland</u>	<u>1.20%</u>	<u>Union</u>	<u>1.00%</u>	106631
<u>Hocking</u>	<u>1.10%</u>	<u>Van Wert</u>	<u>1.20%</u>	106632
<u>Holmes</u>	<u>0.80%</u>	<u>Vinton</u>	<u>1.35%</u>	106633
<u>Huron</u>	<u>1.20%</u>	<u>Warren</u>	<u>0.65%</u>	106634
<u>Jackson</u>	<u>1.20%</u>	<u>Washington</u>	<u>1.20%</u>	106635
<u>Jefferson</u>	<u>1.20%</u>	<u>Wayne</u>	<u>0.60%</u>	106636
<u>Knox</u>	<u>0.80%</u>	<u>Williams</u>	<u>1.20%</u>	106637
<u>Lake</u>	<u>0.75%</u>	<u>Wood</u>	<u>0.75%</u>	106638
<u>Lawrence</u>	<u>1.35%</u>	<u>Wyandot</u>	<u>1.20%</u>	106639

(B) For the period beginning September 1, 2013, and ending 106640
March 31, 2015, the rate of tax levied in the territory of a 106641
transit authority under section 5739.023 of the Revised Code shall 106642
be as follows: 106643

Transit Authority 106644
Tax Rate 106645

		106646
<u>Greater Cleveland Regional</u>	<u>0.65%</u>	106647
<u>Transit Authority</u>		
<u>Central Ohio Regional</u>	<u>0.30%</u>	106648
<u>Transit Authority</u>		
<u>Laketran Transit Authority</u>	<u>0.20%</u>	106649
<u>Metro Regional Transit</u>	<u>0.35%</u>	106650
<u>Authority</u>		
<u>Miami Valley Regional</u>	<u>0.35%</u>	106651
<u>Transit Authority</u>		
<u>Portage Area Regional</u>	<u>0.20%</u>	106652
<u>Transit Authority</u>		
<u>Stark Area Regional Transit</u>	<u>0.20%</u>	106653
<u>Authority</u>		
<u>Western Reserve Transit</u>	<u>0.20%</u>	106654
<u>Authority</u>		
<u>(C) Effective April 1, 2015, the additional rate of tax</u>		106655
<u>imposed in each county under sections 5739.021 and 5741.021 of the</u>		106656
<u>Revised Code shall be based on computations performed by the tax</u>		106657
<u>commissioner for the county pursuant to division (C) of this</u>		106658
<u>section.</u>		106659
<u>On or before January 31, 2015, the tax commissioner shall do</u>		106660
<u>the following:</u>		106661
<u>(1) Compute a fraction whose numerator is derived under</u>		106662
<u>division (C)(1)(a) of this section and whose denominator is</u>		106663
<u>derived under division (C)(1)(b) of this section. The fraction</u>		106664
<u>computed for each county shall be carried out to four decimal</u>		106665
<u>places and values for the remaining decimal places shall be</u>		106666
<u>disregarded. The fraction shall be rounded pursuant to division</u>		106667
<u>(C)(2) of this section.</u>		106668
<u>(a) The sum of the amounts identified under division</u>		106669
<u>(B)(4)(b) of section 5739.21 of the Revised Code for the period</u>		106670

November 2013 through October 2014; 106671

(b) The sum of the monthly proceeds for the period November 2013 through October 2014 as identified by the tax commissioner under divisions (B)(1) and (2) of section 5739.21 of the Revised Code, divided by the tax rate in effect during such period as required by division (A) of this section. 106672
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(2) Round the fraction computed for each county under division (C)(1) of this section up to the nearest five one-hundredths per cent if the fourth decimal place of the fraction equals two, three, four, seven, eight, or nine, and round down to the nearest five one-hundredths per cent if the fourth decimal place equals one or six. 106677
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(3) Report the rounded fraction derived by division (C)(2) of this section as the tax rate to be imposed in the county beginning April 1, 2015. 106683
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(D) Effective April 1, 2015, the rate of tax imposed in the territory of each transit authority under sections 5739.023 and 5741.022 of the Revised Code shall be based on computations performed by the tax commissioner for the transit authority pursuant to division (D) of this section. 106686
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On or before January 31, 2015, the tax commissioner shall do the following: 106691
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(1) Compute a fraction whose numerator is derived under division (D)(1)(a) of this section and whose denominator is derived under division (D)(1)(b) of this section. The fraction computed for each transit authority shall be carried out to four decimal places and values for the remaining decimal places shall be disregarded. The fraction shall be rounded pursuant to division (D)(2) of this section. 106693
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(a) The sum of the amounts identified pursuant to division (B)(4)(b) of section 5739.21 of the Revised Code for the period 106700
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November 2013 through October 2014; 106702

(b) The sum of the monthly proceeds for the period November 2013 through October 2014 as identified by the tax commissioner under divisions (B)(1) and (2) of section 5739.21 of the Revised Code, divided by the tax rate in effect during such period as required by division (A) of this section. 106703
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(2) Round the fraction computed for each transit authority under division (D)(1) of this section up to the nearest five one-hundredths per cent if the fourth decimal place of the fraction equals two, three, four, seven, eight, or nine, and round down to the nearest five one-hundredths per cent if the fourth decimal place equals one or six. 106708
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(3) Report the rounded fraction computed under division (D)(2) of this section as the tax rate to be imposed in the territory of the transit authority beginning April 1, 2015. 106714
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(E) Effective April 1, 2016, the additional tax imposed in each county under sections 5739.021 and 5741.021 of the Revised Code shall be based on computations performed by the tax commissioner for the county pursuant to division (E) of this section. 106717
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On or before January 31, 2016, the tax commissioner shall do the following: 106722
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(1) Compute a fraction whose numerator is derived under division (E)(1)(a) of this section and whose denominator is derived under division (E)(1)(b) of this section. The fraction computed for each county shall be carried out to four decimal places and values for the remaining decimal places shall be disregarded. The fraction shall be rounded pursuant to division (E)(2) of this section. 106724
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(a) The sum of the amounts derived for the period November 2014 through April 2015 under division (B)(4)(b) of section 106731
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5739.21 of the Revised Code and the monthly proceeds for the period May 2015 through October 2015 under divisions (B)(1) and (2) of section 5739.21 of the Revised Code;

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(b) The sum of the monthly proceeds for the period November 2014 through October 2015 as identified by the tax commissioner under divisions (B)(1) and (2) of section 5739.21 of the Revised Code, divided by the tax rates in effect during such period under division (A) of this section.

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(2) Round the fraction computed for each county under division (E)(1) of this section up to the nearest five one-hundredths per cent if the fourth decimal place of the fraction equals two, three, four, seven, eight, or nine, and round down to the nearest five one-hundredths per cent if the fourth decimal place equals one or six.

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(3) Report the rounded fraction derived by division (E)(2) of this section as the tax rate to be imposed in the county effective April 1, 2016.

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(F) Effective April 1, 2016, the rate of tax imposed in the territory of each transit authority under sections 5739.023 and 5741.022 of the Revised Code shall be based on computations performed by the tax commissioner for the transit authority under division (F) of this section.

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On or before January 31, 2016, the tax commissioner shall do the following:

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(1) Compute a fraction whose numerator is derived under division (F)(1)(a) of this section and whose denominator is derived under division (F)(1)(b) of this section. The fraction computed for each transit authority shall be carried out to four decimal places and values for the remaining decimal places shall be disregarded. The fraction shall then be rounded pursuant to division (F)(2) of this section.

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(a) The sum of the amounts derived for the period November 2014 through April 2015 under division (B)(4)(b) of section 5739.21 of the Revised Code and the monthly proceeds for the period May 2015 through October 2015 under divisions (B)(1) and (2) of section 5739.21 of the Revised Code; 106764
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(b) The sum of the monthly proceeds for the period November 2014 through October 2015 as identified by the tax commissioner under divisions (B)(1) and (2) of section 5739.21 of the Revised Code, divided by the tax rate in effect during such period as required by division (A) of this section. 106769
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(2) Round the fraction computed for each transit authority under division (F)(1) of this section up to the nearest five one-hundredths per cent if the fourth decimal place of the fraction equals two, three, four, seven, eight, or nine, and round down to the nearest five one-hundredths per cent if the fourth decimal place equals one or six. 106774
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(3) Report the rounded fraction derived by division (F)(2) of this section as the tax rate to be imposed in the territory of the transit authority effective April 1, 2016. 106780
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(G) On or before January 31, 2016, the tax commissioner shall do the following: 106783
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(1) Identify the total combined tax rate for taxes levied by each county under sections 5739.021 and 5739.026 of the Revised Code as of April 1, 2013, and the tax rate levied by each transit authority under section 5739.023 of the Revised Code as of April 1, 2013; 106785
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(2) Identify the tax rate determined for each county as computed under division (E) of this section and the tax rate determined for each transit authority as computed under division (F) of this section; 106790
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(3) Divide the tax rate for each county and transit authority 106794

as identified under division (G)(2) of this section by the tax rate for that county or transit authority as identified under division (G)(1) of this section; 106795
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(4) Determine the largest fraction produced by the computations performed under division (G)(3) of this section; 106798
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(5) Multiply the fraction determined under division (G)(4) of this section by one and one-half per cent; 106800
106801

(6) Round the fraction determined under division (G)(5) of this section to the nearest five one-hundredths per cent; 106802
106803

(7) Report the rounded fraction determined under division (G)(6) of this section as the largest allowable tax rate that may be imposed by a county under sections 5739.021 and 5741.021 of the Revised Code and by a transit authority under sections 5739.022 and 5739.023 of the Revised Code on and after July 1, 2016. 106804
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(H) The tax commissioner shall post the calculations required by divisions (C), (D), (E), and (F) of this section on the department of taxation's web site. 106809
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Sec. 5739.03. (A) Except as provided in section 5739.05 or section 5739.051 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows: 106812
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(1) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with 106820
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and at the same time as the price; 106825

(2) If the price is otherwise paid or to be paid, the vendor 106826
or the vendor's agent shall, at or prior to the provision of the 106827
service or the delivery of possession of the thing sold to the 106828
consumer, charge the tax imposed by or pursuant to section 106829
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 106830
the account of the consumer, which amount shall be collected by 106831
the vendor from the consumer in addition to the price. Such sale 106832
shall be reported on and the amount of the tax applicable thereto 106833
shall be remitted with the return for the period in which the sale 106834
is made, and the amount of the tax shall become a legal charge in 106835
favor of the vendor and against the consumer. 106836

(B)(1)(a) If any sale is claimed to be exempt under division 106837
(E) of section 5739.01 of the Revised Code or under section 106838
5739.02 of the Revised Code, with the exception of divisions 106839
(B)(1) to ~~(11)~~(10) or (28) of section 5739.02 of the Revised Code, 106840
the consumer must provide to the vendor, and the vendor must 106841
obtain from the consumer, a certificate specifying the reason that 106842
the sale is not legally subject to the tax. The certificate shall 106843
be in such form, and shall be provided either in a hard copy form 106844
or electronic form, as the tax commissioner prescribes. 106845

(b) A vendor that obtains a fully completed exemption 106846
certificate from a consumer is relieved of liability for 106847
collecting and remitting tax on any sale covered by that 106848
certificate. If it is determined the exemption was improperly 106849
claimed, the consumer shall be liable for any tax due on that sale 106850
under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 106851
5741. of the Revised Code. Relief under this division from 106852
liability does not apply to any of the following: 106853

(i) A vendor that fraudulently fails to collect tax; 106854

(ii) A vendor that solicits consumers to participate in the 106855

unlawful claim of an exemption; 106856

(iii) A vendor that accepts an exemption certificate from a 106857
consumer that claims an exemption based on who purchases or who 106858
sells property or a service, when the subject of the transaction 106859
sought to be covered by the exemption certificate is actually 106860
received by the consumer at a location operated by the vendor in 106861
this state, and this state has posted to its web site an exemption 106862
certificate form that clearly and affirmatively indicates that the 106863
claimed exemption is not available in this state; 106864

(iv) A vendor that accepts an exemption certificate from a 106865
consumer who claims a multiple points of use exemption under 106866
division (D) of section 5739.033 of the Revised Code, if the item 106867
purchased is tangible personal property, other than prewritten 106868
computer software. 106869

(2) The vendor shall maintain records, including exemption 106870
certificates, of all sales on which a consumer has claimed an 106871
exemption, and provide them to the tax commissioner on request. 106872

(3) The tax commissioner may establish an identification 106873
system whereby the commissioner issues an identification number to 106874
a consumer that is exempt from payment of the tax. The consumer 106875
must present the number to the vendor, if any sale is claimed to 106876
be exempt as provided in this section. 106877

(4) If no certificate is provided or obtained within ninety 106878
days after the date on which such sale is consummated, it shall be 106879
presumed that the tax applies. Failure to have so provided or 106880
obtained a certificate shall not preclude a vendor, within one 106881
hundred twenty days after the tax commissioner gives written 106882
notice of intent to levy an assessment, from either establishing 106883
that the sale is not subject to the tax, or obtaining, in good 106884
faith, a fully completed exemption certificate. 106885

(5) Certificates need not be obtained nor provided where the 106886

identity of the consumer is such that the transaction is never 106887
subject to the tax imposed or where the item of tangible personal 106888
property sold or the service provided is never subject to the tax 106889
imposed, regardless of use, or when the sale is in interstate 106890
commerce. 106891

(6) If a transaction is claimed to be exempt under division 106892
(B)(13) of section 5739.02 of the Revised Code, the contractor 106893
shall obtain certification of the claimed exemption from the 106894
contractee. This certification shall be in addition to an 106895
exemption certificate provided by the contractor to the vendor. A 106896
contractee that provides a certification under this division shall 106897
be deemed to be the consumer of all items purchased by the 106898
contractor under the claim of exemption, if it is subsequently 106899
determined that the exemption is not properly claimed. The 106900
certification shall be in such form as the tax commissioner 106901
prescribes. 106902

(C) As used in this division, "contractee" means a person who 106903
seeks to enter or enters into a contract or agreement with a 106904
contractor or vendor for the construction of real property or for 106905
the sale and installation onto real property of tangible personal 106906
property. 106907

Any contractor or vendor may request from any contractee a 106908
certification of what portion of the property to be transferred 106909
under such contract or agreement is to be incorporated into the 106910
realty and what portion will retain its status as tangible 106911
personal property after installation is completed. The contractor 106912
or vendor shall request the certification by certified mail 106913
delivered to the contractee, return receipt requested. Upon 106914
receipt of such request and prior to entering into the contract or 106915
agreement, the contractee shall provide to the contractor or 106916
vendor a certification sufficiently detailed to enable the 106917
contractor or vendor to ascertain the resulting classification of 106918

all materials purchased or fabricated by the contractor or vendor 106919
and transferred to the contractee. This requirement applies to a 106920
contractee regardless of whether the contractee holds a direct 106921
payment permit under section 5739.031 of the Revised Code or 106922
provides to the contractor or vendor an exemption certificate as 106923
provided under this section. 106924

For the purposes of the taxes levied by this chapter and 106925
Chapter 5741. of the Revised Code, the contractor or vendor may in 106926
good faith rely on the contractee's certification. Notwithstanding 106927
division (B) of section 5739.01 of the Revised Code, if the tax 106928
commissioner determines that certain property certified by the 106929
contractee as tangible personal property pursuant to this division 106930
is, in fact, real property, the contractee shall be considered to 106931
be the consumer of all materials so incorporated into that real 106932
property and shall be liable for the applicable tax, and the 106933
contractor or vendor shall be excused from any liability on those 106934
materials. 106935

If a contractee fails to provide such certification upon the 106936
request of the contractor or vendor, the contractor or vendor 106937
shall comply with the provisions of this chapter and Chapter 5741. 106938
of the Revised Code without the certification. If the tax 106939
commissioner determines that such compliance has been performed in 106940
good faith and that certain property treated as tangible personal 106941
property by the contractor or vendor is, in fact, real property, 106942
the contractee shall be considered to be the consumer of all 106943
materials so incorporated into that real property and shall be 106944
liable for the applicable tax, and the construction contractor or 106945
vendor shall be excused from any liability on those materials. 106946

This division does not apply to any contract or agreement 106947
where the tax commissioner determines as a fact that a 106948
certification under this division was made solely on the decision 106949
or advice of the contractor or vendor. 106950

(D) Notwithstanding division (B) of section 5739.01 of the Revised Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee shall reimburse the construction contractor for any additional tax paid on tangible property consumed or services received pursuant to the contract.

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds the price, minus any separately stated delivery charge, of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the amount of tax paid, minus the amount of tax attributable to the delivery charge.

Sec. 5739.033. (A) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section

5739.034 of the Revised Code. This section applies only to a 106982
vendor's or seller's obligation to collect and remit sales taxes 106983
under section 5739.02, 5739.021, 5739.023, or 5739.026 of the 106984
Revised Code or use taxes under section 5741.02, 5741.021, 106985
5741.022, or 5741.023 of the Revised Code. Division (A) of this 106986
section does not apply in determining the jurisdiction for which 106987
sellers are required to collect the use tax under section 5741.05 106988
of the Revised Code. This section does not affect the obligation 106989
of a consumer to remit use taxes on the storage, use, or other 106990
consumption of tangible personal property or on the benefit 106991
realized of any service provided, to the jurisdiction of that 106992
storage, use, or consumption, or benefit realized. 106993

(B)(1) Beginning January 1, 2010, retail sales, excluding the 106994
lease or rental, of tangible personal property or digital goods 106995
shall be sourced to the location where the vendor receives an 106996
order for the sale of such property or goods if: 106997

(a) The vendor receives the order in this state and the 106998
consumer receives the property or goods in this state; 106999

(b) The location where the consumer receives the property or 107000
goods is determined under division (C)(2), (3), or (4) of this 107001
section; and 107002

(c) The record-keeping system used by the vendor to calculate 107003
the tax imposed captures the location where the order is received 107004
at the time the order is received. 107005

(2) A consumer has no additional liability to this state 107006
under this chapter or Chapter 5741. of the Revised Code for tax, 107007
penalty, or interest on a sale for which the consumer remits tax 107008
to the vendor in the amount invoiced by the vendor if the invoice 107009
amount is calculated at either the rate applicable to the location 107010
where the consumer receives the property or digital good or at the 107011
rate applicable to the location where the order is received by the 107012

vendor. A consumer may rely on a written representation by the 107013
vendor as to the location where the order for the sale was 107014
received by the vendor. If the consumer does not have a written 107015
representation by the vendor as to the location where the order 107016
was received by the vendor, the consumer may use a location 107017
indicated by a business address for the vendor that is available 107018
from records that are maintained in the ordinary course of the 107019
consumer's business to determine the rate applicable to the 107020
location where the order was received. 107021

(3) For the purposes of division (B) of this section, the 107022
location where an order is received by or on behalf of a vendor 107023
means the physical location of the vendor or a third party such as 107024
an established outlet, office location, or automated order receipt 107025
system operated by or on behalf of the vendor, where an order is 107026
initially received by or on behalf of the vendor, and not where 107027
the order may be subsequently accepted, completed, or fulfilled. 107028
An order is received when all necessary information to determine 107029
whether the order can be accepted has been received by or on 107030
behalf of the vendor. The location from which the property or 107031
digital good is shipped shall not be used to determine the 107032
location where the order is received by the vendor. 107033

(4) For the purposes of division (B) of this section, if 107034
services subject to taxation under this chapter or Chapter 5741. 107035
of the Revised Code are sold with tangible personal property or 107036
digital goods pursuant to a single contract or in the same 107037
transaction, the services are billed on the same billing statement 107038
or invoice, and, because of the application of division (B) of 107039
this section, the transaction would be sourced to more than one 107040
jurisdiction, the situs of the transaction shall be the location 107041
where the order is received by or on behalf of the vendor. 107042

(C) Except for sales, other than leases, of titled motor 107043
vehicles, titled watercraft, or titled outboard motors as provided 107044

in section 5741.05 of the Revised Code, or as otherwise provided 107045
in this section and section 5739.034 of the Revised Code, all 107046
sales shall be sourced as follows: 107047

(1) If the consumer or a donee designated by the consumer 107048
receives tangible personal property or a service at a vendor's 107049
place of business, the sale shall be sourced to that place of 107050
business. 107051

(2) When the tangible personal property or service is not 107052
received at a vendor's place of business, the sale shall be 107053
sourced to the location known to the vendor where the consumer or 107054
the donee designated by the consumer receives the tangible 107055
personal property or service, including the location indicated by 107056
instructions for delivery to the consumer or the consumer's donee. 107057

(3) If divisions (C)(1) and (2) of this section do not apply, 107058
the sale shall be sourced to the location indicated by an address 107059
for the consumer that is available from the vendor's business 107060
records that are maintained in the ordinary course of the vendor's 107061
business, when use of that address does not constitute bad faith. 107062

(4) If divisions (C)(1), (2), and (3) of this section do not 107063
apply, the sale shall be sourced to the location indicated by an 107064
address for the consumer obtained during the consummation of the 107065
sale, including the address associated with the consumer's payment 107066
instrument, if no other address is available, when use of that 107067
address does not constitute bad faith. 107068

(5) If divisions (C)(1), (2), (3), and (4) of this section do 107069
not apply, including in the circumstance where the vendor is 107070
without sufficient information to apply any of those divisions, 107071
the sale shall be sourced to the address from which tangible 107072
personal property was shipped, or from which the service was 107073
provided, disregarding any location that merely provided the 107074
electronic transfer of the property sold or service provided. 107075

(6) As used in division (C) of this section, "receive" means 107076
taking possession of tangible personal property or making first 107077
use of a service. "Receive" does not include possession by a 107078
shipping company on behalf of a consumer. 107079

(D)(1)(a) Notwithstanding divisions (C)(1) to (5) of this 107080
section, a business consumer that is not a holder of a direct 107081
payment permit granted under section 5739.031 of the Revised Code, 107082
that purchases a digital good, computer software, except computer 107083
software received in person by a business consumer at a vendor's 107084
place of business, or a service, and that knows at the time of 107085
purchase that such digital good, software, or service will be 107086
concurrently available for use in more than one taxing 107087
jurisdiction shall deliver to the vendor in conjunction with its 107088
purchase an exemption certificate claiming multiple points of use, 107089
or shall meet the requirements of division (D)(2) of this section. 107090
On receipt of the exemption certificate claiming multiple points 107091
of use, the vendor is relieved of its obligation to collect, pay, 107092
or remit the tax due, and the business consumer must pay the tax 107093
directly to the state. 107094

(b) A business consumer that delivers the exemption 107095
certificate claiming multiple points of use to a vendor may use 107096
any reasonable, consistent, and uniform method of apportioning the 107097
tax due on the digital good, computer software, or service that is 107098
supported by the consumer's business records as they existed at 107099
the time of the sale. The business consumer shall report and pay 107100
the appropriate tax to each jurisdiction where concurrent use 107101
occurs. The tax due shall be calculated as if the apportioned 107102
amount of the digital good, computer software, or service had been 107103
delivered to each jurisdiction to which the sale is apportioned 107104
under this division. 107105

(c) The exemption certificate claiming multiple points of use 107106
shall remain in effect for all future sales by the vendor to the 107107

business consumer until it is revoked in writing by the business consumer, except as to the business consumer's specific apportionment of a subsequent sale under division (D)(1)(b) of this section and the facts existing at the time of the sale.

(2) When the vendor knows that a digital good, computer software, or service sold will be concurrently available for use by the business consumer in more than one jurisdiction, but the business consumer does not provide an exemption certificate claiming multiple points of use as required by division (D)(1) of this section, the vendor may work with the business consumer to produce the correct apportionment. Governed by the principles of division (D)(1)(b) of this section, the vendor and business consumer may use any reasonable, but consistent and uniform, method of apportionment that is supported by the vendor's and business consumer's books and records as they exist at the time the sale is reported for purposes of the taxes levied under this chapter. If the business consumer certifies to the accuracy of the apportionment and the vendor accepts the certification, the vendor shall collect and remit the tax accordingly. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the information certified by the business consumer.

(3) When the vendor knows that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction, and the business consumer does not have a direct pay permit and does not provide to the vendor an exemption certificate claiming multiple points of use as required in division (D)(1) of this section, or certification pursuant to division (D)(2) of this section, the vendor shall collect and remit the tax based on division (C) of this section.

(4) Nothing in this section shall limit a person's obligation for sales or use tax to any state in which a digital good,

computer software, or service is concurrently available for use, 107140
nor limit a person's ability under local, state, or federal law, 107141
to claim a credit for sales or use taxes legally due and paid to 107142
other jurisdictions. 107143

(E) A person who holds a direct payment permit issued under 107144
section 5739.031 of the Revised Code is not required to deliver an 107145
exemption certificate claiming multiple points of use to a vendor. 107146
But such permit holder shall comply with division (D)(2) of this 107147
section in apportioning the tax due on a digital good, computer 107148
software, or a service for use in business that will be 107149
concurrently available for use in more than one taxing 107150
jurisdiction. 107151

(F)(1) Notwithstanding divisions (C)(1) to (5) of this 107152
section, the consumer of direct mail that is not a holder of a 107153
direct payment permit shall provide to the vendor in conjunction 107154
with the sale either an exemption certificate claiming direct mail 107155
prescribed by the tax commissioner, or information to show the 107156
jurisdictions to which the direct mail is delivered to recipients. 107157

(2) Upon receipt of such exemption certificate, the vendor is 107158
relieved of all obligations to collect, pay, or remit the 107159
applicable tax and the consumer is obligated to pay that tax on a 107160
direct pay basis. An exemption certificate claiming direct mail 107161
shall remain in effect for all future sales of direct mail by the 107162
vendor to the consumer until it is revoked in writing. 107163

(3) Upon receipt of information from the consumer showing the 107164
jurisdictions to which the direct mail is delivered to recipients, 107165
the vendor shall collect the tax according to the delivery 107166
information provided by the consumer. In the absence of bad faith, 107167
the vendor is relieved of any further obligation to collect tax on 107168
any transaction where the vendor has collected tax pursuant to the 107169
delivery information provided by the consumer. 107170

(4) If the consumer of direct mail does not have a direct payment permit and does not provide the vendor with either an exemption certificate claiming direct mail or delivery information as required by division (F)(1) of this section, the vendor shall collect the tax according to division (C)(5) of this section. Nothing in division (F)(4) of this section shall limit a consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a consumer of direct mail provides the vendor with documentation of direct payment authority, the consumer shall not be required to provide an exemption certificate claiming direct mail or delivery information to the vendor.

(G) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale shall be sourced to the location where the lodging is located.

(H)(1) As used in this division and division (I) of this section, "transportation equipment" means any of the following:

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or

property in interstate or foreign commerce. 107202

(d) Containers designed for use on and component parts 107203
attached to or secured on the items set forth in division 107204
(H)(1)(a), (b), or (c) of this section. 107205

(2) A sale, lease, or rental of transportation equipment 107206
shall be sourced pursuant to division (C) of this section. 107207

(I)(1) A lease or rental of tangible personal property that 107208
does not require recurring periodic payments shall be sourced 107209
pursuant to division (C) of this section. 107210

(2) A lease or rental of tangible personal property that 107211
requires recurring periodic payments shall be sourced as follows: 107212

(a) In the case of a motor vehicle, other than a motor 107213
vehicle that is transportation equipment, or an aircraft, other 107214
than an aircraft that is transportation equipment, such lease or 107215
rental shall be sourced as follows: 107216

(i) An accelerated tax payment on a lease or rental taxed 107217
pursuant to division (A)(2) of section 5739.02 of the Revised Code 107218
shall be sourced to the primary property location at the time the 107219
lease or rental is consummated. Any subsequent taxable charges on 107220
the lease or rental shall be sourced to the primary property 107221
location for the period in which the charges are incurred. 107222

(ii) For a lease or rental taxed pursuant to division (A)(3) 107223
of section 5739.02 of the Revised Code, each lease or rental 107224
installment shall be sourced to the primary property location for 107225
the period covered by the installment. 107226

(b) In the case of a lease or rental of all other tangible 107227
personal property, other than transportation equipment, such lease 107228
or rental shall be sourced as follows: 107229

(i) An accelerated tax payment on a lease or rental that is 107230
taxed pursuant to division (A)(2) of section 5739.02 of the 107231

Revised Code shall be sourced pursuant to division (C) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (C) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (I) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

(J) If the vendor provides a service specified in division (B)~~(11)~~(10) of section 5739.01 of the Revised Code, the situs of the sale is the location of the enrollee for whom a medicaid health insurance corporation receives managed care premiums. Such sales shall be sourced to the locations of the enrollees in the same proportion as the managed care premiums received by the medicaid health insuring corporation on behalf of enrollees located in a particular taxing jurisdiction in Ohio as compared to all managed care premiums received by the medicaid health insuring corporation.

Sec. 5739.051. (A) The tax commissioner shall issue a direct payment permit to a medicaid health insuring corporation that authorizes the medicaid health insuring corporation to pay all taxes due on sales described in division (B)~~(11)~~(10) of section 5739.01 of the Revised Code directly to the state. Each medicaid

health insuring corporation shall pay pursuant to such direct 107263
payment authority all sales tax levied on such sales by sections 107264
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code and 107265
all use tax levied on such sales pursuant to sections 5741.02, 107266
5741.021, 5741.022, and 5741.023 of the Revised Code, unless 107267
division (B)~~(11)~~(10)(b) of section 5739.01 of the Revised Code 107268
applies. 107269

(B) Each medicaid health insuring corporation shall, on or 107270
before the twenty-third day of each month, file a return for the 107271
preceding month on a form prescribed by the tax commissioner and 107272
shall pay the tax shown on the return to be due, unless division 107273
(B)~~(11)~~(10)(b) of section 5739.01 of the Revised Code applies. The 107274
return shall show the amount of tax due from the medicaid health 107275
care insuring corporation for the period covered by the return and 107276
other such information as the commissioner deems necessary. Upon 107277
written request, the commissioner may extend the time for filing 107278
the return and paying the tax. The commissioner may require each 107279
medicaid health insuring corporation to file returns and remit 107280
payment by electronic means as provided in section 5739.032 of the 107281
Revised Code. 107282

Sec. 5739.071. (A) As used in this section, "electronic 107283
information services" means providing access to computer equipment 107284
by means of telecommunications equipment for the purpose of either 107285
of the following: 107286

(1) Examining or acquiring data stored in or accessible to 107287
the computer equipment; 107288

(2) Placing data into the computer equipment to be retrieved 107289
by designated recipients with access to the computer equipment. 107290

"Electronic information services" does not include electronic 107291
publishing. 107292

(B) The tax commissioner shall refund to a provider of 107293
electronic information services twenty-five per cent of the tax it 107294
pays pursuant to this chapter or Chapter 5741. of the Revised Code 107295
on purchases made on or after July 1, 1993, of computers, computer 107296
peripherals, software, telecommunications equipment, and similar 107297
tangible personal property, primarily used to acquire, process, or 107298
store information for use by business customers or to transmit or 107299
disseminate such information to such customers, the services of 107300
installing or repairing such property, and agreements to repair or 107301
maintain such property. Applications for a refund shall be made in 107302
the same manner and subject to the same time limitations as 107303
provided in sections 5739.07 and 5741.10 of the Revised Code. 107304

~~(B)~~(C) An electronic information service provider that 107305
maintains direct payment authority under section 5739.031 of the 107306
Revised Code may list on the return and pay tax on seventy-five 107307
per cent of the price of equipment, services, and agreements 107308
described under division ~~(A)~~(B) of this section in lieu of seeking 107309
a refund as provided in that division. 107310

Sec. 5739.13. (A) If any vendor collects the tax imposed by 107311
or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 107312
the Revised Code, and fails to remit the tax to the state as 107313
prescribed, or on the sale of a motor vehicle, watercraft, or 107314
outboard motor required to be titled, fails to remit payment to a 107315
clerk of a court of common pleas as provided in section 1548.06 or 107316
4505.06 of the Revised Code, the vendor shall be personally liable 107317
for any tax collected and not remitted. The tax commissioner may 107318
make an assessment against such vendor based upon any information 107319
in the commissioner's possession. 107320

If any vendor fails to collect the tax or any consumer fails 107321
to pay the tax imposed by or pursuant to section 5739.02, 107322
5739.021, 5739.023, or 5739.026 of the Revised Code, on any 107323

transaction subject to the tax, the vendor or consumer shall be 107324
personally liable for the amount of the tax applicable to the 107325
transaction. The commissioner may make an assessment against 107326
either the vendor or consumer, as the facts may require, based 107327
upon any information in the commissioner's possession. 107328

An assessment against a vendor when the tax imposed by or 107329
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 107330
the Revised Code has not been collected or paid, shall not 107331
discharge the purchaser's or consumer's liability to reimburse the 107332
vendor for the tax applicable to such transaction. 107333

An assessment issued against either, pursuant to this 107334
section, shall not be considered an election of remedies, nor a 107335
bar to an assessment against the other for the tax applicable to 107336
the same transaction, provided that no assessment shall be issued 107337
against any person for the tax due on a particular transaction if 107338
the tax on that transaction actually has been paid by another. 107339

The commissioner may make an assessment against any vendor 107340
who fails to file a return or remit the proper amount of tax 107341
required by this chapter, or against any consumer who fails to pay 107342
the proper amount of tax required by this chapter. When 107343
information in the possession of the commissioner indicates that 107344
the amount required to be collected or paid under this chapter is 107345
greater than the amount remitted by the vendor or paid by the 107346
consumer, the commissioner may audit a sample of the vendor's 107347
sales or the consumer's purchases for a representative period, to 107348
ascertain the per cent of exempt or taxable transactions or the 107349
effective tax rate and may issue an assessment based on the audit. 107350
The commissioner shall make a good faith effort to reach agreement 107351
with the vendor or consumer in selecting a representative sample. 107352

The commissioner may make an assessment, based on any 107353
information in ~~his~~ the commissioner's possession, against any 107354
person who fails to file a return or remit the proper amount of 107355

tax required by section 5739.102 of the Revised Code. 107356

The commissioner may issue an assessment on any transaction 107357
for which any tax imposed under this chapter or Chapter 5741. of 107358
the Revised Code was due and unpaid on the date the vendor or 107359
consumer was informed by an agent of the tax commissioner of an 107360
investigation or audit. If the vendor or consumer remits any 107361
payment of the tax for the period covered by the assessment after 107362
the vendor or consumer was informed of the investigation or audit, 107363
the payment shall be credited against the amount of the 107364
assessment. 107365

The commissioner shall give the party assessed written notice 107366
of the assessment in the manner provided in section 5703.37 of the 107367
Revised Code. With the notice, the commissioner shall provide 107368
instructions on how to petition for reassessment and request a 107369
hearing on the petition. 107370

(B) Unless the party assessed files with the commissioner 107371
within sixty days after service of the notice of assessment, 107372
either personally or by certified mail, a written petition for 107373
reassessment, signed by the party assessed or that party's 107374
authorized agent having knowledge of the facts, the assessment 107375
becomes final and the amount of the assessment is due from the 107376
party assessed and payable to the treasurer of state and remitted 107377
to the tax commissioner. The petition shall indicate the 107378
objections of the party assessed, but additional objections may be 107379
raised in writing if received by the commissioner prior to the 107380
date shown on the final determination. If the petition has been 107381
properly filed, the commissioner shall proceed under section 107382
5703.60 of the Revised Code. 107383

(C) After an assessment becomes final, if any portion of the 107384
assessment remains unpaid, including accrued interest, a certified 107385
copy of the commissioner's entry making the assessment final may 107386
be filed in the office of the clerk of the court of common pleas 107387

in the county in which the place of business of the party assessed 107388
is located or the county in which the party assessed resides. If 107389
the party assessed maintains no place of business in this state 107390
and is not a resident of this state, the certified copy of the 107391
entry may be filed in the office of the clerk of the court of 107392
common pleas of Franklin county. 107393

Immediately upon the filing of the entry, the clerk shall 107394
enter a judgment for the state against the party assessed in the 107395
amount shown on the entry. The judgment may be filed by the clerk 107396
in a loose-leaf book entitled "special judgments for state, 107397
county, and transit authority retail sales tax" or, if 107398
appropriate, "special judgments for resort area excise tax," and 107399
shall have the same effect as other judgments. Execution shall 107400
issue upon the judgment upon the request of the tax commissioner, 107401
and all laws applicable to sales on execution shall apply to sales 107402
made under the judgment except as otherwise provided in this 107403
chapter. 107404

~~The portion of~~ If the assessment is not paid in its entirety 107405
within sixty days after the date the assessment was issued, the 107406
portion of the assessment consisting of tax due shall bear 107407
interest at the rate per annum prescribed by section 5703.47 of 107408
the Revised Code from the day the tax commissioner issues the 107409
assessment until the assessment is paid or until it is certified 107410
to the attorney general for collection under section 131.02 of the 107411
Revised Code, whichever comes first. If the unpaid portion of the 107412
assessment is certified to the attorney general for collection, 107413
the entire unpaid portion of the assessment shall bear interest at 107414
the rate per annum prescribed by section 5703.47 of the Revised 107415
Code from the date of certification until the date it is paid in 107416
its entirety. Interest shall be paid in the same manner as the tax 107417
and may be collected by issuing an assessment under this section. 107418

(D) All money collected by the tax commissioner under this 107419

section shall be paid to the treasurer of state, and when paid 107420
shall be considered as revenue arising from the taxes imposed by 107421
or pursuant to sections 5739.01 to 5739.31 of the Revised Code. 107422

Sec. 5739.21. (A) One hundred per cent of all money deposited 107423
into the state treasury under sections 5739.01 to 5739.31 of the 107424
Revised Code that is not required to be distributed as provided in 107425
section 5739.102 of the Revised Code or division (B) of this 107426
section shall be credited to the general revenue fund. 107427

(B)(1) In any case where any county or transit authority has 107428
levied a tax or taxes pursuant to section 5739.021, 5739.023, or 107429
5739.026 of the Revised Code, the tax commissioner shall, within 107430
forty-five days after the end of each month, determine and certify 107431
to the director of budget and management the amount of the 107432
proceeds of such tax or taxes received during that month from 107433
billings and assessments, or associated with tax returns or 107434
reports filed during that month, to be returned to the county or 107435
transit authority levying the tax or taxes. The Except as 107436
otherwise provided in divisions (B)(3) to (6) of this section, the 107437
amount to be returned to each county and transit authority shall 107438
be a fraction of the aggregate amount of money collected with 107439
respect to each area in which one or more of such taxes are 107440
concurrently in effect with the tax levied by section 5739.02 of 107441
the Revised Code. The numerator of the fraction is the rate of the 107442
tax levied by the county or transit authority and the denominator 107443
of the fraction is the aggregate rate of such taxes applicable to 107444
such area. The amount to be returned to each county or transit 107445
authority shall be reduced by the amount of any refunds of county 107446
or transit authority tax paid pursuant to section 5739.07 of the 107447
Revised Code during the same month, or transfers made pursuant to 107448
division (B)(2) of section 5703.052 of the Revised Code. 107449

(2) On a periodic basis, using the best information 107450

available, the tax commissioner shall distribute any amount of a county or transit authority tax that cannot be distributed under division (B)(1) of this section. Through audit or other means, the commissioner shall attempt to obtain the information necessary to make the distribution as provided under that division and, on receipt of that information, shall make adjustments to distributions previously made under this division.

(3) Beginning July 1, 2008, eight In lieu of the amounts to be returned to each county and transit authority pursuant to divisions (B)(1) and (2) of this section and division (B) of section 5741.03 of the Revised Code, within forty-five days after the end of each month of the period beginning October 1, 2013, and ending April 30, 2015, the tax commissioner shall determine the monthly payable tax collections for each county and transit authority under division (B)(4) of this section, as appropriate, and shall certify such amounts to the director of budget and management. The certified amounts shall be paid to the county treasurer and the fiscal officer of the transit authority as required by division (D) of this section.

(4) The monthly payable tax collections shall be the greater of the amount determined under division (B)(4)(a) or (b) of this section:

(a) The total amount derived for the county or transit authority for the month pursuant to divisions (B)(1) and (2) of this section and section 5741.03 of the Revised Code;

(b) The product of multiplying the amount in division (B)(4)(b)(i) of this section by the applicable percentage in division (B)(4)(b)(ii) of this section.

(i) The total amount derived for the county or transit authority pursuant to divisions (B)(1) and (2) of this section and section 5741.03 of the Revised Code for the corresponding month

during the period beginning October 1, 2012, and ending September 30, 2013; 107482
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(ii) For the October 2013 through September 2014 monthly payable tax collections, the applicable percentage is the larger of one hundred ten per cent or the average growth percentage computed pursuant to division (B)(4)(b)(iii) of this section; for the October 2014 through April 2015 monthly payable tax collections, the applicable percentage is the greater of one hundred fifteen and five-tenths per cent or the sum of five and five-tenths per cent and the average growth percentage computed under division (B)(4)(b)(iii) of this section. 107484
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(iii) For each county and transit authority, a compounded annual growth rate shall be computed by the tax commissioner using the amounts derived under divisions (B)(1) and (2) of this section. The growth rate shall be a percentage computed using a beginning year comprised of October 2010 through September 2011 and an ending year comprised of October 2012 through September 2013. If the combined rate of county taxes levied under sections 5739.021 and 5739.026 of the Revised Code changed during any portion of the October 2010 through September 2013 period, the compounded annual growth rate shall be based on tax collections to be estimated by the tax commissioner for that time period using the total tax rate in effect on April 1, 2013. If the rate of a transit authority tax levied under section 5739.023 of the Revised Code changed at any time between October 1, 2010, and September 30, 2013, the compounded annual growth rate shall be based on tax collections to be estimated by the tax commissioner for that time period using the tax rate in effect on April 1, 2013. The average growth percentage shall equal the sum of the compounded annual growth rate plus one hundred per cent. 107493
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(5) In the case of a tax levied under section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised 107512
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Code on July 1, 2013, at a rate higher than the rate in effect on 107514
April 1, 2013, the increased rate shall not be included in the 107515
total amount prescribed by division (B)(4)(b)(i) of this section. 107516

(6) A board of county commissioners that, on October 1, 2012, 107517
imposed a tax under sections 5739.021 and 5739.026 of the Revised 107518
Code at a total combined rate that was higher than the total 107519
combined tax rate in effect on July 1, 2012, may request the tax 107520
commissioner to recalculate the amounts derived under division 107521
(B)(4)(b) of this section to reflect amounts estimated to have 107522
been produced pursuant to division (B)(1) of this section had the 107523
higher tax rate been in effect. The recalculation may affect only 107524
the monthly payable tax proceeds for the October 2013 through 107525
November 2013 period and the October 2014 through November 2014 107526
period. Such a request must be delivered in writing to the tax 107527
commissioner on or before October 31, 2013. Upon receiving the 107528
request, the commissioner shall perform the computations necessary 107529
to yield the amounts described in division (B)(6) of this section. 107530

(7) Eight and thirty-three one-hundredths of one per cent of 107531
the revenue collected from the tax due under division (A) of 107532
section 5739.029 of the Revised Code shall be distributed to the 107533
county where the sale of the motor vehicle is situated under 107534
section 5739.035 of the Revised Code. The amount to be so 107535
distributed to the county shall be apportioned on the basis of the 107536
rates of taxes the county levies pursuant to sections 5739.021 and 107537
5739.026 of the Revised Code, as applicable, and shall be credited 107538
to the funds of the county as provided in divisions (A) and (B) of 107539
section 5739.211 of the Revised Code. 107540

(C) The aggregate amount to be returned to any county or 107541
transit authority shall be reduced by one per cent, which shall be 107542
certified directly to the credit of the local sales tax 107543
administrative fund, which is hereby created in the state 107544
treasury. For the purpose of determining the amount to be returned 107545

to a county and transit authority in which the rate of tax imposed 107546
by the transit authority has been reduced under section 5739.028 107547
of the Revised Code, the tax commissioner shall use the respective 107548
rates of tax imposed by the county or transit authority that 107549
results from the change in the rates authorized under that 107550
section. 107551

(D) The director of budget and management shall transfer, 107552
from the same funds and in the same proportions specified in 107553
division (A) of this section, to the permissive tax distribution 107554
fund created by division (B)(1) of section 4301.423 of the Revised 107555
Code and to the local sales tax administrative fund, the amounts 107556
certified by the tax commissioner. The tax commissioner shall 107557
then, on or before the twentieth day of the month in which such 107558
certification is made, provide for payment of such respective 107559
amounts to the county treasurer and to the fiscal officer of the 107560
transit authority levying the tax or taxes. The amount transferred 107561
to the local sales tax administrative fund is for use by the tax 107562
commissioner in defraying costs incurred in administering such 107563
taxes levied by a county or transit authority. 107564

Sec. 5739.211. (A) The Beginning December 1, 2013, the moneys 107565
received by a county ~~levying that levied~~ an additional sales tax 107566
pursuant to section 5739.021 of the Revised Code as that section 107567
existed immediately before its amendment byB. ... of the 107568
130th general assembly but did not levy an additional sales tax 107569
pursuant to section 5739.026 of the Revised Code as that section 107570
existed prior to its amendment by that act shall be deposited in 107571
the county general fund to be expended for any purpose for which 107572
general fund moneys of the county may be used, including the 107573
acquisition or construction of permanent improvements or to make 107574
payments in accordance with section 333.06 or 333.07 of the 107575
Revised Code, or in the bond retirement fund for the payment of 107576
debt service charges on notes or bonds of the county issued for 107577

the acquisition or construction of permanent improvements. The 107578
amounts to be deposited in each of such funds shall be determined 107579
by the board of county commissioners. 107580

(B) The Beginning December 1, 2013, the moneys received by a 107581
county levying an additional sales tax pursuant to section 107582
5739.026 of the Revised Code as that section existed immediately 107583
before its amendment byB. ... of the 130th general assembly 107584
but did not levy an additional sales tax pursuant to section 107585
5739.021 of the Revised Code as that section existed prior to its 107586
amendment by that act shall be deposited in a separate fund, which 107587
shall be allocated and distributed in accordance with the 107588
resolution adopted under ~~such~~ section 5739.026 of the Revised 107589
Code. Moneys allocated for the purpose of division (A)(4) of 107590
section 5739.026 of the Revised Code shall be transferred to and 107591
disbursed from the community improvements fund in the county 107592
treasury. Notwithstanding section 135.351 of the Revised Code, if 107593
an allocation of moneys to a convention facilities authority or a 107594
transit authority is required pursuant to division (C) of section 107595
5739.026 of the Revised Code, the county shall pay and distribute 107596
each authority's share of any such moneys to its fiscal officer 107597
within five business days of the date of their receipt by the 107598
county. If the moneys allocated under such division are not so 107599
paid, the county shall pay to such authority any interest that the 107600
county has received or will receive on such moneys that accrues 107601
from the date the county received the moneys, together with the 107602
principal amount of such moneys. 107603

(C) Effective December 1, 2013, money received by a county 107604
that levied an additional sales tax pursuant to sections 5739.021 107605
and 5739.026 of the Revised Code, as those sections existed on 107606
June 30, 2013, shall be allocated according to the purposes 107607
authorized by the resolutions adopted under those sections. To the 107608
extent necessary to retain the proportionate funding shares or, as 107609

appropriate, the funding amounts that existed among the various 107610
purposes authorized by resolutions that were adopted under those 107611
sections as those sections existed before July 1, 2013, a board of 107612
county commissioners shall allocate accordingly the money received 107613
under section 5739.21 of the Revised Code. Such proportionate 107614
funding shares shall be modified if, and the extent to that, a 107615
board of county commissioners adopts a change in the taxes levied 107616
under section 5739.021 of the Revised Code on or after July 1, 107617
2016. 107618

(D) The moneys received by a transit authority levying an 107619
additional sales tax pursuant to section 5739.023 of the Revised 107620
Code shall be deposited in such fund or funds of the transit 107621
authority as determined by the legislative authority of the 107622
transit authority to be expended for any purpose for which a 107623
county transit board or the board of county commissioners 107624
operating a county transit system, in the case of a county, or the 107625
board of trustees of a regional transit authority, in the case of 107626
a regional transit authority, may expend moneys under their 107627
control, including the purchase, acquisition, construction, 107628
replacement, improvement, extension, or enlargement of permanent 107629
improvements and for the payment of debt service charges on notes 107630
or bonds of the transit authority. 107631

Sec. 5741.01. As used in this chapter: 107632

(A) "Person" includes individuals, receivers, assignees, 107633
trustees in bankruptcy, estates, firms, partnerships, 107634
associations, joint-stock companies, joint ventures, clubs, 107635
societies, corporations, business trusts, governments, and 107636
combinations of individuals of any form. 107637

(B) "Storage" means and includes any keeping or retention in 107638
this state for use or other consumption in this state. 107639

(C) "Use" means and includes the exercise of any right or 107640

power incidental to the ownership of the thing used. A thing is 107641
also "used" in this state if its consumer gives or otherwise 107642
distributes it, without charge, to recipients in this state. 107643

(D) "Purchase" means acquired or received for a 107644
consideration, whether such acquisition or receipt was effected by 107645
a transfer of title, or of possession, or of both, or a license to 107646
use or consume; whether such transfer was absolute or conditional, 107647
and by whatever means the transfer was effected; and whether the 107648
consideration was money, credit, barter, or exchange. Purchase 107649
includes production, even though the article produced was used, 107650
stored, or consumed by the producer. The transfer of copyrighted 107651
motion picture films for exhibition purposes is not a purchase, 107652
except such films as are used solely for advertising purposes. 107653

(E) "Seller" means the person from whom a purchase is made, 107654
and includes every person engaged in this state or elsewhere in 107655
the business of selling tangible personal property or providing a 107656
service for storage, use, or other consumption or benefit in this 107657
state; and when, in the opinion of the tax commissioner, it is 107658
necessary for the efficient administration of this chapter, to 107659
regard any ~~salesman~~ salesperson, representative, peddler, or 107660
canvasser as the agent of a dealer, distributor, supervisor, or 107661
employer under whom the person operates, or from whom the person 107662
obtains tangible personal property, sold by the person for 107663
storage, use, or other consumption in this state, irrespective of 107664
whether or not the person is making such sales on the person's own 107665
behalf, or on behalf of such dealer, distributor, supervisor, or 107666
employer, the commissioner may regard the person as such agent, 107667
and may regard such dealer, distributor, supervisor, or employer 107668
as the seller. "Seller" does not include any person to the extent 107669
the person provides a communications medium, such as, but not 107670
limited to, newspapers, magazines, radio, television, or cable 107671
television, by means of which sellers solicit purchases of their 107672

goods or services. 107673

(F) "Consumer" means any person who has purchased tangible 107674
personal property or has been provided a service for storage, use, 107675
or other consumption or benefit in this state. "Consumer" does not 107676
include a person who receives, without charge, tangible personal 107677
property or a service. 107678

A person who performs a facility management or similar 107679
service contract for a contractee is a consumer of all tangible 107680
personal property and services purchased for use in connection 107681
with the performance of such contract, regardless of whether title 107682
to any such property vests in the contractee. The purchase of such 107683
property and services is not subject to the exception for resale 107684
under division (E) of section 5739.01 of the Revised Code. 107685

(G)(1) "Price," except as provided in divisions (G)(2) to (6) 107686
of this section, has the same meaning as in division (H)(1) of 107687
section 5739.01 of the Revised Code. 107688

(2) In the case of watercraft, outboard motors, or new motor 107689
vehicles, "price" has the same meaning as in divisions (H)(2) and 107690
(3) of section 5739.01 of the Revised Code. 107691

(3) In the case of a nonresident business consumer that 107692
purchases and uses tangible personal property outside this state 107693
and subsequently temporarily stores, uses, or otherwise consumes 107694
such tangible personal property in the conduct of business in this 107695
state, the consumer or the tax commissioner may determine the 107696
price based on the value of the temporary storage, use, or other 107697
consumption, in lieu of determining the price pursuant to division 107698
(G)(1) of this section. A price determination made by the consumer 107699
is subject to review and redetermination by the commissioner. 107700

(4) In the case of tangible personal property held in this 107701
state as inventory for sale or lease, and that is temporarily 107702
stored, used, or otherwise consumed in a taxable manner, the price 107703

is the value of the temporary use. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(6) If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state.

(I) "Substantial nexus with this state" means that the seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to consumers in this state. "Substantial nexus with this state" exists when the seller does any of the following:

(1) Maintains a place of business within this state, whether operated by employees or agents of the seller, by a member of an affiliated group, as defined in division ~~(B)(3)(e)~~(DDD) of section 5739.01 of the Revised Code, of which the seller is a member, or

by a franchisee using a trade name of the seller; 107735

(2) Regularly has employees, agents, representatives, 107736
solicitors, installers, ~~repairmen~~ repairers, ~~salesmen~~ 107737
salespersons, or other individuals in this state for the purpose 107738
of conducting the business of the seller; 107739

(3) Uses a person in this state for the purpose of receiving 107740
or processing orders of the seller's goods or services; 107741

(4) Makes regular deliveries of tangible personal property 107742
into this state by means other than common carrier; 107743

(5) Has membership in an affiliated group, as described in 107744
division ~~(B)(3)(e)~~ (DDD) of section 5739.01 of the Revised Code, at 107745
least one other member of which has substantial nexus with this 107746
state; 107747

(6) Owns tangible personal property that is rented or leased 107748
to a consumer in this state, or offers tangible personal property, 107749
on approval, to consumers in this state; 107750

(7) Except as provided in section 5703.65 of the Revised 107751
Code, is registered with the secretary of state to do business in 107752
this state or is registered or licensed by any state agency, 107753
board, or commission to transact business in this state or to make 107754
sales to persons in this state; 107755

(8) Has any other contact with this state that would allow 107756
this state to require the seller to collect and remit use tax 107757
under Section 8 of Article I of the Constitution of the United 107758
States. 107759

(J) "Fiscal officer" means, with respect to a regional 107760
transit authority, the secretary-treasurer thereof, and with 107761
respect to a county which is a transit authority, the fiscal 107762
officer of the county transit board appointed pursuant to section 107763
306.03 of the Revised Code or, if the board of county 107764

commissioners operates the county transit system, the county auditor. 107765
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(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau. 107767
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(L) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau. 107774
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(M) "~~Providing a service~~ Service" has the same meaning as in ~~division (X)~~ of section 5739.01 of the Revised Code. 107784
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(N) "Other consumption" includes receiving the benefits of a service. 107786
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(O) "Lease" or "rental" has the same meaning as in ~~division (UU)~~ of section 5739.01 of the Revised Code. 107788
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(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code. 107790
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Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property 107792
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or the benefit realized in this state of any service provided. The 107795
tax shall be collected as provided in section 5739.025 of the 107796
Revised Code, provided that on and after July 1, 2003, and on or 107797
before June 30, 2005, the rate of the tax shall be six per cent. 107798
On and after July 1, 2005, the rate of the tax shall be five ~~and~~ 107799
~~one-half~~ per cent. 107800

(2) In the case of the lease or rental, with a fixed term of 107801
more than thirty days or an indefinite term with a minimum period 107802
of more than thirty days, of any motor vehicles designed by the 107803
manufacturer to carry a load of not more than one ton, watercraft, 107804
outboard motor, or aircraft, or of any tangible personal property, 107805
other than motor vehicles designed by the manufacturer to carry a 107806
load of more than one ton, to be used by the lessee or renter 107807
primarily for business purposes, the tax shall be collected by the 107808
seller at the time the lease or rental is consummated and shall be 107809
calculated by the seller on the basis of the total amount to be 107810
paid by the lessee or renter under the lease or rental agreement. 107811
If the total amount of the consideration for the lease or rental 107812
includes amounts that are not calculated at the time the lease or 107813
rental is executed, the tax shall be calculated and collected by 107814
the seller at the time such amounts are billed to the lessee or 107815
renter. In the case of an open-end lease or rental, the tax shall 107816
be calculated by the seller on the basis of the total amount to be 107817
paid during the initial fixed term of the lease or rental, and for 107818
each subsequent renewal period as it comes due. As used in this 107819
division, "motor vehicle" has the same meaning as in section 107820
4501.01 of the Revised Code, and "watercraft" includes an outdrive 107821
unit attached to the watercraft. 107822

(3) Except as provided in division (A)(2) of this section, in 107823
the case of a transaction, the price of which consists in whole or 107824
part of the lease or rental of tangible personal property, the tax 107825
shall be measured by the installments of those leases or rentals. 107826

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section

5739.02 of the Revised Code; 107859

(4) Transient use of tangible personal property in this state 107860
by a nonresident tourist or vacationer, or a nonbusiness use 107861
within this state by a nonresident of this state, if the property 107862
so used was purchased outside this state for use outside this 107863
state and is not required to be registered or licensed under the 107864
laws of this state; 107865

(5) Tangible personal property or services rendered, upon 107866
which taxes have been paid to another jurisdiction to the extent 107867
of the amount of the tax paid to such other jurisdiction. Where 107868
the amount of the tax imposed by this section and imposed pursuant 107869
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 107870
exceeds the amount paid to another jurisdiction, the difference 107871
shall be allocated between the tax imposed by this section and any 107872
tax imposed by a county or a transit authority pursuant to section 107873
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 107874
to the respective rates of such taxes. 107875

As used in this subdivision, "taxes paid to another 107876
jurisdiction" means the total amount of retail sales or use tax or 107877
similar tax based upon the sale, purchase, or use of tangible 107878
personal property or services rendered legally, levied by and paid 107879
to another state or political subdivision thereof, or to the 107880
District of Columbia, where the payment of such tax does not 107881
entitle the taxpayer to any refund or credit for such payment. 107882

(6) The transfer of a used manufactured home or used mobile 107883
home, as defined by section 5739.0210 of the Revised Code, made on 107884
or after January 1, 2000; 107885

(7) Drugs that are or are intended to be distributed free of 107886
charge to a practitioner licensed to prescribe, dispense, and 107887
administer drugs to a human being in the course of a professional 107888
practice and that by law may be dispensed only by or upon the 107889

order of such a practitioner. 107890

(8) Computer equipment and related software leased from a 107891
lessor located outside this state and initially received in this 107892
state on behalf of the consumer by a third party that will retain 107893
possession of such property for not more than ninety days and that 107894
will, within that ninety-day period, deliver such property to the 107895
consumer at a location outside this state. Division (C)(8) of this 107896
section does not provide exemption from taxation for any otherwise 107897
taxable charges associated with such property while it is in this 107898
state or for any subsequent storage, use, or consumption of such 107899
property in this state by or on behalf of the consumer. 107900

(9) Tangible personal property held for sale by a person but 107901
not for that person's own use and donated by that person, without 107902
charge or other compensation, to either of the following: 107903

(a) A nonprofit organization operated exclusively for 107904
charitable purposes in this state, no part of the net income of 107905
which inures to the benefit of any private shareholder or 107906
individual and no substantial part of the activities of which 107907
consists of carrying on propaganda or otherwise attempting to 107908
influence legislation; or 107909

(b) This state or any political subdivision of this state, 107910
but only if donated for exclusively public purposes. 107911

For the purposes of division (C)(10) of this section, 107912
"charitable purposes" has the same meaning as in division (B)(12) 107913
of section 5739.02 of the Revised Code. 107914

(D) The tax applies to the storage, use, or other consumption 107915
in this state of tangible personal property or services, the 107916
acquisition of which at the time of sale was excepted under 107917
division (E) of section 5739.01 of the Revised Code from the tax 107918
imposed by section 5739.02 of the Revised Code, but which has 107919
subsequently been temporarily or permanently stored, used, or 107920

otherwise consumed in a taxable manner. 107921

(E)(1)(a) If any transaction is claimed to be exempt under 107922
division (E) of section 5739.01 of the Revised Code or under 107923
section 5739.02 of the Revised Code, with the exception of 107924
divisions (B)(1) to ~~(11)~~(10) or (28) of section 5739.02 of the 107925
Revised Code, the consumer shall provide to the seller, and the 107926
seller shall obtain from the consumer, a certificate specifying 107927
the reason that the transaction is not subject to the tax. The 107928
certificate shall be in such form, and shall be provided either in 107929
a hard copy form or electronic form, as the tax commissioner 107930
prescribes. 107931

(b) A seller that obtains a fully completed exemption 107932
certificate from a consumer is relieved of liability for 107933
collecting and remitting tax on any sale covered by that 107934
certificate. If it is determined the exemption was improperly 107935
claimed, the consumer shall be liable for any tax due on that sale 107936
under this chapter. Relief under this division from liability does 107937
not apply to any of the following: 107938

(i) A seller that fraudulently fails to collect tax; 107939

(ii) A seller that solicits consumers to participate in the 107940
unlawful claim of an exemption; 107941

(iii) A seller that accepts an exemption certificate from a 107942
consumer that claims an exemption based on who purchases or who 107943
sells property or a service, when the subject of the transaction 107944
sought to be covered by the exemption certificate is actually 107945
received by the consumer at a location operated by the seller in 107946
this state, and this state has posted to its web site an exemption 107947
certificate form that clearly and affirmatively indicates that the 107948
claimed exemption is not available in this state; 107949

(iv) A seller that accepts an exemption certificate from a 107950
consumer who claims a multiple points of use exemption under 107951

division (D) of section 5739.033 of the Revised Code, if the item 107952
purchased is tangible personal property, other than prewritten 107953
computer software. 107954

(2) The seller shall maintain records, including exemption 107955
certificates, of all sales on which a consumer has claimed an 107956
exemption, and provide them to the tax commissioner on request. 107957

(3) If no certificate is provided or obtained within ninety 107958
days after the date on which the transaction is consummated, it 107959
shall be presumed that the tax applies. Failure to have so 107960
provided or obtained a certificate shall not preclude a seller, 107961
within one hundred twenty days after the tax commissioner gives 107962
written notice of intent to levy an assessment, from either 107963
establishing that the transaction is not subject to the tax, or 107964
obtaining, in good faith, a fully completed exemption certificate. 107965

(4) If a transaction is claimed to be exempt under division 107966
(B)(13) of section 5739.02 of the Revised Code, the contractor 107967
shall obtain certification of the claimed exemption from the 107968
contractee. This certification shall be in addition to an 107969
exemption certificate provided by the contractor to the seller. A 107970
contractee that provides a certification under this division shall 107971
be deemed to be the consumer of all items purchased by the 107972
contractor under the claim of exemption, if it is subsequently 107973
determined that the exemption is not properly claimed. The 107974
certification shall be in such form as the tax commissioner 107975
prescribes. 107976

(F) A seller who files a petition for reassessment contesting 107977
the assessment of tax on transactions for which the seller 107978
obtained no valid exemption certificates, and for which the seller 107979
failed to establish that the transactions were not subject to the 107980
tax during the one-hundred-twenty-day period allowed under 107981
division (E) of this section, may present to the tax commissioner 107982
additional evidence to prove that the transactions were exempt. 107983

The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

Sec. 5741.021. ~~(A) For the purpose of providing additional general revenues for the county or supporting criminal and administrative justice services in the county, or both, and to pay the expenses of administering such levy, any county which Any additional tax levied by a county under this section that is in effect on August 31, 2013, is hereby repealed, effective September 1, 2013.~~

(B) Beginning September 1, 2013 and continuing until otherwise changed by a board of county commissioners as allowed in division (C) of this section, the rate of additional tax imposed

under this section in a county is the rate prescribed for that 108015
county by section 5739.0211 of the Revised Code. 108016

(C) Beginning July 1, 2016, any county that levies a tax 108017
pursuant to section 5739.021 of the Revised Code shall levy a tax 108018
for the same purpose or purposes and at the same rate as the tax 108019
levied pursuant to section 5739.021 of the Revised Code under that 108020
section on the storage, use, or other consumption in the county of 108021
the following: 108022

(1) Motor vehicles, and watercraft and outboard motors 108023
required to be titled in the county pursuant to Chapter 1548. of 108024
the Revised Code and acquired by a transaction subject to the tax 108025
imposed by section 5739.02 of the Revised Code; 108026

(2) In addition to the tax imposed by section 5741.02 of the 108027
Revised Code, tangible personal property and services subject to 108028
the tax levied by this state as provided in section 5741.02 of the 108029
Revised Code, and tangible personal property and services 108030
purchased in another county within this state by a transaction 108031
subject to the tax imposed by section 5739.02 of the Revised Code. 108032

The tax shall be levied pursuant to a resolution of the board 108033
of county commissioners which shall be adopted after publication 108034
of notice and hearing in the same manner as provided in section 108035
5739.021 of the Revised Code. Such resolution shall be adopted and 108036
shall become effective on the same day as the resolution adopted 108037
by the board of county commissioners levying a sales tax pursuant 108038
to section 5739.021 of the Revised Code and shall remain in effect 108039
until such sales tax is repealed. 108040

~~(B)~~(D) The tax levied pursuant to this section on the 108041
storage, use, or other consumption of tangible personal property 108042
and on the benefit of a service realized shall be in addition to 108043
the tax levied by section 5741.02 of the Revised Code and, except 108044
as provided in division ~~(D)~~(F) of this section, any tax levied 108045

pursuant to sections 5741.022 and ~~5741.023~~ of the Revised Code. 108046

~~(C)~~(E) The additional tax levied by the county shall be 108047
collected pursuant to section 5739.025 of the Revised Code. If the 108048
additional tax or some portion thereof is levied for the purpose 108049
of criminal and administrative justice services, the revenue from 108050
the tax, or the amount or rate apportioned to that purpose, shall 108051
be credited to a special fund created in the county treasury for 108052
receipt of that revenue. 108053

~~(D)~~(F) The tax levied pursuant to this section shall not be 108054
applicable to any benefit of a service realized or to any storage, 108055
use, or consumption of property not within the taxing power of a 108056
county under the constitution of the United States or the 108057
constitution of this state, or to property or services on which a 108058
tax levied by a county or transit authority pursuant to this 108059
section or section 5739.021, 5739.023, ~~5739.026~~, or 5741.022, ~~or~~ 108060
~~5741.023~~ of the Revised Code has been paid, if the sum of the 108061
taxes paid pursuant to those sections is equal to or greater than 108062
the sum of the taxes due under this section and ~~sections~~ section 108063
5741.022 and ~~5741.023~~ of the Revised Code. If the sum of the taxes 108064
paid is less than the sum of the taxes due under this section and 108065
~~sections~~ section 5741.022 and ~~5741.023~~ of the Revised Code, the 108066
amount of tax paid shall be credited against the amount of tax 108067
due. 108068

~~(E)~~(G) As used in this section, "criminal and administrative 108069
justice services" has the same meaning as in section 5739.021 of 108070
the Revised Code. 108071

Sec. 5741.022. (A) ~~For~~ Any additional tax levied by a transit 108072
authority under this section that is in effect on August 31, 2013, 108073
is hereby repealed, effective September 1, 2013. 108074

(B) Beginning September 1, 2013, and continuing until 108075
otherwise changed by a transit authority as allowed in division 108076

(C) of this section, the rate of additional tax imposed under this section in the territory of a transit authority is the rate prescribed by section 5739.0211 of the Revised Code.

(C) Beginning July 1, 2016, for the purpose of providing additional general revenues for the transit authority and paying the expenses of administering such levy, any transit authority ~~as defined in section 5741.01 of the Revised Code~~ that levies a tax pursuant to section 5739.023 of the Revised Code shall levy a tax at the same rate levied pursuant to such section on the storage, use, or other consumption in the territory of the transit authority of the following:

(1) Motor vehicles, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code and acquired by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be in effect at the same time and at the same rate and shall be levied pursuant to the resolution of the legislative authority of the transit authority levying a sales tax pursuant to section 5739.023 of the Revised Code.

~~(B)~~(D) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division ~~(D)~~(F) of this section, any tax levied pursuant to ~~sections~~ section 5741.021 and ~~5741.023~~ of the Revised

Code. 108108

~~(C)~~(E) The additional tax levied by the authority shall be 108109
collected pursuant to section 5739.025 of the Revised Code. 108110

~~(D)~~(F) The tax levied pursuant to this section shall not be 108111
applicable to any benefit of a service realized or to any storage, 108112
use, or consumption of property not within the taxing power of a 108113
transit authority under the constitution of the United States or 108114
the constitution of this state, or to property or services on 108115
which a tax levied by a county or transit authority pursuant to 108116
this section or section 5739.021, 5739.023, ~~5739.026~~, or 5741.021, 108117
~~or 5741.023~~ of the Revised Code has been paid, if the sum of the 108118
taxes paid pursuant to those sections is equal to or greater than 108119
the sum of the taxes due under this section and ~~sections~~ section 108120
5741.021 ~~and 5741.023~~ of the Revised Code. If the sum of the taxes 108121
paid is less than the sum of the taxes due under this section and 108122
~~sections~~ section 5741.021 ~~and 5741.023~~ of the Revised Code, the 108123
amount of tax paid shall be credited against the amount of tax 108124
due. 108125

~~(E)~~(G) The rate of a tax levied under this section is subject 108126
to reduction under section 5739.028 of the Revised Code if a 108127
ballot question is approved by voters pursuant to that section. 108128

Sec. 5741.023. (A) ~~For~~ The authority granted under this 108129
section terminates on the effective date of this section as 108130
amended byB. ... of the 130th general assembly. Any tax 108131
levied by a county under this section that is in effect on August 108132
31, 2013, is hereby repealed, effective September 1, 2013. 108133

For the same purposes for which it has imposed a tax under 108134
section 5739.026 of the Revised Code, any county that levies a tax 108135
pursuant to such section shall levy a tax at the same rate levied 108136
pursuant to such section on the storage, use, or other consumption 108137
in the county of the following: 108138

(1) Motor vehicles, and watercraft and outboard motors 108139
required to be titled in the county pursuant to Chapter 1548. of 108140
the Revised Code, acquired by a transaction subject to the tax 108141
imposed by section 5739.02 of the Revised Code; 108142

(2) In addition to the tax imposed by section 5741.02 of the 108143
Revised Code, tangible personal property and services subject to 108144
the tax levied by this state as provided in section 5741.02 of the 108145
Revised Code, and tangible personal property and services 108146
purchased in another county within this state by a transaction 108147
subject to the tax imposed by section 5739.02 of the Revised Code. 108148

The tax shall be levied pursuant to a resolution of the board 108149
of county commissioners, which shall be adopted in the same manner 108150
as provided in section 5739.026 of the Revised Code. Such 108151
resolution shall be adopted and shall become effective on the same 108152
day as the resolution adopted by the board of county commissioners 108153
levying a sales tax pursuant to such section and shall remain in 108154
effect until such sales tax is repealed or expires. 108155

(B) The tax levied pursuant to this section shall be in 108156
addition to the tax levied by section 5741.02 of the Revised Code 108157
and, except as provided in division (D) of this section, any tax 108158
levied pursuant to sections 5741.021 and 5741.022 of the Revised 108159
Code. 108160

(C) The additional tax levied by the county shall be 108161
collected pursuant to section 5739.025 of the Revised Code. 108162

(D) The tax levied pursuant to this section shall not be 108163
applicable to any benefit of a service realized or to any storage, 108164
use, or consumption of property not within the taxing power of a 108165
county under the constitution of the United States or the 108166
constitution of this state, or to property or services on which 108167
tax levied by a county or transit authority pursuant to this 108168
section or section 5739.021, 5739.023, 5739.026, 5741.021, or 108169

5741.022 of the Revised Code has been paid, if the sum of the 108170
taxes paid pursuant to those sections is equal to or greater than 108171
the sum of the taxes due under this section and sections 5741.021 108172
and 5741.022 of the Revised Code. If the sum of the taxes paid is 108173
less than the sum of the taxes due under this section and sections 108174
5741.021 and 5741.022 of the Revised Code, the amount of tax paid 108175
shall be credited against the amount of tax due. 108176

Sec. 5741.05. (A) A seller that collects the tax levied by 108177
sections 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised 108178
Code on transactions, other than sales of titled motor vehicles, 108179
titled watercraft, or titled outboard motors, shall determine 108180
under section 5739.033 or 5739.034 of the Revised Code the 108181
jurisdiction for which to collect the tax. A vendor or seller of 108182
motor vehicles, watercraft, or outboard motors required to be 108183
titled in this state shall collect the tax levied by section 108184
5739.02 or 5741.02 of the Revised Code and the additional taxes 108185
levied by ~~division (A)(1) of section~~ sections 5741.021, ~~division~~ 108186
~~(A)(1) of section~~ 5741.022, and ~~division (A)(1) of section~~ 108187
5741.023 of the Revised Code for the consumer's county of 108188
residence as provided in section 1548.06 and division (B) of 108189
section 4505.06 of the Revised Code. 108190

(B) A vendor or seller is not responsible for collecting or 108191
remitting additional tax if a consumer subsequently stores, uses, 108192
or consumes the tangible personal property or service in another 108193
jurisdiction with a rate of tax imposed by sections 5741.02, 108194
5741.021, 5741.022, or 5741.023 of the Revised Code that is higher 108195
than the amount collected by the vendor or seller pursuant to 108196
Chapter 5739. or 5741. of the Revised Code. 108197

Sec. 5743.05. All stamps provided for by section 5743.03 of 108198
the Revised Code, when procured by the tax commissioner, shall be 108199
immediately delivered to the treasurer of state, who shall execute 108200

a receipt therefor showing the number and aggregate face value of 108201
each denomination received by the treasurer of state and any other 108202
information that the commissioner requires to enforce the 108203
collection and distribution of all taxes imposed under section 108204
5743.021, 5743.024, or 5743.026 of the Revised Code, and deliver 108205
the receipt to the commissioner. The treasurer of state shall sell 108206
the stamps and, on the fifth day of each month, make a report 108207
showing all sales made during the preceding month, with the names 108208
of purchasers, the number of each denomination, the aggregate face 108209
value purchased by each, and any other information as the 108210
commissioner requires to enforce the collection and distribution 108211
of all taxes imposed under section 5743.021, 5743.024, or 5743.026 108212
of the Revised Code, and deliver it to the commissioner. The 108213
treasurer of state shall be accountable for all stamps received 108214
and unsold. The stamps shall be sold and accounted for at their 108215
face value, except the commissioner shall, by rule certified to 108216
the treasurer of state, authorize the sale of stamps and meter 108217
impressions to wholesale or retail dealers in this state, or to 108218
wholesale dealers outside this state, at a discount of not less 108219
than one and eight-tenths per cent or more than ten per cent of 108220
their face value, as a commission for affixing and canceling the 108221
stamps or meter impressions. 108222

The commissioner, by rule certified to the treasurer of 108223
state, shall authorize the delivery of stamps and meter 108224
impressions to wholesale dealers in this state and to wholesale 108225
dealers outside this state on credit. ~~If such a dealer has not~~ 108226
~~been in good credit standing with this state for five consecutive~~ 108227
~~years preceding the purchase, the tax~~ The commissioner shall 108228
require ~~the~~ such a dealer to file with the commissioner a bond to 108229
the state in the amount and in the form prescribed by the 108230
commissioner, with surety to the satisfaction of the commissioner, 108231
conditioned on payment to the treasurer of state within thirty 108232
days ~~for~~ after purchase of the stamps or meter impressions 108233

~~delivered within that time. If such a dealer has been in good~~ 108234
~~credit standing with this state for five consecutive years~~ 108235
~~preceding the purchase, the tax commissioner shall not require~~ 108236
~~that the dealer file such a bond but shall require payment for the~~ 108237
~~stamps and meter impressions within thirty days after purchase of~~ 108238
~~the stamps and meter impressions. Stamps and meter impressions~~ 108239
~~sold to a dealer not required to file a bond shall be sold at face~~ 108240
~~value. The maximum amount that may be sold on credit to a dealer~~ 108241
~~not required to file a bond shall equal one hundred ten per cent~~ 108242
~~of the dealer's average monthly purchases over the preceding~~ 108243
~~calendar year. The maximum amount shall be adjusted to reflect any~~ 108244
~~changes in the tax rate and may be adjusted, upon application to~~ 108245
~~the tax commissioner by the dealer, to reflect changes in the~~ 108246
~~business operations of the dealer. The maximum amount shall be~~ 108247
~~applicable to the period of July through April shall not exceed~~ 108248
~~the amount of the bond filed by the dealer. Payment by a dealer~~ 108249
~~not required to file a bond shall be remitted by electronic funds~~ 108250
~~transfer as prescribed by section 5743.051 of the Revised Code. If~~ 108251
~~a dealer not required to file a bond fails to make the payment in~~ 108252
~~full within the thirty-day period, or fails to maintain a bond as~~ 108253
~~required by this section, the treasurer of state shall not~~ 108254
~~thereafter sell stamps or meter impressions to that dealer until~~ 108255
~~the dealer pays the outstanding amount, including penalty and~~ 108256
~~interest on that amount as prescribed in this chapter, and ~~the~~~~ 108257
~~commissioner thereafter may require the dealer to file files and~~ 108258
~~maintains a bond until the dealer is restored to good standing in~~ 108259
~~accordance with the requirements of this section. The commissioner~~ 108260
~~shall limit delivery of stamps and meter impressions on credit to~~ 108261
~~the period running from the first day of July of the fiscal year~~ 108262
~~until the first day of the following May. Any discount allowed as~~ 108263
~~a commission for affixing and canceling stamps or meter~~ 108264
~~impressions shall be allowed with respect to sales of stamps and~~ 108265
~~meter impressions on credit.~~ 108266

A dealer that does not purchase stamps or meter impressions 108267
on credit may not be required to file a bond under this section. 108268

The treasurer of state shall redeem and pay for any 108269
destroyed, unused, or spoiled tax stamps and any unused meter 108270
impressions at their net value, and shall refund to wholesale 108271
dealers the net amount of state and county taxes paid erroneously 108272
or paid on cigarettes that have been sold in interstate or foreign 108273
commerce or that have become unsalable, and the net amount of 108274
county taxes that were paid on cigarettes that have been sold at 108275
retail or for retail sale outside a taxing county. 108276

An application for a refund of tax shall be filed with the 108277
tax commissioner, on the form prescribed by the commissioner for 108278
that purpose, within three years from the date the tax stamps are 108279
destroyed or spoiled, from the date of the erroneous payment, or 108280
from the date that cigarettes on which taxes have been paid have 108281
been sold in interstate or foreign commerce or have become 108282
unsalable. 108283

On the filing of the application, the commissioner shall 108284
determine the amount of refund to which the applicant is entitled, 108285
payable from receipts of the state tax, and, if applicable, 108286
payable from receipts of a county tax. If the amount is less than 108287
that claimed, the commissioner shall certify the amount to the 108288
director of budget and management and treasurer of state for 108289
payment from the tax refund fund created by section 5703.052 of 108290
the Revised Code. If the amount is less than that claimed, the 108291
commissioner shall proceed in accordance with section 5703.70 of 108292
the Revised Code. 108293

If a refund is granted for payment of an illegal or erroneous 108294
assessment issued by the department, the refund shall include 108295
interest on the amount of the refund from the date of the 108296
overpayment. The interest shall be computed at the rate per annum 108297
prescribed by section 5703.47 of the Revised Code. 108298

Sec. 5743.081. (A) If any wholesale dealer or retail dealer 108299
fails to pay the tax levied under section 5743.02, 5743.021, 108300
5743.024, or 5743.026 of the Revised Code as required by sections 108301
5743.01 to 5743.20 of the Revised Code, and by the rules of the 108302
tax commissioner, or fails to collect the tax from the purchaser 108303
or consumer, the commissioner may make an assessment against the 108304
wholesale or retail dealer based upon any information in the 108305
commissioner's possession. 108306

The commissioner may make an assessment against any wholesale 108307
or retail dealer who fails to file a return required by section 108308
5743.03 or 5743.025 of the Revised Code. 108309

No assessment shall be made against any wholesale or retail 108310
dealer for any taxes imposed under section 5743.02, 5743.021, 108311
5743.024, or 5743.026 of the Revised Code more than three years 108312
after the last day of the calendar month that immediately follows 108313
the semiannual period prescribed in section 5743.03 of the Revised 108314
Code in which the sale was made, or more than three years after 108315
the semiannual return for such period is filed, whichever is 108316
later. This section does not bar an assessment against any 108317
wholesale or retail dealer who fails to file a return as required 108318
by section 5743.025 or 5743.03 of the Revised Code, or who files a 108319
fraudulent return. 108320

A penalty of up to thirty per cent may be added to the amount 108321
of every assessment made under this section. The commissioner may 108322
adopt rules providing for the imposition and remission of 108323
penalties added to assessments made under this section. 108324

The commissioner shall give the party assessed written notice 108325
of the assessment in the manner provided in section 5703.37 of the 108326
Revised Code. The notice shall specify separately any portion of 108327
the assessment that represents a county tax. With the notice, the 108328
commissioner shall provide instructions on how to petition for 108329

reassessment and request a hearing on the petition. 108330

(B) Unless the party assessed files with the tax commissioner 108331
within sixty days after service of the notice of assessment, 108332
either personally or by certified mail, a written petition for 108333
reassessment signed by the party assessed or that party's 108334
authorized agent having knowledge of the facts, the assessment 108335
becomes final and the amount of the assessment is due and payable 108336
from the party assessed to the treasurer of state. The petition 108337
shall indicate the objections of the party assessed, but 108338
additional objections may be raised in writing if received by the 108339
commissioner prior to the date shown on the final determination. 108340
If the petition has been properly filed, the commissioner shall 108341
proceed under section 5703.60 of the Revised Code. 108342

(C) After an assessment becomes final, if any portion of the 108343
assessment remains unpaid, including accrued interest, a certified 108344
copy of the tax commissioner's entry making the assessment final 108345
may be filed in the office of the clerk of the court of common 108346
pleas in the county in which the wholesale or retail dealer's 108347
place of business is located or the county in which the party 108348
assessed resides. If the party assessed maintains no place of 108349
business in this state and is not a resident of this state, the 108350
certified copy of the entry may be filed in the office of the 108351
clerk of the court of common pleas of Franklin county. 108352

Immediately upon the filing of the commissioner's entry, the 108353
clerk shall enter a judgment for the state against the party 108354
assessed in the amount shown on the entry. The judgment may be 108355
filed by the clerk in a loose-leaf book entitled "special 108356
judgments for state cigarette sales tax," and shall have the same 108357
effect as other judgments. Execution shall issue upon the judgment 108358
upon the request of the tax commissioner, and all laws applicable 108359
to sales on execution shall apply to sales made under the 108360
judgment, except as otherwise provided in sections 5743.01 to 108361

5743.20 of the Revised Code. 108362

~~The portion of~~ If the assessment is not paid in its entirety 108363
within sixty days after the assessment was issued, the portion of 108364
the assessment consisting of tax due shall bear interest at the 108365
rate per annum prescribed by section 5703.47 of the Revised Code 108366
from the day the commissioner issues the assessment until it is 108367
paid or until it is certified to the attorney general for 108368
collection under section 131.02 of the Revised Code, whichever 108369
comes first. If the unpaid portion of the assessment is certified 108370
to the attorney general for collection, the entire unpaid portion 108371
of the assessment shall bear interest at the rate per annum 108372
prescribed by section 5703.47 of the Revised Code from the date of 108373
certification until the date it is paid in its entirety. Interest 108374
shall be paid in the same manner as the tax and may be collected 108375
by the issuance of an assessment under this section. 108376

(D) All money collected by the tax commissioner under this 108377
section shall be paid to the treasurer of state, and when paid 108378
shall be considered as revenue arising from the taxes imposed by 108379
sections 5743.01 to 5743.20 of the Revised Code. 108380

Sec. 5743.15. (A) Except as otherwise provided in this 108381
division, no person shall engage in this state in the wholesale or 108382
retail business of trafficking in cigarettes or in the business of 108383
a manufacturer or importer of cigarettes without having a license 108384
to conduct each such activity issued by a county auditor under 108385
division (B) of this section or the tax commissioner under 108386
divisions (C) and (F) of this section. On dissolution of a 108387
partnership by death, the surviving partner may operate under the 108388
license of the partnership until expiration of the license, and 108389
the heirs or legal representatives of deceased persons, and 108390
receivers and trustees in bankruptcy appointed by any competent 108391
authority, may operate under the license of the person succeeded 108392

in possession by such heir, representative, receiver, or trustee 108393
in bankruptcy if the partner or successor notifies the issuer of 108394
the license of the dissolution or succession within thirty days 108395
after the dissolution or succession. 108396

(B)(1) Each applicant for a license to engage in the retail 108397
business of trafficking in cigarettes under this section, 108398
annually, on or before the fourth Monday of May, shall make and 108399
deliver to the county auditor of the county in which the applicant 108400
desires to engage in the retail business of trafficking in 108401
cigarettes, upon a blank form furnished by such auditor for that 108402
purpose, a statement showing the name of the applicant, each 108403
physical place in the county where the applicant's business is 108404
conducted, the nature of the business, and any other information 108405
the tax commissioner requires in the form of statement prescribed 108406
by the commissioner. If the applicant is a firm, partnership, or 108407
association other than a corporation, the application shall state 108408
the name and address of each of its members. If the applicant is a 108409
corporation, the application shall state the name and address of 108410
each of its officers. At the time of making the application 108411
required by this section, every person desiring to engage in the 108412
retail business of trafficking in cigarettes shall pay an 108413
application fee in the sum of one hundred twenty-five dollars for 108414
each physical place where the person proposes to carry on such 108415
business. Each place of business shall be deemed such space, under 108416
lease or license to, or under the control of, or under the 108417
supervision of the applicant, as is contained in one or more 108418
contiguous, adjacent, or adjoining buildings constituting an 108419
industrial plant or a place of business operated by, or under the 108420
control of, one person, or under one roof and connected by doors, 108421
halls, stairways, or elevators, which space may contain any number 108422
of points at which cigarettes are offered for sale, provided that 108423
each additional point at which cigarettes are offered for sale 108424
shall be listed in the application. 108425

(2) Upon receipt of the application and exhibition of the county treasurer's receipt showing the payment of the application fee, the county auditor shall issue to the applicant a license for each place of business designated in the application, authorizing the applicant to engage in such business at such place for one year commencing on the fourth Monday of May. The form of the license shall be prescribed by the commissioner. A duplicate license may be obtained from the county auditor upon payment of a five-dollar fee if the original license is lost, destroyed, or defaced. When an application is filed after the fourth Monday of May, the application fee required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than twenty-five dollars in any one year.

(3) The holder of a retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license on condition that the licensee's ownership interest and business structure remain unchanged, and that the licensee applies to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of five dollars into the county treasury.

(C)(1) Each applicant for a license to engage in the wholesale business of trafficking in cigarettes under this section, annually, on or before the fourth Monday in May, shall make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, physical street address where the applicant's business is conducted, the nature of the business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its

officers. At the time of making the application required by this 108458
section, every person desiring to engage in the wholesale business 108459
of trafficking in cigarettes shall pay an application fee of one 108460
thousand dollars for each physical place where the person proposes 108461
to carry on such business. Each place of business shall be deemed 108462
such space, under lease or license to, or under the control of, or 108463
under the supervision of the applicant, as is contained in one or 108464
more contiguous, adjacent, or adjoining buildings constituting an 108465
industrial plant or a place of business operated by, or under the 108466
control of, one person, or under one roof and connected by doors, 108467
halls, stairways, or elevators. A duplicate license may be 108468
obtained from the commissioner upon payment of a 108469
twenty-five-dollar fee if the original license is lost, destroyed, 108470
or defaced. 108471

(2) Upon receipt of the application and payment of any 108472
application fee required by this section, the commissioner shall 108473
verify that the applicant is ~~in good standing under~~ not in 108474
violation of any provision of Chapter 1346. ~~and or~~ Title LVII of 108475
the Revised Code. The commissioner shall also verify that the 108476
applicant has filed any returns, submitted any information, and 108477
paid any outstanding taxes or fees as required by the 108478
commissioner, to the extent that the commissioner is aware of the 108479
returns, information, taxes, or fees at the time of the 108480
application. Upon approval, the commissioner shall issue to the 108481
applicant a license for each physical place of business designated 108482
in the application authorizing the applicant to engage in business 108483
at that location for one year commencing on the fourth Monday in 108484
May. For licenses issued after the fourth Monday in May, the 108485
application fee shall be reduced proportionately by the remainder 108486
of the twelve-month period for which the license is issued, except 108487
that the application fee required to be paid under this section 108488
shall be not less than two hundred dollars in any one year. 108489

(3) The holder of a wholesale dealer cigarette license may transfer the license to a place of business other than that designated on the license on condition that the licensee's ownership or business structure remains unchanged, and that the licensee applies to the commissioner for such a transfer upon a form promulgated by the commissioner and pays a fee of twenty-five dollars, which shall be deposited into the cigarette tax enforcement fund created in division (E) of this section.

(D)(1) The wholesale cigarette license application fees collected under this section shall be paid into the cigarette tax enforcement fund.

(2) The retail cigarette license application fees collected under this section shall be distributed as follows:

(a) Thirty per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located;

(b) Ten per cent shall be credited to the general fund of the county;

(c) Sixty per cent shall be paid into the cigarette tax enforcement fund.

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows:

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

(E) There is hereby created within the state treasury the 108520
cigarette tax enforcement fund for the purpose of providing funds 108521
to assist in paying the costs of enforcing sections 1333.11 to 108522
1333.21 and Chapter 5743. of the Revised Code. 108523

The portion of cigarette license application fees received by 108524
a county auditor during the annual application period that ends on 108525
the fourth Monday in May and that is required to be deposited in 108526
the cigarette tax enforcement fund shall be sent to the treasurer 108527
of state by the thirtieth day of June each year accompanied by the 108528
form prescribed by the tax commissioner. The portion of cigarette 108529
license application fees received by each county auditor after the 108530
fourth Monday in May and that is required to be deposited in the 108531
cigarette tax enforcement fund shall be sent to the treasurer of 108532
state by the last day of the month following the month in which 108533
such fees were collected. 108534

(F)(1) Every person who desires to engage in the business of 108535
a manufacturer or importer of cigarettes shall, annually, on or 108536
before the fourth Monday of May, make and deliver to the tax 108537
commissioner, upon a blank form furnished by the commissioner for 108538
that purpose, a statement showing the name of the applicant, the 108539
nature of the applicant's business, and any other information 108540
required by the commissioner. If the applicant is a firm, 108541
partnership, or association other than a corporation, the 108542
applicant shall state the name and address of each of its members. 108543
If the applicant is a corporation, the applicant shall state the 108544
name and address of each of its officers. 108545

(2) Upon receipt of the application required under this 108546
section, the commissioner shall verify that the applicant is ~~in~~ 108547
~~good standing under~~ not in violation of any provision of Chapter 108548
1346. ~~and~~ or Title LVII of the Revised Code. The commissioner 108549
shall also verify that the applicant has filed any returns, 108550
submitted any information, and paid any outstanding taxes or fees 108551

as required by the commissioner, to the extent that the 108552
commissioner is aware of the returns, information, taxes, or fees 108553
at the time of the application. Upon approval, the commissioner 108554
shall issue to the applicant a license authorizing the applicant 108555
to engage in the business of manufacturer or importer, whichever 108556
the case may be, for one year commencing on the fourth Monday of 108557
May. 108558

(3) The issuing of a license under division (F)(1) of this 108559
section to a manufacturer does not excuse a manufacturer from the 108560
certification process required under section 1346.05 of the 108561
Revised Code. A manufacturer who is issued a license under 108562
division (F)(1) of this section and who is not listed on the 108563
directory required under section 1346.05 of the Revised Code shall 108564
not be permitted to sell cigarettes in this state other than to a 108565
licensed cigarette wholesaler for sale outside this state. Such a 108566
manufacturer shall provide documentation to the commissioner 108567
evidencing that the cigarettes are legal for sale in another 108568
state. 108569

(G) The tax commissioner may adopt rules necessary to 108570
administer this section. 108571

Sec. 5743.56. (A) Any person required to pay the tax imposed 108572
by section 5743.51, 5743.62, or 5743.63 of the Revised Code is 108573
personally liable for the tax. The tax commissioner may make an 108574
assessment, based upon any information in the commissioner's 108575
possession, against any person who fails to file a return or pay 108576
any tax, interest, or additional charge as required by this 108577
chapter. The commissioner shall give the person assessed written 108578
notice of such assessment in the manner provided in section 108579
5703.37 of the Revised Code. With the notice, the commissioner 108580
shall provide instructions on how to petition for reassessment and 108581
request a hearing on the petition. 108582

(B) When the information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on such audit.

(C) A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The tax commissioner may adopt rules providing for the imposition and remission of such penalties.

(D) Unless the person assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the person assessed or that person's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. A petition shall indicate the objections of the person assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which the person assessed conducts business. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall 108615
enter a judgment for the state against the person assessed in the 108616
amount shown on the entry. The judgment may be filed by the clerk 108617
in a loose-leaf book entitled "special judgments for state tobacco 108618
products tax," and shall have the same effect as other judgments. 108619
Execution shall issue upon the judgment upon the request of the 108620
commissioner, and all laws applicable to sales on execution shall 108621
apply to sales made under the judgment. 108622

~~The portion of~~ If the assessment is not paid in its entirety 108623
within sixty days after the day the assessment is issued, the 108624
portion of the assessment consisting of tax due shall bear 108625
interest at the rate per annum prescribed by section 5703.47 of 108626
the Revised Code from the day the commissioner issues the 108627
assessment until the assessment is paid or until it is certified 108628
to the attorney general for collection under section 131.02 of the 108629
Revised Code, whichever comes first. If the unpaid portion of the 108630
assessment is certified to the attorney general for collection, 108631
the entire unpaid portion of the assessment shall bear interest at 108632
the rate per annum prescribed by section 5703.47 of the Revised 108633
Code from the date of certification until the date it is paid in 108634
its entirety. Interest shall be paid in the same manner as the tax 108635
and may be collected by issuing an assessment under this section. 108636

(F) If the tax commissioner believes that collection of the 108637
tax will be jeopardized unless proceedings to collect or secure 108638
collection of the tax are instituted without delay, the 108639
commissioner may issue a jeopardy assessment against the person 108640
liable for the tax. Immediately upon the issuance of the jeopardy 108641
assessment, the commissioner shall file an entry with the clerk of 108642
the court of common pleas in the manner prescribed by division (E) 108643
of this section. Notice of the jeopardy assessment shall be served 108644
on the person assessed or the legal representative of the person 108645
assessed, as provided in section 5703.37 of the Revised Code, 108646

within five days of the filing of the entry with the clerk. The 108647
total amount assessed is immediately due and payable, unless the 108648
person assessed files a petition for reassessment in accordance 108649
with division (D) of this section and provides security in a form 108650
satisfactory to the commissioner and in an amount sufficient to 108651
satisfy the unpaid balance of the assessment. Full or partial 108652
payment of the assessment does not prejudice the commissioner's 108653
consideration of the petition for reassessment. 108654

(G) All money collected by the tax commissioner under this 108655
section shall be paid to the treasurer of state as revenue arising 108656
from the tax imposed by sections 5743.51, 5743.62, and 5743.63 of 108657
the Revised Code. 108658

Sec. 5745.12. (A) If any taxpayer required to file a report 108659
under this chapter fails to file the report within the time 108660
prescribed, files an incorrect report, or fails to remit the full 108661
amount of the tax due for the period covered by the report, the 108662
tax commissioner may make an assessment against the taxpayer for 108663
any deficiency for the period for which the report or tax is due, 108664
based upon any information in the commissioner's possession. 108665

The tax commissioner shall not make or issue an assessment 108666
against a taxpayer more than three years after the later of the 108667
final date the report subject to assessment was required to be 108668
filed or the date the report was filed. Such time limit may be 108669
extended if both the taxpayer and the commissioner consent in 108670
writing to the extension. Any such extension shall extend the 108671
three-year time limit in section 5745.11 of the Revised Code for 108672
the same period of time. There shall be no bar or limit to an 108673
assessment against a taxpayer that fails to file a report subject 108674
to assessment as required by this chapter, or that files a 108675
fraudulent report. The commissioner shall give the taxpayer 108676
assessed written notice of the assessment as provided in section 108677

5703.37 of the Revised Code. With the notice, the commissioner 108678
shall provide instructions on how to petition for reassessment and 108679
request a hearing on the petition. 108680

(B) Unless the taxpayer assessed files with the tax 108681
commissioner within sixty days after service of the notice of 108682
assessment, either personally or by certified mail, a written 108683
petition for reassessment signed by the authorized agent of the 108684
taxpayer assessed having knowledge of the facts, the assessment 108685
becomes final, and the amount of the assessment is due and payable 108686
from the taxpayer to the treasurer of state. The petition shall 108687
indicate the taxpayer's objections, but additional objections may 108688
be raised in writing if received by the commissioner prior to the 108689
date shown on the final determination. If the petition has been 108690
properly filed, the commissioner shall proceed under section 108691
5703.60 of the Revised Code. 108692

(C) After an assessment becomes final, if any portion of the 108693
assessment remains unpaid, including accrued interest, a certified 108694
copy of the tax commissioner's entry making the assessment final 108695
may be filed in the office of the clerk of the court of common 108696
pleas in the county in which the taxpayer has an office or place 108697
of business in this state, the county in which the taxpayer's 108698
statutory agent is located, or Franklin county. 108699

Immediately upon the filing of the entry, the clerk shall 108700
enter a judgment against the taxpayer assessed in the amount shown 108701
on the entry. The judgment may be filed by the clerk in a 108702
loose-leaf book entitled "special judgments for municipal income 108703
taxes," and shall have the same effect as other judgments. 108704
Execution shall issue upon the judgment upon the request of the 108705
tax commissioner, and all laws applicable to sales on execution 108706
shall apply to sales made under the judgment. 108707

~~The portion of an~~ If the assessment is not paid in its 108708
entirety within sixty days after the day the assessment was 108709

issued, the portion of the assessment consisting of tax due shall 108710
bear interest at the rate per annum prescribed by section 5703.47 108711
of the Revised Code from the day the commissioner issues the 108712
assessment until the assessment is paid or until it is certified 108713
to the attorney general for collection under section 131.02 of the 108714
Revised Code, whichever comes first. If the unpaid portion of the 108715
assessment is certified to the attorney general for collection, 108716
the entire unpaid portion of the assessment shall bear interest at 108717
the rate per annum prescribed by section 5703.47 of the Revised 108718
Code from the date of certification until the date it is paid in 108719
its entirety. Interest shall be paid in the same manner as the tax 108720
and may be collected by issuing an assessment under this section. 108721

(D) All money collected under this section shall be credited 108722
and distributed to the municipal corporation to which the money is 108723
owed based on the assessment issued under this section. 108724

(E) If the tax commissioner believes that collection of the 108725
tax imposed by this chapter will be jeopardized unless proceedings 108726
to collect or secure collection of the tax are instituted without 108727
delay, the commissioner may issue a jeopardy assessment against 108728
the taxpayer liable for the tax. Immediately upon the issuance of 108729
the jeopardy assessment, the commissioner shall file an entry with 108730
the clerk of the court of common pleas in the manner prescribed by 108731
division (C) of this section. Notice of the jeopardy assessment 108732
shall be served on the taxpayer assessed or the taxpayer's legal 108733
representative in the manner provided in section 5703.37 of the 108734
Revised Code within five days of the filing of the entry with the 108735
clerk. The total amount assessed is immediately due and payable, 108736
unless the taxpayer assessed files a petition for reassessment in 108737
accordance with division (B) of this section and provides security 108738
in a form satisfactory to the commissioner and in an amount 108739
sufficient to satisfy the unpaid balance of the assessment. Full 108740
or partial payment of the assessment does not prejudice the 108741

commissioner's consideration of the petition for reassessment. 108742

(F) Notwithstanding the fact that a petition for reassessment 108743
is pending, the taxpayer may pay all or a portion of the 108744
assessment that is the subject of the petition. The acceptance of 108745
a payment by the treasurer of state does not prejudice any claim 108746
for refund upon final determination of the petition. 108747

If upon final determination of the petition an error in the 108748
assessment is corrected by the tax commissioner, upon petition so 108749
filed or pursuant to a decision of the board of tax appeals or any 108750
court to which the determination or decision has been appealed, so 108751
that the amount due from the taxpayer under the corrected 108752
assessment is less than the portion paid, there shall be issued to 108753
the taxpayer, its assigns, or legal representative a refund in the 108754
amount of the overpayment as provided by section 5745.11 of the 108755
Revised Code, with interest on that amount as provided by section 108756
5745.11 of the Revised Code. 108757

Sec. 5747.01. Except as otherwise expressly provided or 108758
clearly appearing from the context, any term used in this chapter 108759
that is not otherwise defined in this section has the same meaning 108760
as when used in a comparable context in the laws of the United 108761
States relating to federal income taxes or if not used in a 108762
comparable context in those laws, has the same meaning as in 108763
section 5733.40 of the Revised Code. Any reference in this chapter 108764
to the Internal Revenue Code includes other laws of the United 108765
States relating to federal income taxes. 108766

As used in this chapter: 108767

(A) "Adjusted gross income" or "Ohio adjusted gross income" 108768
means federal adjusted gross income, as defined and used in the 108769
Internal Revenue Code, adjusted as provided in this section: 108770

(1) Add interest or dividends on obligations or securities of 108771

any state or of any political subdivision or authority of any 108772
state, other than this state and its subdivisions and authorities. 108773

(2) Add interest or dividends on obligations of any 108774
authority, commission, instrumentality, territory, or possession 108775
of the United States to the extent that the interest or dividends 108776
are exempt from federal income taxes but not from state income 108777
taxes. 108778

(3) Deduct interest or dividends on obligations of the United 108779
States and its territories and possessions or of any authority, 108780
commission, or instrumentality of the United States to the extent 108781
that the interest or dividends are included in federal adjusted 108782
gross income but exempt from state income taxes under the laws of 108783
the United States. 108784

(4) Deduct disability and survivor's benefits to the extent 108785
included in federal adjusted gross income. 108786

(5) Deduct benefits under Title II of the Social Security Act 108787
and tier 1 railroad retirement benefits to the extent included in 108788
federal adjusted gross income under section 86 of the Internal 108789
Revenue Code. 108790

(6) In the case of a taxpayer who is a beneficiary of a trust 108791
that makes an accumulation distribution as defined in section 665 108792
of the Internal Revenue Code, add, for the beneficiary's taxable 108793
years beginning before 2002, the portion, if any, of such 108794
distribution that does not exceed the undistributed net income of 108795
the trust for the three taxable years preceding the taxable year 108796
in which the distribution is made to the extent that the portion 108797
was not included in the trust's taxable income for any of the 108798
trust's taxable years beginning in 2002 or thereafter. 108799
"Undistributed net income of a trust" means the taxable income of 108800
the trust increased by (a)(i) the additions to adjusted gross 108801
income required under division (A) of this section and (ii) the 108802

personal exemptions allowed to the trust pursuant to section 108803
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 108804
deductions to adjusted gross income required under division (A) of 108805
this section, (ii) the amount of federal income taxes attributable 108806
to such income, and (iii) the amount of taxable income that has 108807
been included in the adjusted gross income of a beneficiary by 108808
reason of a prior accumulation distribution. Any undistributed net 108809
income included in the adjusted gross income of a beneficiary 108810
shall reduce the undistributed net income of the trust commencing 108811
with the earliest years of the accumulation period. 108812

(7) Deduct the amount of wages and salaries, if any, not 108813
otherwise allowable as a deduction but that would have been 108814
allowable as a deduction in computing federal adjusted gross 108815
income for the taxable year, had the targeted jobs credit allowed 108816
and determined under sections 38, 51, and 52 of the Internal 108817
Revenue Code not been in effect. 108818

(8) Deduct any interest or interest equivalent on public 108819
obligations and purchase obligations to the extent that the 108820
interest or interest equivalent is included in federal adjusted 108821
gross income. 108822

(9) Add any loss or deduct any gain resulting from the sale, 108823
exchange, or other disposition of public obligations to the extent 108824
that the loss has been deducted or the gain has been included in 108825
computing federal adjusted gross income. 108826

(10) Deduct or add amounts, as provided under section 5747.70 108827
of the Revised Code, related to contributions to variable college 108828
savings program accounts made or tuition units purchased pursuant 108829
to Chapter 3334. of the Revised Code. 108830

(11)(a) Deduct, to the extent not otherwise allowable as a 108831
deduction or exclusion in computing federal or Ohio adjusted gross 108832
income for the taxable year, the amount the taxpayer paid during 108833

the taxable year for medical care insurance and qualified 108834
long-term care insurance for the taxpayer, the taxpayer's spouse, 108835
and dependents. No deduction for medical care insurance under 108836
division (A)(11) of this section shall be allowed either to any 108837
taxpayer who is eligible to participate in any subsidized health 108838
plan maintained by any employer of the taxpayer or of the 108839
taxpayer's spouse, or to any taxpayer who is entitled to, or on 108840
application would be entitled to, benefits under part A of Title 108841
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 108842
301, as amended. For the purposes of division (A)(11)(a) of this 108843
section, "subsidized health plan" means a health plan for which 108844
the employer pays any portion of the plan's cost. The deduction 108845
allowed under division (A)(11)(a) of this section shall be the net 108846
of any related premium refunds, related premium reimbursements, or 108847
related insurance premium dividends received during the taxable 108848
year. 108849

(b) Deduct, to the extent not otherwise deducted or excluded 108850
in computing federal or Ohio adjusted gross income during the 108851
taxable year, the amount the taxpayer paid during the taxable 108852
year, not compensated for by any insurance or otherwise, for 108853
medical care of the taxpayer, the taxpayer's spouse, and 108854
dependents, to the extent the expenses exceed seven and one-half 108855
per cent of the taxpayer's federal adjusted gross income. 108856

(c) Deduct, to the extent not otherwise deducted or excluded 108857
in computing federal or Ohio adjusted gross income, any amount 108858
included in federal adjusted gross income under section 105 or not 108859
excluded under section 106 of the Internal Revenue Code solely 108860
because it relates to an accident and health plan for a person who 108861
otherwise would be a "qualifying relative" and thus a "dependent" 108862
under section 152 of the Internal Revenue Code but for the fact 108863
that the person fails to meet the income and support limitations 108864
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 108865

(d) For purposes of division (A)(11) of this section, 108866
"medical care" has the meaning given in section 213 of the 108867
Internal Revenue Code, subject to the special rules, limitations, 108868
and exclusions set forth therein, and "qualified long-term care" 108869
has the same meaning given in section 7702B(c) of the Internal 108870
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 108871
of this section, "dependent" includes a person who otherwise would 108872
be a "qualifying relative" and thus a "dependent" under section 108873
152 of the Internal Revenue Code but for the fact that the person 108874
fails to meet the income and support limitations under section 108875
152(d)(1)(B) and (C) of the Internal Revenue Code. 108876

(12)(a) Deduct any amount included in federal adjusted gross 108877
income solely because the amount represents a reimbursement or 108878
refund of expenses that in any year the taxpayer had deducted as 108879
an itemized deduction pursuant to section 63 of the Internal 108880
Revenue Code and applicable United States department of the 108881
treasury regulations. The deduction otherwise allowed under 108882
division (A)(12)(a) of this section shall be reduced to the extent 108883
the reimbursement is attributable to an amount the taxpayer 108884
deducted under this section in any taxable year. 108885

(b) Add any amount not otherwise included in Ohio adjusted 108886
gross income for any taxable year to the extent that the amount is 108887
attributable to the recovery during the taxable year of any amount 108888
deducted or excluded in computing federal or Ohio adjusted gross 108889
income in any taxable year. 108890

(13) Deduct any portion of the deduction described in section 108891
1341(a)(2) of the Internal Revenue Code, for repaying previously 108892
reported income received under a claim of right, that meets both 108893
of the following requirements: 108894

(a) It is allowable for repayment of an item that was 108895
included in the taxpayer's adjusted gross income for a prior 108896
taxable year and did not qualify for a credit under division (A) 108897

or (B) of section 5747.05 of the Revised Code for that year; 108898

(b) It does not otherwise reduce the taxpayer's adjusted 108899
gross income for the current or any other taxable year. 108900

(14) Deduct an amount equal to the deposits made to, and net 108901
investment earnings of, a medical savings account during the 108902
taxable year, in accordance with section 3924.66 of the Revised 108903
Code. The deduction allowed by division (A)(14) of this section 108904
does not apply to medical savings account deposits and earnings 108905
otherwise deducted or excluded for the current or any other 108906
taxable year from the taxpayer's federal adjusted gross income. 108907

(15)(a) Add an amount equal to the funds withdrawn from a 108908
medical savings account during the taxable year, and the net 108909
investment earnings on those funds, when the funds withdrawn were 108910
used for any purpose other than to reimburse an account holder 108911
for, or to pay, eligible medical expenses, in accordance with 108912
section 3924.66 of the Revised Code; 108913

(b) Add the amounts distributed from a medical savings 108914
account under division (A)(2) of section 3924.68 of the Revised 108915
Code during the taxable year. 108916

(16) Add any amount claimed as a credit under section 108917
5747.059 or 5747.65 of the Revised Code to the extent that such 108918
amount satisfies either of the following: 108919

(a) The amount was deducted or excluded from the computation 108920
of the taxpayer's federal adjusted gross income as required to be 108921
reported for the taxpayer's taxable year under the Internal 108922
Revenue Code; 108923

(b) The amount resulted in a reduction of the taxpayer's 108924
federal adjusted gross income as required to be reported for any 108925
of the taxpayer's taxable years under the Internal Revenue Code. 108926

(17) Deduct the amount contributed by the taxpayer to an 108927

individual development account program established by a county 108928
department of job and family services pursuant to sections 329.11 108929
to 329.14 of the Revised Code for the purpose of matching funds 108930
deposited by program participants. On request of the tax 108931
commissioner, the taxpayer shall provide any information that, in 108932
the tax commissioner's opinion, is necessary to establish the 108933
amount deducted under division (A)(17) of this section. 108934

(18) Beginning in taxable year 2001 but not for any taxable 108935
year beginning after December 31, 2005, if the taxpayer is married 108936
and files a joint return and the combined federal adjusted gross 108937
income of the taxpayer and the taxpayer's spouse for the taxable 108938
year does not exceed one hundred thousand dollars, or if the 108939
taxpayer is single and has a federal adjusted gross income for the 108940
taxable year not exceeding fifty thousand dollars, deduct amounts 108941
paid during the taxable year for qualified tuition and fees paid 108942
to an eligible institution for the taxpayer, the taxpayer's 108943
spouse, or any dependent of the taxpayer, who is a resident of 108944
this state and is enrolled in or attending a program that 108945
culminates in a degree or diploma at an eligible institution. The 108946
deduction may be claimed only to the extent that qualified tuition 108947
and fees are not otherwise deducted or excluded for any taxable 108948
year from federal or Ohio adjusted gross income. The deduction may 108949
not be claimed for educational expenses for which the taxpayer 108950
claims a credit under section 5747.27 of the Revised Code. 108951

(19) Add any reimbursement received during the taxable year 108952
of any amount the taxpayer deducted under division (A)(18) of this 108953
section in any previous taxable year to the extent the amount is 108954
not otherwise included in Ohio adjusted gross income. 108955

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 108956
(v) of this section, add five-sixths of the amount of depreciation 108957
expense allowed by subsection (k) of section 168 of the Internal 108958
Revenue Code, including the taxpayer's proportionate or 108959

distributive share of the amount of depreciation expense allowed 108960
by that subsection to a pass-through entity in which the taxpayer 108961
has a direct or indirect ownership interest. 108962

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 108963
this section, add five-sixths of the amount of qualifying section 108964
179 depreciation expense, including the taxpayer's proportionate 108965
or distributive share of the amount of qualifying section 179 108966
depreciation expense allowed to any pass-through entity in which 108967
the taxpayer has a direct or indirect ownership interest. 108968

(iii) Subject to division (A)(20)(a)(v) of this section, for 108969
taxable years beginning in 2012 or thereafter, if the increase in 108970
income taxes withheld by the taxpayer is equal to or greater than 108971
ten per cent of income taxes withheld by the taxpayer during the 108972
taxpayer's immediately preceding taxable year, "two-thirds" shall 108973
be substituted for "five-sixths" for the purpose of divisions 108974
(A)(20)(a)(i) and (ii) of this section. 108975

(iv) Subject to division (A)(20)(a)(v) of this section, for 108976
taxable years beginning in 2012 or thereafter, a taxpayer is not 108977
required to add an amount under division (A)(20) of this section 108978
if the increase in income taxes withheld by the taxpayer and by 108979
any pass-through entity in which the taxpayer has a direct or 108980
indirect ownership interest is equal to or greater than the sum of 108981
(I) the amount of qualifying section 179 depreciation expense and 108982
(II) the amount of depreciation expense allowed to the taxpayer by 108983
subsection (k) of section 168 of the Internal Revenue Code, and 108984
including the taxpayer's proportionate or distributive shares of 108985
such amounts allowed to any such pass-through entities. 108986

(v) If a taxpayer directly or indirectly incurs a net 108987
operating loss for the taxable year for federal income tax 108988
purposes, to the extent such loss resulted from depreciation 108989
expense allowed by subsection (k) of section 168 of the Internal 108990
Revenue Code and by qualifying section 179 depreciation expense, 108991

"the entire" shall be substituted for "five-sixths of the" for the purpose of divisions (A)(20)(a)(i) and (ii) of this section.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A)(20)(a)(v) of this section, net operating loss carryback and carryforward shall not include the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions (A)(20) and (21) of this section:

(i) "Income taxes withheld" means the total amount withheld and remitted under sections 5747.06 and 5747.07 of the Revised Code by an employer during the employer's taxable year.

(ii) "Increase in income taxes withheld" means the amount by

which the amount of income taxes withheld by an employer during 109023
the employer's current taxable year exceeds the amount of income 109024
taxes withheld by that employer during the employer's immediately 109025
preceding taxable year. 109026

(iii) "Qualifying section 179 depreciation expense" means the 109027
difference between (I) the amount of depreciation expense directly 109028
or indirectly allowed to a taxpayer under section 179 of the 109029
Internal Revised Code, and (II) the amount of depreciation expense 109030
directly or indirectly allowed to the taxpayer under section 179 109031
of the Internal Revenue Code as that section existed on December 109032
31, 2002. 109033

(21)(a) If the taxpayer was required to add an amount under 109034
division (A)(20)(a) of this section for a taxable year, deduct one 109035
of the following: 109036

(i) One-fifth of the amount so added for each of the five 109037
succeeding taxable years if the amount so added was five-sixths of 109038
qualifying section 179 depreciation expense or depreciation 109039
expense allowed by subsection (k) of section 168 of the Internal 109040
Revenue Code; 109041

(ii) One-half of the amount so added for each of the two 109042
succeeding taxable years if the amount so added was two-thirds of 109043
such depreciation expense; 109044

(iii) One-sixth of the amount so added for each of the six 109045
succeeding taxable years if the entire amount of such depreciation 109046
expense was so added. 109047

(b) If the amount deducted under division (A)(21)(a) of this 109048
section is attributable to an add-back allocated under division 109049
(A)(20)(c) of this section, the amount deducted shall be situated 109050
to the same location. Otherwise, the add-back shall be apportioned 109051
using the apportionment factors for the taxable year in which the 109052
deduction is taken, subject to one or more of the four alternative 109053

methods of apportionment enumerated in section 5747.21 of the Revised Code. 109054
109055

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(21)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(20)(a) of this section has been deducted. 109056
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(d) No refund shall be allowed as a result of adjustments made by division (A)(21) of this section. 109069
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(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code. 109071
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(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code. 109076
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(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during 109081
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109084

the taxable year for active duty service in the United States 109085
army, air force, navy, marine corps, or coast guard or reserve 109086
components thereof or the national guard. The deduction may not be 109087
claimed for military pay and allowances received by the taxpayer 109088
while the taxpayer is stationed in this state. 109089

(25) Deduct, to the extent not otherwise allowable as a 109090
deduction or exclusion in computing federal or Ohio adjusted gross 109091
income for the taxable year and not otherwise compensated for by 109092
any other source, the amount of qualified organ donation expenses 109093
incurred by the taxpayer during the taxable year, not to exceed 109094
ten thousand dollars. A taxpayer may deduct qualified organ 109095
donation expenses only once for all taxable years beginning with 109096
taxable years beginning in 2007. 109097

For the purposes of division (A)(25) of this section: 109098

(a) "Human organ" means all or any portion of a human liver, 109099
pancreas, kidney, intestine, or lung, and any portion of human 109100
bone marrow. 109101

(b) "Qualified organ donation expenses" means travel 109102
expenses, lodging expenses, and wages and salary forgone by a 109103
taxpayer in connection with the taxpayer's donation, while living, 109104
of one or more of the taxpayer's human organs to another human 109105
being. 109106

(26) Deduct, to the extent not otherwise deducted or excluded 109107
in computing federal or Ohio adjusted gross income for the taxable 109108
year, amounts received by the taxpayer as retired military 109109
personnel pay for service in the United States army, navy, air 109110
force, coast guard, or marine corps or reserve components thereof, 109111
or the national guard, or received by the surviving spouse or 109112
former spouse of such a taxpayer under the survivor benefit plan 109113
on account of such a taxpayer's death. If the taxpayer receives 109114
income on account of retirement paid under the federal civil 109115

service retirement system or federal employees retirement system, 109116
or under any successor retirement program enacted by the congress 109117
of the United States that is established and maintained for 109118
retired employees of the United States government, and such 109119
retirement income is based, in whole or in part, on credit for the 109120
taxpayer's military service, the deduction allowed under this 109121
division shall include only that portion of such retirement income 109122
that is attributable to the taxpayer's military service, to the 109123
extent that portion of such retirement income is otherwise 109124
included in federal adjusted gross income and is not otherwise 109125
deducted under this section. Any amount deducted under division 109126
(A)(26) of this section is not included in a taxpayer's adjusted 109127
gross income for the purposes of section 5747.055 of the Revised 109128
Code. No amount may be deducted under division (A)(26) of this 109129
section on the basis of which a credit was claimed under section 109130
5747.055 of the Revised Code. 109131

(27) Deduct, to the extent not otherwise deducted or excluded 109132
in computing federal or Ohio adjusted gross income for the taxable 109133
year, the amount the taxpayer received during the taxable year 109134
from the military injury relief fund created in section 5101.98 of 109135
the Revised Code. 109136

(28) Deduct, to the extent not otherwise deducted or excluded 109137
in computing federal or Ohio adjusted gross income for the taxable 109138
year, the amount the taxpayer received as a veterans bonus during 109139
the taxable year from the Ohio department of veterans services as 109140
authorized by Section 2r of Article VIII, Ohio Constitution. 109141

~~(29) Deduct, to the extent not otherwise deducted or excluded 109142
in computing federal or Ohio adjusted gross income for the taxable 109143
year, any loss from wagering transactions that is allowed as an 109144
itemized deduction under section 165 of the Internal Revenue Code 109145
and that the taxpayer deducted in computing federal taxable 109146
income. 109147~~

~~(30)~~ Deduct, to the extent not otherwise deducted or excluded 109148
in computing federal or Ohio adjusted gross income for the taxable 109149
year, any income derived from providing public services under a 109150
contract through a project owned by the state, as described in 109151
section 126.604 of the Revised Code or derived from a transfer 109152
agreement or from the enterprise transferred under that agreement 109153
under section 4313.02 of the Revised Code. 109154

~~(31)~~(30) Deduct, to the extent not otherwise deducted or 109155
excluded in computing federal or Ohio adjusted gross income for 109156
the taxable year, Ohio college opportunity or federal Pell grant 109157
amounts received by the taxpayer or the taxpayer's spouse or 109158
dependent pursuant to section 3333.122 of the Revised Code or 20 109159
U.S.C. 1070a, et seq., and used to pay room or board furnished by 109160
the educational institution for which the grant was awarded at the 109161
institution's facilities, including meal plans administered by the 109162
institution. For the purposes of this division, receipt of a grant 109163
includes the distribution of a grant directly to an educational 109164
institution and the crediting of the grant to the enrollee's 109165
account with the institution. 109166

(31) Deduct one-half of the taxpayer's Ohio small business 109167
investor income, not to exceed one hundred eighty-seven thousand 109168
five hundred dollars for each spouse if spouses file separate 109169
returns under section 5747.08 of the Revised Code or three hundred 109170
seventy-five thousand dollars for all other taxpayers. No 109171
pass-through entity may claim a deduction under this division. 109172

For the purposes of this division, "Ohio small business 109173
investor income" means the portion of a taxpayer's adjusted gross 109174
income that is business income reduced by deductions from business 109175
income and apportioned or allocated to this state under sections 109176
5747.21 and 5747.22 of the Revised Code, to the extent not 109177
otherwise deducted or excluded in computing federal or Ohio 109178
adjusted gross income for the taxable year. 109179

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death

of a person who at the time of death was domiciled in this state 109241
for purposes of this chapter, that person is a person described in 109242
division (I)(3)(a)(iii) of this section. 109243

(b) A trust is irrevocable to the extent that the transferor 109244
is not considered to be the owner of the net assets of the trust 109245
under sections 671 to 678 of the Internal Revenue Code. 109246

(c) With respect to a trust other than a charitable lead 109247
trust, "qualifying beneficiary" has the same meaning as "potential 109248
current beneficiary" as defined in section 1361(e)(2) of the 109249
Internal Revenue Code, and with respect to a charitable lead trust 109250
"qualifying beneficiary" is any current, future, or contingent 109251
beneficiary, but with respect to any trust "qualifying 109252
beneficiary" excludes a person or a governmental entity or 109253
instrumentality to any of which a contribution would qualify for 109254
the charitable deduction under section 170 of the Internal Revenue 109255
Code. 109256

(d) For the purposes of division (I)(3)(a) of this section, 109257
the extent to which a trust consists directly or indirectly, in 109258
whole or in part, of assets, net of any related liabilities, that 109259
were transferred directly or indirectly, in whole or part, to the 109260
trust by any of the sources enumerated in that division shall be 109261
ascertained by multiplying the fair market value of the trust's 109262
assets, net of related liabilities, by the qualifying ratio, which 109263
shall be computed as follows: 109264

(i) The first time the trust receives assets, the numerator 109265
of the qualifying ratio is the fair market value of those assets 109266
at that time, net of any related liabilities, from sources 109267
enumerated in division (I)(3)(a) of this section. The denominator 109268
of the qualifying ratio is the fair market value of all the 109269
trust's assets at that time, net of any related liabilities. 109270

(ii) Each subsequent time the trust receives assets, a 109271

revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of

any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an

electing small business trust for the taxable year. 109395

(2) Add interest or dividends, net of ordinary, necessary, 109396
and reasonable expenses not deducted in computing federal taxable 109397
income, on obligations of any authority, commission, 109398
instrumentality, territory, or possession of the United States to 109399
the extent that the interest or dividends are exempt from federal 109400
income taxes but not from state income taxes, but only to the 109401
extent that such net amount is not otherwise includible in Ohio 109402
taxable income and is described in either division (S)(1)(a) or 109403
(b) of this section; 109404

(3) Add the amount of personal exemption allowed to the 109405
estate pursuant to section 642(b) of the Internal Revenue Code; 109406

(4) Deduct interest or dividends, net of related expenses 109407
deducted in computing federal taxable income, on obligations of 109408
the United States and its territories and possessions or of any 109409
authority, commission, or instrumentality of the United States to 109410
the extent that the interest or dividends are exempt from state 109411
taxes under the laws of the United States, but only to the extent 109412
that such amount is included in federal taxable income and is 109413
described in either division (S)(1)(a) or (b) of this section; 109414

(5) Deduct the amount of wages and salaries, if any, not 109415
otherwise allowable as a deduction but that would have been 109416
allowable as a deduction in computing federal taxable income for 109417
the taxable year, had the targeted jobs credit allowed under 109418
sections 38, 51, and 52 of the Internal Revenue Code not been in 109419
effect, but only to the extent such amount relates either to 109420
income included in federal taxable income for the taxable year or 109421
to income of the S portion of an electing small business trust for 109422
the taxable year; 109423

(6) Deduct any interest or interest equivalent, net of 109424
related expenses deducted in computing federal taxable income, on 109425

public obligations and purchase obligations, but only to the 109426
extent that such net amount relates either to income included in 109427
federal taxable income for the taxable year or to income of the S 109428
portion of an electing small business trust for the taxable year; 109429

(7) Add any loss or deduct any gain resulting from sale, 109430
exchange, or other disposition of public obligations to the extent 109431
that such loss has been deducted or such gain has been included in 109432
computing either federal taxable income or income of the S portion 109433
of an electing small business trust for the taxable year; 109434

(8) Except in the case of the final return of an estate, add 109435
any amount deducted by the taxpayer on both its Ohio estate tax 109436
return pursuant to section 5731.14 of the Revised Code, and on its 109437
federal income tax return in determining federal taxable income; 109438

(9)(a) Deduct any amount included in federal taxable income 109439
solely because the amount represents a reimbursement or refund of 109440
expenses that in a previous year the decedent had deducted as an 109441
itemized deduction pursuant to section 63 of the Internal Revenue 109442
Code and applicable treasury regulations. The deduction otherwise 109443
allowed under division (S)(9)(a) of this section shall be reduced 109444
to the extent the reimbursement is attributable to an amount the 109445
taxpayer or decedent deducted under this section in any taxable 109446
year. 109447

(b) Add any amount not otherwise included in Ohio taxable 109448
income for any taxable year to the extent that the amount is 109449
attributable to the recovery during the taxable year of any amount 109450
deducted or excluded in computing federal or Ohio taxable income 109451
in any taxable year, but only to the extent such amount has not 109452
been distributed to beneficiaries for the taxable year. 109453

(10) Deduct any portion of the deduction described in section 109454
1341(a)(2) of the Internal Revenue Code, for repaying previously 109455
reported income received under a claim of right, that meets both 109456

of the following requirements: 109457

(a) It is allowable for repayment of an item that was 109458
included in the taxpayer's taxable income or the decedent's 109459
adjusted gross income for a prior taxable year and did not qualify 109460
for a credit under division (A) or (B) of section 5747.05 of the 109461
Revised Code for that year. 109462

(b) It does not otherwise reduce the taxpayer's taxable 109463
income or the decedent's adjusted gross income for the current or 109464
any other taxable year. 109465

(11) Add any amount claimed as a credit under section 109466
5747.059 or 5747.65 of the Revised Code to the extent that the 109467
amount satisfies either of the following: 109468

(a) The amount was deducted or excluded from the computation 109469
of the taxpayer's federal taxable income as required to be 109470
reported for the taxpayer's taxable year under the Internal 109471
Revenue Code; 109472

(b) The amount resulted in a reduction in the taxpayer's 109473
federal taxable income as required to be reported for any of the 109474
taxpayer's taxable years under the Internal Revenue Code. 109475

(12) Deduct any amount, net of related expenses deducted in 109476
computing federal taxable income, that a trust is required to 109477
report as farm income on its federal income tax return, but only 109478
if the assets of the trust include at least ten acres of land 109479
satisfying the definition of "land devoted exclusively to 109480
agricultural use" under section 5713.30 of the Revised Code, 109481
regardless of whether the land is valued for tax purposes as such 109482
land under sections 5713.30 to 5713.38 of the Revised Code. If the 109483
trust is a pass-through entity investor, section 5747.231 of the 109484
Revised Code applies in ascertaining if the trust is eligible to 109485
claim the deduction provided by division (S)(12) of this section 109486
in connection with the pass-through entity's farm income. 109487

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.	109519
(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.	109520 109521 109522
(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.	109523 109524 109525 109526 109527 109528 109529 109530 109531
(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:	109532 109533 109534 109535 109536 109537 109538 109539 109540 109541
(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;	109542 109543 109544
(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;	109545 109546 109547
(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other	109548 109549

educational benefit program. 109550

(BB)(1) "Modified business income" means the business income 109551
included in a trust's Ohio taxable income after such taxable 109552
income is first reduced by the qualifying trust amount, if any. 109553

(2) "Qualifying trust amount" of a trust means capital gains 109554
and losses from the sale, exchange, or other disposition of equity 109555
or ownership interests in, or debt obligations of, a qualifying 109556
investee to the extent included in the trust's Ohio taxable 109557
income, but only if the following requirements are satisfied: 109558

(a) The book value of the qualifying investee's physical 109559
assets in this state and everywhere, as of the last day of the 109560
qualifying investee's fiscal or calendar year ending immediately 109561
prior to the date on which the trust recognizes the gain or loss, 109562
is available to the trust. 109563

(b) The requirements of section 5747.011 of the Revised Code 109564
are satisfied for the trust's taxable year in which the trust 109565
recognizes the gain or loss. 109566

Any gain or loss that is not a qualifying trust amount is 109567
modified business income, qualifying investment income, or 109568
modified nonbusiness income, as the case may be. 109569

(3) "Modified nonbusiness income" means a trust's Ohio 109570
taxable income other than modified business income, other than the 109571
qualifying trust amount, and other than qualifying investment 109572
income, as defined in section 5747.012 of the Revised Code, to the 109573
extent such qualifying investment income is not otherwise part of 109574
modified business income. 109575

(4) "Modified Ohio taxable income" applies only to trusts, 109576
and means the sum of the amounts described in divisions (BB)(4)(a) 109577
to (c) of this section: 109578

(a) The fraction, calculated under section 5747.013, and 109579

applying section 5747.231 of the Revised Code, multiplied by the 109580
sum of the following amounts: 109581

(i) The trust's modified business income; 109582

(ii) The trust's qualifying investment income, as defined in 109583
section 5747.012 of the Revised Code, but only to the extent the 109584
qualifying investment income does not otherwise constitute 109585
modified business income and does not otherwise constitute a 109586
qualifying trust amount. 109587

(b) The qualifying trust amount multiplied by a fraction, the 109588
numerator of which is the sum of the book value of the qualifying 109589
investee's physical assets in this state on the last day of the 109590
qualifying investee's fiscal or calendar year ending immediately 109591
prior to the day on which the trust recognizes the qualifying 109592
trust amount, and the denominator of which is the sum of the book 109593
value of the qualifying investee's total physical assets 109594
everywhere on the last day of the qualifying investee's fiscal or 109595
calendar year ending immediately prior to the day on which the 109596
trust recognizes the qualifying trust amount. If, for a taxable 109597
year, the trust recognizes a qualifying trust amount with respect 109598
to more than one qualifying investee, the amount described in 109599
division (BB)(4)(b) of this section shall equal the sum of the 109600
products so computed for each such qualifying investee. 109601

(c)(i) With respect to a trust or portion of a trust that is 109602
a resident as ascertained in accordance with division (I)(3)(d) of 109603
this section, its modified nonbusiness income. 109604

(ii) With respect to a trust or portion of a trust that is 109605
not a resident as ascertained in accordance with division 109606
(I)(3)(d) of this section, the amount of its modified nonbusiness 109607
income satisfying the descriptions in divisions (B)(2) to (5) of 109608
section 5747.20 of the Revised Code, except as otherwise provided 109609
in division (BB)(4)(c)(ii) of this section. With respect to a 109610

trust or portion of a trust that is not a resident as ascertained 109611
in accordance with division (I)(3)(d) of this section, the trust's 109612
portion of modified nonbusiness income recognized from the sale, 109613
exchange, or other disposition of a debt interest in or equity 109614
interest in a section 5747.212 entity, as defined in section 109615
5747.212 of the Revised Code, without regard to division (A) of 109616
that section, shall not be allocated to this state in accordance 109617
with section 5747.20 of the Revised Code but shall be apportioned 109618
to this state in accordance with division (B) of section 5747.212 109619
of the Revised Code without regard to division (A) of that 109620
section. 109621

If the allocation and apportionment of a trust's income under 109622
divisions (BB)(4)(a) and (c) of this section do not fairly 109623
represent the modified Ohio taxable income of the trust in this 109624
state, the alternative methods described in division (C) of 109625
section 5747.21 of the Revised Code may be applied in the manner 109626
and to the same extent provided in that section. 109627

(5)(a) Except as set forth in division (BB)(5)(b) of this 109628
section, "qualifying investee" means a person in which a trust has 109629
an equity or ownership interest, or a person or unit of government 109630
the debt obligations of either of which are owned by a trust. For 109631
the purposes of division (BB)(2)(a) of this section and for the 109632
purpose of computing the fraction described in division (BB)(4)(b) 109633
of this section, all of the following apply: 109634

(i) If the qualifying investee is a member of a qualifying 109635
controlled group on the last day of the qualifying investee's 109636
fiscal or calendar year ending immediately prior to the date on 109637
which the trust recognizes the gain or loss, then "qualifying 109638
investee" includes all persons in the qualifying controlled group 109639
on such last day. 109640

(ii) If the qualifying investee, or if the qualifying 109641
investee and any members of the qualifying controlled group of 109642

which the qualifying investee is a member on the last day of the 109643
qualifying investee's fiscal or calendar year ending immediately 109644
prior to the date on which the trust recognizes the gain or loss, 109645
separately or cumulatively own, directly or indirectly, on the 109646
last day of the qualifying investee's fiscal or calendar year 109647
ending immediately prior to the date on which the trust recognizes 109648
the qualifying trust amount, more than fifty per cent of the 109649
equity of a pass-through entity, then the qualifying investee and 109650
the other members are deemed to own the proportionate share of the 109651
pass-through entity's physical assets which the pass-through 109652
entity directly or indirectly owns on the last day of the 109653
pass-through entity's calendar or fiscal year ending within or 109654
with the last day of the qualifying investee's fiscal or calendar 109655
year ending immediately prior to the date on which the trust 109656
recognizes the qualifying trust amount. 109657

(iii) For the purposes of division (BB)(5)(a)(iii) of this 109658
section, "upper level pass-through entity" means a pass-through 109659
entity directly or indirectly owning any equity of another 109660
pass-through entity, and "lower level pass-through entity" means 109661
that other pass-through entity. 109662

An upper level pass-through entity, whether or not it is also 109663
a qualifying investee, is deemed to own, on the last day of the 109664
upper level pass-through entity's calendar or fiscal year, the 109665
proportionate share of the lower level pass-through entity's 109666
physical assets that the lower level pass-through entity directly 109667
or indirectly owns on the last day of the lower level pass-through 109668
entity's calendar or fiscal year ending within or with the last 109669
day of the upper level pass-through entity's fiscal or calendar 109670
year. If the upper level pass-through entity directly and 109671
indirectly owns less than fifty per cent of the equity of the 109672
lower level pass-through entity on each day of the upper level 109673
pass-through entity's calendar or fiscal year in which or with 109674

which ends the calendar or fiscal year of the lower level 109675
pass-through entity and if, based upon clear and convincing 109676
evidence, complete information about the location and cost of the 109677
physical assets of the lower pass-through entity is not available 109678
to the upper level pass-through entity, then solely for purposes 109679
of ascertaining if a gain or loss constitutes a qualifying trust 109680
amount, the upper level pass-through entity shall be deemed as 109681
owning no equity of the lower level pass-through entity for each 109682
day during the upper level pass-through entity's calendar or 109683
fiscal year in which or with which ends the lower level 109684
pass-through entity's calendar or fiscal year. Nothing in division 109685
(BB)(5)(a)(iii) of this section shall be construed to provide for 109686
any deduction or exclusion in computing any trust's Ohio taxable 109687
income. 109688

(b) With respect to a trust that is not a resident for the 109689
taxable year and with respect to a part of a trust that is not a 109690
resident for the taxable year, "qualifying investee" for that 109691
taxable year does not include a C corporation if both of the 109692
following apply: 109693

(i) During the taxable year the trust or part of the trust 109694
recognizes a gain or loss from the sale, exchange, or other 109695
disposition of equity or ownership interests in, or debt 109696
obligations of, the C corporation. 109697

(ii) Such gain or loss constitutes nonbusiness income. 109698

(6) "Available" means information is such that a person is 109699
able to learn of the information by the due date plus extensions, 109700
if any, for filing the return for the taxable year in which the 109701
trust recognizes the gain or loss. 109702

(CC) "Qualifying controlled group" has the same meaning as in 109703
section 5733.04 of the Revised Code. 109704

(DD) "Related member" has the same meaning as in section 109705

5733.042 of the Revised Code.	109706
(EE)(1) For the purposes of division (EE) of this section:	109707
(a) "Qualifying person" means any person other than a qualifying corporation.	109708 109709
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	109710 109711 109712
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	109713 109714 109715 109716
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	109717 109718 109719 109720
(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	109721 109722 109723
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	109724 109725
(1) "Trust" does not include a qualified pre-income tax trust.	109726 109727
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.	109728 109729 109730
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests,	109731 109732 109733 109734 109735

five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in

the case of estates by Ohio taxable income. The tax imposed by 109767
this section on the balance thus obtained is hereby levied as 109768
follows: 109769

(1) For taxable years beginning in 2004: 109770

OHIO ADJUSTED GROSS INCOME LESS 109771

EXEMPTIONS (INDIVIDUALS)

OR 109772

MODIFIED OHIO 109773

TAXABLE INCOME (TRUSTS) 109774

OR 109775

OHIO TAXABLE INCOME (ESTATES) TAX 109776

\$5,000 or less .743% 109777

More than \$5,000 but not more \$37.15 plus 1.486% of the amount 109778
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$111.45 plus 2.972% of the 109779
than \$15,000 amount in excess of \$10,000

More than \$15,000 but not more \$260.05 plus 3.715% of the 109780
than \$20,000 amount in excess of \$15,000

More than \$20,000 but not more \$445.80 plus 4.457% of the 109781
than \$40,000 amount in excess of \$20,000

More than \$40,000 but not more \$1,337.20 plus 5.201% of the 109782
than \$80,000 amount in excess of \$40,000

More than \$80,000 but not more \$3,417.60 plus 5.943% of the 109783
than \$100,000 amount in excess of \$80,000

More than \$100,000 but not more \$4,606.20 plus 6.9% of the 109784
than \$200,000 amount in excess of \$100,000

More than \$200,000 \$11,506.20 plus 7.5% of the 109785
amount in excess of \$200,000

(2) For taxable years beginning in 2005: 109786

OHIO ADJUSTED GROSS INCOME LESS 109787

EXEMPTIONS (INDIVIDUALS)

OR 109788

MODIFIED OHIO		109789
TAXABLE INCOME (TRUSTS)		109790
OR		109791
OHIO TAXABLE INCOME (ESTATES)	TAX	109792
\$5,000 or less	.712%	109793
More than \$5,000 but not more than \$10,000	\$35.60 plus 1.424% of the amount in excess of \$5,000	109794
More than \$10,000 but not more than \$15,000	\$106.80 plus 2.847% of the amount in excess of \$10,000	109795
More than \$15,000 but not more than \$20,000	\$249.15 plus 3.559% of the amount in excess of \$15,000	109796
More than \$20,000 but not more than \$40,000	\$427.10 plus 4.27% of the amount in excess of \$20,000	109797
More than \$40,000 but not more than \$80,000	\$1,281.10 plus 4.983% of the amount in excess of \$40,000	109798
More than \$80,000 but not more than \$100,000	\$3,274.30 plus 5.693% of the amount in excess of \$80,000	109799
More than \$100,000 but not more than \$200,000	\$4,412.90 plus 6.61% of the amount in excess of \$100,000	109800
More than \$200,000	\$11,022.90 plus 7.185% of the amount in excess of \$200,000	109801
(3) For taxable years beginning in 2006:		109802
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		109803
OR		109804
MODIFIED OHIO TAXABLE INCOME (TRUSTS)		109805
OR		109806
OHIO TAXABLE INCOME (ESTATES)	TAX	109807
\$5,000 or less	.681%	109808
More than \$5,000 but not more than \$10,000	\$34.05 plus 1.361% of the amount in excess of \$5,000	109809
More than \$10,000 but not more	\$102.10 plus 2.722% of the	109810
		109811

than \$15,000	amount in excess of \$10,000	
More than \$15,000 but not more than \$20,000	\$238.20 plus 3.403% of the amount in excess of \$15,000	109812
More than \$20,000 but not more than \$40,000	\$408.35 plus 4.083% of the amount in excess of \$20,000	109813
More than \$40,000 but not more than \$80,000	\$1,224.95 plus 4.764% of the amount in excess of \$40,000	109814
More than \$80,000 but not more than \$100,000	\$3,130.55 plus 5.444% of the amount in excess of \$80,000	109815
More than \$100,000 but not more than \$200,000	\$4,219.35 plus 6.32% of the amount in excess of \$100,000	109816
More than \$200,000	\$10,539.35 plus 6.87% of the amount in excess of \$200,000	109817
(4) For taxable years beginning in 2007:		109818
OHIO ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS)		109819
OR		109820
MODIFIED OHIO		109821
TAXABLE INCOME (TRUSTS)		109822
OR		109823
OHIO TAXABLE INCOME (ESTATES)	TAX	109824
\$5,000 or less	.649%	109825
More than \$5,000 but not more than \$10,000	\$32.45 plus 1.299% of the amount in excess of \$5,000	109826
More than \$10,000 but not more than \$15,000	\$97.40 plus 2.598% of the amount in excess of \$10,000	109827
More than \$15,000 but not more than \$20,000	\$227.30 plus 3.247% of the amount in excess of \$15,000	109828
More than \$20,000 but not more than \$40,000	\$389.65 plus 3.895% of the amount in excess of \$20,000	109829
More than \$40,000 but not more than \$80,000	\$1,168.65 plus 4.546% of the amount in excess of \$40,000	109830
More than \$80,000 but not more	\$2,987.05 plus 5.194% of the	109831

than \$100,000	amount in excess of \$80,000	
More than \$100,000 but not more than \$200,000	\$4,025.85 plus 6.031% of the amount in excess of \$100,000	109832
More than \$200,000	\$10,056.85 plus 6.555% of the amount in excess of \$200,000	109833
(5) For taxable years beginning in 2008, 2009, or 2010:		109834
OHIO ADJUSTED GROSS INCOME LESS		109835
EXEMPTIONS (INDIVIDUALS)		
OR		109836
MODIFIED OHIO		109837
TAXABLE INCOME (TRUSTS)		109838
OR		109839
OHIO TAXABLE INCOME (ESTATES)	TAX	109840
\$5,000 or less	.618%	109841
More than \$5,000 but not more than \$10,000	\$30.90 plus 1.236% of the amount in excess of \$5,000	109842
More than \$10,000 but not more than \$15,000	\$92.70 plus 2.473% of the amount in excess of \$10,000	109843
More than \$15,000 but not more than \$20,000	\$216.35 plus 3.091% of the amount in excess of \$15,000	109844
More than \$20,000 but not more than \$40,000	\$370.90 plus 3.708% of the amount in excess of \$20,000	109845
More than \$40,000 but not more than \$80,000	\$1,112.50 plus 4.327% of the amount in excess of \$40,000	109846
More than \$80,000 but not more than \$100,000	\$2,843.30 plus 4.945% of the amount in excess of \$80,000	109847
More than \$100,000 but not more than \$200,000	\$3,832.30 plus 5.741% of the amount in excess of \$100,000	109848
More than \$200,000	\$9,573.30 plus 6.24% of the amount in excess of \$200,000	109849
(6) For taxable years beginning in 2011 or thereafter <u>2012</u> :		109850
OHIO ADJUSTED GROSS INCOME LESS		109851

EXEMPTIONS (INDIVIDUALS)		
OR		109852
MODIFIED OHIO		109853
TAXABLE INCOME (TRUSTS)		109854
OR		109855
OHIO TAXABLE INCOME (ESTATES)	TAX	109856
\$5,000 or less	.587%	109857
More than \$5,000 but not more than \$10,000	\$29.35 plus 1.174% of the amount in excess of \$5,000	109858
More than \$10,000 but not more than \$15,000	\$88.05 plus 2.348% of the amount in excess of \$10,000	109859
More than \$15,000 but not more than \$20,000	\$205.45 plus 2.935% of the amount in excess of \$15,000	109860
More than \$20,000 but not more than \$40,000	\$352.20 plus 3.521% of the amount in excess of \$20,000	109861
More than \$40,000 but not more than \$80,000	\$1,056.40 plus 4.109% of the amount in excess of \$40,000	109862
More than \$80,000 but not more than \$100,000	\$2,700.00 plus 4.695% of the amount in excess of \$80,000	109863
More than \$100,000 but not more than \$200,000	\$3,639.00 plus 5.451% of the amount in excess of \$100,000	109864
More than \$200,000	\$9,090.00 plus 5.925% of the amount in excess of \$200,000	109865
<u>(7) For taxable years beginning in 2013:</u>		109866
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		109867
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		109868
<u>MODIFIED OHIO</u>		109869
<u>TAXABLE INCOME (TRUSTS)</u>		109870
<u>OR</u>		109871
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	109872
<u>\$5,000 or less</u>	<u>.543%</u>	109873
<u>More than \$5,000 but not more</u>	<u>\$27.15 plus 1.086% of the amount</u>	109874

<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$81.45 plus 2.172% of the amount in excess of \$10,000</u>	109875
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$190.05 plus 2.715% of the amount in excess of \$15,000</u>	109876
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$325.80 plus 3.257% of the amount in excess of \$20,000</u>	109877
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$977.20 plus 3.801% of the amount in excess of \$40,000</u>	109878
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,497.60 plus 4.343% of the amount in excess of \$80,000</u>	109879
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,366.20 plus 5.042% of the amount in excess of \$100,000</u>	109880
<u>More than \$200,000</u>	<u>\$8,408.20 plus 5.481% of the amount in excess of \$200,000</u>	109881
<u>(8) For taxable years beginning in 2014:</u>		109882
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		109883
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		109884
<u>MODIFIED OHIO</u>		109885
<u>TAXABLE INCOME (TRUSTS)</u>		109886
<u>OR</u>		109887
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	109888
<u>\$5,000 or less</u>	<u>.499%</u>	109889
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$24.95 plus .998% of the amount in excess of \$5,000</u>	109890
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$74.85 plus 1.996% of the amount in excess of \$10,000</u>	109891
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$174.65 plus 2.495% of the amount in excess of \$15,000</u>	109892
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$299.40 plus 2.993% of the amount in excess of \$20,000</u>	109893
<u>More than \$40,000 but not more</u>	<u>\$898.00 plus 3.493% of the</u>	109894

<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,295.20 plus 3.991% of the amount in excess of \$80,000</u>	109895
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,093.40 plus 4.633% of the amount in excess of \$100,000</u>	109896
<u>More than \$200,000</u>	<u>\$7,726.40 plus 5.036% of the amount in excess of \$200,000</u>	109897
<u>(9) For taxable years beginning in 2015 or thereafter:</u>		109898
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		109899
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		109900
<u>MODIFIED OHIO</u>		109901
<u>TAXABLE INCOME (TRUSTS)</u>		109902
<u>OR</u>		109903
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	109904
<u>\$5,000 or less</u>	<u>.470%</u>	109905
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$23.50 plus .939% of the amount in excess of \$5,000</u>	109906
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$70.45 plus 1.878% of the amount in excess of \$10,000</u>	109907
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$164.35 plus 2.348% of the amount in excess of \$15,000</u>	109908
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$281.75 plus 2.817% of the amount in excess of \$20,000</u>	109909
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$845.15 plus 3.287% of the amount in excess of \$40,000</u>	109910
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,159.95 plus 3.756% of the amount in excess of \$80,000</u>	109911
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$2,911.15 plus 4.361% of the amount in excess of \$100,000</u>	109912
<u>More than \$200,000</u>	<u>\$7,272.15 plus 4.740% of the amount in excess of \$200,000</u>	109913
<u>In July August of each year, beginning in 2010,</u>	<u>the tax</u>	109914

commissioner shall adjust the income amounts prescribed in this 109915
division by multiplying the percentage increase in the gross 109916
domestic product deflator computed that year under section 109917
5747.025 of the Revised Code by each of the income amounts 109918
resulting from the adjustment under this division in the preceding 109919
year, adding the resulting product to the corresponding income 109920
amount resulting from the adjustment in the preceding year, and 109921
rounding the resulting sum to the nearest multiple of fifty 109922
dollars. The tax commissioner also shall recompute each of the tax 109923
dollar amounts to the extent necessary to reflect the adjustment 109924
of the income amounts. The rates of taxation shall not be 109925
adjusted. 109926

The adjusted amounts apply to taxable years beginning in the 109927
calendar year in which the adjustments are made. The tax 109928
commissioner shall not make such adjustments in any year in which 109929
the amount resulting from the adjustment would be less than the 109930
amount resulting from the adjustment in the preceding year. 109931

(B) If the director of budget and management makes a 109932
certification to the tax commissioner under division (B) of 109933
section 131.44 of the Revised Code, the amount of tax as 109934
determined under division (A) of this section shall be reduced by 109935
the percentage prescribed in that certification for taxable years 109936
beginning in the calendar year in which that certification is 109937
made. 109938

(C) The levy of this tax on income does not prevent a 109939
municipal corporation, a joint economic development zone created 109940
under section 715.691, or a joint economic development district 109941
created under section 715.70 or 715.71 or sections 715.72 to 109942
715.81 of the Revised Code from levying a tax on income. 109943

(D) This division applies only to taxable years of a trust 109944
beginning in 2002 or thereafter. 109945

(1) The tax imposed by this section on a trust shall be 109946
computed by multiplying the Ohio modified taxable income of the 109947
trust by the rates prescribed by division (A) of this section. 109948

(2) A resident trust may claim a credit against the tax 109949
computed under division (D) of this section equal to the lesser of 109950
(1) the tax paid to another state or the District of Columbia on 109951
the resident trust's modified nonbusiness income, other than the 109952
portion of the resident trust's nonbusiness income that is 109953
qualifying investment income as defined in section 5747.012 of the 109954
Revised Code, or (2) the effective tax rate, based on modified 109955
Ohio taxable income, multiplied by the resident trust's modified 109956
nonbusiness income other than the portion of the resident trust's 109957
nonbusiness income that is qualifying investment income. The 109958
credit applies before any other applicable credits. 109959

(3) The credits enumerated in divisions (A)(1) to (13) of 109960
section 5747.98 of the Revised Code do not apply to a trust 109961
subject to division (D) of this section. Any credits enumerated in 109962
other divisions of section 5747.98 of the Revised Code apply to a 109963
trust subject to division (D) of this section. To the extent that 109964
the trust distributes income for the taxable year for which a 109965
credit is available to the trust, the credit shall be shared by 109966
the trust and its beneficiaries. The tax commissioner and the 109967
trust shall be guided by applicable regulations of the United 109968
States treasury regarding the sharing of credits. 109969

(E) For the purposes of this section, "trust" means any trust 109970
described in Subchapter J of Chapter 1 of the Internal Revenue 109971
Code, excluding trusts that are not irrevocable as defined in 109972
division (I)(3)(b) of section 5747.01 of the Revised Code and that 109973
have no modified Ohio taxable income for the taxable year, 109974
charitable remainder trusts, qualified funeral trusts and preneed 109975
funeral contract trusts established pursuant to sections 4717.31 109976
to 4717.38 of the Revised Code that are not qualified funeral 109977

trusts, endowment and perpetual care trusts, qualified settlement 109978
trusts and funds, designated settlement trusts and funds, and 109979
trusts exempted from taxation under section 501(a) of the Internal 109980
Revenue Code. 109981

Sec. 5747.022. An individual subject to the tax imposed by 109982
section 5747.02 of the Revised Code may claim a credit equal to 109983
twenty dollars times the number of exemptions allowed for the 109984
taxpayer, ~~his~~ the taxpayer's spouse, and each dependent under 109985
section 5747.02 of the Revised Code. The credit shall be claimed 109986
in the order required under section 5747.98 of the Revised Code. 109987
The credit shall not be considered in determining the taxes 109988
required to be withheld under section 5747.06 of the Revised Code 109989
or the estimated taxes required to be paid under section 5747.09 109990
of the Revised Code. In the case of an individual with respect to 109991
whom an exemption under section 5747.02 of the Revised Code is 109992
allowable to another taxpayer for a taxable year beginning in the 109993
calendar year in which the individual's taxable year begins, the 109994
"number of exemptions allowed" for purposes of calculating the 109995
credit allowed under this section to such individual for the 109996
individual's taxable year shall not include an exemption for the 109997
individual. 109998

Sec. 5747.025. (A) The Except as otherwise provided in this 109999
division, the personal exemption for the taxpayer and the 110000
taxpayer's spouse shall be seven hundred fifty dollars each for 110001
the taxable year beginning in 1996, eight hundred fifty dollars 110002
each for the taxable year beginning in 1997, nine hundred fifty 110003
dollars each for the taxable year beginning in 1998, and one 110004
thousand fifty dollars each for the taxable year beginning in 1999 110005
and taxable years beginning after 1999. The personal exemption 110006
amount prescribed in this division for taxable years beginning 110007
after 1999 shall be adjusted each year in the manner prescribed in 110008

division (C) of this section. In the case of an individual with 110009
respect to whom an exemption under section 5747.02 of the Revised 110010
Code is allowable to another taxpayer for a taxable year beginning 110011
in the calendar year in which the individual's taxable year 110012
begins, the exemption amount applicable to such individual for 110013
such individual's taxable year shall be zero. 110014

(B) The personal exemption for each dependent shall be eight 110015
hundred fifty dollars for the taxable year beginning in 1996, and 110016
one thousand fifty dollars for the taxable year beginning in 1997 110017
and taxable years beginning after 1997. The personal exemption 110018
amount prescribed in this division for taxable years beginning 110019
after 1999 shall be adjusted each year in the manner prescribed in 110020
division (C) of this section. 110021

(C) In ~~September~~ August of each year, ~~beginning in 2000~~, the 110022
tax commissioner shall determine the percentage increase in the 110023
gross domestic product deflator determined by the bureau of 110024
economic analysis of the United States department of commerce from 110025
the first day of January of the preceding calendar year to the 110026
last day of December of the preceding year, and adjust the 110027
personal exemption amount for taxable years beginning in the 110028
current calendar year by multiplying that amount by the percentage 110029
increase in the gross domestic product deflator for that period; 110030
adding the resulting product to the personal exemption amount for 110031
taxable years beginning in the preceding calendar year; and 110032
rounding the resulting sum upward to the nearest multiple of fifty 110033
dollars. The commissioner shall not make such an adjustment in any 110034
calendar year in which the amount resulting from the adjustment 110035
would be less than the amount resulting from the adjustment in the 110036
preceding calendar year. 110037

Sec. 5747.05. As used in this section, "income tax" includes 110038
both a tax on net income and a tax measured by net income. 110039

The following credits shall be allowed against the income tax 110040
imposed by section 5747.02 of the Revised Code on individuals and 110041
estates: 110042

(A)(1) The amount of tax otherwise due under section 5747.02 110043
of the Revised Code on such portion of the adjusted gross income 110044
of any nonresident taxpayer that is not allocable or apportionable 110045
to this state pursuant to sections 5747.20 to 5747.23 of the 110046
Revised Code; 110047

(2) The credit provided under this division shall not exceed 110048
the portion of the total tax due under section 5747.02 of the 110049
Revised Code that the amount of the nonresident taxpayer's 110050
adjusted gross income not allocated to this state pursuant to 110051
sections 5747.20 to 5747.23 of the Revised Code bears to the total 110052
adjusted gross income of the nonresident taxpayer derived from all 110053
sources everywhere. 110054

(3) The tax commissioner may enter into an agreement with the 110055
taxing authorities of any state or of the District of Columbia 110056
that imposes an income tax to provide that compensation paid in 110057
this state to a nonresident taxpayer shall not be subject to the 110058
tax levied in section 5747.02 of the Revised Code so long as 110059
compensation paid in such other state or in the District of 110060
Columbia to a resident taxpayer shall likewise not be subject to 110061
the income tax of such other state or of the District of Columbia. 110062

(B) The lesser of division (B)(1) or (2) of this section: 110063

(1) The amount of tax otherwise due under section 5747.02 of 110064
the Revised Code on such portion of the adjusted gross income of a 110065
resident taxpayer that in another state or in the District of 110066
Columbia is subjected to an income tax. The credit provided under 110067
division (B)(1) of this section shall not exceed the portion of 110068
the total tax due under section 5747.02 of the Revised Code that 110069
the amount of the resident taxpayer's adjusted gross income 110070

subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of adjusted gross income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed return no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(b) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the report even if it is beyond the period

prescribed in section 5747.11 of the Revised Code if it otherwise 110103
conforms to the requirements of such section. An application filed 110104
under this division shall only claim refund of overpayments 110105
resulting from an adjustment to the credit allowed by division (B) 110106
of this section unless it is also filed within the time prescribed 110107
in section 5747.11 of the Revised Code. It shall not reopen the 110108
computation of the taxpayer's tax liability except to the extent 110109
that such liability is affected by an adjustment to the credit 110110
allowed by division (B) of this section. 110111

(4) No credit shall be allowed under division (B) of this 110112
section for income tax paid or accrued to another state or to the 110113
District of Columbia if the taxpayer, when computing federal 110114
adjusted gross income, has directly or indirectly deducted, or was 110115
required to directly or indirectly deduct, the amount of that 110116
income tax. 110117

(C) For a taxpayer sixty-five years of age or older during 110118
the taxable year, a credit for such year equal to fifty dollars 110119
for each return required to be filed under section 5747.08 of the 110120
Revised Code. 110121

(D) A taxpayer sixty-five years of age or older during the 110122
taxable year who has received a lump-sum distribution from a 110123
pension, retirement, or profit-sharing plan in the taxable year 110124
may elect to receive a credit under this division in lieu of the 110125
credit to which the taxpayer is entitled under division (C) of 110126
this section. A taxpayer making such election shall receive a 110127
credit for the taxable year equal to fifty dollars times the 110128
taxpayer's expected remaining life as shown by annuity tables 110129
issued under the provisions of the Internal Revenue Code and in 110130
effect for the calendar year which includes the last day of the 110131
taxable year. A taxpayer making an election under this division is 110132
not entitled to the credit authorized under division (C) of this 110133
section in subsequent taxable years except that if such election 110134

was made prior to July 1, 1983, the taxpayer is entitled to 110135
one-half the credit authorized under such division in subsequent 110136
taxable years but may not make another election under this 110137
division. 110138

(E) A taxpayer who is not sixty-five years of age or older 110139
during the taxable year who has received a lump-sum distribution 110140
from a pension, retirement, or profit-sharing plan in a taxable 110141
year ending on or before July 31, 1991, may elect to take a credit 110142
against the tax otherwise due under this chapter for such year 110143
equal to fifty dollars times the expected remaining life of a 110144
taxpayer sixty-five years of age as shown by annuity tables issued 110145
under the provisions of the Internal Revenue Code and in effect 110146
for the calendar year which includes the last day of the taxable 110147
year. A taxpayer making an election under this division is not 110148
entitled to a credit under division (C) or (D) of this section in 110149
any subsequent year except that if such election was made prior to 110150
July 1, 1983, the taxpayer is entitled to one-half the credit 110151
authorized under division (C) of this section in subsequent years 110152
but may not make another election under this division. No taxpayer 110153
may make an election under this division for a taxable year ending 110154
on or after August 1, 1991. 110155

(F) A taxpayer making an election under either division (D) 110156
or (E) of this section may make only one such election in the 110157
taxpayer's lifetime. 110158

(G)(1) On a joint return filed by a husband and wife, each of 110159
whom had adjusted gross income of at least five hundred dollars, 110160
exclusive of interest, dividends and distributions, royalties, 110161
rent, and capital gains, a credit equal to the percentage shown in 110162
the table contained in this division of the amount of tax due 110163
after allowing for any other credit that precedes the credit under 110164
this division in the order required under section 5747.98 of the 110165
Revised Code. 110166

(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:

A.	B.	
IF THE ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:	
\$25,000 or less	20%	110173
More than \$25,000 but not more than \$50,000	15%	110174
More than \$50,000 but not more than \$75,000	10%	110175
More than \$75,000	5%	110176

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code.

(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is allowed the credits under divisions (A) and (B) of this section in accordance with rules prescribed by the tax commissioner. In no event shall the same income be subject to both credits.

(J) The credit allowed under division (A) of this section shall be calculated based upon the amount of tax due under section 5747.02 of the Revised Code after subtracting any other credits that precede the credit under that division in the order required under section 5747.98 of the Revised Code. The credit allowed under division (B) of this section shall be calculated based upon

the amount of tax due under section 5747.02 of the Revised Code 110195
after subtracting any other credits that precede the credit under 110196
that division in the order required under section 5747.98 of the 110197
Revised Code. 110198

(K) No credit shall be allowed under division (B) of this 110199
section unless the taxpayer furnishes such proof as the tax 110200
commissioner shall require that the income tax liability has been 110201
paid to another state or the District of Columbia. 110202

(L) No credit shall be allowed under division (B) of this 110203
section for compensation that is not subject to the income tax of 110204
another state or the District of Columbia as the result of an 110205
agreement entered into by the tax commissioner under division 110206
(A)(3) of this section. 110207

Sec. 5747.08. An annual return with respect to the tax 110208
imposed by section 5747.02 of the Revised Code and each tax 110209
imposed under Chapter 5748. of the Revised Code shall be made by 110210
every taxpayer for any taxable year for which the taxpayer is 110211
liable for the tax imposed by that section or under that chapter, 110212
unless the total credits allowed under divisions (E), (F), and (G) 110213
of section 5747.05 of the Revised Code for the year are equal to 110214
or exceed the tax imposed by section 5747.02 of the Revised Code, 110215
in which case no return shall be required unless the taxpayer is 110216
liable for a tax imposed pursuant to Chapter 5748. of the Revised 110217
Code. 110218

(A) If an individual is deceased, any return or notice 110219
required of that individual under this chapter shall be made and 110220
filed by that decedent's executor, administrator, or other person 110221
charged with the property of that decedent. 110222

(B) If an individual is unable to make a return or notice 110223
required by this chapter, the return or notice required of that 110224
individual shall be made and filed by the individual's duly 110225

authorized agent, guardian, conservator, fiduciary, or other 110226
person charged with the care of the person or property of that 110227
individual. 110228

(C) Returns or notices required of an estate or a trust shall 110229
be made and filed by the fiduciary of the estate or trust. 110230

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 110231
of this section, any pass-through entity may file a single return 110232
on behalf of one or more of the entity's investors other than an 110233
investor that is a person subject to the tax imposed under section 110234
5733.06 of the Revised Code. The single return shall set forth the 110235
name, address, and social security number or other identifying 110236
number of each of those pass-through entity investors and shall 110237
indicate the distributive share of each of those pass-through 110238
entity investor's income taxable in this state in accordance with 110239
sections 5747.20 to 5747.231 of the Revised Code. Such 110240
pass-through entity investors for whom the pass-through entity 110241
elects to file a single return are not entitled to the exemption 110242
or credit provided for by sections 5747.02 and 5747.022 of the 110243
Revised Code; shall calculate the tax before business credits at 110244
the highest rate of tax set forth in section 5747.02 of the 110245
Revised Code for the taxable year for which the return is filed; 110246
and are entitled to only their distributive share of the business 110247
credits as defined in division (D)(2) of this section. A single 110248
check drawn by the pass-through entity shall accompany the return 110249
in full payment of the tax due, as shown on the single return, for 110250
such investors, other than investors who are persons subject to 110251
the tax imposed under section 5733.06 of the Revised Code. 110252

(b)(i) A pass-through entity shall not include in such a 110253
single return any investor that is a trust to the extent that any 110254
direct or indirect current, future, or contingent beneficiary of 110255
the trust is a person subject to the tax imposed under section 110256
5733.06 of the Revised Code. 110257

(ii) A pass-through entity shall not include in such a single return any investor that is itself a pass-through entity to the extent that any direct or indirect investor in the second pass-through entity is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(c) Nothing in division (D) of this section precludes the tax commissioner from requiring such investors to file the return and make the payment of taxes and related interest, penalty, and interest penalty required by this section or section 5747.02, 5747.09, or 5747.15 of the Revised Code. Nothing in division (D) of this section precludes such an investor from filing the annual return under this section, utilizing the refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor under division (J) of this section, and making the payment of taxes imposed under section 5747.02 of the Revised Code. Nothing in division (D) of this section shall be construed to provide to such an investor or pass-through entity any additional deduction or credit, other than the credit provided by division (J) of this section, solely on account of the entity's filing a return in accordance with this section. Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of the pass-through entity investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code.

(2) For the purposes of this section, "business credits" means the credits listed in section 5747.98 of the Revised Code excluding the following credits:

(a) The retirement credit under division (B) of section 5747.055 of the Revised Code;

(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	110289 110290
(d) The dependent care credit under section 5747.054 of the Revised Code;	110291 110292
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	110293 110294
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	110295 110296
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	110297 110298
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	110299 110300
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	110301 110302
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	110303 110304
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	110305 110306
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	110307 110308
(m) The low-income credit under section 5747.056 of the Revised Code.	110309 110310
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	110311 110312 110313 110314 110315 110316 110317 110318

(4) If a pass-through entity makes the election provided for 110319
under division (D) of this section, the pass-through entity shall 110320
be liable for any additional taxes, interest, interest penalty, or 110321
penalties imposed by this chapter if the tax commissioner finds 110322
that the single return does not reflect the correct tax due by the 110323
pass-through entity investors covered by that return. Nothing in 110324
this division shall be construed to limit or alter the liability, 110325
if any, imposed on pass-through entity investors for unpaid or 110326
underpaid taxes, interest, interest penalty, or penalties as a 110327
result of the pass-through entity's making the election provided 110328
for under division (D) of this section. For the purposes of 110329
division (D) of this section, "correct tax due" means the tax that 110330
would have been paid by the pass-through entity had the single 110331
return been filed in a manner reflecting the commissioner's 110332
findings. Nothing in division (D) of this section shall be 110333
construed to make or hold a pass-through entity liable for tax 110334
attributable to a pass-through entity investor's income from a 110335
source other than the pass-through entity electing to file the 110336
single return. 110337

(E) If a husband and wife file a joint federal income tax 110338
return for a taxable year, they shall file a joint return under 110339
this section for that taxable year, and their liabilities are 110340
joint and several, but, if the federal income tax liability of 110341
either spouse is determined on a separate federal income tax 110342
return, they shall file separate returns under this section. 110343

If either spouse is not required to file a federal income tax 110344
return and either or both are required to file a return pursuant 110345
to this chapter, they may elect to file separate or joint returns, 110346
and, pursuant to that election, their liabilities are separate or 110347
joint and several. If a husband and wife file separate returns 110348
pursuant to this chapter, each must claim the taxpayer's own 110349
exemption, but not both, as authorized under section 5747.02 of 110350

the Revised Code on the taxpayer's own return. 110351

(F) Each return or notice required to be filed under this 110352
section shall contain the signature of the taxpayer or the 110353
taxpayer's duly authorized agent and of the person who prepared 110354
the return for the taxpayer, and shall include the taxpayer's 110355
social security number. Each return shall be verified by a 110356
declaration under the penalties of perjury. The tax commissioner 110357
shall prescribe the form that the signature and declaration shall 110358
take. 110359

(G) Each return or notice required to be filed under this 110360
section shall be made and filed as required by section 5747.04 of 110361
the Revised Code, on or before the fifteenth day of April of each 110362
year, on forms that the tax commissioner shall prescribe, together 110363
with remittance made payable to the treasurer of state in the 110364
combined amount of the state and all school district income taxes 110365
shown to be due on the form, ~~unless the combined amount shown to~~ 110366
~~be due is one dollar or less, in which case that amount need not~~ 110367
~~be remitted.~~ 110368

Upon good cause shown, the commissioner may extend the period 110369
for filing any notice or return required to be filed under this 110370
section and may adopt rules relating to extensions. If the 110371
extension results in an extension of time for the payment of any 110372
state or school district income tax liability with respect to 110373
which the return is filed, the taxpayer shall pay at the time the 110374
tax liability is paid an amount of interest computed at the rate 110375
per annum prescribed by section 5703.47 of the Revised Code on 110376
that liability from the time that payment is due without extension 110377
to the time of actual payment. Except as provided in section 110378
5747.132 of the Revised Code, in addition to all other interest 110379
charges and penalties, all taxes imposed under this chapter or 110380
Chapter 5748. of the Revised Code and remaining unpaid after they 110381
become due, except combined amounts due of one dollar or less, 110382

bear interest at the rate per annum prescribed by section 5703.47 110383
of the Revised Code until paid or until the day an assessment is 110384
issued under section 5747.13 of the Revised Code, whichever occurs 110385
first. 110386

If the commissioner considers it necessary in order to ensure 110387
the payment of the tax imposed by section 5747.02 of the Revised 110388
Code or any tax imposed under Chapter 5748. of the Revised Code, 110389
the commissioner may require returns and payments to be made 110390
otherwise than as provided in this section. 110391

To the extent that any provision in this division conflicts 110392
with any provision in section 5747.026 of the Revised Code, the 110393
provision in that section prevails. 110394

(H) If any report, claim, statement, or other document 110395
required to be filed, or any payment required to be made, within a 110396
prescribed period or on or before a prescribed date under this 110397
chapter is delivered after that period or that date by United 110398
States mail to the agency, officer, or office with which the 110399
report, claim, statement, or other document is required to be 110400
filed, or to which the payment is required to be made, the date of 110401
the postmark stamped on the cover in which the report, claim, 110402
statement, or other document, or payment is mailed shall be deemed 110403
to be the date of delivery or the date of payment. 110404

If a payment is required to be made by electronic funds 110405
transfer pursuant to section 5747.072 of the Revised Code, the 110406
payment is considered to be made when the payment is received by 110407
the treasurer of state or credited to an account designated by the 110408
treasurer of state for the receipt of tax payments. 110409

"The date of the postmark" means, in the event there is more 110410
than one date on the cover, the earliest date imprinted on the 110411
cover by the United States postal service. 110412

(I) The amounts withheld by an employer pursuant to section 110413

5747.06 of the Revised Code, a casino operator pursuant to section 110414
5747.063 of the Revised Code, or a lottery sales agent pursuant to 110415
section 5747.064 of the Revised Code shall be allowed to the 110416
recipient of the compensation casino winnings, or lottery prize 110417
award as credits against payment of the appropriate taxes imposed 110418
on the recipient by section 5747.02 and under Chapter 5748. of the 110419
Revised Code. 110420

(J) ~~If, in accordance with division (D) of this section,~~ a 110421
pass-through entity elects to file a single return under division 110422
(D) of this section and if any investor is required to file the 110423
annual return and make the payment of taxes required by this 110424
chapter on account of the investor's other income that is not 110425
included in a single return filed by a pass-through entity or any 110426
other investor elects to file the annual return, the investor is 110427
entitled to a refundable credit equal to the investor's 110428
proportionate share of the tax paid by the pass-through entity on 110429
behalf of the investor. The investor shall claim the credit for 110430
the investor's taxable year in which or with which ends the 110431
taxable year of the pass-through entity. Nothing in this chapter 110432
shall be construed to allow any credit provided in this chapter to 110433
be claimed more than once. For the ~~purposes~~ purpose of computing 110434
any interest, penalty, or interest penalty, the investor shall be 110435
deemed to have paid the refundable credit provided by this 110436
division on the day that the pass-through entity paid the 110437
estimated tax or the tax giving rise to the credit. 110438

(K) The tax commissioner shall ensure that each return 110439
required to be filed under this section includes a box that the 110440
taxpayer may check to authorize a paid tax preparer who prepared 110441
the return to communicate with the department of taxation about 110442
matters pertaining to the return. The return or instructions 110443
accompanying the return shall indicate that by checking the box 110444
the taxpayer authorizes the department of taxation to contact the 110445

preparer concerning questions that arise during the processing of 110446
the return and authorizes the preparer only to provide the 110447
department with information that is missing from the return, to 110448
contact the department for information about the processing of the 110449
return or the status of the taxpayer's refund or payments, and to 110450
respond to notices about mathematical errors, offsets, or return 110451
preparation that the taxpayer has received from the department and 110452
has shown to the preparer. 110453

(L) The tax commissioner shall permit individual taxpayers to 110454
instruct the department of taxation to cause any refund of 110455
overpaid taxes to be deposited directly into a checking account, 110456
savings account, or an individual retirement account or individual 110457
retirement annuity, or preexisting college savings plan or program 110458
account offered by the Ohio tuition trust authority under Chapter 110459
3334. of the Revised Code, as designated by the taxpayer, when the 110460
taxpayer files the annual return required by this section 110461
electronically. 110462

(M) The tax commissioner may adopt rules to administer this 110463
section. 110464

Sec. 5747.10. If any of the facts, figures, computations, or 110465
attachments required in a taxpayer's annual return to determine 110466
the tax charged by this chapter or Chapter 5748. of the Revised 110467
Code must be altered as the result of an adjustment to the 110468
taxpayer's federal income tax return, whether initiated by the 110469
taxpayer or the internal revenue service, and such alteration 110470
affects the taxpayer's tax liability under this chapter or Chapter 110471
5748. of the Revised Code, the taxpayer shall file an amended 110472
return with the tax commissioner in such form as the commissioner 110473
requires. The amended return shall be filed not later than sixty 110474
days after the adjustment has been agreed to or finally determined 110475
for federal income tax purposes or any federal income tax 110476

deficiency or refund, or the abatement or credit resulting 110477
therefrom, has been assessed or paid, whichever occurs first. 110478

(A) In the case of an underpayment, the amended return shall 110479
be accompanied by payment of any combined additional tax due 110480
together with interest thereon. ~~If the combined tax shown to be~~ 110481
~~due is one dollar or less, such amount need not accompany the~~ 110482
~~amended return.~~ An amended return required by this section is a 110483
return subject to assessment under section 5747.13 of the Revised 110484
Code for the purpose of assessing any additional tax due under 110485
this section, together with any applicable penalty and interest. 110486
It shall not reopen those facts, figures, computations, or 110487
attachments from a previously filed return no longer subject to 110488
assessment that are not affected, either directly or indirectly, 110489
by the adjustment to the taxpayer's federal income tax return. 110490

(B) In the case of an overpayment, an application for refund 110491
may be filed under this division within the sixty-day period 110492
prescribed for filing the amended return even if it is filed 110493
beyond the period prescribed in section 5747.11 of the Revised 110494
Code if it otherwise conforms to the requirements of such section. 110495
An application filed under this division shall claim refund of 110496
overpayments resulting from alterations to only those facts, 110497
figures, computations, or attachments required in the taxpayer's 110498
annual return that are affected, either directly or indirectly, by 110499
the adjustment to the taxpayer's federal income tax return unless 110500
it is also filed within the time prescribed in section 5747.11 of 110501
the Revised Code. It shall not reopen those facts, figures, 110502
computations, or attachments that are not affected, either 110503
directly or indirectly, by the adjustment to the taxpayer's 110504
federal income tax return. 110505

Sec. 5747.11. (A) The tax commissioner shall refund to 110506
employers, qualifying entities, or taxpayers, ~~with respect to any~~ 110507

subject to a tax imposed under section 5733.41, 5747.02, or 110508
5747.41, or Chapter 5748. of the Revised Code+ 110509

~~(1) Overpayments of more than one dollar;~~ 110510

~~(2) Amounts in excess of one dollar paid illegally or~~ 110511
~~erroneously;~~ 110512

~~(3) Amounts in excess of one dollar paid on an illegal,~~ 110513
~~erroneous, or excessive assessment the amount of any overpayment~~ 110514
~~of such tax.~~ 110515

(B) Except as otherwise provided under divisions (D) and (E) 110516
of this section, applications for refund shall be filed with the 110517
tax commissioner, on the form prescribed by the commissioner, 110518
within four years from the date of the illegal, erroneous, or 110519
excessive payment of the tax, or within any additional period 110520
allowed by division (B)(3)(b) of section 5747.05, division (B) of 110521
section 5747.10, division (A) of section 5747.13, or division (C) 110522
of section 5747.45 of the Revised Code. 110523

On filing of the refund application, the commissioner shall 110524
determine the amount of refund due and, if that amount exceeds one 110525
dollar, certify such amount to the director of budget and 110526
management and treasurer of state for payment from the tax refund 110527
fund created by section 5703.052 of the Revised Code. Payment 110528
shall be made as provided in division (C) of section 126.35 of the 110529
Revised Code. 110530

~~(C)(1) Interest shall be allowed and paid upon any illegal or~~ 110531
~~erroneous assessment in excess of one dollar in respect of the tax~~ 110532
~~imposed under section 5747.02 or Chapter 5748. of the Revised Code~~ 110533
~~at the rate per annum prescribed by section 5703.47 of the Revised~~ 110534
~~Code from the date of the payment of the illegal or erroneous~~ 110535
~~assessment until the date the refund of such amount is paid. If~~ 110536
~~such refund results from the filing of a return or report, or the~~ 110537
~~payment accompanying such return or report, by an employer or~~ 110538

~~taxpayer, rather than from an assessment by the commissioner, such~~ 110539
~~interest shall run from a period ninety days after the final~~ 110540
~~filing date of the annual return until the date the refund is~~ 110541
~~paid.~~ 110542

~~(2)~~ Interest shall be allowed and paid at the rate per annum 110543
prescribed by section 5703.47 of the Revised Code ~~upon any~~ 110544
~~overpayment in excess of one dollar in respect of~~ on amounts 110545
refunded with respect to the tax imposed under section 5747.02 or 110546
Chapter 5748. of the Revised Code from the date of the overpayment 110547
until the date of the refund of the overpayment, except that if 110548
any overpayment is refunded within ninety days after the final 110549
filing date of the annual return or ninety days after the return 110550
is filed, whichever is later, no interest shall be allowed on such 110551
overpayment. If the overpayment results from the carryback of a 110552
net operating loss or net capital loss to a previous taxable year, 110553
the overpayment is deemed not to have been made prior to the 110554
filing date, including any extension thereof, for the taxable year 110555
in which the net operating loss or net capital loss arises. For 110556
purposes of the payment of interest on overpayments, no amount of 110557
tax, for any taxable year, shall be treated as having been paid 110558
before the date on which the tax return for that year was due 110559
without regard to any extension of time for filing such return. 110560

~~(3)~~(2) Interest shall be allowed at the rate per annum 110561
prescribed by section 5703.47 of the Revised Code on amounts 110562
refunded with respect to the taxes imposed under sections 5733.41 110563
and 5747.41 of the Revised Code. The interest shall run from 110564
whichever of the following days is the latest until the day the 110565
refund is paid: the day the illegal, erroneous, or excessive 110566
payment was made; the ninetieth day after the final day the annual 110567
report was required to be filed under section 5747.42 of the 110568
Revised Code; or the ninetieth day after the day that report was 110569
filed. 110570

(D) "Ninety days" shall be substituted for "four years" in 110571
division (B) of this section if the taxpayer satisfies both of the 110572
following conditions: 110573

(1) The taxpayer has applied for a refund based in whole or 110574
in part upon section 5747.059 of the Revised Code; 110575

(2) The taxpayer asserts that either the imposition or 110576
collection of the tax imposed or charged by this chapter or any 110577
portion of such tax violates the Constitution of the United States 110578
or the Constitution of Ohio. 110579

(E)(1) Division (E)(2) of this section applies only if all of 110580
the following conditions are satisfied: 110581

(a) A qualifying entity pays an amount of the tax imposed by 110582
section 5733.41 or 5747.41 of the Revised Code; 110583

(b) The taxpayer is a qualifying investor as to that 110584
qualifying entity; 110585

(c) The taxpayer did not claim the credit provided for in 110586
section 5747.059 of the Revised Code as to the tax described in 110587
division (E)(1)(a) of this section; 110588

(d) The four-year period described in division (B) of this 110589
section has ended as to the taxable year for which the taxpayer 110590
otherwise would have claimed that credit. 110591

(2) A taxpayer shall file an application for refund pursuant 110592
to division (E) of this section within one year after the date the 110593
payment described in division (E)(1)(a) of this section is made. 110594
An application filed under division (E)(2) of this section shall 110595
claim refund only of overpayments resulting from the taxpayer's 110596
failure to claim the credit described in division (E)(1)(c) of 110597
this section. Nothing in division (E) of this section shall be 110598
construed to relieve a taxpayer from complying with division 110599
(A)(16) of section 5747.01 of the Revised Code. 110600

Sec. 5747.113. (A) Any taxpayer claiming a refund under 110601
section 5747.11 of the Revised Code who wishes to contribute any 110602
part of the taxpayer's refund to the natural areas and preserves 110603
fund created in section 1517.11 of the Revised Code, the nongame 110604
and endangered wildlife fund created in section 1531.26 of the 110605
Revised Code, the military injury relief fund created in section 110606
5101.98 of the Revised Code, the Ohio historical society income 110607
tax contribution fund created in section 149.308 of the Revised 110608
Code, or all of those funds may designate on the taxpayer's income 110609
tax return the amount that the taxpayer wishes to contribute to 110610
the fund or funds. A designated contribution is irrevocable upon 110611
the filing of the return and shall be made in the full amount 110612
designated if the refund found due the taxpayer upon the initial 110613
processing of the taxpayer's return, after any deductions 110614
including those required by section 5747.12 of the Revised Code, 110615
is greater than or equal to the designated contribution. If the 110616
refund due as initially determined is less than the designated 110617
contribution, the contribution shall be made in the full amount of 110618
the refund. The tax commissioner shall subtract the amount of the 110619
contribution from the amount of the refund initially found due the 110620
taxpayer and shall certify the difference to the director of 110621
budget and management and treasurer of state for payment to the 110622
taxpayer in accordance with section 5747.11 of the Revised Code. 110623
For the purpose of any subsequent determination of the taxpayer's 110624
net tax payment, the contribution shall be considered a part of 110625
the refund paid to the taxpayer. 110626

(B) The tax commissioner shall provide a space on the income 110627
tax return form in which a taxpayer may indicate that the taxpayer 110628
wishes to make a donation in accordance with this section. The tax 110629
commissioner shall also print in the instructions accompanying the 110630
income tax return form a description of the purposes for which the 110631
natural areas and preserves fund, the nongame and endangered 110632

wildlife fund, the military injury relief fund, and the Ohio
historical society income tax contribution fund were created and
the use of moneys from the income tax refund contribution system
established in this section. No person shall designate on the
person's income tax return any part of a refund claimed under
section 5747.11 of the Revised Code as a contribution to any fund
other than the natural areas and preserves fund, the nongame and
endangered wildlife fund, the military injury relief fund, or the
Ohio historical society income tax contribution fund.

(C) The money collected under the income tax refund
contribution system established in this section shall be deposited
by the tax commissioner into the natural areas and preserves fund,
the nongame and endangered wildlife fund, the military injury
relief fund, and the Ohio historical society income tax
contribution fund in the amounts designated on the tax returns.

(D) No later than the thirtieth day of September each year,
the tax commissioner shall determine the total amount contributed
to each fund under this section during the preceding eight months,
any adjustments to prior months, and the cost to the department of
taxation of administering the income tax refund contribution
system during that eight-month period. The commissioner shall make
an additional determination no later than the thirty-first day of
January of each year of the total amount contributed to each fund
under this section during the preceding four calendar months, any
adjustments to prior years made during that four-month period, and
the cost to the department of taxation of administering the income
tax contribution system during that period. The cost of
administering the income tax contribution system shall be
certified by the tax commissioner to the director of budget and
management, who shall transfer an amount equal to one-fourth of
such administrative costs from the natural areas and preserves
fund, one-fourth of such costs from the nongame and endangered

wildlife fund, one-fourth of such costs from the military injury relief fund, and one-fourth of such costs from the Ohio historical society income tax contribution fund to the ~~litter control and natural resource income tax administration~~ contribution fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services and the director of the Ohio historical society, in January of every odd-numbered year, each shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund and the Ohio historical society income tax contribution fund, respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

Sec. 5747.122. (A) The tax commissioner, in accordance with 110696
section 5101.184 of the Revised Code, shall cooperate with the 110697
director of job and family services to collect overpayments of 110698
assistance under Chapter 5107.~~7~~~~5111.7~~ or 5115., former Chapter 110699
5113., or section 5101.54 of the Revised Code from refunds of 110700
state income taxes for taxable year 1992 and thereafter that are 110701
payable to the recipients of such overpayments. 110702

(B) At the request of the department of job and family 110703
services in connection with the collection of an overpayment of 110704
assistance from a refund of state income taxes pursuant to this 110705
section and section 5101.184 of the Revised Code, the tax 110706
commissioner shall release to the department the home address and 110707
social security number of any recipient of assistance whose 110708
overpayment may be collected from a refund of state income taxes 110709
under those sections. 110710

(C) In the case of a joint income tax return for two people 110711
who were not married to each other at the time one of them 110712
received an overpayment of assistance, only the portion of a 110713
refund that is due to the recipient of the overpayment shall be 110714
available for collection of the overpayment under this section and 110715
section 5101.184 of the Revised Code. The tax commissioner shall 110716
determine such portion. A recipient's spouse who objects to the 110717
portion as determined by the commissioner may file a complaint 110718
with the commissioner within twenty-one days after receiving 110719
notice of the collection, and the commissioner shall afford the 110720
spouse an opportunity to be heard on the complaint. The 110721
commissioner shall waive or extend the twenty-one-day period if 110722
the recipient's spouse establishes that such action is necessary 110723
to avoid unjust, unfair, or unreasonable results. After the 110724
hearing, the commissioner shall make a final determination of the 110725
portion of the refund available for collection of the overpayment. 110726

(D) The welfare overpayment intercept fund is hereby created 110727
in the state treasury. The tax commissioner shall deposit amounts 110728
collected from income tax refunds under this section to the credit 110729
of the welfare overpayment intercept fund. The director of job and 110730
family services shall distribute money in the fund in accordance 110731
with appropriate federal or state laws and procedures regarding 110732
collection of welfare overpayments. 110733

Sec. 5747.13. (A) If any employer collects the tax imposed by 110734
section 5747.02 or under Chapter 5748. of the Revised Code and 110735
fails to remit the tax as required by law, or fails to collect the 110736
tax, the employer is personally liable for any amount collected 110737
that the employer fails to remit, or any amount that the employer 110738
fails to collect. If any taxpayer fails to file a return or fails 110739
to pay the tax imposed by section 5747.02 or under Chapter 5748. 110740
of the Revised Code, the taxpayer is personally liable for the 110741
amount of the tax. 110742

If any employer, taxpayer, or qualifying entity required to 110743
file a return under this chapter fails to file the return within 110744
the time prescribed, files an incorrect return, fails to remit the 110745
full amount of the taxes due for the period covered by the return, 110746
or fails to remit any additional tax due as a result of a 110747
reduction in the amount of the credit allowed under division (B) 110748
of section 5747.05 of the Revised Code together with interest on 110749
the additional tax within the time prescribed by that division, 110750
the tax commissioner may make an assessment against any person 110751
liable for any deficiency for the period for which the return is 110752
or taxes are due, based upon any information in the commissioner's 110753
possession. 110754

An assessment issued against either the employer or the 110755
taxpayer pursuant to this section shall not be considered an 110756
election of remedies or a bar to an assessment against the other 110757

for failure to report or pay the same tax. No assessment shall be 110758
issued against any person if the tax actually has been paid by 110759
another. 110760

No assessment shall be made or issued against an employer, 110761
taxpayer, or qualifying entity more than four years after the 110762
final date the return subject to assessment was required to be 110763
filed or the date the return was filed, whichever is later. 110764
However, the commissioner may assess any balance due as the result 110765
of a reduction in the credit allowed under division (B) of section 110766
5747.05 of the Revised Code, including applicable penalty and 110767
interest, within four years of the date on which the taxpayer 110768
reports a change in either the portion of the taxpayer's adjusted 110769
gross income subjected to an income tax or tax measured by income 110770
in another state or the District of Columbia, or the amount of 110771
liability for an income tax or tax measured by income to another 110772
state or the District of Columbia, as required by division (B)(3) 110773
of section 5747.05 of the Revised Code. Such time limits may be 110774
extended if both the employer, taxpayer, or qualifying entity and 110775
the commissioner consent in writing to the extension or if an 110776
agreement waiving or extending the time limits has been entered 110777
into pursuant to section 122.171 of the Revised Code. Any such 110778
extension shall extend the four-year time limit in division (B) of 110779
section 5747.11 of the Revised Code for the same period of time. 110780
There shall be no bar or limit to an assessment against an 110781
employer for taxes withheld from employees and not remitted to the 110782
state, against an employer, taxpayer, or qualifying entity that 110783
fails to file a return subject to assessment as required by this 110784
chapter, or against an employer, taxpayer, or qualifying entity 110785
that files a fraudulent return. 110786

The commissioner shall give the party assessed written notice 110787
of the assessment in the manner provided in section 5703.37 of the 110788
Revised Code. With the notice, the commissioner shall provide 110789

instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the party assessed to the commissioner with remittance made payable to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the employer's, taxpayer's, or qualifying entity's place of business is located or the county in which the party assessed resides. If the party assessed is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the party assessed in the amount shown on the entry. The judgment shall be filed by the clerk in one of two loose-leaf books, one entitled "special judgments for state and school district income taxes," and the other entitled "special judgments for qualifying entity taxes." The judgment shall have the same effect as other judgments. Execution shall issue upon the

judgment upon the request of the tax commissioner, and all laws 110822
applicable to sales on execution shall apply to sales made under 110823
the judgment. 110824

~~The portion of~~ If the assessment is not paid in its entirety 110825
within sixty days after the assessment was issued, the portion of 110826
the assessment consisting of tax due shall bear interest at the 110827
rate per annum prescribed by section 5703.47 of the Revised Code 110828
from the day the tax commissioner issues the assessment until it 110829
is paid or until it is certified to the attorney general for 110830
collection under section 131.02 of the Revised Code, whichever 110831
comes first. If the unpaid portion of the assessment is certified 110832
to the attorney general for collection, the entire unpaid portion 110833
of the assessment shall bear interest at the rate per annum 110834
prescribed by section 5703.47 of the Revised Code from the date of 110835
certification until the date it is paid in its entirety. Interest 110836
shall be paid in the same manner as the tax and may be collected 110837
by the issuance of an assessment under this section. 110838

(D) All money collected under this section shall be 110839
considered as revenue arising from the taxes imposed by this 110840
chapter or Chapter 5733. or 5748. of the Revised Code, as 110841
appropriate. 110842

(E) If the party assessed files a petition for reassessment 110843
under division (B) of this section, the person, on or before the 110844
last day the petition may be filed, shall pay the assessed amount, 110845
including assessed interest and assessed penalties, if any of the 110846
following conditions exists: 110847

(1) The person files a tax return reporting Ohio adjusted 110848
gross income, less the exemptions allowed by section 5747.025 of 110849
the Revised Code, in an amount less than one cent, and the 110850
reported amount is not based on the computations required under 110851
division (A) of section 5747.01 or section 5747.025 of the Revised 110852
Code. 110853

(2) The person files a tax return that the tax commissioner determines to be incomplete, false, fraudulent, or frivolous. 110854
110855

(3) The person fails to file a tax return, and the basis for this failure is not either of the following: 110856
110857

(a) An assertion that the person has no nexus with this state; 110858
110859

(b) The computations required under division (A) of section 5747.01 of the Revised Code or the application of credits allowed under this chapter has the result that the person's tax liability is less than one dollar and one cent. 110860
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(F) Notwithstanding the fact that a petition for reassessment is pending, the petitioner may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition. 110864
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If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the portion paid, there shall be issued to the petitioner or to the petitioner's assigns or legal representative a refund in the amount of the overpayment as provided by section 5747.11 of the Revised Code, with interest on that amount as provided by such section, subject to section 5747.12 of the Revised Code. 110869
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Sec. 5747.21. (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised 110880
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Code, computing the deduction under division (A)(31) of section 5747.01 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.

(B) Except as otherwise provided under ~~sections 5747.211 and~~ section 5747.212 of the Revised Code, all items of business income and business deduction shall be apportioned to this state by multiplying the adjusted gross income by the fraction calculated under division (B)(2) of section 5733.05 and section 5733.057 of the Revised Code as if the taxpayer's business were a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying ~~the a~~ timely filed return or timely filed amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

- (1) Separate accounting;
- (2) The exclusion of one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness

income applicable to all taxpayers and pass-through entities, to 110915
classes of taxpayers and pass-through entities, or only to 110916
taxpayers and pass-through entities within a certain industry. 110917

Sec. 5747.22. (A) This section applies solely for the 110918
purposes of computing the credit allowed under division (A) of 110919
section 5747.05 ~~of the Revised Code and~~, computing income taxable 110920
in this state under division (D) of section 5747.08, and computing 110921
the deduction under division (A)(31) of section 5747.01 of the 110922
Revised Code. 110923

(B) With respect to a pass-through entity, one or more of the 110924
pass-through entity investors of which are liable for the tax 110925
imposed by section 5747.02 of the Revised Code, the business 110926
income and deductions included in the adjusted gross income of the 110927
pass-through entity shall be apportioned to this state in the 110928
hands of the pass-through entity investors pursuant to section 110929
5747.21 of the Revised Code. The business income and deductions as 110930
thus apportioned to this state then shall be allocated to the 110931
pass-through entity investors in proportion to their right to 110932
share in that business income. 110933

(C) With respect to a pass-through entity described in 110934
division (B) of this section, the nonbusiness income and 110935
deductions included in the adjusted gross income of the 110936
pass-through entity shall be allocated to the pass-through entity 110937
investors in proportion to their right to share in the nonbusiness 110938
income, and then the pass-through entity shares shall be allocated 110939
to this state in the hands of each pass-through entity investor 110940
pursuant to section 5747.20 of the Revised Code. 110941

Sec. 5747.47. (A)(1) By the ~~twentieth~~ twenty-fifth day of 110942
July of each year, the tax commissioner shall estimate and certify 110943
the following for each county to its county auditor: 110944

(a) Its guaranteed share of the ensuing year's fund balance;	110945
(b) Its share of the excess of the ensuing year's fund balance;	110946 110947
(c) Its total entitlement.	110948
(2) In December and in June following such estimations and certifications, the commissioner shall revise such estimates and certify such revised estimates to the respective county auditors.	110949 110950 110951
(B) By the tenth day of each month the commissioner shall distribute the amount credited to the public library fund in the current month under section 131.51 of the Revised Code. The distributions shall be made as follows:	110952 110953 110954 110955
(1) During the first six months of each year, each county shall be paid a percentage of the balance that is the same per cent that the revised estimate of the county's total entitlement certified in December under division (A)(2) of this section is of the sum of such revised estimates of the total entitlements for all counties.	110956 110957 110958 110959 110960 110961
(2) During the last six months, each county shall be paid a percentage of the balance that is the same per cent that the revised estimate of the county's total entitlement certified in June under division (A)(2) of this section is of the sum of such revised estimates of the total entitlements for all counties.	110962 110963 110964 110965 110966
(3) During each of the first six months of each year, the payments made to each county shall be adjusted as follows:	110967 110968
(a) If the county received an overpayment during the preceding distribution year, reduce the sum of the payments by the amount of such overpayment. The reduction shall be apportioned over the six months.	110969 110970 110971 110972
(b) If the county received an underpayment during the preceding distribution year, increase the sum of the payments by	110973 110974

the amount of such underpayment. The increase shall be apportioned 110975
over the six months. 110976

(C) By the twentieth day of December of each year, the tax 110977
commissioner shall determine and certify to the auditor of each 110978
county each of the following with respect to the current 110979
distribution year: 110980

(1) The year's fund balance; 110981

(2) Each county's guaranteed share; 110982

(3) Each county's share of the excess; 110983

(4) Each county's total entitlement; 110984

(5) Each county's net distribution; 110985

(6) The amount by which each county's net distribution 110986
exceeded or was less than its total entitlement, which amount 110987
shall constitute the county's overpayment or underpayment for 110988
purposes of division (B)(3) of this section in the ensuing 110989
distribution year. 110990

Sec. 5747.501. (A) On or before the twenty-fifth day of July 110991
of each year, the tax commissioner shall estimate and certify to 110992
each county auditor the amount to be distributed from the local 110993
government fund to each undivided local government fund during the 110994
following calendar year under section 5747.50 of the Revised Code. 110995
The estimate shall equal the sum of the separate amounts computed 110996
under divisions (B)(1) and (2) of this section. 110997

(B)(1) The product obtained by multiplying the percentage 110998
described in division (B)(1)(a) of this section by the amount 110999
described in division (B)(1)(b) of this section. 111000

(a) Each county's proportionate share of the total amount 111001
distributed to the counties from the local government fund and the 111002
local government revenue assistance fund during calendar year 111003

2007. In fiscal year 2014 and thereafter, the amount distributed to any county undivided local government fund shall be an amount not less than seven hundred fifty thousand dollars or the amount distributed to such fund in fiscal year 2013, whichever amount is smaller. To the extent necessary to implement this minimum distribution requirement, the proportionate shares computed under this division shall be adjusted accordingly.

(b) The total amount distributed to counties from the local government fund and the local government revenue assistance fund during calendar year 2007 adjusted downward if, and to the extent that, total local government fund distributions to counties for the following year are projected to be less than what was distributed to counties from the local government fund and local government revenue assistance fund during calendar year 2007.

(2) The product obtained by multiplying the percentage described in division (B)(2)(a) of this section by the amount described in division (B)(2)(b) of this section.

(a) Each county's proportionate share of the state's population as reflected in the most recent federal decennial census or the federal government's most recent census estimates, whichever represents the most recent year.

(b) The amount by which total estimated distributions from the local government fund during the immediately succeeding calendar year, less the total estimated amount to be distributed from the fund to municipal corporations under division (C) of section 5747.50 of the Revised Code during the immediately succeeding calendar year, exceed the total amount distributed to counties from the local government fund and local government revenue assistance fund during calendar year 2007.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the

Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:	111035 111036
(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;	111037 111038
(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	111039 111040
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	111041 111042
(4) The dependent care credit under section 5747.054 of the Revised Code;	111043 111044
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	111045 111046
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	111047 111048
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	111049 111050
(8) The low-income credit under section 5747.056 of the Revised Code;	111051 111052
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	111053 111054
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	111055 111056
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	111057 111058
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	111059 111060
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	111061 111062
(14) The credit for a resident's out-of-state income under	111063

division (B) of section 5747.05 of the Revised Code;	111064
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	111065 111066
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	111067 111068
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	111069 111070
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	111071 111072
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	111073 111074
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	111075 111076
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	111077 111078 111079
(22) The job training credit under section 5747.39 of the Revised Code;	111080 111081
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	111082 111083
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	111084 111085
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	111086 111087
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	111088 111089
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	111090 111091
(28) The small business investment credit under section	111092

5747.81 of the Revised Code;	111093
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	111094
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	111095
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	111096
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	111097
(31)(30) The research and development credit under section 5747.331 of the Revised Code;	111098
(31)(30) The research and development credit under section 5747.331 of the Revised Code;	111099
(32)(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	111100
(32)(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	111101
(33)(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	111102
(33)(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	111103
(34)(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	111104
(34)(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	111105
(35)(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	111106
(35)(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	111107
(36)(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	111108
(36)(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	111109
(36)(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	111110
(37)(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	111111
(37)(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	111112
(37)(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	111113
(38)(37) The refundable motion picture production credit under section 5747.66 of the Revised Code.	111114
(38)(37) The refundable motion picture production credit under section 5747.66 of the Revised Code.	111115
(39)(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	111116
(39)(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	111117
(39)(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	111118
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for	111119
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for	111120
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for	111121

a taxable year shall not exceed the tax due after allowing for any 111122
other credit that precedes it in the order required under this 111123
section. Any excess amount of a particular credit may be carried 111124
forward if authorized under the section creating that credit. 111125
Nothing in this chapter shall be construed to allow a taxpayer to 111126
claim, directly or indirectly, a credit more than once for a 111127
taxable year. 111128

Sec. 5748.01. As used in this chapter: 111129

(A) "School district income tax" means an income tax adopted 111130
under one of the following: 111131

(1) Former section 5748.03 of the Revised Code as it existed 111132
prior to its repeal by Amended Substitute House Bill No. 291 of 111133
the 115th general assembly; 111134

(2) Section 5748.03 of the Revised Code as enacted in 111135
Substitute Senate Bill No. 28 of the 118th general assembly; 111136

(3) Section 5748.08 of the Revised Code as enacted in Amended 111137
Substitute Senate Bill No. 17 of the 122nd general assembly; 111138

(4) Section 5748.021 of the Revised Code; 111139

(5) Section 5748.081 of the Revised Code; 111140

(6) Section 5748.09 of the Revised Code. 111141

(B) "Individual" means an individual subject to the tax 111142
levied by section 5747.02 of the Revised Code. 111143

(C) "Estate" means an estate subject to the tax levied by 111144
section 5747.02 of the Revised Code. 111145

(D) "Taxable year" means a taxable year as defined in 111146
division (M) of section 5747.01 of the Revised Code. 111147

(E) "Taxable income" means: 111148

(1) In the case of an individual, one of the following, as 111149

specified in the resolution imposing the tax:	111150
(a) Ohio adjusted gross income for the taxable year as	111151
defined in division (A) of section 5747.01 of the Revised Code,	111152
less the exemptions provided by section 5747.02 of the Revised	111153
Code, <u>plus any amount deducted under division (A)(31) of section</u>	111154
<u>5747.01 of the Revised Code for the taxable year;</u>	111155
(b) Wages, salaries, tips, and other employee compensation to	111156
the extent included in Ohio adjusted gross income as defined in	111157
section 5747.01 of the Revised Code, and net earnings from	111158
self-employment, as defined in section 1402(a) of the Internal	111159
Revenue Code, to the extent included in Ohio adjusted gross	111160
income.	111161
(2) In the case of an estate, taxable income for the taxable	111162
year as defined in division (S) of section 5747.01 of the Revised	111163
Code.	111164
(F) "Resident" of the school district means:	111165
(1) An individual who is a resident of this state as defined	111166
in division (I) of section 5747.01 of the Revised Code during all	111167
or a portion of the taxable year and who, during all or a portion	111168
of such period of state residency, is domiciled in the school	111169
district or lives in and maintains a permanent place of abode in	111170
the school district;	111171
(2) An estate of a decedent who, at the time of death, was	111172
domiciled in the school district.	111173
(G) "School district income" means:	111174
(1) With respect to an individual, the portion of the taxable	111175
income of an individual that is received by the individual during	111176
the portion of the taxable year that the individual is a resident	111177
of the school district and the school district income tax is in	111178
effect in that school district. An individual may have school	111179

district income with respect to more than one school district.	111180
(2) With respect to an estate, the taxable income of the	111181
estate for the portion of the taxable year that the school	111182
district income tax is in effect in that school district.	111183
(H) "Taxpayer" means an individual or estate having school	111184
district income upon which a school district income tax is	111185
imposed.	111186
(I) "School district purposes" means any of the purposes for	111187
which a tax may be levied pursuant to division (A) of section	111188
5705.21 of the Revised Code, including the combined purposes	111189
authorized by section 5705.217 of the Revised Code.	111190
Sec. 5749.01. As used in this chapter:	111191
(A) "Ton" shall mean two thousand pounds as measured at the	111192
point and time of severance, after the removal of any impurities,	111193
under such rules and regulations as the tax commissioner may	111194
prescribe.	111195
(B) "Taxpayer" means any person required to pay the tax	111196
levied by Chapter 5749. of the Revised Code.	111197
(C) "Natural resource" means all forms of coal, salt,	111198
limestone, dolomite, sand, gravel, natural gas, condensate, and	111199
oil.	111200
(D) "Owner," has <u>"well," and "horizontal well" have</u> the same	111201
meaning <u>meanings</u> as in section 1509.01 of the Revised Code.	111202
(E) "Person" means any individual, firm, partnership,	111203
association, joint stock company, corporation, or estate, or	111204
combination thereof.	111205
(F) "Return" means any report or statement required to be	111206
filed pursuant to Chapter 5749. of the Revised Code used to	111207
determine the tax due.	111208

(G) "Severance" means the extraction or other removal of a natural resource from the soil or water of this state.

(H) "Severed" means the point at which the natural resource has been separated from the soil or water in this state.

(I) "Severer" means any person who actually removes the natural resources from the soil or water in this state.

(J) "First day of production" means the date on which natural resources are first severed through the use of a horizontal well. "First day of production" does not include days on which gas is flared from a horizontal well exclusively for testing and oil or condensate is not produced when the gas is flared.

(K) "British thermal unit" means the measure of heat energy required to raise the temperature of one pound of water by one degree fahrenheit at a specified temperature.

(L) "Condensate" means liquid hydrocarbons that were originally in the gaseous phase in the reservoir.

(M) "Gas" means all hydrocarbons that are in a gaseous state at standard temperature and pressure.

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, to provide funding for the general revenue fund, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer ~~and shall be~~ at the rates prescribed by divisions (A)(1) to (11) of this section:

(1) Ten cents per ton of coal;

(2) Four cents per ton of salt;

(3) Two cents per ton of limestone or dolomite;	111238
(4) Two cents per ton of sand and gravel;	111239
(5) Ten <u>Twenty</u> cents per barrel of oil <u>severed through use of</u> <u>a well that is not a horizontal well;</u>	111240 111241
(6) Two and one half <u>When severed through use of a well that</u> <u>is not a horizontal well, the lesser of three cents per thousand</u> <u>cubic feet of natural gas or one per cent of the product of the</u> <u>metered quarterly volume of gas from the well multiplied by the</u> <u>average of the daily closing spot price of gas for the quarterly</u> <u>reporting period as established by the tax commissioner under</u> <u>division (D) of this section;</u>	111242 111243 111244 111245 111246 111247 111248
(7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite;	111249 111250
(8) Except as otherwise provided in this division or in rules adopted by the reclamation forfeiture fund advisory board under section 1513.182 of the Revised Code, an additional fourteen cents per ton of coal produced from an area under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code for which the performance security is provided under division (C)(2) of section 1513.08 of the Revised Code. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the reclamation forfeiture fund created in section 1513.18 of the Revised Code is equal to or greater than ten million dollars, the rate levied shall be twelve cents per ton. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the fund is at least five million dollars, but less than ten million dollars, the rate levied shall be fourteen cents per ton. Beginning July 1, 2007, if at the end of a fiscal biennium the balance of the fund is less than five million dollars, the rate levied shall be sixteen cents per ton. Beginning July 1, 2009, not later than thirty days after the close of a fiscal biennium, the chief of the	111251 111252 111253 111254 111255 111256 111257 111258 111259 111260 111261 111262 111263 111264 111265 111266 111267 111268

division of mineral resources management shall certify to the tax 111269
commissioner the amount of the balance of the reclamation 111270
forfeiture fund as of the close of the fiscal biennium. Any 111271
necessary adjustment of the rate levied shall take effect on the 111272
first day of the following January and shall remain in effect 111273
during the calendar biennium that begins on that date. 111274

(9) An additional one and two-tenths cents per ton of coal 111275
mined by surface mining methods; 111276

(10)(a) Beginning on the first day of production and 111277
continuing until the last day of the fourth calendar quarter that 111278
begins after the calendar quarter that includes the first day of 111279
production, one and one-half per cent of the product of the 111280
metered quarterly volume of oil or condensate severed through use 111281
of a horizontal well multiplied by the average of the daily 111282
closing spot price for the quarterly reporting period for oil or 111283
condensate as established by the tax commissioner under division 111284
(D)(2) of this section; 111285

(b) Beginning the first day of the fifth calendar quarter 111286
that begins after the calendar quarter that includes the first day 111287
of production and continuing thereafter, four per cent of the 111288
product of the metered quarterly volume of oil or condensate 111289
severed through use of a horizontal well multiplied by the average 111290
of the daily closing spot price for the quarterly reporting period 111291
for oil or condensate as established by the tax commissioner under 111292
division (D)(2) of this section. 111293

(11)(a) If the British thermal unit measurement of gas 111294
severed through use of a horizontal well is equal to or less than 111295
one thousand fifty per cubic foot, one per cent of the product of 111296
the metered quarterly volume of gas severed through use of the 111297
horizontal well multiplied by the quarterly average of the daily 111298
closing spot price of gas for the quarterly reporting period as 111299
established by the tax commissioner under division (D)(1) of this 111300

<u>section;</u>	111301
<u>(b) Beginning on the first day of production and continuing</u>	111302
<u>until the last day of the fourth calendar quarter that begins</u>	111303
<u>after the calendar quarter that includes the first day of</u>	111304
<u>production, if the British thermal unit measurement of gas severed</u>	111305
<u>through use of a horizontal well is greater than one thousand</u>	111306
<u>fifty per cubic foot but less than or equal to one thousand two</u>	111307
<u>hundred per cubic foot, the rate established by the tax</u>	111308
<u>commissioner under division (E)(1) of this section multiplied by</u>	111309
<u>the metered quarterly volume of gas severed through use of the</u>	111310
<u>horizontal well;</u>	111311
<u>(c) Beginning the first day of the fifth calendar quarter</u>	111312
<u>that begins after the calendar quarter that includes the first day</u>	111313
<u>of production and continuing thereafter, if the British thermal</u>	111314
<u>unit measurement of gas severed through use of a horizontal well</u>	111315
<u>is greater than one thousand fifty per cubic foot but less than or</u>	111316
<u>equal to one thousand two hundred per cubic foot, the rate</u>	111317
<u>established by the tax commissioner under division (E)(2) of this</u>	111318
<u>section multiplied by the metered quarterly volume of gas severed</u>	111319
<u>through use of the horizontal well;</u>	111320
<u>(d) Beginning on the first day of production and continuing</u>	111321
<u>until the last day of the fourth calendar quarter that begins</u>	111322
<u>after the calendar quarter that includes the first day of</u>	111323
<u>production, if the British thermal unit measurement of gas severed</u>	111324
<u>through use of a horizontal well is greater than one thousand two</u>	111325
<u>hundred per cubic foot but less than or equal to one thousand</u>	111326
<u>three hundred fifty per cubic foot, the rate established by the</u>	111327
<u>tax commissioner under division (E)(3) of this section multiplied</u>	111328
<u>by the metered quarterly volume of gas severed through use of the</u>	111329
<u>horizontal well;</u>	111330
<u>(e) Beginning the first day of the fifth calendar quarter</u>	111331
<u>that begins after the calendar quarter that includes the first day</u>	111332

of production and continuing thereafter, if the British thermal unit measurement of gas severed through use of a horizontal well is greater than one thousand two hundred per cubic foot but less than or equal to one thousand three hundred fifty per cubic foot, the rate established by the tax commissioner under division (E)(4) of this section multiplied by the metered quarterly volume of gas severed through use of the horizontal well; 111333
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(f) Beginning on the first day of production and continuing until the last day of the fourth calendar quarter that begins after the calendar quarter that includes the first day of production, if the British thermal unit measurement of gas severed through use of a horizontal well is greater than one thousand three hundred fifty per cubic foot, the rate established by the tax commissioner under division (E)(5) of this section multiplied by the metered quarterly volume of gas severed through use of the horizontal well; 111340
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(g) Beginning the first day of the fifth calendar quarter that begins after the calendar quarter that includes the first day of production and continuing thereafter, if the British thermal unit measurement of gas severed through use of a horizontal well is greater than one thousand three hundred fifty per cubic foot, the rate established by the tax commissioner under division (E)(6) of this section multiplied by the metered quarterly volume of gas severed through use of the horizontal well. 111349
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(B) ~~Of~~ After the director of budget and management transfers money from the severance tax receipts fund as required in division (H) of section 5749.06 of the Revised Code, money remaining in the severance tax receipts fund shall be credited as follows: 111357
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(1) Of the moneys ~~received by the treasurer of state in the fund~~ from the tax levied in division (A)(1) of this section, four and seventy-six-hundredths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised 111361
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Code, eighty and ninety-five-hundredths per cent shall be credited 111365
to the coal mining administration and reclamation reserve fund 111366
created in section 1513.181 of the Revised Code, and fourteen and 111367
twenty-nine-hundredths per cent shall be credited to the 111368
unreclaimed lands fund created in section 1513.30 of the Revised 111369
Code. 111370

(2) The money ~~received by the treasurer of state in the fund~~ 111371
from the tax levied in division (A)(2) of this section shall be 111372
credited to the geological mapping fund. 111373

(3) Of the moneys ~~received by the treasurer of state in the~~ 111374
fund from the tax levied in divisions (A)(3) and (4) of this 111375
section, seven and five-tenths per cent shall be credited to the 111376
geological mapping fund, forty-two and five-tenths per cent shall 111377
be credited to the unreclaimed lands fund, and the remainder shall 111378
be credited to the surface mining fund created in section 1514.06 111379
of the Revised Code. 111380

(4) Of the moneys ~~received by the treasurer of state in the~~ 111381
fund from the tax levied in divisions (A)(5) and (6) of this 111382
section, ninety per cent shall be credited to the oil and gas well 111383
fund created in section 1509.02 of the Revised Code and ten per 111384
cent shall be credited to the geological mapping fund. All of the 111385
moneys ~~received by the treasurer of state in the fund~~ from the tax 111386
levied in division (A)(7) of this section shall be credited to the 111387
surface mining fund. 111388

(5) All of the moneys ~~received by the treasurer of state in~~ 111389
the fund from the tax levied in division (A)(8) of this section 111390
shall be credited to the reclamation forfeiture fund. 111391

(6) All of the moneys ~~received by the treasurer of state in~~ 111392
the fund from the tax levied in division (A)(9) of this section 111393
shall be credited to the unreclaimed lands fund. 111394

(7) All of the money in the fund from the tax levied in 111395

divisions (A)(10) and (11) of this section shall be credited to 111396
the general revenue fund. 111397

(C) When, at the close of any fiscal year, the chief finds 111398
that the balance of the reclamation forfeiture fund, plus 111399
estimated transfers to it from the coal mining administration and 111400
reclamation reserve fund under section 1513.181 of the Revised 111401
Code, plus the estimated revenues from the tax levied by division 111402
(A)(8) of this section for the remainder of the calendar year that 111403
includes the close of the fiscal year, are sufficient to complete 111404
the reclamation of all lands for which the performance security 111405
has been provided under division (C)(2) of section 1513.08 of the 111406
Revised Code, the purposes for which the tax under division (A)(8) 111407
of this section is levied shall be deemed accomplished at the end 111408
of that calendar year. The chief, within thirty days after the 111409
close of the fiscal year, shall certify those findings to the tax 111410
commissioner, and the tax levied under division (A)(8) of this 111411
section shall cease to be imposed for the subsequent calendar year 111412
after the last day of that calendar year on coal produced under a 111413
coal mining and reclamation permit issued under Chapter 1513. of 111414
the Revised Code if the permittee has made tax payments under 111415
division (A)(8) of this section during each of the preceding five 111416
full calendar years. Not later than thirty days after the close of 111417
a fiscal year, the chief shall certify to the tax commissioner the 111418
identity of any permittees who accordingly no longer are required 111419
to pay the tax levied under division (A)(8) of this section for 111420
the subsequent calendar year. 111421

(D) Not later than fifteen days after the close of each 111422
calendar quarter, the tax commissioner shall establish and post on 111423
the department of taxation's web site the average daily closing 111424
spot price or factor, as applicable, for each quarterly reporting 111425
period as follows: 111426

(1) For the purposes of divisions (A)(6) and (11) of this 111427

section, the average daily closing spot price for gas shall be 111428
calculated by dividing the sum of the daily closing spot price for 111429
gas as reported on the New York mercantile exchange index for each 111430
day in the quarter by the number of days in the quarter. 111431

(2) For the purposes of division (A)(10) of this section, the 111432
average daily closing spot price for oil and condensate shall be 111433
calculated by dividing the sum of the daily closing spot price for 111434
oil and condensate as reported for west Texas intermediate on the 111435
New York mercantile exchange index for each day in the quarter by 111436
the number of days in the quarter. 111437

(3) For the purposes of division (E) of this section, the 111438
average daily closing spot price for natural gas liquids shall be 111439
calculated by dividing the sum of the daily closing spot prices 111440
for natural gas liquids as reported on the Mont Belvieu NGL index 111441
for each day in the quarter by the number of days in the quarter. 111442

(E) Not later than fifteen days after the close of each 111443
calendar quarter, the tax commissioner shall calculate and post on 111444
the department of taxation's web site the rate of the tax levied 111445
under divisions (A)(11)(b) to (g) of this section, which the 111446
commissioner shall calculate for each quarterly reporting period 111447
as follows: 111448

(1) For the purposes of division (A)(11)(b) of this section, 111449
the sum of the average daily closing spot price for gas 111450
established under division (D)(1) of this section multiplied by 111451
one per cent multiplied by nine thousand three hundred twenty-nine 111452
ten-thousandths, plus the average daily closing spot price for 111453
natural gas liquids established under division (D)(3) of this 111454
section multiplied by one and one-half per cent multiplied by two 111455
and one-half; 111456

(2) For the purposes of division (A)(11)(c) of this section, 111457
the sum of the average daily closing spot price for gas 111458

established under division (D)(1) of this section multiplied by 111459
one per cent multiplied by nine thousand three hundred twenty-nine 111460
ten-thousandths, plus the average daily closing spot price for 111461
natural gas liquids established under division (D)(3) of this 111462
section multiplied by four per cent multiplied by two and 111463
one-half; 111464

(3) For the purposes of division (A)(11)(d) of this section, 111465
the sum of the average daily closing spot price for gas 111466
established under division (D)(1) of this section multiplied by 111467
one per cent multiplied by eight thousand two hundred thirty-two 111468
ten-thousandths, plus the average daily closing spot price for 111469
natural gas liquids established under division (D)(3) of this 111470
section multiplied by one and one-half per cent multiplied by five 111471
and one-half; 111472

(4) For the purposes of division (A)(11)(e) of this section, 111473
the sum of the average daily closing spot price for gas 111474
established under division (D)(1) of this section multiplied by 111475
one per cent multiplied by eight thousand two hundred thirty-two 111476
ten-thousandths, plus the average daily closing spot price for 111477
natural gas liquids established under division (D)(3) of this 111478
section multiplied by four per cent multiplied by five and 111479
one-half; 111480

(5) For the purposes of division (A)(11)(f) of this section, 111481
the sum of the average daily closing spot price for gas 111482
established under division (D)(1) of this section multiplied by 111483
one per cent multiplied by seven thousand three hundred sixty-six 111484
ten-thousandths, plus the average daily closing spot price for 111485
natural gas liquids established under division (D)(3) of this 111486
section multiplied by one and one-half per cent multiplied by 111487
eight and one-half; 111488

(6) For the purposes of division (A)(11)(g) of this section, 111489
the sum of the average daily closing spot price for gas 111490

established under division (D)(1) of this section multiplied by 111491
one per cent multiplied by seven thousand three hundred sixty-six 111492
ten-thousandths, plus the average daily closing spot price for 111493
natural gas liquids established under division (D)(3) of this 111494
section multiplied by four per cent multiplied by eight and 111495
one-half. 111496

Sec. 5749.03. ~~The following shall be exempt from the tax~~ 111497
~~imposed by section 5749.02 of the Revised Code and the amount due~~ 111498
~~under section 1509.50 of the Revised Code:~~ 111499

~~The~~ does not apply to the severance of natural resources from 111500
land or water in this state owned legally or beneficially by the 111501
severer, ~~which~~ if natural resources will be used on the land from 111502
which they are taken by the severer as part of the improvement of 111503
or use in the severer's homestead and ~~which~~ to the extent that 111504
such natural resources have a yearly cumulative market value of 111505
not greater than one thousand dollars. When severed natural 111506
resources so used exceed a cumulative market value of one thousand 111507
dollars during any year, the further severance of natural 111508
resources shall be subject to the tax imposed by section 5749.02 111509
of the Revised Code. 111510

Sec. 5749.031. The tax imposed under division (A)(6) of 111511
section 5749.02 of the Revised Code does not apply to the 111512
severance of gas from a well that is not a horizontal well and 111513
that produces an average of fewer than ten thousand cubic feet of 111514
gas per day in a quarterly period, but the severer shall file the 111515
return required under section 5749.06 of the Revised Code to 111516
report the severance of such gas. 111517

Sec. 5749.06. (A)(1) Each severer liable for the tax imposed 111518
by section 5749.02 of the Revised Code ~~and each severer or owner~~ 111519
~~liable for the amounts due under section 1509.50 of the Revised~~ 111520

~~Code shall make and file returns with the tax commissioner in the prescribed form and as of the prescribed times, computing and reflecting therein the tax as required by this chapter and amounts due under section 1509.50 of the Revised Code.~~

(2) The returns shall be filed for every quarterly period, which periods shall end on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December of each year, as required by this section, unless a different return period is prescribed for a taxpayer by the commissioner.

(B)(1) A separate return shall be filed for each calendar quarterly period, or other period, or any part thereof, during which the severer holds a license as provided by section 5749.04 of the Revised Code, ~~or is required to hold the license, or during which an owner is required to file a return, and the.~~ The return shall be filed within forty-five days after the last day of each such calendar month, or other period, or any part thereof, for which the return is required and shall include remittance payable to the treasurer of state of the amount of. The tax due is payable along with the return. All such returns shall contain such information as the commissioner may require to fairly administer the tax.

(2) All returns shall be signed by the severer ~~or owner, as applicable,~~ shall contain the full and complete information requested, and shall be made under penalty of perjury.

(C) If the commissioner believes that quarterly payments of tax would result in a delay that might jeopardize the collection of such tax payments, the commissioner may order that such payments be made weekly, or more frequently if necessary, such payments to be made not later than seven days following the close of the period for which the jeopardy payment is required. Such an order shall be delivered to the taxpayer personally or by

certified mail and shall remain in effect until the commissioner 111553
notifies the taxpayer to the contrary. 111554

(D) Upon good cause the commissioner may extend for thirty 111555
days the period for filing any notice or return required to be 111556
filed under this section, and may remit all or a part of penalties 111557
that may become due under this chapter. 111558

(E) Any tax ~~and any amount due under section 1509.50 of the~~ 111559
~~Revised Code~~ not paid by the day the tax ~~or amount~~ is due shall 111560
bear interest computed at the rate per annum prescribed by section 111561
5703.47 of the Revised Code on that amount of tax due from the day 111562
that the amount was originally required to be paid to the day of 111563
actual payment or to the day an assessment was issued under 111564
section 5749.07 or 5749.10 of the Revised Code, whichever occurs 111565
first. 111566

(F) ~~The severer shall make all payments payable to the~~ 111567
~~treasurer of state. Except for the amounts due under section~~ 111568
~~1509.50 of the Revised Code, all~~ A severer that fails to file a 111569
complete return or pay the full amount of tax due under this 111570
chapter within the time prescribed, including any extensions of 111571
time granted by the commissioner, shall be subject to a penalty 111572
not to exceed the greater of fifty dollars or ten per cent of the 111573
tax due for the tax period. 111574

(G)(1) A severer shall remit tax payments electronically and, 111575
if required by the commissioner, file each return electronically. 111576
The commissioner may require that the severer use the Ohio 111577
business gateway, as defined in section 718.051 of the Revised 111578
Code, or another electronic means to file returns and remit 111579
payments electronically. 111580

(2) A severer that is required to remit tax payments 111581
electronically under this section may apply to the commissioner, 111582
in the manner prescribed by the commissioner, to be excused from 111583

that requirement. The commissioner may excuse a severer from the 111584
requirements of division (G) of this section for good cause. 111585

(3) If a severer that is required to remit tax payments or 111586
file returns electronically under this section fails to do so, the 111587
commissioner may impose a penalty on the severer not to exceed the 111588
following: 111589

(a) For the first or second payment or return the severer 111590
fails to remit or file electronically, the greater of five per 111591
cent of the amount of the payment that was required to be remitted 111592
or twenty-five dollars; 111593

(b) For every payment or return after the second that the 111594
severer fails to remit or file electronically, the greater of ten 111595
per cent of the amount of the payment that was required to be 111596
remitted or fifty dollars. 111597

(H)(1) All amounts that the ~~tax~~ commissioner receives under 111598
this section shall be deemed to be revenue from taxes imposed 111599
under this chapter. ~~The commissioner shall immediately forward to~~ 111600
~~the treasurer of state all amounts received under this section and~~ 111601
~~shall be deposited in the severance tax receipts fund, which is~~ 111602
~~hereby created in the state treasury.~~ 111603

(2) The director of budget and management shall transfer from 111604
the severance tax receipts fund to the tax refund fund amounts 111605
equal to the refunds certified by the commissioner under section 111606
5749.08 of the Revised Code. Any amount transferred under division 111607
(H)(2) of this section shall be derived from receipts of the same 111608
tax imposed under this chapter from which the refund arose. 111609

(3) After the director of budget and management makes any 111610
transfer required by division (H)(2) of this section, but not 111611
later than the fifteenth day of the month following the end of 111612
each calendar quarter, the commissioner shall certify to the 111613
director the total amount remaining in the severance tax receipts 111614

fund organized according to the amount attributable to each 111615
natural resource. 111616

(I) Penalties imposed under this section are in addition to 111617
any other penalty imposed under this chapter and shall be 111618
considered as revenue arising from the tax levied under this 111619
chapter. The commissioner may collect any penalty or interest 111620
imposed under this section in the same manner as provided for the 111621
making of an assessment in section 5749.07 of the Revised Code. 111622
The commissioner may abate all or a portion of such interest or 111623
penalties and may adopt rules governing such abatements. 111624

Sec. 5749.07. (A) If any severer required by this chapter to 111625
make and file returns and pay the tax levied by section 5749.02 of 111626
the Revised Code, ~~or any severer or owner liable for the amounts~~ 111627
~~due under section 1509.50 of the Revised Code,~~ fails to make such 111628
return or pay such tax or amounts, the tax commissioner may make 111629
an assessment against the severer or owner based upon any 111630
information in the commissioner's possession. 111631

No assessment shall be made or issued against any severer for 111632
any tax imposed by section 5749.02 of the Revised Code ~~or against~~ 111633
~~any severer or owner for any amount due under section 1509.50 of~~ 111634
~~the Revised Code~~ more than four years after the return was due or 111635
was filed, whichever is later. This section does not bar an 111636
assessment against a severer or owner who fails to file a return 111637
as required by this chapter, or who files a fraudulent return. 111638

The commissioner shall give the party assessed written notice 111639
of such assessment in the manner provided in section 5703.37 of 111640
the Revised Code. With the notice, the commissioner shall provide 111641
instructions on how to petition for reassessment and request a 111642
hearing on the petition. 111643

(B) Unless the party assessed files with the commissioner 111644
within sixty days after service of the notice of assessment, 111645

either personally or by certified mail, a written petition for 111646
reassessment signed by the party assessed or that party's 111647
authorized agent having knowledge of the facts, the assessment 111648
becomes final and the amount of the assessment is due and payable 111649
from the party assessed to the treasurer of state. The petition 111650
shall indicate the objections of the party assessed, but 111651
additional objections may be raised in writing if received by the 111652
commissioner prior to the date shown on the final determination. 111653
If the petition has been properly filed, the commissioner shall 111654
proceed under section 5703.60 of the Revised Code. 111655

(C) After an assessment becomes final, if any portion of the 111656
assessment remains unpaid, including accrued interest, a certified 111657
copy of the commissioner's entry making the assessment final may 111658
be filed in the office of the clerk of the court of common pleas 111659
in the county in which the party assessed resides or in which the 111660
party's business is conducted. If the party assessed maintains no 111661
place of business in this state and is not a resident of this 111662
state, the certified copy of the entry may be filed in the office 111663
of the clerk of the court of common pleas of Franklin county. 111664

Immediately upon the filing of such entry, the clerk shall 111665
enter a judgment for the state against the party assessed in the 111666
amount shown on the entry. The judgment may be filed by the clerk 111667
in a loose-leaf book entitled "special judgments for state 111668
severance tax," and shall have the same effect as other judgments. 111669
Execution shall issue upon the judgment upon the request of the 111670
commissioner, and all laws applicable to sales on execution shall 111671
apply to sales made under the judgment. 111672

~~The portion of~~ If the assessment is not paid in its entirety 111673
within sixty days after the day the assessment is issued, the 111674
portion of the assessment consisting of tax due shall bear 111675
interest at the rate per annum prescribed by section 5703.47 of 111676
the Revised Code from the day the commissioner issues the 111677

assessment until it is paid or until it is certified to the 111678
attorney general for collection under section 131.02 of the 111679
Revised Code, whichever comes first. If the unpaid portion of the 111680
assessment is certified to the attorney general for collection, 111681
the entire unpaid portion of the assessment shall bear interest at 111682
the rate per annum prescribed by section 5703.47 of the Revised 111683
Code from the date of certification until the date it is paid in 111684
its entirety. Interest shall be paid in the same manner as the tax 111685
and may be collected by the issuance of an assessment under this 111686
section. 111687

(D) All money collected by the commissioner under this 111688
section shall be paid to the treasurer of state, and when paid 111689
shall be considered as revenue arising from the tax imposed by 111690
section 5749.02 of the Revised Code ~~and the amount due under~~ 111691
~~section 1509.50 of the Revised Code, as applicable.~~ 111692

Sec. 5749.08. The tax commissioner shall refund to taxpayers 111693
the amount of taxes levied by section 5749.02 of the Revised Code 111694
~~and amounts due under section 1509.50 of the Revised Code that~~ 111695
were paid illegally or erroneously or paid on an illegal or 111696
erroneous assessment. Applications for refund shall be filed with 111697
the commissioner, on the form prescribed by the commissioner, 111698
within four years from the date of the illegal or erroneous 111699
payment. On the filing of the application, the commissioner shall 111700
determine the amount of refund to which the applicant is entitled, 111701
plus interest computed in accordance with section 5703.47 of the 111702
Revised Code from the date of the payment of an erroneous or 111703
illegal assessment until the date the refund is paid. If the 111704
amount is not less than that claimed, the commissioner shall 111705
certify the amount to the director of budget and management and 111706
treasurer of state for payment from the tax refund fund created by 111707
section 5703.052 of the Revised Code. If the amount is less than 111708
that claimed, the commissioner shall proceed in accordance with 111709

section 5703.70 of the Revised Code. 111710

Sec. 5749.10. If the tax commissioner finds that a taxpayer, 111711
liable for tax under this chapter ~~or for any amount due under~~ 111712
~~section 1509.50 of the Revised Code~~ is about to depart from the 111713
state, or remove the taxpayer's property therefrom, or conceal the 111714
taxpayer's person or property, or do any other act tending to 111715
prejudice or to render wholly or partly ineffectual proceedings to 111716
collect such tax ~~or other amount due~~ unless such proceedings are 111717
brought without delay, or if the commissioner believes that the 111718
collection of the ~~tax or~~ amount due from any taxpayer will be 111719
jeopardized by delay, the commissioner shall give notice of such 111720
findings to such taxpayer together with the demand for an 111721
immediate return and immediate payment of such tax ~~or other amount~~ 111722
~~due~~, with penalty as provided in section 5749.15 of the Revised 111723
Code, whereupon such tax ~~or other amount due~~ shall become 111724
immediately due and payable. In such cases the commissioner may 111725
immediately file an entry with the clerk of the court of common 111726
pleas in the same manner and with the same effect as provided in 111727
section 5749.07 of the Revised Code, provided that if such 111728
taxpayer, within five days from notice of the assessment, 111729
furnishes evidence satisfactory to the commissioner, under the 111730
regulations prescribed by the commissioner, that the taxpayer is 111731
not in default in making returns or paying any tax prescribed by 111732
this chapter ~~or amount due under section 1509.50 of the Revised~~ 111733
~~Code~~, or that the taxpayer will duly return and pay, or post bond 111734
satisfactory to the commissioner conditioned upon payment of the 111735
tax ~~or other amount~~ finally determined to be due, then such tax ~~or~~ 111736
~~other amount due~~ shall not be payable prior to the time and manner 111737
otherwise fixed for payment under section 5749.07 of the Revised 111738
Code, and the person assessed shall be restored the rights granted 111739
under such section. Upon satisfaction of the assessment the 111740
commissioner shall order the bond cancelled, securities released, 111741

and judgment vacated. 111742

Any assessment issued under this section shall bear interest 111743

as prescribed under section 5749.07 of the Revised Code. 111744

Sec. 5749.12. Any nonresident of this state who accepts the 111745
privilege extended by the laws of this state to nonresidents 111746
severing natural resources in this state, and any resident of this 111747
state who subsequently becomes a nonresident or conceals the 111748
resident's whereabouts, makes the secretary of state of Ohio the 111749
person's agent for the service of process or notice in any 111750
assessment, action, or proceedings instituted in this state 111751
against such person under this chapter ~~or for purposes of amounts~~ 111752
~~due under section 1509.50 of the Revised Code.~~ 111753

Such process or notice shall be served as provided under 111754
section 5703.37 of the Revised Code. 111755

Sec. 5749.13. The tax commissioner may prescribe requirements 111756
as to the keeping of records and other pertinent documents and the 111757
filing of copies of federal income tax returns and determinations. 111758
The commissioner may require any person, by rule or by notice 111759
served on that person, to keep such records as the commissioner 111760
considers necessary to show whether that person is liable, and the 111761
extent of liability, for the tax imposed under this chapter ~~and~~ 111762
~~the amount due under section 1509.50 of the Revised Code.~~ Such 111763
records and other documents shall be open during business hours to 111764
the inspection of the commissioner, and shall be preserved for a 111765
period of four years after the date the return was required to be 111766
filed or actually was filed, whichever is later, unless the 111767
commissioner, in writing, consents to their destruction within 111768
that period, or by order requires that they be kept longer. 111769
111770

Sec. 5749.14. The tax commissioner shall enforce and 111771

administer this chapter ~~and applicable provisions of section~~ 111772
~~1509.50 of the Revised Code.~~ In addition to any other powers 111773
conferred upon the commissioner by law, the commissioner may: 111774

(A) Prescribe all forms required to be filed pursuant to this 111775
chapter; 111776

(B) Promulgate such rules as the commissioner finds necessary 111777
to carry out this chapter ~~and applicable provisions of section~~ 111778
~~1509.50 of the Revised Code;~~ 111779

(C) Appoint and employ such personnel as may be necessary to 111780
carry out the duties imposed upon the commissioner by this 111781
chapter. 111782

Sec. 5749.15. Any person who fails to file a return or pay 111783
the tax as required ~~under this chapter or other amount due under~~ 111784
~~section 1509.50 of the Revised Code~~ who is assessed such taxes ~~or~~ 111785
~~other amount due~~ pursuant to section 5749.07 or 5749.10 of the 111786
Revised Code may be liable for a penalty of up to twenty-five per 111787
cent of the amount assessed. The tax commissioner may adopt rules 111788
relating to the imposition and remission of penalties imposed 111789
under this section. 111790

Sec. 5749.17. Any Except for purposes of enforcing Chapter 111791
1509. of the Revised Code, any information provided to the 111792
department of natural resources by the department of taxation in 111793
accordance with division (C)(12) of section 5703.21 of the Revised 111794
Code shall not be disclosed publicly by the department of natural 111795
resources, ~~but.~~ However the department of natural resources may 111796
provide such information to the attorney general for purposes of 111797
enforcement of ~~the law~~ Chapter 1509. of the Revised Code. 111798

Sec. 5751.014. All members of a consolidated elected taxpayer 111799
or combined taxpayer group during the tax period or periods for 111800

which additional tax, penalty, or interest is owed are jointly and 111801
severally liable for such amounts. Although the reporting person 111802
will be assessed for the liability, such amounts due may be 111803
collected by assessment against any member of the group as 111804
provided in section 5703.90 of the Revised Code or pursued against 111805
any member of the group when a liability is certified to the 111806
attorney general under section 131.02 of the Revised Code. 111807

Sec. 5751.07. (A) Any person required to file returns ~~for a~~ 111808
~~calendar quarter~~ under this chapter shall remit each tax payment, 111809
and, if required by the tax commissioner, file the tax return or 111810
the annual report, electronically. The commissioner may require 111811
taxpayers to use the Ohio business gateway as defined in section 111812
718.051 of the Revised Code to file returns and remit the tax, or 111813
may provide another means for taxpayers to file and remit the tax 111814
electronically. 111815

(B) A person required by this section to remit taxes or file 111816
returns electronically may apply to the tax commissioner, on the 111817
form prescribed by the commissioner, to be excused from that 111818
requirement. The commissioner may excuse a person from the 111819
requirements of this division for good cause. 111820

(C)(1) If a person required to remit taxes or file a return 111821
electronically under this section fails to do so, the commissioner 111822
may impose a penalty not to exceed the following: 111823

(a) For either of the first two ~~calendar quarters~~ tax periods 111824
the person so fails, the greater of twenty-five dollars or five 111825
per cent of the amount of the payment that was required to be 111826
remitted; 111827

(b) For the third and any subsequent ~~calendar quarters~~ tax 111828
periods the person so fails, the greater of fifty dollars or ten 111829
per cent of the amount of the payment that was required to be 111830

remitted. 111831

(2) The penalty imposed under division (C)(1) of this section 111832
is in addition to any other penalty imposed under this chapter and 111833
shall be considered as revenue arising from the tax imposed under 111834
this chapter. A penalty may be collected by assessment in the 111835
manner prescribed by section 5751.09 of the Revised Code. The tax 111836
commissioner may abate all or a portion of such a penalty. 111837

(D) The tax commissioner may adopt rules necessary to 111838
administer this section. 111839

Sec. 5751.081. As used in this section, "debt to this state" 111840
means unpaid taxes due the state, unpaid workers' compensation 111841
premiums due under section 4123.35 of the Revised Code, unpaid 111842
unemployment compensation contributions due under section 4141.25 111843
of the Revised Code, unpaid unemployment compensation payment in 111844
lieu of contribution under section 4141.241 of the Revised Code, 111845
unpaid fee payable to the state or to the clerk of courts pursuant 111846
to section 4505.06 of the Revised Code, incorrect ~~medical~~ 111847
~~assistance~~ payments for medicaid services under ~~section 5111.02 of~~ 111848
~~the Revised Code~~ the medicaid program, or any unpaid charge, 111849
penalty, or interest arising from any of the foregoing. 111850

If a taxpayer entitled to a refund under section 5751.08 of 111851
the Revised Code owes any debt to this state, the amount 111852
refundable may be applied in satisfaction of the debt. If the 111853
amount refundable is less than the amount of the debt, it may be 111854
applied in partial satisfaction of the debt. If the amount 111855
refundable is greater than the amount of the debt, the amount 111856
remaining after satisfaction of the debt shall be refunded. This 111857
section applies only to debts that have become final. For the 111858
purposes of this section, a debt becomes final when, under the 111859
applicable law, any time provided for petition for reassessment, 111860
request for reconsideration, or other appeal of the legality or 111861

validity of the amount giving rise to the debt expires without an 111862
appeal having been filed in the manner provided by law. 111863

Sec. 5751.09. (A) The tax commissioner may make an 111864
assessment, based on any information in the commissioner's 111865
possession, against any person that fails to file a return or pay 111866
any tax as required by this chapter. The commissioner shall give 111867
the person assessed written notice of the assessment as provided 111868
in section 5703.37 of the Revised Code. With the notice, the 111869
commissioner shall provide instructions on the manner in which to 111870
petition for reassessment and request a hearing with respect to 111871
the petition. The commissioner shall send any assessments against 111872
consolidated elected taxpayer and combined taxpayer groups under 111873
section 5751.011 or 5751.012 of the Revised Code to the taxpayer's 111874
"reporting person" as defined under division (R) of section 111875
5751.01 of the Revised Code. The reporting person shall notify all 111876
members of the group of the assessment and all outstanding taxes, 111877
interest, and penalties for which the assessment is issued. 111878

(B) Unless the person assessed, within sixty days after 111879
service of the notice of assessment, files with the tax 111880
commissioner, either personally or by certified mail, a written 111881
petition signed by the person or the person's authorized agent 111882
having knowledge of the facts, the assessment becomes final, and 111883
the amount of the assessment is due and payable from the person 111884
assessed to the treasurer of state. The petition shall indicate 111885
the objections of the person assessed, but additional objections 111886
may be raised in writing if received by the commissioner prior to 111887
the date shown on the final determination. 111888

If a petition for reassessment has been properly filed, the 111889
commissioner shall proceed under section 5703.60 of the Revised 111890
Code. 111891

(C)(1) After an assessment becomes final, if any portion of 111892

the assessment, including accrued interest, remains unpaid, a 111893
certified copy of the tax commissioner's entry making the 111894
assessment final may be filed in the office of the clerk of the 111895
court of common pleas in the county in which the person resides or 111896
has its principal place of business in this state, or in the 111897
office of the clerk of court of common pleas of Franklin county. 111898

(2) Immediately upon the filing of the entry, the clerk shall 111899
enter judgment for the state against the person assessed in the 111900
amount shown on the entry. The judgment may be filed by the clerk 111901
in a loose-leaf book entitled, "special judgments for the 111902
commercial activity tax" and shall have the same effect as other 111903
judgments. Execution shall issue upon the judgment at the request 111904
of the tax commissioner, and all laws applicable to sales on 111905
execution shall apply to sales made under the judgment. 111906

(3) ~~The portion of~~ If the assessment is not paid in its 111907
entirety within sixty days after the day the assessment was 111908
issued, the portion of the assessment consisting of tax due shall 111909
bear interest at the rate per annum prescribed by section 5703.47 111910
of the Revised Code from the day the tax commissioner issues the 111911
assessment until it is paid or until it is certified to the 111912
attorney general for collection under section 131.02 of the 111913
Revised Code, whichever comes first. If the unpaid portion of the 111914
assessment is certified to the attorney general for collection, 111915
the entire unpaid portion of the assessment shall bear interest at 111916
the rate per annum prescribed by section 5703.47 of the Revised 111917
Code from the date of certification until the date it is paid in 111918
its entirety. Interest shall be paid in the same manner as the tax 111919
and may be collected by the issuance of an assessment under this 111920
section. 111921

(D) If the tax commissioner believes that collection of the 111922
tax will be jeopardized unless proceedings to collect or secure 111923
collection of the tax are instituted without delay, the 111924

commissioner may issue a jeopardy assessment against the person 111925
liable for the tax. Immediately upon the issuance of the jeopardy 111926
assessment, the commissioner shall file an entry with the clerk of 111927
the court of common pleas in the manner prescribed by division (C) 111928
of this section. Notice of the jeopardy assessment shall be served 111929
on the person assessed or the person's authorized agent in the 111930
manner provided in section 5703.37 of the Revised Code within five 111931
days of the filing of the entry with the clerk. The total amount 111932
assessed is immediately due and payable, unless the person 111933
assessed files a petition for reassessment in accordance with 111934
division (B) of this section and provides security in a form 111935
satisfactory to the commissioner and in an amount sufficient to 111936
satisfy the unpaid balance of the assessment. Full or partial 111937
payment of the assessment does not prejudice the commissioner's 111938
consideration of the petition for reassessment. 111939

(E) The tax commissioner shall immediately forward to the 111940
treasurer of state all amounts the commissioner receives under 111941
this section, and such amounts shall be considered as revenue 111942
arising from the tax imposed under this chapter. 111943

(F) Except as otherwise provided in this division, no 111944
assessment shall be made or issued against a taxpayer for the tax 111945
imposed under this chapter more than four years after the due date 111946
for the filing of the return for the tax period for which the tax 111947
was reported, or more than four years after the return for the tax 111948
period was filed, whichever is later. The time limit may be 111949
extended if both the taxpayer and the commissioner consent in 111950
writing to the extension or enter into an agreement waiving or 111951
extending the time limit. Any such extension shall extend the 111952
four-year time limit in division (B) of section 5751.08 of the 111953
Revised Code for the same period of time. Nothing in this division 111954
bars an assessment against a taxpayer that fails to file a return 111955
required by this chapter or that files a fraudulent return. 111956

(G) If the tax commissioner possesses information that 111957
indicates that the amount of tax a taxpayer is required to pay 111958
under this chapter exceeds the amount the taxpayer paid, the tax 111959
commissioner may audit a sample of the taxpayer's gross receipts 111960
over a representative period of time to ascertain the amount of 111961
tax due, and may issue an assessment based on the audit. The tax 111962
commissioner shall make a good faith effort to reach agreement 111963
with the taxpayer in selecting a representative sample. The tax 111964
commissioner may apply a sampling method only if the commissioner 111965
has prescribed the method by rule. 111966

(H) If the whereabouts of a person subject to this chapter is 111967
not known to the tax commissioner, the commissioner shall follow 111968
the procedures under section 5703.37 of the Revised Code. 111969

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 111970
the Revised Code: 111971

(1) "School district," "joint vocational school district," 111972
"local taxing unit," "recognized valuation," "fixed-rate levy," 111973
and "fixed-sum levy" have the same meanings as used in section 111974
5727.84 of the Revised Code. 111975

(2) "State education aid" for a school district means the 111976
following: 111977

(a) For fiscal years prior to fiscal year 2010, the sum of 111978
state aid amounts computed for the district under the following 111979
provisions, as they existed for the applicable fiscal year: 111980
division (A) of section 3317.022 of the Revised Code, including 111981
the amounts calculated under ~~sections~~ former section 3317.029 and 111982
section 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), 111983
(D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) 111984
of section 3317.023; divisions (L) and (N) of section 3317.024; 111985
section 3317.0216; and any unit payments for gifted student 111986
services paid under ~~sections~~ section 3317.057, and former sections 111987

3317.052~~7~~ and 3317.053 of the Revised Code; except that, for 111988
fiscal years 2008 and 2009, the amount computed for the district 111989
under Section 269.20.80 of H.B. 119 of the 127th general assembly 111990
and as that section subsequently may be amended shall be 111991
substituted for the amount computed under division (D) of section 111992
3317.022 of the Revised Code, and the amount computed under 111993
Section 269.30.80 of H.B. 119 of the 127th general assembly and as 111994
that section subsequently may be amended shall be included. 111995

(b) For fiscal years 2010 and 2011, the sum of the amounts 111996
computed under former sections 3306.052, 3306.12, 3306.13, 111997
3306.19, 3306.191, and 3306.192 of the Revised Code; 111998

(c) For fiscal years 2012 and 2013, the sum of the amounts 111999
paid under Sections 267.30.50, 267.30.53, and 267.30.56 of H.B. 112000
153 of the 129th general assembly; 112001

(d) For fiscal year 2014 and each fiscal year thereafter, the 112002
sum of state amounts computed for the district under section 112003
3317.022 of the Revised Code; except that, for fiscal years 2014 112004
and 2015, the amount computed for the district under the section 112005
of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND 112006
EXEMPTED VILLAGE SCHOOL DISTRICTS" shall be included. 112007

(3) "State education aid" for a joint vocational school 112008
district means the following: 112009

(a) For fiscal years prior to fiscal year 2010, the sum of 112010
the state aid computed for the district under division (N) of 112011
section 3317.024 and former section 3317.16 of the Revised Code, 112012
except that, for fiscal years 2008 and 2009, the amount computed 112013
under Section 269.30.80 of H.B. 119 of the 127th general assembly 112014
and as that section subsequently may be amended shall be included. 112015

(b) For fiscal years 2010 and 2011, the amount paid in 112016
accordance with Section 265.30.50 of H.B. 1 of the 128th general 112017
assembly. 112018

(c) For fiscal years 2012 and 2013, the amount paid in accordance with Section 267.30.60 of H.B. 153 of the 129th general assembly. 112019
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(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under sections 3317.16 and 3317.161 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included. 112022
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(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code. 112028
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(5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section. 112031
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(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section. 112033
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(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section. 112035
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(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section. 112037
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(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section. 112039
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(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section. 112041
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(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss. 112043
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(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section. 112047
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- (13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code. 112049
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- (14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code. 112052
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- (15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code. 112055
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- (16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010. 112058
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- (17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004. 112064
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- (18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section. 112068
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- (19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section. 112070
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- (20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but before the reductions required by sections 319.302 and 323.152 of the Revised Code. 112072
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- (21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of 112076
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calendar years 2006, 2007, 2008, and 2009, the median of those 112079
distributions. In the case of a municipal corporation to which no 112080
distributions were made in one or more of those years, "median 112081
estate tax collections" means zero. 112082

(22) "Total resources," in the case of a school district, 112083
means the sum of the amounts in divisions (A)(22)(a) to (h) of 112084
this section less any reduction required under division (A)(32) or 112085
(33) of this section. 112086

(a) The state education aid for fiscal year 2010; 112087

(b) The sum of the payments received by the school district 112088
in fiscal year 2010 for current expense levy losses pursuant to 112089
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 112090
section 5751.21 of the Revised Code, excluding the portion of such 112091
payments attributable to levies for joint vocational school 112092
district purposes; 112093

(c) The sum of fixed-sum levy loss payments received by the 112094
school district in fiscal year 2010 pursuant to division (E)(1) of 112095
section 5727.85 and division (E)(1) of section 5751.21 of the 112096
Revised Code for fixed-sum levies charged and payable for a 112097
purpose other than paying debt charges; 112098

(d) Fifty per cent of the school district's taxes charged and 112099
payable against all property on the tax list of real and public 112100
utility property for current expense purposes for tax year 2008, 112101
including taxes charged and payable from emergency levies charged 112102
and payable under section 5709.194 of the Revised Code and 112103
excluding taxes levied for joint vocational school district 112104
purposes; 112105

(e) Fifty per cent of the school district's taxes charged and 112106
payable against all property on the tax list of real and public 112107
utility property for current expenses for tax year 2009, including 112108
taxes charged and payable from emergency levies and excluding 112109

taxes levied for joint vocational school district purposes;	112110
(f) The school district's taxes charged and payable against	112111
all property on the general tax list of personal property for	112112
current expenses for tax year 2009, including taxes charged and	112113
payable from emergency levies;	112114
(g) The amount certified for fiscal year 2010 under division	112115
(A)(2) of section 3317.08 of the Revised Code;	112116
(h) Distributions received during calendar year 2009 from	112117
taxes levied under section 718.09 of the Revised Code.	112118
(23) "Total resources," in the case of a joint vocational	112119
school district, means the sum of amounts in divisions (A)(23)(a)	112120
to (g) of this section less any reduction required under division	112121
(A)(32) of this section.	112122
(a) The state education aid for fiscal year 2010;	112123
(b) The sum of the payments received by the joint vocational	112124
school district in fiscal year 2010 for current expense levy	112125
losses pursuant to division (C)(2) of section 5727.85 and	112126
divisions (C)(8) and (9) of section 5751.21 of the Revised Code;	112127
(c) Fifty per cent of the joint vocational school district's	112128
taxes charged and payable against all property on the tax list of	112129
real and public utility property for current expense purposes for	112130
tax year 2008;	112131
(d) Fifty per cent of the joint vocational school district's	112132
taxes charged and payable against all property on the tax list of	112133
real and public utility property for current expenses for tax year	112134
2009;	112135
(e) Fifty per cent of a city, local, or exempted village	112136
school district's taxes charged and payable against all property	112137
on the tax list of real and public utility property for current	112138
expenses of the joint vocational school district for tax year	112139

2008;	112140
(f) Fifty per cent of a city, local, or exempted village	112141
school district's taxes charged and payable against all property	112142
on the tax list of real and public utility property for current	112143
expenses of the joint vocational school district for tax year	112144
2009;	112145
(g) The joint vocational school district's taxes charged and	112146
payable against all property on the general tax list of personal	112147
property for current expenses for tax year 2009.	112148
(24) "Total resources," in the case of county mental health	112149
and disability related functions, means the sum of the amounts in	112150
divisions (A)(24)(a) and (b) of this section less any reduction	112151
required under division (A)(32) of this section.	112152
(a) The sum of the payments received by the county for mental	112153
health and developmental disability related functions in calendar	112154
year 2010 under division (A)(1) of section 5727.86 and divisions	112155
(A)(1) and (2) of section 5751.22 of the Revised Code as they	112156
existed at that time;	112157
(b) With respect to taxes levied by the county for mental	112158
health and developmental disability related purposes, the taxes	112159
charged and payable for such purposes against all property on the	112160
tax list of real and public utility property for tax year 2009.	112161
(25) "Total resources," in the case of county senior services	112162
related functions, means the sum of the amounts in divisions	112163
(A)(25)(a) and (b) of this section less any reduction required	112164
under division (A)(32) of this section.	112165
(a) The sum of the payments received by the county for senior	112166
services related functions in calendar year 2010 under division	112167
(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section	112168
5751.22 of the Revised Code as they existed at that time;	112169

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

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(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

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(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

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(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

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(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

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(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

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(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

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(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this

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section less any reduction required under division (A)(32) or (33) 112201
of this section. 112202

(a) The sum of the payments received by the county for all 112203
other purposes in calendar year 2010 under division (A)(1) of 112204
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 112205
the Revised Code as they existed at that time; 112206

(b) The county's percentage share of county undivided local 112207
government fund allocations as certified to the tax commissioner 112208
for calendar year 2010 by the county auditor under division (J) of 112209
section 5747.51 of the Revised Code or division (F) of section 112210
5747.53 of the Revised Code multiplied by the total amount 112211
actually distributed in calendar year 2010 from the county 112212
undivided local government fund; 112213

(c) With respect to taxes levied by the county for all other 112214
purposes, the taxes charged and payable for such purposes against 112215
all property on the tax list of real and public utility property 112216
for tax year 2009, excluding taxes charged and payable for the 112217
purpose of paying debt charges; 112218

(d) The sum of the amounts distributed to the county in 112219
calendar year 2010 for the taxes levied pursuant to sections 112220
5739.021 and 5741.021 of the Revised Code. 112221

(29) "Total resources," in the case of a municipal 112222
corporation, means the sum of the amounts in divisions (A)(29)(a) 112223
to (g) of this section less any reduction required under division 112224
(A)(32) or (33) of this section. 112225

(a) The sum of the payments received by the municipal 112226
corporation in calendar year 2010 for current expense levy losses 112227
under division (A)(1) of section 5727.86 and divisions (A)(1) and 112228
(2) of section 5751.22 of the Revised Code as they existed at that 112229
time; 112230

(b) The municipal corporation's percentage share of county 112231

undivided local government fund allocations as certified to the 112232
tax commissioner for calendar year 2010 by the county auditor 112233
under division (J) of section 5747.51 of the Revised Code or 112234
division (F) of section 5747.53 of the Revised Code multiplied by 112235
the total amount actually distributed in calendar year 2010 from 112236
the county undivided local government fund; 112237

(c) The sum of the amounts distributed to the municipal 112238
corporation in calendar year 2010 pursuant to section 5747.50 of 112239
the Revised Code; 112240

(d) With respect to taxes levied by the municipal 112241
corporation, the taxes charged and payable against all property on 112242
the tax list of real and public utility property for current 112243
expenses, defined in division (A)(35) of this section, for tax 112244
year 2009; 112245

(e) The amount of admissions tax collected by the municipal 112246
corporation in calendar year 2008, or if such information has not 112247
yet been reported to the tax commissioner, in the most recent year 112248
before 2008 for which the municipal corporation has reported data 112249
to the commissioner; 112250

(f) The amount of income taxes collected by the municipal 112251
corporation in calendar year 2008, or if such information has not 112252
yet been reported to the tax commissioner, in the most recent year 112253
before 2008 for which the municipal corporation has reported data 112254
to the commissioner; 112255

(g) The municipal corporation's median estate tax 112256
collections. 112257

(30) "Total resources," in the case of a township, means the 112258
sum of the amounts in divisions (A)(30)(a) to (c) of this section 112259
less any reduction required under division (A)(32) or (33) of this 112260
section. 112261

(a) The sum of the payments received by the township in 112262

calendar year 2010 pursuant to division (A)(1) of section 5727.86 112263
of the Revised Code and divisions (A)(1) and (2) of section 112264
5751.22 of the Revised Code as they existed at that time, 112265
excluding payments received for debt purposes; 112266

(b) The township's percentage share of county undivided local 112267
government fund allocations as certified to the tax commissioner 112268
for calendar year 2010 by the county auditor under division (J) of 112269
section 5747.51 of the Revised Code or division (F) of section 112270
5747.53 of the Revised Code multiplied by the total amount 112271
actually distributed in calendar year 2010 from the county 112272
undivided local government fund; 112273

(c) With respect to taxes levied by the township, the taxes 112274
charged and payable against all property on the tax list of real 112275
and public utility property for tax year 2009 excluding taxes 112276
charged and payable for the purpose of paying debt charges. 112277

(31) "Total resources," in the case of a local taxing unit 112278
that is not a county, municipal corporation, or township, means 112279
the sum of the amounts in divisions (A)(31)(a) to (e) of this 112280
section less any reduction required under division (A)(32) of this 112281
section. 112282

(a) The sum of the payments received by the local taxing unit 112283
in calendar year 2010 pursuant to division (A)(1) of section 112284
5727.86 of the Revised Code and divisions (A)(1) and (2) of 112285
section 5751.22 of the Revised Code as they existed at that time; 112286

(b) The local taxing unit's percentage share of county 112287
undivided local government fund allocations as certified to the 112288
tax commissioner for calendar year 2010 by the county auditor 112289
under division (J) of section 5747.51 of the Revised Code or 112290
division (F) of section 5747.53 of the Revised Code multiplied by 112291
the total amount actually distributed in calendar year 2010 from 112292
the county undivided local government fund; 112293

(c) With respect to taxes levied by the local taxing unit, 112294
the taxes charged and payable against all property on the tax list 112295
of real and public utility property for tax year 2009 excluding 112296
taxes charged and payable for the purpose of paying debt charges; 112297

(d) The amount received from the tax commissioner during 112298
calendar year 2010 for sales or use taxes authorized under 112299
sections 5739.023 and 5741.022 of the Revised Code; 112300

(e) For institutions of higher education receiving tax 112301
revenue from a local levy, as identified in section 3358.02 of the 112302
Revised Code, the final state share of instruction allocation for 112303
fiscal year 2010 as calculated by the board of regents and 112304
reported to the state controlling board. 112305

(32) If a fixed-rate levy that is a qualifying levy is not 112306
charged and payable in any year after tax year 2010, "total 112307
resources" used to compute payments to be made under division 112308
(C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 112309
5751.22 of the Revised Code in the tax years following the last 112310
year the levy is charged and payable shall be reduced to the 112311
extent that the payments are attributable to the fixed-rate levy 112312
loss of that levy as would be computed under division (C)(2) of 112313
section 5727.85, division (A)(1) of section 5727.85, divisions 112314
(C)(8) and (9) of section 5751.21, or division (A)(1) of section 112315
5751.22 of the Revised Code. 112316

(33) In the case of a county, municipal corporation, school 112317
district, or township with fixed-rate levy losses attributable to 112318
a tax levied under section 5705.23 of the Revised Code, "total 112319
resources" used to compute payments to be made under division 112320
(C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, 112321
division (C)(12) of section 5751.21, or division (A)(1)(c) of 112322
section 5751.22 of the Revised Code shall be reduced by the 112323
amounts described in divisions (A)(34)(a) to (c) of this section 112324
to the extent that those amounts were included in calculating the 112325

"total resources" of the school district or local taxing unit 112326
under division (A)(22), (28), (29), or (30) of this section. 112327

(34) "Total library resources," in the case of a county, 112328
municipal corporation, school district, or township public library 112329
that receives the proceeds of a tax levied under section 5705.23 112330
of the Revised Code, means the sum of the amounts in divisions 112331
(A)(34)(a) to (c) of this section less any reduction required 112332
under division (A)(32) of this section. 112333

(a) The sum of the payments received by the county, municipal 112334
corporation, school district, or township public library in 112335
calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the 112336
Revised Code, as they existed at that time, for fixed-rate levy 112337
losses attributable to a tax levied under section 5705.23 of the 112338
Revised Code for the benefit of the public library; 112339

(b) The public library's percentage share of county undivided 112340
local government fund allocations as certified to the tax 112341
commissioner for calendar year 2010 by the county auditor under 112342
division (J) of section 5747.51 of the Revised Code or division 112343
(F) of section 5747.53 of the Revised Code multiplied by the total 112344
amount actually distributed in calendar year 2010 from the county 112345
undivided local government fund; 112346

(c) With respect to a tax levied pursuant to section 5705.23 112347
of the Revised Code for the benefit of the public library, the 112348
amount of such tax that is charged and payable against all 112349
property on the tax list of real and public utility property for 112350
tax year 2009 excluding any tax that is charged and payable for 112351
the purpose of paying debt charges. 112352

(35) "Municipal current expense property tax levies" means 112353
all property tax levies of a municipality, except those with the 112354
following levy names: airport resurfacing; bond or any levy name 112355
including the word "bond"; capital improvement or any levy name 112356

including the word "capital"; debt or any levy name including the 112357
word "debt"; equipment or any levy name including the word 112358
"equipment," unless the levy is for combined operating and 112359
equipment; employee termination fund; fire pension or any levy 112360
containing the word "pension," including police pensions; 112361
fireman's fund or any practically similar name; sinking fund; road 112362
improvements or any levy containing the word "road"; fire truck or 112363
apparatus; flood or any levy containing the word "flood"; 112364
conservancy district; county health; note retirement; sewage, or 112365
any levy containing the words "sewage" or "sewer"; park 112366
improvement; parkland acquisition; storm drain; street or any levy 112367
name containing the word "street"; lighting, or any levy name 112368
containing the word "lighting"; and water. 112369

(36) "Current expense TPP allocation" means, in the case of a 112370
school district or joint vocational school district, the sum of 112371
the payments received by the school district in fiscal year 2011 112372
pursuant to divisions (C)(10) and (11) of section 5751.21 of the 112373
Revised Code to the extent paid for current expense levies. In the 112374
case of a municipal corporation, "current expense TPP allocation" 112375
means the sum of the payments received by the municipal 112376
corporation in calendar year 2010 pursuant to divisions (A)(1) and 112377
(2) of section 5751.22 of the Revised Code to the extent paid for 112378
municipal current expense property tax levies as defined in 112379
division (A)(35) of this section, excluding any such payments 112380
received for current expense levy losses attributable to a tax 112381
levied under section 5705.23 of the Revised Code. If a fixed-rate 112382
levy that is a qualifying levy is not charged and payable in any 112383
year after tax year 2010, "current expense TPP allocation" used to 112384
compute payments to be made under division (C)(12) of section 112385
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 112386
Revised Code in the tax years following the last year the levy is 112387
charged and payable shall be reduced to the extent that the 112388
payments are attributable to the fixed-rate levy loss of that levy 112389

as would be computed under divisions (C)(10) and (11) of section 112390
5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 112391

(37) "TPP allocation" means the sum of payments received by a 112392
local taxing unit in calendar year 2010 pursuant to divisions 112393
(A)(1) and (2) of section 5751.22 of the Revised Code, excluding 112394
any such payments received for fixed-rate levy losses attributable 112395
to a tax levied under section 5705.23 of the Revised Code. If a 112396
fixed-rate levy that is a qualifying levy is not charged and 112397
payable in any year after tax year 2010, "TPP allocation" used to 112398
compute payments to be made under division (A)(1)(b) or (c) of 112399
section 5751.22 of the Revised Code in the tax years following the 112400
last year the levy is charged and payable shall be reduced to the 112401
extent that the payments are attributable to the fixed-rate levy 112402
loss of that levy as would be computed under division (A)(1) of 112403
that section. 112404

(38) "Total TPP allocation" means, in the case of a school 112405
district or joint vocational school district, the sum of the 112406
amounts received in fiscal year 2011 pursuant to divisions (C)(10) 112407
and (11) and (D) of section 5751.21 of the Revised Code. In the 112408
case of a local taxing unit, "total TPP allocation" means the sum 112409
of payments received by the unit in calendar year 2010 pursuant to 112410
divisions (A)(1), (2), and (3) of section 5751.22 of the Revised 112411
Code. If a fixed-rate levy that is a qualifying levy is not 112412
charged and payable in any year after tax year 2010, "total TPP 112413
allocation" used to compute payments to be made under division 112414
(C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 112415
5751.22 of the Revised Code in the tax years following the last 112416
year the levy is charged and payable shall be reduced to the 112417
extent that the payments are attributable to the fixed-rate levy 112418
loss of that levy as would be computed under divisions (C)(10) and 112419
(11) of section 5751.21 or division (A)(1) of section 5751.22 of 112420
the Revised Code. 112421

(39) "Non-current expense TPP allocation" means the 112422
difference of total TPP allocation minus the sum of current 112423
expense TPP allocation and the portion of total TPP allocation 112424
constituting reimbursement for debt levies, pursuant to division 112425
(D) of section 5751.21 of the Revised Code in the case of a school 112426
district or joint vocational school district and pursuant to 112427
division (A)(3) of section 5751.22 of the Revised Code in the case 112428
of a municipal corporation. 112429

(40) "TPP allocation for library purposes" means the sum of 112430
payments received by a county, municipal corporation, school 112431
district, or township public library in calendar year 2010 112432
pursuant to section 5751.22 of the Revised Code for fixed-rate 112433
levy losses attributable to a tax levied under section 5705.23 of 112434
the Revised Code. If a fixed-rate levy authorized under section 112435
5705.23 of the Revised Code that is a qualifying levy is not 112436
charged and payable in any year after tax year 2010, "TPP 112437
allocation for library purposes" used to compute payments to be 112438
made under division (A)(1)(d) of section 5751.22 of the Revised 112439
Code in the tax years following the last year the levy is charged 112440
and payable shall be reduced to the extent that the payments are 112441
attributable to the fixed-rate levy loss of that levy as would be 112442
computed under division (A)(1) of section 5751.22 of the Revised 112443
Code. 112444

(41) "Threshold per cent" means, in the case of a school 112445
district or joint vocational school district, two per cent for 112446
fiscal year 2012 and four per cent for fiscal years 2013 and 112447
thereafter. In the case of a local taxing unit or public library 112448
that receives the proceeds of a tax levied under section 5705.23 112449
of the Revised Code, "threshold per cent" means two per cent for 112450
tax year 2011, four per cent for tax year 2012, and six per cent 112451
for tax years 2013 and thereafter. 112452

(B) The commercial activities tax receipts fund is hereby 112453

created in the state treasury and shall consist of money arising 112454
 from the tax imposed under this chapter. Eighty-five 112455
 one-hundredths of one per cent of the money credited to that fund 112456
 shall be credited to the revenue enhancement fund and shall be 112457
 used to defray the costs incurred by the department of taxation in 112458
 administering the tax imposed by this chapter and in implementing 112459
 tax reform measures. The remainder in the commercial activities 112460
 tax receipts fund shall be credited for each fiscal year in the 112461
 following percentages to the general revenue fund, to the school 112462
 district tangible property tax replacement fund, which is hereby 112463
 created in the state treasury for the purpose of making the 112464
 payments described in section 5751.21 of the Revised Code, and to 112465
 the local government tangible property tax replacement fund, which 112466
 is hereby created in the state treasury for the purpose of making 112467
 the payments described in section 5751.22 of the Revised Code, in 112468
 the following percentages: 112469

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	112471
2007	0%	70.0%	30.0%	112472
2008	0%	70.0%	30.0%	112473
2009	0%	70.0%	30.0%	112474
2010	0%	70.0%	30.0%	112475
2011	0%	70.0%	30.0%	112476
2012	25.0%	52.5%	22.5%	112477
2013 and thereafter	50.0%	35.0%	15.0%	112478

(C) Not later than September 15, 2005, the tax commissioner 112479
 shall determine for each school district, joint vocational school 112480
 district, and local taxing unit its machinery and equipment, 112481
 inventory property, furniture and fixtures property, and telephone 112482

property tax value losses, which are the applicable amounts	112483
described in divisions (C)(1), (2), (3), and (4) of this section,	112484
except as provided in division (C)(5) of this section:	112485
(1) Machinery and equipment property tax value loss is the	112486
taxable value of machinery and equipment property as reported by	112487
taxpayers for tax year 2004 multiplied by:	112488
(a) For tax year 2006, thirty-three and eight-tenths per	112489
cent;	112490
(b) For tax year 2007, sixty-one and three-tenths per cent;	112491
(c) For tax year 2008, eighty-three per cent;	112492
(d) For tax year 2009 and thereafter, one hundred per cent.	112493
(2) Inventory property tax value loss is the taxable value of	112494
inventory property as reported by taxpayers for tax year 2004	112495
multiplied by:	112496
(a) For tax year 2006, a fraction, the numerator of which is	112497
five and three-fourths and the denominator of which is	112498
twenty-three;	112499
(b) For tax year 2007, a fraction, the numerator of which is	112500
nine and one-half and the denominator of which is twenty-three;	112501
(c) For tax year 2008, a fraction, the numerator of which is	112502
thirteen and one-fourth and the denominator of which is	112503
twenty-three;	112504
(d) For tax year 2009 and thereafter a fraction, the	112505
numerator of which is seventeen and the denominator of which is	112506
twenty-three.	112507
(3) Furniture and fixtures property tax value loss is the	112508
taxable value of furniture and fixture property as reported by	112509
taxpayers for tax year 2004 multiplied by:	112510
(a) For tax year 2006, twenty-five per cent;	112511

- (b) For tax year 2007, fifty per cent; 112512
- (c) For tax year 2008, seventy-five per cent; 112513
- (d) For tax year 2009 and thereafter, one hundred per cent. 112514

The taxable value of property reported by taxpayers used in 112515
divisions (C)(1), (2), and (3) of this section shall be such 112516
values as determined to be final by the tax commissioner as of 112517
August 31, 2005. Such determinations shall be final except for any 112518
correction of a clerical error that was made prior to August 31, 112519
2005, by the tax commissioner. 112520

(4) Telephone property tax value loss is the taxable value of 112521
telephone property as taxpayers would have reported that property 112522
for tax year 2004 if the assessment rate for all telephone 112523
property for that year were twenty-five per cent, multiplied by: 112524

- (a) For tax year 2006, zero per cent; 112525
- (b) For tax year 2007, zero per cent; 112526
- (c) For tax year 2008, zero per cent; 112527
- (d) For tax year 2009, sixty per cent; 112528
- (e) For tax year 2010, eighty per cent; 112529
- (f) For tax year 2011 and thereafter, one hundred per cent. 112530

(5) Division (C)(5) of this section applies to any school 112531
district, joint vocational school district, or local taxing unit 112532
in a county in which is located a facility currently or formerly 112533
devoted to the enrichment or commercialization of uranium or 112534
uranium products, and for which the total taxable value of 112535
property listed on the general tax list of personal property for 112536
any tax year from tax year 2001 to tax year 2004 was fifty per 112537
cent or less of the taxable value of such property listed on the 112538
general tax list of personal property for the next preceding tax 112539
year. 112540

In computing the fixed-rate levy losses under divisions 112541
(D)(1), (2), and (3) of this section for any school district, 112542
joint vocational school district, or local taxing unit to which 112543
division (C)(5) of this section applies, the taxable value of such 112544
property as listed on the general tax list of personal property 112545
for tax year 2000 shall be substituted for the taxable value of 112546
such property as reported by taxpayers for tax year 2004, in the 112547
taxing district containing the uranium facility, if the taxable 112548
value listed for tax year 2000 is greater than the taxable value 112549
reported by taxpayers for tax year 2004. For the purpose of making 112550
the computations under divisions (D)(1), (2), and (3) of this 112551
section, the tax year 2000 valuation is to be allocated to 112552
machinery and equipment, inventory, and furniture and fixtures 112553
property in the same proportions as the tax year 2004 values. For 112554
the purpose of the calculations in division (A) of section 5751.21 112555
of the Revised Code, the tax year 2004 taxable values shall be 112556
used. 112557

To facilitate the calculations required under division (C) of 112558
this section, the county auditor, upon request from the tax 112559
commissioner, shall provide by August 1, 2005, the values of 112560
machinery and equipment, inventory, and furniture and fixtures for 112561
all single-county personal property taxpayers for tax year 2004. 112562

(D) Not later than September 15, 2005, the tax commissioner 112563
shall determine for each tax year from 2006 through 2009 for each 112564
school district, joint vocational school district, and local 112565
taxing unit its machinery and equipment, inventory, and furniture 112566
and fixtures fixed-rate levy losses, and for each tax year from 112567
2006 through 2011 its telephone property fixed-rate levy loss. 112568
Except as provided in division (F) of this section, such losses 112569
are the applicable amounts described in divisions (D)(1), (2), 112570
(3), and (4) of this section: 112571

(1) The machinery and equipment fixed-rate levy loss is the 112572

machinery and equipment property tax value loss multiplied by the 112573
sum of the tax rates of fixed-rate qualifying levies. 112574

(2) The inventory fixed-rate loss is the inventory property 112575
tax value loss multiplied by the sum of the tax rates of 112576
fixed-rate qualifying levies. 112577

(3) The furniture and fixtures fixed-rate levy loss is the 112578
furniture and fixture property tax value loss multiplied by the 112579
sum of the tax rates of fixed-rate qualifying levies. 112580

(4) The telephone property fixed-rate levy loss is the 112581
telephone property tax value loss multiplied by the sum of the tax 112582
rates of fixed-rate qualifying levies. 112583

(E) Not later than September 15, 2005, the tax commissioner 112584
shall determine for each school district, joint vocational school 112585
district, and local taxing unit its fixed-sum levy loss. The 112586
fixed-sum levy loss is the amount obtained by subtracting the 112587
amount described in division (E)(2) of this section from the 112588
amount described in division (E)(1) of this section: 112589

(1) The sum of the machinery and equipment property tax value 112590
loss, the inventory property tax value loss, and the furniture and 112591
fixtures property tax value loss, and, for 2008 through 2010, the 112592
telephone property tax value loss of the district or unit 112593
multiplied by the sum of the fixed-sum tax rates of qualifying 112594
levies. For 2006 through 2010, this computation shall include all 112595
qualifying levies remaining in effect for the current tax year and 112596
any school district levies charged and payable under section 112597
5705.194 or 5705.213 of the Revised Code that are qualifying 112598
levies not remaining in effect for the current year. For 2011 112599
through 2017 in the case of school district levies charged and 112600
payable under section 5705.194 or 5705.213 of the Revised Code and 112601
for all years after 2010 in the case of other fixed-sum levies, 112602
this computation shall include only qualifying levies remaining in 112603

effect for the current year. For purposes of this computation, a 112604
qualifying school district levy charged and payable under section 112605
5705.194 or 5705.213 of the Revised Code remains in effect in a 112606
year after 2010 only if, for that year, the board of education 112607
levies a school district levy charged and payable under section 112608
5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for 112609
an annual sum at least equal to the annual sum levied by the board 112610
in tax year 2004 less the amount of the payment certified under 112611
this division for 2006. 112612

(2) The total taxable value in tax year 2004 less the sum of 112613
the machinery and equipment, inventory, furniture and fixtures, 112614
and telephone property tax value losses in each school district, 112615
joint vocational school district, and local taxing unit multiplied 112616
by one-half of one mill per dollar. 112617

(3) For the calculations in divisions (E)(1) and (2) of this 112618
section, the tax value losses are those that would be calculated 112619
for tax year 2009 under divisions (C)(1), (2), and (3) of this 112620
section and for tax year 2011 under division (C)(4) of this 112621
section. 112622

(4) To facilitate the calculation under divisions (D) and (E) 112623
of this section, not later than September 1, 2005, any school 112624
district, joint vocational school district, or local taxing unit 112625
that has a qualifying levy that was approved at an election 112626
conducted during 2005 before September 1, 2005, shall certify to 112627
the tax commissioner a copy of the county auditor's certificate of 112628
estimated property tax millage for such levy as required under 112629
division (B) of section 5705.03 of the Revised Code, which is the 112630
rate that shall be used in the calculations under such divisions. 112631

If the amount determined under division (E) of this section 112632
for any school district, joint vocational school district, or 112633
local taxing unit is greater than zero, that amount shall equal 112634
the reimbursement to be paid pursuant to division (E) of section 112635

5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 112636
and the one-half of one mill that is subtracted under division 112637
(E)(2) of this section shall be apportioned among all contributing 112638
fixed-sum levies in the proportion that each levy bears to the sum 112639
of all fixed-sum levies within each school district, joint 112640
vocational school district, or local taxing unit. 112641

(F) If a school district levies a tax under section 5705.219 112642
of the Revised Code, the fixed-rate levy loss for qualifying 112643
levies, to the extent repealed under that section, shall equal the 112644
sum of the following amounts in lieu of the amounts computed for 112645
such levies under division (D) of this section: 112646

(1) The sum of the rates of qualifying levies to the extent 112647
so repealed multiplied by the sum of the machinery and equipment, 112648
inventory, and furniture and fixtures tax value losses for 2009 as 112649
determined under that division; 112650

(2) The sum of the rates of qualifying levies to the extent 112651
so repealed multiplied by the telephone property tax value loss 112652
for 2011 as determined under that division. 112653

The fixed-rate levy losses for qualifying levies to the 112654
extent not repealed under section 5705.219 of the Revised Code 112655
shall be as determined under division (D) of this section. The 112656
revised fixed-rate levy losses determined under this division and 112657
division (D) of this section first apply in the year following the 112658
first year the district levies the tax under section 5705.219 of 112659
the Revised Code. 112660

(G) Not later than October 1, 2005, the tax commissioner 112661
shall certify to the department of education for every school 112662
district and joint vocational school district the machinery and 112663
equipment, inventory, furniture and fixtures, and telephone 112664
property tax value losses determined under division (C) of this 112665
section, the machinery and equipment, inventory, furniture and 112666

fixtures, and telephone fixed-rate levy losses determined under 112667
division (D) of this section, and the fixed-sum levy losses 112668
calculated under division (E) of this section. The calculations 112669
under divisions (D) and (E) of this section shall separately 112670
display the levy loss for each levy eligible for reimbursement. 112671

(H) Not later than October 1, 2005, the tax commissioner 112672
shall certify the amount of the fixed-sum levy losses to the 112673
county auditor of each county in which a school district, joint 112674
vocational school district, or local taxing unit with a fixed-sum 112675
levy loss reimbursement has territory. 112676

(I) Not later than the twenty-eighth day of February each 112677
year beginning in 2011 and ending in 2014, the tax commissioner 112678
shall certify to the department of education for each school 112679
district first levying a tax under section 5705.219 of the Revised 112680
Code in the preceding year the revised fixed-rate levy losses 112681
determined under divisions (D) and (F) of this section. 112682

(J) There is hereby created in the state treasury the 112683
commercial activity tax motor fuel receipts fund. 112684

Sec. 5751.21. (A) Not later than the thirtieth day of July of 112685
2007 through 2010, the department of education shall consult with 112686
the director of budget and management and determine the following 112687
for each school district and each joint vocational school district 112688
eligible for payment under division (B) of this section: 112689
112690

(1) The state education aid offset, which, except as provided 112691
in division (A)(1)(c) of this section, is the difference obtained 112692
by subtracting the amount described in division (A)(1)(b) of this 112693
section from the amount described in division (A)(1)(a) of this 112694
section: 112695

(a) The state education aid computed for the school district 112696

or joint vocational school district for the current fiscal year as 112697
of the thirtieth day of July; 112698

(b) The state education aid that would be computed for the 112699
school district or joint vocational school district for the 112700
current fiscal year as of the thirtieth day of July if the 112701
valuation used in the calculation in division (B)(1) of section 112702
3306.13 of the Revised Code as that division existed for fiscal 112703
years 2010 and 2011 included the machinery and equipment, 112704
inventory, furniture and fixtures, and telephone property tax 112705
value losses for the school district or joint vocational school 112706
district for the second preceding tax year, and if taxes charged 112707
and payable associated with the tax value losses are accounted for 112708
in any state education aid computation dependent on taxes charged 112709
and payable. 112710

(c) The state education aid offset for fiscal year 2010 and 112711
fiscal year 2011 equals the greater of the state education aid 112712
offset calculated for that fiscal year under divisions (A)(1)(a) 112713
and (b) of this section and the state education aid offset 112714
calculated for fiscal year 2009. For fiscal year 2012 and 2013, 112715
the state education aid offset equals the state education aid 112716
offset for fiscal year 2011. 112717

(2) For fiscal years 2008 through 2011, the greater of zero 112718
or the difference obtained by subtracting the state education aid 112719
offset determined under division (A)(1) of this section from the 112720
sum of the machinery and equipment fixed-rate levy loss, the 112721
inventory fixed-rate levy loss, furniture and fixtures fixed-rate 112722
levy loss, and telephone property fixed-rate levy loss certified 112723
under divisions (G) and (I) of section 5751.20 of the Revised Code 112724
for all taxing districts in each school district and joint 112725
vocational school district for the second preceding tax year. 112726

By the thirtieth day of July of each such year, the 112727
department of education and the director of budget and management 112728

shall agree upon the amount to be determined under division (A)(1) 112729
of this section. 112730

(B) On or before the thirty-first day of August of 2008, 112731
2009, and 2010, the department of education shall recalculate the 112732
offset described under division (A) of this section for the 112733
previous fiscal year and recalculate the payments made under 112734
division (C) of this section in the preceding fiscal year using 112735
the offset calculated under this division. If the payments 112736
calculated under this division differ from the payments made under 112737
division (C) of this section in the preceding fiscal year, the 112738
difference shall either be paid to a school district or recaptured 112739
from a school district through an adjustment at the same times 112740
during the current fiscal year that the payments under division 112741
(C) of this section are made. In August and October of the current 112742
fiscal year, the amount of each adjustment shall be three-sevenths 112743
of the amount calculated under this division. In May of the 112744
current fiscal year, the adjustment shall be one-seventh of the 112745
amount calculated under this division. 112746

(C) The department of education shall pay from the school 112747
district tangible property tax replacement fund to each school 112748
district and joint vocational school district all of the following 112749
for fixed-rate levy losses certified under divisions (G) and (I) 112750
of section 5751.20 of the Revised Code: 112751

(1) On or before May 31, 2006, one-seventh of the total 112752
fixed-rate levy loss for tax year 2006; 112753

(2) On or before August 31, 2006, and October 31, 2006, 112754
one-half of six-sevenths of the total fixed-rate levy loss for tax 112755
year 2006; 112756

(3) On or before May 31, 2007, one-seventh of the total 112757
fixed-rate levy loss for tax year 2007; 112758

(4) On or before August 31, 2007, and October 31, 2007, 112759

forty-three per cent of the amount determined under division 112760
(A)(2) of this section for fiscal year 2008, but not less than 112761
zero, plus one-half of six-sevenths of the difference between the 112762
total fixed-rate levy loss for tax year 2007 and the total 112763
fixed-rate levy loss for tax year 2006. 112764

(5) On or before May 31, 2008, fourteen per cent of the 112765
amount determined under division (A)(2) of this section for fiscal 112766
year 2008, but not less than zero, plus one-seventh of the 112767
difference between the total fixed-rate levy loss for tax year 112768
2008 and the total fixed-rate levy loss for tax year 2006. 112769

(6) On or before August 31, 2008, and October 31, 2008, 112770
forty-three per cent of the amount determined under division 112771
(A)(2) of this section for fiscal year 2009, but not less than 112772
zero, plus one-half of six-sevenths of the difference between the 112773
total fixed-rate levy loss in tax year 2008 and the total 112774
fixed-rate levy loss in tax year 2007. 112775

(7) On or before May 31, 2009, fourteen per cent of the 112776
amount determined under division (A)(2) of this section for fiscal 112777
year 2009, but not less than zero, plus one-seventh of the 112778
difference between the total fixed-rate levy loss for tax year 112779
2009 and the total fixed-rate levy loss for tax year 2007. 112780

(8) On or before August 31, 2009, and October 31, 2009, 112781
forty-three per cent of the amount determined under division 112782
(A)(2) of this section for fiscal year 2010, but not less than 112783
zero, plus one-half of six-sevenths of the difference between the 112784
total fixed-rate levy loss in tax year 2009 and the total 112785
fixed-rate levy loss in tax year 2008. 112786

(9) On or before May 31, 2010, fourteen per cent of the 112787
amount determined under division (A)(2) of this section for fiscal 112788
year 2010, but not less than zero, plus one-seventh of the 112789
difference between the total fixed-rate levy loss in tax year 2010 112790

and the total fixed-rate levy loss in tax year 2008. 112791

(10) On or before August 31, 2010, and October 31, 2010, 112792
forty-three per cent of the amount determined under division 112793
(A)(2) of this section for fiscal year 2011, but not less than 112794
zero, plus one-half of six-sevenths of the difference between the 112795
telephone property fixed-rate levy loss for tax year 2010 and the 112796
telephone property fixed-rate levy loss for tax year 2009. 112797

(11) On or before May 31, 2011, fourteen per cent of the 112798
amount determined under division (A)(2) of this section for fiscal 112799
year 2011, but not less than zero, plus one-seventh of the 112800
difference between the telephone property fixed-rate levy loss for 112801
tax year 2011 and the telephone property fixed-rate levy loss for 112802
tax year 2009. 112803

(12) For fiscal years 2012 and thereafter, the sum of the 112804
amounts in divisions (C)(12)(a) or (b) and (c) of this section 112805
shall be paid on or before the ~~twentieth~~ last day of November and 112806
the last day of May: 112807

(a) If the ratio of current expense TPP allocation to total 112808
resources is equal to or less than the threshold per cent, zero; 112809

(b) If the ratio of current expense TPP allocation to total 112810
resources is greater than the threshold per cent, fifty per cent 112811
of the difference of current expense TPP allocation minus the 112812
product of total resources multiplied by the threshold per cent; 112813

(c) Fifty per cent of the product of non-current expense TPP 112814
allocation multiplied by seventy-five per cent for fiscal year 112815
2012 and fifty per cent for fiscal years 2013 and thereafter. 112816

The department of education shall report to each school 112817
district and joint vocational school district the apportionment of 112818
the payments among the school district's or joint vocational 112819
school district's funds based on the certifications under 112820
divisions (G) and (I) of section 5751.20 of the Revised Code. 112821

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. On or before the last day of May of the current year, the department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, and on or before the ~~twentieth~~ last day of November, two-thirds of the fixed-sum levy loss so certified, plus two-thirds of the amount certified under division (I) of section 5751.20 of the Revised Code. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the

commissioner determines that a debt levy that had been scheduled 112854
to be reimbursed in the current year has expired, a revised 112855
certification for that and all subsequent years shall be made to 112856
the department of education. 112857

(F) Beginning in September 2007 and through June 2013, the 112858
director of budget and management shall transfer from the school 112859
district tangible property tax replacement fund to the general 112860
revenue fund each of the following: 112861

(1) On the first day of September, one-fourth of the amount 112862
determined for that fiscal year under division (A)(1) of this 112863
section; 112864

(2) On the first day of December, one-fourth of the amount 112865
determined for that fiscal year under division (A)(1) of this 112866
section; 112867

(3) On the first day of March, one-fourth of the amount 112868
determined for that fiscal year under division (A)(1) of this 112869
section; 112870

(4) On the first day of June, one-fourth of the amount 112871
determined for that fiscal year under division (A)(1) of this 112872
section. 112873

If, when a transfer is required under division (F)(1), (2), 112874
(3), or (4) of this section, there is not sufficient money in the 112875
school district tangible property tax replacement fund to make the 112876
transfer in the required amount, the director shall transfer the 112877
balance in the fund to the general revenue fund and may make 112878
additional transfers on later dates as determined by the director 112879
in a total amount that does not exceed one-fourth of the amount 112880
determined for the fiscal year. 112881

(G) If the total amount in the school district tangible 112882
property tax replacement fund is insufficient to make all payments 112883
under divisions (C), (D), and (E) of this section at the times the 112884

payments are to be made, the director of budget and management 112885
shall transfer from the general revenue fund to the school 112886
district tangible property tax replacement fund the difference 112887
between the total amount to be paid and the amount in the school 112888
district tangible property tax replacement fund. 112889

(H) On the fifteenth day of June of each year, the director 112890
of budget and management may transfer any balance in the school 112891
district tangible property tax replacement fund to the general 112892
revenue fund. 112893

(I) If all of the territory of a school district or joint 112894
vocational school district is merged with another district, or if 112895
a part of the territory of a school district or joint vocational 112896
school district is transferred to an existing or newly created 112897
district, the department of education, in consultation with the 112898
tax commissioner, shall adjust the payments made under this 112899
section as follows: 112900

(1) For a merger of two or more districts, the fixed-sum levy 112901
losses, total resources, current expense TPP allocation, total TPP 112902
allocation, and non-current expense TPP allocation of the 112903
successor district shall be the sum of such items for each of the 112904
districts involved in the merger. 112905

(2) If property is transferred from one district to a 112906
previously existing district, the amount of total resources, 112907
current expense TPP allocation, total TPP allocation, and 112908
non-current expense TPP allocation that shall be transferred to 112909
the recipient district shall be an amount equal to total 112910
resources, current expense TPP allocation, total TPP allocation, 112911
and non-current expense TPP allocation of the transferor district 112912
times a fraction, the numerator of which is the number of pupils 112913
being transferred to the recipient district, measured, in the case 112914
of a school district, by average daily membership as reported 112915
under division (A) of section 3317.03 of the Revised Code or, in 112916

the case of a joint vocational school district, by formula ADM as 112917
reported in division (D) of that section, and the denominator of 112918
which is the average daily membership or formula ADM of the 112919
transferor district. 112920

(3) After December 31, 2010, if property is transferred from 112921
one or more districts to a district that is newly created out of 112922
the transferred property, the newly created district shall be 112923
deemed not to have any total resources, current expense TPP 112924
allocation, total TPP allocation, or non-current expense TPP 112925
allocation. 112926

(4) If the recipient district under division (I)(2) of this 112927
section or the newly created district under division (I)(3) of 112928
this section is assuming debt from one or more of the districts 112929
from which the property was transferred and any of the districts 112930
losing the property had fixed-sum levy losses, the department of 112931
education, in consultation with the tax commissioner, shall make 112932
an equitable division of the fixed-sum levy loss reimbursements. 112933

Sec. 5753.01. As used in Chapter 5753. of the Revised Code 112934
and for no other purpose under Title LVII of the Revised Code: 112935

(A) "Casino facility" has the same meaning as in section 112936
3772.01 of the Revised Code. 112937

(B) "Casino gaming" has the same meaning as in section 112938
3772.01 of the Revised Code. 112939

(C) "Casino operator" has the same meaning as in section 112940
3772.01 of the Revised Code. 112941

(D) "Gross casino revenue" means the total amount of money 112942
exchanged for the purchase of chips, tokens, tickets, electronic 112943
cards, or similar objects by casino patrons, less winnings paid to 112944
wagerers. "Gross casino revenue" does not include ~~the~~ 112945

(1) The issuance to casino patrons or wagering by casino 112946

patrons of any promotional gaming credit as defined in section 112947
3772.01 of the Revised Code. When issuance of the promotional 112948
gaming credit requires money exchanged as a match from the patron, 112949
the excludible portion of the promotional gaming credit does not 112950
include the portion of the wager purchased by the patron. 112951

(2) Bad debts from receipts on the basis of which the tax 112952
imposed by this chapter was paid in a prior tax period to the 112953
extent not previously excluded. For the purposes of this division, 112954
"bad debts" means any debts that have become worthless or 112955
uncollectible in a prior tax period, have been uncollected for at 112956
least six months, and that may be claimed as a deduction under 112957
section 166 of the Internal Revenue Code and the regulations 112958
adopted under that section, or that could be claimed as such if 112959
the taxpayer kept its accounts on the accrual basis. "Bad debts" 112960
does not include repossessed property, uncollectible amounts on 112961
property that remains in the possession of the casino operator 112962
until the full purchase price is paid, or expenses in attempting 112963
to collect any account receivable or for any portion of the debt 112964
recovered. 112965

(E) "Person" has the same meaning as in section 3772.01 of 112966
the Revised Code. 112967

(F) "Slot machine" has the same meaning as in section 3772.01 112968
of the Revised Code. 112969

(G) "Table game" has the same meaning as in section 3772.01 112970
of the Revised Code. 112971

(H) "Tax period" means one twenty-four-hour period with 112972
regard to which a casino operator is required to pay the tax 112973
levied by this chapter. 112974

Sec. 5753.03. (A) For the purpose of receiving and 112975
distributing, and accounting for, revenue received from the tax 112976

levied by section 5753.02 of the Revised Code, the following funds	112977
are created in the state treasury:	112978
(1) The casino tax revenue fund;	112979
(2) The gross casino revenue county fund;	112980
(3) The gross casino revenue county student fund;	112981
(4) The gross casino revenue host city fund;	112982
(5) The Ohio state racing commission fund;	112983
(6) The Ohio law enforcement training fund;	112984
(7) The problem casino gambling and addictions fund;	112985
(8) The casino control commission fund;	112986
(9) The casino tax administration fund;	112987
(10) The peace officer training academy fund;	112988
(11) The criminal justice services casino tax revenue fund.	112989
(B) All moneys collected from the tax levied under this	112990
chapter shall be deposited into the casino tax revenue fund.	112991
(C) From the casino tax revenue fund the director of budget	112992
and management shall transfer as needed to the tax refund fund	112993
amounts equal to the refunds certified by the tax commissioner	112994
under section 5753.06 of the Revised Code.	112995
(D) After making any transfers required by division (C) of	112996
this section, but not later than the fifteenth day of the month	112997
following the end of each calendar quarter, the director of budget	112998
and management shall transfer amounts to each fund as follows:	112999
(1) Fifty-one per cent to the gross casino revenue county	113000
fund to make payments as required by Section 6(C)(3)(a) of Article	113001
XV, Ohio Constitution;	113002
(2) Thirty-four per cent to the gross casino revenue county	113003

student fund to make payments as required by Section 6(C)(3)(b) of 113004
Article XV, Ohio Constitution and as provided in section 5753.11 113005
of the Revised Code; 113006

(3) Five per cent to the gross casino revenue host city fund 113007
for the benefit of the cities in which casino facilities are 113008
located; 113009

(4) Three per cent to the Ohio state racing commission fund 113010
to support the efforts and activities of the Ohio state racing 113011
commission to promote horse racing in this state at which the 113012
pari-mutuel system of wagering is conducted; 113013

(5) Two per cent to the Ohio law enforcement training fund to 113014
support law enforcement functions in the state; 113015

(6) Two per cent to the problem casino gambling and 113016
addictions fund to support efforts of the department of ~~alcohol~~ 113017
~~and drug addiction services~~ mental health and addiction services 113018
to alleviate problem gambling and substance abuse and related 113019
research in the state under section ~~3793.032~~ 5119.47 of the 113020
Revised Code; 113021

(7) Three per cent to the casino control commission fund to 113022
support the operations of the Ohio casino control commission and 113023
to defray the cost of administering the tax levied under section 113024
5753.02 of the Revised Code. 113025

Payments under divisions (D)(1) and (3) of this section shall 113026
be made by the end of the month following the end of the quarterly 113027
period. The tax commissioner shall make the data available to the 113028
director of budget and management for this purpose. 113029

Money in the Ohio state racing commission fund shall be 113030
distributed at the discretion of the Ohio state racing commission 113031
for the purpose stated in division (D)(4) of this section by the 113032
end of the month following the end of the quarterly period. The 113033
commission may retain up to five per cent of the amount 113034

transferred to the fund under division (D)(4) of this section for 113035
operating expenses necessary for the administration of the fund. 113036

Payments from the gross casino revenue county student fund as 113037
required under section 5753.11 of the Revised Code shall be made 113038
by the last day of January and by the last day of August of each 113039
year, beginning in 2013. The tax commissioner shall make the data 113040
available to the director of budget and management for this 113041
purpose. 113042

Of the money credited to the Ohio law enforcement training 113043
fund, the director of budget and management shall distribute 113044
eighty-five per cent of the money to the police officer training 113045
academy fund for the purpose of supporting the law enforcement 113046
training efforts of the Ohio peace officer training academy and 113047
fifteen per cent of the money to the criminal justice services 113048
casino tax revenue fund for the purpose of supporting the law 113049
enforcement training efforts of the division of criminal justice 113050
services. 113051

(E)(1) The tax commissioner shall serve as an agent of the 113052
counties of this state only for the purposes of this division and 113053
solely to make payments directly to municipal corporations and 113054
school districts, as applicable, on the counties' behalf. 113055

(2) On or before the last day of the month following the end 113056
of each calendar quarter, the tax commissioner shall provide for 113057
payment from the funds referenced in divisions (D)(1) and (3) of 113058
this section to each county and municipal corporation as 113059
prescribed in those divisions. 113060

(3) On or before the last day of January and the last day of 113061
August each year, the commissioner shall provide for payments from 113062
the fund referenced in division (D)(2) of this section to each 113063
school district as prescribed in that division. 113064

(F) The director of budget and management shall transfer one 113065

per cent of the money credited to the casino control commission 113066
fund to the casino tax administration fund. The tax commissioner 113067
shall use the casino tax administration fund to defray the costs 113068
incurred in administering the tax levied by this chapter. 113069

(G) All investment earnings of the gross casino revenue 113070
county student fund shall be credited to the fund. 113071

Sec. 5753.07. (A)(1) The tax commissioner may issue an 113072
assessment, based on any information in the tax commissioner's 113073
possession, against a casino operator who fails to pay the tax 113074
levied under section 5753.02 of the Revised Code or to file a 113075
return under section 5753.04 of the Revised Code. The tax 113076
commissioner shall give the casino operator written notice of the 113077
assessment under section 5703.37 of the Revised Code. With the 113078
notice, the tax commissioner shall include instructions on how to 113079
petition for reassessment and on how to request a hearing with 113080
respect to the petition. 113081

(2) Unless the casino operator, within sixty days after 113082
service of the notice of assessment, files with the tax 113083
commissioner, either personally or by certified mail, a written 113084
petition signed by the casino operator, or by the casino 113085
operator's authorized agent who has knowledge of the facts, the 113086
assessment becomes final, and the amount of the assessment is due 113087
and payable from the casino operator to the treasurer of state. 113088
The petition shall indicate the casino operator's objections to 113089
the assessment. Additional objections may be raised in writing if 113090
they are received by the tax commissioner before the date shown on 113091
the final determination. 113092

(3) If a petition for reassessment has been properly filed, 113093
the tax commissioner shall proceed under section 5703.60 of the 113094
Revised Code. 113095

(4) After an assessment becomes final, if any portion of the 113096

assessment, including penalties and accrued interest, remains 113097
unpaid, the tax commissioner may file a certified copy of the 113098
entry making the assessment final in the office of the clerk of 113099
the court of common pleas of Franklin county or in the office of 113100
the clerk of the court of common pleas of the county in which the 113101
casino operator resides, the casino operator's casino facility is 113102
located, or the casino operator's principal place of business in 113103
this state is located. Immediately upon the filing of the entry, 113104
the clerk shall enter a judgment for the state against the 113105
taxpayer assessed in the amount shown on the entry. The judgment 113106
may be filed by the clerk in a loose-leaf book entitled, "special 113107
judgments for the gross casino revenue tax." The judgment has the 113108
same effect as other judgments. Execution shall issue upon the 113109
judgment at the request of the tax commissioner, and all laws 113110
applicable to sales on execution apply to sales made under the 113111
judgment. 113112

(5) ~~The portion of an~~ If the assessment is not paid in its 113113
entirety within sixty days after the day the assessment was issued 113114
~~bears, the portion of the assessment consisting of tax due shall~~ 113115
bear interest at the rate per annum prescribed by section 5703.47 113116
of the Revised Code from the day the tax commissioner issued the 113117
assessment until the assessment is paid or until it is certified 113118
to the attorney general for collection under section 131.02 of the 113119
Revised Code, whichever comes first. If the unpaid portion of the 113120
assessment is certified to the attorney general for collection, 113121
the entire unpaid portion of the assessment shall bear interest at 113122
the rate per annum prescribed by section 5703.47 of the Revised 113123
Code from the date of certification until the date it is paid in 113124
its entirety. Interest shall be paid in the same manner as the tax 113125
levied under section 5753.02 of the Revised Code and may be 113126
collected by the issuance of an assessment under this section. 113127

(B) If the tax commissioner believes that collection of the 113128

tax levied under section 5753.02 of the Revised Code will be 113129
jeopardized unless proceedings to collect or secure collection of 113130
the tax are instituted without delay, the commissioner may issue a 113131
jeopardy assessment against the casino operator who is liable for 113132
the tax. Immediately upon the issuance of a jeopardy assessment, 113133
the tax commissioner shall file an entry with the clerk of the 113134
court of common pleas in the manner prescribed by division (A)(4) 113135
of this section, and the clerk shall proceed as directed in that 113136
division. Notice of the jeopardy assessment shall be served on the 113137
casino operator or the casino operator's authorized agent under 113138
section 5703.37 of the Revised Code within five days after the 113139
filing of the entry with the clerk. The total amount assessed is 113140
immediately due and payable, unless the casino operator assessed 113141
files a petition for reassessment under division (A)(2) of this 113142
section and provides security in a form satisfactory to the tax 113143
commissioner that is in an amount sufficient to satisfy the unpaid 113144
balance of the assessment. If a petition for reassessment has been 113145
filed, and if satisfactory security has been provided, the tax 113146
commissioner shall proceed under division (A)(3) of this section. 113147
Full or partial payment of the assessment does not prejudice the 113148
tax commissioner's consideration of the petition for reassessment. 113149

(C) The tax commissioner shall immediately forward to the 113150
treasurer of state all amounts the tax commissioner receives under 113151
this section, and the amounts forwarded shall be treated as if 113152
they were revenue arising from the tax levied under section 113153
5753.02 of the Revised Code. 113154

(D) Except as otherwise provided in this division, no 113155
assessment shall be issued against a casino operator for the tax 113156
levied under section 5753.02 of the Revised Code more than four 113157
years after the due date for filing the return for the tax period 113158
for which the tax was reported, or more than four years after the 113159
return for the tax period was filed, whichever is later. This 113160

division does not bar an assessment against a casino operator who 113161
fails to file a return as required by section 5753.04 of the 113162
Revised Code or who files a fraudulent return, or when the casino 113163
operator and the tax commissioner waive in writing the time 113164
limitation. 113165

(E) If the tax commissioner possesses information that 113166
indicates that the amount of tax a casino operator is liable to 113167
pay under section 5753.02 of the Revised Code exceeds the amount 113168
the casino operator paid, the tax commissioner may audit a sample 113169
of the casino operator's gross casino revenue over a 113170
representative period of time to ascertain the amount of tax due, 113171
and may issue an assessment based on the audit. The tax 113172
commissioner shall make a good faith effort to reach agreement 113173
with the casino operator in selecting a representative sample. The 113174
tax commissioner may apply a sampling method only if the tax 113175
commissioner has prescribed the method by rule. 113176

(F) If the whereabouts of a casino operator who is liable for 113177
the tax levied under section 5753.02 of the Revised Code are 113178
unknown to the tax commissioner, the tax commissioner shall 113179
proceed under section 5703.37 of the Revised Code. 113180

(G) If a casino operator fails to pay the tax levied under 113181
section 5753.02 of the Revised Code within a period of one year 113182
after the due date for remitting the tax, the Ohio casino control 113183
commission may suspend the casino operator's license. 113184

Sec. 5815.28. (A) As used in this section: 113185

(1) "Ascertainable standard" includes a standard in a trust 113186
instrument requiring the trustee to provide for the care, comfort, 113187
maintenance, welfare, education, or general well-being of the 113188
beneficiary. 113189

(2) "Disability" means any substantial, medically 113190

determinable impairment that can be expected to result in death or 113191
that has lasted or can be expected to last for a continuous period 113192
of at least twelve months, except that "disability" does not 113193
include an impairment that is the result of abuse of alcohol or 113194
drugs. 113195

(3) "Political subdivision" and "state" have the same 113196
meanings as in section 2744.01 of the Revised Code. 113197

(4) "Supplemental services" means services specified by rule 113198
of the department of ~~mental health~~ mental health and addiction 113199
services under section ~~5119.01~~ 5119.10 of the Revised Code or the 113200
department of developmental disabilities under section 5123.04 of 113201
the Revised Code that are provided to an individual with a 113202
disability in addition to services the individual is eligible to 113203
receive under programs authorized by federal or state law. 113204

(B) Any person may create a trust under this section to 113205
provide funding for supplemental services for the benefit of 113206
another individual who meets either of the following conditions: 113207

(1) The individual has a physical or mental disability and is 113208
eligible to receive services through the department of 113209
developmental disabilities or a county board of developmental 113210
disabilities; 113211

(2) The individual has a mental disability and is eligible to 113212
receive services through the department of ~~mental health~~ mental 113213
health and addiction services or a board of alcohol, drug 113214
addiction, and mental health services. 113215

The trust may confer discretion upon the trustee and may 113216
contain specific instructions or conditions governing the exercise 113217
of the discretion. 113218

(C) The general division of the court of common pleas and the 113219
probate court of the county in which the beneficiary of a trust 113220
authorized by division (B) of this section resides or is confined 113221

have concurrent original jurisdiction to hear and determine 113222
actions pertaining to the trust. In any action pertaining to the 113223
trust in a court of common pleas or probate court and in any 113224
appeal of the action, all of the following apply to the trial or 113225
appellate court: 113226

(1) The court shall render determinations consistent with the 113227
testator's or other settlor's intent in creating the trust, as 113228
evidenced by the terms of the trust instrument. 113229

(2) The court may order the trustee to exercise discretion 113230
that the trust instrument confers upon the trustee only if the 113231
instrument contains specific instructions or conditions governing 113232
the exercise of that discretion and the trustee has failed to 113233
comply with the instructions or conditions. In issuing an order 113234
pursuant to this division, the court shall require the trustee to 113235
exercise the trustee's discretion only in accordance with the 113236
instructions or conditions. 113237

(3) The court may order the trustee to maintain the trust and 113238
distribute assets in accordance with rules adopted by the director 113239
of ~~mental health~~ mental health and addiction services under 113240
section ~~5119.01~~ 5119.10 of the Revised Code or the director of 113241
developmental disabilities under section 5123.04 of the Revised 113242
Code if the trustee has failed to comply with such rules. 113243

(D) To the extent permitted by federal law and subject to the 113244
provisions of division (C)(2) of this section pertaining to the 113245
enforcement of specific instructions or conditions governing a 113246
trustee's discretion, a trust authorized by division (B) of this 113247
section that confers discretion upon the trustee shall not be 113248
considered an asset or resource of the beneficiary, the 113249
beneficiary's estate, the settlor, or the settlor's estate and 113250
shall be exempt from the claims of creditors, political 113251
subdivisions, the state, other governmental entities, and other 113252
claimants against the beneficiary, the beneficiary's estate, the 113253

settlor, or the settlor's estate, including claims regarding the 113254
medicaid program or based on provisions of Chapters ~~5111.7~~, 5121.7 113255
or 5123. of the Revised Code and claims sought to be satisfied by 113256
way of a civil action, subrogation, execution, garnishment, 113257
attachment, judicial sale, or other legal process, if all of the 113258
following apply: 113259

(1) At the time the trust is created, the trust principal 113260
does not exceed the maximum amount determined under division (E) 113261
of this section; 113262

(2) The trust instrument contains a statement of the 113263
settlor's intent, or otherwise clearly evidences the settlor's 113264
intent, that the beneficiary does not have authority to compel the 113265
trustee under any circumstances to furnish the beneficiary with 113266
minimal or other maintenance or support, to make payments from the 113267
principal of the trust or from the income derived from the 113268
principal, or to convert any portion of the principal into cash, 113269
whether pursuant to an ascertainable standard specified in the 113270
instrument or otherwise; 113271

(3) The trust instrument provides that trust assets can be 113272
used only to provide supplemental services, as defined by rule of 113273
the director of ~~mental health~~ mental health and addiction services 113274
under section ~~5119.01~~ 5119.10 of the Revised Code or the director 113275
of developmental disabilities under section 5123.04 of the Revised 113276
Code, to the beneficiary; 113277

(4) The trust is maintained and assets are distributed in 113278
accordance with rules adopted by the director of ~~mental health~~ 113279
mental health and addiction services under section ~~5119.01~~ 5119.10 113280
of the Revised Code or the director of developmental disabilities 113281
under section 5123.04 of the Revised Code; 113282

(5) The trust instrument provides that on the death of the 113283
beneficiary, a portion of the remaining assets of the trust, which 113284

shall be not less than fifty per cent of such assets, will be 113285
deposited to the credit of the services fund for individuals with 113286
mental illness created by section ~~5119.17~~ 5119.51 of the Revised 113287
Code or the services fund for individuals with mental retardation 113288
and developmental disabilities created by section 5123.40 of the 113289
Revised Code. 113290

(E) In 1994, the trust principal maximum amount for a trust 113291
created under this section shall be two hundred thousand dollars. 113292
The maximum amount for a trust created under this section prior to 113293
November 11, 1994, may be increased to two hundred thousand 113294
dollars. 113295

In 1995, the maximum amount for a trust created under this 113296
section shall be two hundred two thousand dollars. Each year 113297
thereafter, the maximum amount shall be the prior year's amount 113298
plus two thousand dollars. 113299

(F) This section does not limit or otherwise affect the 113300
creation, validity, interpretation, or effect of any trust that is 113301
not created under this section. 113302

(G) Once a trustee takes action on a trust created by a 113303
settlor under this section and disburses trust funds on behalf of 113304
the beneficiary of the trust, then the trust may not be terminated 113305
or otherwise revoked by a particular event or otherwise without 113306
payment into the services fund created pursuant to section ~~5119.17~~ 113307
5119.51 or 5123.40 of the Revised Code of an amount that is equal 113308
to the disbursements made on behalf of the beneficiary for medical 113309
care by the state from the date the trust vests but that is not 113310
more than fifty per cent of the trust corpus. 113311

Sec. 5905.02. Whenever it appears that a person is eligible 113312
for care or treatment by the veterans' administration or other 113313
agency of the United States, and hospitalization is necessary for 113314
the proper care or treatment of such person, the probate court, 113315

upon receipt of a certificate from the veterans' administration or 113316
such other agency showing that facilities are available and such 113317
person is eligible for care or treatment therein, may order such 113318
person to said veterans' administration or other agency for care 113319
and treatment. 113320

Upon admission, such person shall be subject to the 113321
applicable regulations of the veterans' administration or other 113322
agency of the United States. The chief officer of any hospital to 113323
which any person is admitted pursuant to hospitalization as 113324
provided in sections 5905.01 to 5905.19 of the Revised Code, or 113325
under the law in effect at the time of such admission, shall have 113326
the same powers as are exercised by heads of hospitals for mental 113327
diseases and the department of ~~mental health~~ mental health and 113328
addiction services with respect to the retention, transfer, 113329
parole, or discharge of the person hospitalized; provided no 113330
person shall be transferred to a hospital operated by the state or 113331
any political subdivision thereof without the consent of such 113332
department. 113333

The right of such person to appear and defend shall not be 113334
denied. 113335

The judgment or order of hospitalization by a court of 113336
competent jurisdiction of another state ordering a person to the 113337
veterans' administration or other agency of the United States, or 113338
any hospital operated by any such agency, for care or treatment 113339
shall have the same effect as to such person while in this state 113340
as in the state in which the court entering such judgment or 113341
making such order is situated, provided that no nonresident 113342
ordered to a veterans' administration facility located in Ohio 113343
shall thereby acquire a legal settlement in Ohio. 113344

Upon receipt of a certificate that facilities are available 113345
in any such hospital operated by the United States for the care or 113346
treatment of any person ordered to any hospital for the mentally 113347

ill or other hospital in this state for the care of persons 113348
similarly afflicted, and that such person is eligible for such 113349
care or treatment, such department may transfer any such person to 113350
the veterans' administration or other agency of the United States 113351
in the state. Upon effecting any such transfer, the ordering court 113352
shall be notified thereof by the transferring agency; provided 113353
that no such person shall be transferred if ~~he~~ the person is 113354
confined pursuant to conviction of any crime or misdemeanor, or if 113355
~~he~~ the person has been acquitted of any such charge solely on the 113356
ground of insanity, unless prior to such transfer the court 113357
originally ordering such person enters an order for such transfer 113358
after appropriate motion and hearing. 113359

Any person transferred as provided in this section is ordered 113360
to the veterans' administration or other agency of the United 113361
States pursuant to the original order as though ~~he~~ the person had 113362
been originally so ordered. 113363

Sec. 5910.02. There is hereby created an Ohio war orphans 113364
scholarship board as part of the department of veterans services. 113365
The board consists of eight members as follows: the chancellor of 113366
the Ohio board of regents or the chancellor's designee; the 113367
director of veterans services or the director's designee; one 113368
member of the house of representatives, appointed by the speaker; 113369
one member of the senate, appointed by the president of the 113370
senate; and four members appointed by the governor, one of whom 113371
shall be a representative of the American Legion, one of whom 113372
shall be a representative of the Veterans of Foreign Wars, one of 113373
whom shall be a representative of the Disabled American Veterans, 113374
and one of whom shall be a representative of the AMVETS. At least 113375
ninety days prior to the expiration of the term of office of the 113376
representative of a veterans organization appointed by the 113377
governor, the governor shall notify the state headquarters of the 113378
affected organization of the need for an appointment and request 113379

the organization to make at least three nominations. Within sixty 113380
days after making the request for nominations, the governor may 113381
make the appointment from the nominations received, or may reject 113382
all the nominations and request at least three new nominations, 113383
from which the governor shall make an appointment within thirty 113384
days after making the request for the new nominations. If the 113385
governor receives no nominations during this thirty-day period, 113386
the governor may appoint any veteran. 113387

Terms of office for the four members appointed by the 113388
governor shall be for four years, commencing on the first day of 113389
January and ending on the thirty-first day of December, except 113390
that the term of the AMVETS representative shall expire December 113391
31, 1998, and the new term that succeeds it shall commence on 113392
January 1, 1999, and end on December 31, 2002. Each member shall 113393
hold office from the date of the member's appointment until the 113394
end of the term for which the member was appointed. The other 113395
members shall serve during their terms of office. Any vacancy 113396
shall be filled by appointment in the same manner as by original 113397
appointment. Any member appointed to fill a vacancy occurring 113398
prior to the expiration of the term for which the member's 113399
predecessor was appointed shall hold office for the remainder of 113400
such term. Any appointed member shall continue in office 113401
subsequent to the expiration date of the member's term until the 113402
member's successor takes office, or until a period of sixty days 113403
has elapsed, whichever occurs first. The members of the board 113404
shall serve without pay but shall be reimbursed for travel 113405
expenses and for other actual and necessary expenses incurred in 113406
the performance of their duties, not to exceed ten dollars per day 113407
for ten days in any one year to be appropriated out of any moneys 113408
in the state treasury to the credit of the general revenue fund. 113409

The chancellor of the board of regents shall act as secretary 113410
to the board and shall furnish such clerical and other assistance 113411

as may be necessary to the performance of the duties of the board. 113412

The board shall determine the number of scholarships to be 113413
made available, receive applications for scholarships, pass upon 113414
the eligibility of applicants, decide which applicants are to 113415
receive scholarships, and do all other things necessary for the 113416
proper administration of this chapter. 113417

The board may apply for, and may receive and accept, grants, 113418
and may receive and accept gifts, bequests, and contributions, 113419
from public and private sources, including agencies and 113420
instrumentalities of the United States and this state, and shall 113421
deposit the grants, gifts, bequests, or contributions into the 113422
Ohio war orphans scholarship donation fund. 113423

Sec. 5910.07. The Ohio war orphans scholarship donation fund 113424
is created in the state treasury. The fund shall consist of gifts, 113425
bequests, grants, and contributions made to the fund under section 113426
5910.02 of the Revised Code. Investment earnings of the fund shall 113427
be deposited into the fund. The fund shall be used to operate the 113428
war orphans scholarship program and to provide grants under 113429
sections 5910.01 to 5910.06 of the Revised Code. 113430

Sec. 5910.08. There is hereby created in the state treasury 113431
the war orphans scholarship reserve fund. Not later than the first 113432
day of July of each fiscal year, the chancellor of the Ohio board 113433
of regents shall certify to the director of budget and management 113434
the unencumbered balance of the general revenue fund 113435
appropriations made in the immediately preceding fiscal year for 113436
purposes of the war orphans scholarship program created in Chapter 113437
5910. of the Revised Code. Upon receipt of the certification, the 113438
director may transfer an amount not exceeding the certified amount 113439
from the general revenue fund to the war orphans scholarship 113440
reserve fund. Moneys in the war orphans scholarship reserve fund 113441

shall be used to pay scholarship obligations in excess of the 113442
general revenue fund appropriations made for that purpose. 113443

The director may transfer any unencumbered balance from the 113444
war orphans scholarship reserve fund to the general revenue fund. 113445

Sec. 5919.34. (A) As used in this section: 113446

(1) "Academic term" means any one of the following: 113447

(a) Fall term, which consists of fall semester or fall 113448
quarter, as appropriate; 113449

(b) Winter term, which consists of winter semester, winter 113450
quarter, or spring semester, as appropriate; 113451

(c) Spring term, which consists of spring quarter; 113452

(d) Summer term, which consists of summer semester or summer 113453
quarter, as appropriate. 113454

(2) "Eligible applicant" means any individual to whom all of 113455
the following apply: 113456

(a) The individual does not possess a baccalaureate degree. 113457

(b) The individual has enlisted, re-enlisted, or extended 113458
current enlistment in the Ohio national guard or is an individual 113459
to which division (F) of this section applies. 113460

(c) The individual is actively enrolled as a full-time or 113461
part-time student for at least three credit hours of course work 113462
in a semester or quarter in a two-year or four-year 113463
degree-granting program at a state institution of higher education 113464
or a private institution of higher education, or in a 113465
diploma-granting program at a state or private institution of 113466
higher education that is a school of nursing. 113467

(d) The individual has not accumulated ninety-six eligibility 113468
units under division (E) of this section. 113469

(3) "State institution of higher education" means any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college established under Chapter 3354. of the Revised Code, state community college established under Chapter 3358. of the Revised Code, university branch established under Chapter 3355. of the Revised Code, or technical college established under Chapter 3357. of the Revised Code.

(4) "Private institution of higher education" means an Ohio institution of higher education that is nonprofit and has received a certificate of authorization pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of registration and program authorization issued by the state board of career colleges and schools pursuant to section 3332.05 of the Revised Code.

(5) "Tuition" means the charges imposed to attend an institution of higher education and includes general and instructional fees. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(B) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program.

(C) The adjutant general shall approve scholarships for all eligible applicants. The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in divisions (I) and (J) of this section, for each academic term that an eligible applicant is

approved for a scholarship under this section and either remains a 113501
current member in good standing of the Ohio national guard or is 113502
eligible for a scholarship under division (F)(1) of this section, 113503
the institution of higher education in which the applicant is 113504
enrolled shall, if the applicant's enlistment obligation extends 113505
beyond the end of that academic term or if division (F)(1) of this 113506
section applies, be paid on the applicant's behalf the applicable 113507
one of the following amounts: 113508

(a) If the institution is a state institution of higher 113509
education, an amount equal to one hundred per cent of the 113510
institution's tuition charges; 113511

(b) If the institution is a nonprofit private institution or 113512
a private institution exempt from regulation under Chapter 3332. 113513
of the Revised Code as prescribed in section 3333.046 of the 113514
Revised Code, an amount equal to one hundred per cent of the 113515
average tuition charges of all state universities; 113516

(c) If the institution is an institution that holds a 113517
certificate of registration from the state board of career 113518
colleges and schools, the lesser of the following: 113519

(i) An amount equal to one hundred per cent of the 113520
institution's tuition; 113521

(ii) An amount equal to one hundred per cent of the average 113522
tuition charges of all state universities, as that term is defined 113523
in section 3345.011 of the Revised Code. 113524

(2) An eligible applicant's scholarship shall not be reduced 113525
by the amount of that applicant's benefits under "the Montgomery 113526
G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984). 113527

(E) A scholarship recipient under this section shall be 113528
entitled to receive scholarships under this section for the number 113529
of quarters or semesters it takes the recipient to accumulate 113530
ninety-six eligibility units as determined under divisions (E)(1) 113531

to (3) of this section. 113532

(1) To determine the maximum number of semesters or quarters 113533
for which a recipient is entitled to a scholarship under this 113534
section, the adjutant general shall convert a recipient's credit 113535
hours of enrollment for each academic term into eligibility units 113536
in accordance with the following table: 113537

		The		
Number of credit hours of enrollment in an academic term	equals	following	The following	
		number of eligibility units if a semester	number of eligibility units if a quarter	
				113538
				113539
				113540
				113541
				113542
				113543
				113544
12 or more hours		12 units	8 units	113545
9 but less than 12		9 units	6 units	113546
6 but less than 9		6 units	4 units	113547
3 but less than 6		3 units	2 units	113548

(2) A scholarship recipient under this section may continue 113549
to apply for scholarships under this section until the recipient 113550
has accumulated ninety-six eligibility units. 113551

(3) If a scholarship recipient withdraws from courses prior 113552
to the end of an academic term so that the recipient's enrollment 113553
for that academic term is less than three credit hours, no 113554
scholarship shall be paid on behalf of that person for that 113555
academic term. Except as provided in division (F)(3) of this 113556
section, if a scholarship has already been paid on behalf of the 113557
person for that academic term, the adjutant general shall add to 113558
that person's accumulated eligibility units the number of 113559
eligibility units for which the scholarship was paid. 113560

(F) This division applies to any eligible applicant called 113561
into active duty on or after September 11, 2001. As used in this 113562
division, "active duty" means active duty pursuant to an executive 113563

order of the president of the United States, an act of the 113564
congress of the United States, or section 5919.29 or 5923.21 of 113565
the Revised Code. 113566

(1) For a period of up to five years from when an 113567
individual's enlistment obligation in the Ohio national guard 113568
ends, an individual to whom this division applies is eligible for 113569
scholarships under this section for those academic terms that were 113570
missed or could have been missed as a result of the individual's 113571
call into active duty. Scholarships shall not be paid for the 113572
academic term in which an eligible applicant's enlistment 113573
obligation ends unless an applicant is eligible under this 113574
division for a scholarship for such academic term due to previous 113575
active duty. 113576

(2) When an individual to whom this division applies 113577
withdraws or otherwise fails to complete courses, for which 113578
scholarships have been awarded under this section, because the 113579
individual was called into active duty, the institution of higher 113580
education shall grant the individual a leave of absence from the 113581
individual's education program and shall not impose any academic 113582
penalty for such withdrawal or failure to complete courses. 113583
Division (F)(2) of this section applies regardless of whether or 113584
not the scholarship amount was paid to the institution of higher 113585
education. 113586

(3) If an individual to whom this division applies withdraws 113587
or otherwise fails to complete courses because the individual was 113588
called into active duty, and if scholarships for those courses 113589
have already been paid, either: 113590

(a) The adjutant general shall not add to that person's 113591
accumulated eligibility units calculated under division (E) of 113592
this section the number of eligibility units for the academic 113593
courses or term for which the scholarship was paid and the 113594
institution of higher education shall repay the scholarship amount 113595

to the state. 113596

(b) The adjutant general shall add to that individual's 113597
accumulated eligibility units calculated under division (E) of 113598
this section the number of eligibility units for the academic 113599
courses or term for which the scholarship was paid if the 113600
institution of higher education agrees to permit the individual to 113601
complete the remainder of the academic courses in which the 113602
individual was enrolled at the time the individual was called into 113603
active duty. 113604

(4) No individual who is discharged from the Ohio national 113605
guard under other than honorable conditions shall be eligible for 113606
scholarships under this division. 113607

(G) A scholarship recipient under this section who fails to 113608
complete the term of enlistment, re-enlistment, or extension of 113609
current enlistment the recipient was serving at the time a 113610
scholarship was paid on behalf of the recipient under this section 113611
is liable to the state for repayment of a percentage of all Ohio 113612
national guard scholarships paid on behalf of the recipient under 113613
this section, plus interest at the rate of ten per cent per annum 113614
calculated from the dates the scholarships were paid. This 113615
percentage shall equal the percentage of the current term of 113616
enlistment, re-enlistment, or extension of enlistment a recipient 113617
has not completed as of the date the recipient is discharged from 113618
the Ohio national guard. 113619

The attorney general may commence a civil action on behalf of 113620
the chancellor of the Ohio board of regents to recover the amount 113621
of the scholarships and the interest provided for in this division 113622
and the expenses incurred in prosecuting the action, including 113623
court costs and reasonable attorney's fees. A scholarship 113624
recipient is not liable under this division if the recipient's 113625
failure to complete the term of enlistment being served at the 113626
time a scholarship was paid on behalf of the recipient under this 113627

section is due to the recipient's death or discharge from the 113628
national guard due to disability. 113629

(H) On or before the first day of each academic term, the 113630
adjutant general shall provide an eligibility roster to the 113631
chancellor and to each institution of higher education at which 113632
one or more scholarship recipients have applied for enrollment. 113633
The institution shall use the roster to certify the actual 113634
full-time or part-time enrollment of each scholarship recipient 113635
listed as enrolled at the institution and return the roster to the 113636
adjutant general and the chancellor. Except as provided in 113637
division (J) of this section, the chancellor shall provide for 113638
payment of the appropriate number and amount of scholarships to 113639
each institution of higher education pursuant to division (D) of 113640
this section. If an institution of higher education fails to 113641
certify the actual enrollment of a scholarship recipient listed as 113642
enrolled at the institution within thirty days of the end of an 113643
academic term, the institution shall not be eligible to receive 113644
payment from the Ohio national guard scholarship program or from 113645
the individual enrollee. The adjutant general shall report on a 113646
semiannual basis to the director of budget and management, the 113647
speaker of the house of representatives, the president of the 113648
senate, and the chancellor the number of Ohio national guard 113649
scholarship recipients, the size of the scholarship-eligible 113650
population, and a projection of the cost of the program for the 113651
remainder of the biennium. 113652

(I) The chancellor and the adjutant general may adopt rules 113653
pursuant to Chapter 119. of the Revised Code governing the 113654
administration and fiscal management of the Ohio national guard 113655
scholarship program and the procedure by which the chancellor and 113656
the department of the adjutant general may modify the amount of 113657
scholarships a member receives based on the amount of other state 113658
financial aid a member receives. 113659

(J) The adjutant general, the chancellor, and the director, 113660
or their designees, shall jointly estimate the costs of the Ohio 113661
national guard scholarship program for each upcoming fiscal 113662
biennium, and shall report that estimate prior to the beginning of 113663
the fiscal biennium to the chairpersons of the finance committees 113664
in the general assembly. During each fiscal year of the biennium, 113665
the adjutant general, the chancellor, and the director, or their 113666
designees, shall meet regularly to monitor the actual costs of the 113667
Ohio national guard scholarship program and update cost 113668
projections for the remainder of the biennium as necessary. If the 113669
amounts appropriated for the Ohio national guard scholarship 113670
program and any funds in the Ohio national guardscholarship 113671
reserve fund and the Ohio national guard scholarship donation fund 113672
are not adequate to provide scholarships in the amounts specified 113673
in division (D)(1) of this section for all eligible applicants, 113674
the chancellor shall do all of the following: 113675

(1) Notify each private institution of higher education, 113676
where a scholarship recipient is enrolled, that, by accepting the 113677
Ohio national guard scholarship program as payment for all or part 113678
of the institution's tuition, the institution agrees that if the 113679
chancellor reduces the amount of each scholarship, the institution 113680
shall provide each scholarship recipient a grant or tuition waiver 113681
in an amount equal to the amount the recipient's scholarship was 113682
reduced by the chancellor. 113683

(2) Reduce the amount of each scholarship under division 113684
(D)(1)(a) of this section proportionally based on the amount of 113685
remaining available funds. Each state institution of higher 113686
education shall provide each scholarship recipient under division 113687
(D)(1)(a) of this section a grant or tuition waiver in an amount 113688
equal to the amount the recipient's scholarship was reduced by the 113689
chancellor. 113690

(K) Notwithstanding division (A) of section 127.14 of the 113691

Revised Code, the controlling board shall not transfer all or part 113692
of any appropriation for the Ohio national guard scholarship 113693
program. 113694

(L) The chancellor and the adjutant general may apply for, 113695
and may receive and accept grants, and may receive and accept 113696
gifts, bequests, and contributions, from public and private 113697
sources, including agencies and instrumentalities of the United 113698
States and this state, and shall deposit the grants, gifts, 113699
bequests, or contributions into the national guard scholarship 113700
~~reserve~~ donation fund. 113701

Sec. 5919.342. The national guard scholarship donation fund 113702
is created in the state treasury. The fund shall consist of gifts, 113703
bequests, grants, and contributions made to the fund under 113704
division (L) of section 5919.34 of the Revised Code. Investment 113705
earnings of the fund shall be deposited into the fund. The fund 113706
shall be used to operate the Ohio national guard scholarship 113707
program created under section 5919.34 of the Revised Code. 113708

Sec. 5924.502. (A) If the issue of an accused's competence to 113709
stand trial is raised or if an accused enters a plea of not guilty 113710
by reason of insanity, the court may order one or more evaluations 113711
of the accused's present mental condition or, in the case of a 113712
plea of not guilty by reason of insanity, of the accused's mental 113713
condition at the time of the offense charged. An examiner shall 113714
conduct the evaluation. 113715

(B) If the court orders more than one evaluation under 113716
division (A) of this section, the trial counsel and the defense 113717
counsel may recommend to the court an examiner whom each prefers 113718
to perform one of the evaluations. If an accused enters a plea of 113719
not guilty by reason of insanity and if the court does not 113720
designate an examiner recommended by the defense counsel, the 113721

court shall inform the accused that the accused may have 113722
independent expert evaluation and that it will be obtained for the 113723
accused at public expense. 113724

(C) If the court orders an evaluation under division (A) of 113725
this section, the accused shall be available at the times and 113726
places established by the examiners who are to conduct the 113727
evaluation. The court may order an accused who is not being held 113728
in pretrial confinement to submit to an evaluation under this 113729
section. If an accused who is not being held in pretrial 113730
confinement refuses to submit to a complete evaluation, the court 113731
may order the sheriff to take the accused into custody and deliver 113732
the accused to a center, program, or facility operated or 113733
certified by the department of ~~mental health~~ mental health and 113734
addiction services where the accused may be held for evaluation 113735
for a reasonable period of time not to exceed twenty days. 113736

(D) An accused who is being held in pretrial confinement may 113737
be evaluated at the accused's place of detention. Upon the request 113738
of the examiner, the court may order the sheriff to transport the 113739
accused to a program or facility operated or certified by the 113740
department of ~~mental health~~ mental health and addiction services, 113741
where the accused may be held for evaluation for a reasonable 113742
period of time not to exceed twenty days, and to return the 113743
accused to the place of detention after the evaluation. 113744

(E) If a court orders the evaluation to determine an 113745
accused's mental condition at the time of the offense charged, the 113746
court shall inform the examiner of the offense with which the 113747
accused is charged. 113748

(F) In conducting an evaluation of an accused's mental 113749
condition at the time of the offense charged, the examiner shall 113750
consider all relevant evidence. If the offense charged involves 113751
the use of force against another person, the relevant evidence to 113752
be considered includes, but is not limited to, any evidence that 113753

the accused suffered at the time of the commission of the offense 113754
from the "battered woman syndrome." 113755

(G) The examiner shall file a written report with the court 113756
within thirty days after entry of a court order for evaluation, 113757
and the court shall provide copies of the report to the trial 113758
counsel and defense counsel. The report shall include all of the 113759
following: 113760

(1) The examiner's findings; 113761

(2) The facts in reasonable detail on which the findings are 113762
based; 113763

(3) If the evaluation was ordered to determine the accused's 113764
competence to stand trial, all of the following findings or 113765
recommendations that are applicable: 113766

(a) Whether the accused is capable of understanding the 113767
nature and objective of the proceedings against the accused or of 113768
assisting in the accused's defense; 113769

(b) If the examiner's opinion is that the accused is 113770
incapable of understanding the nature and objective of the 113771
proceedings against the accused or of assisting in the accused's 113772
defense, whether the accused presently is mentally ill; 113773

(c) If the examiner's opinion is that the accused is 113774
incapable of understanding the nature and objective of the 113775
proceedings against the accused or of assisting in the accused's 113776
defense, the examiner's opinion as to the likelihood of the 113777
accused becoming capable of understanding the nature and objective 113778
of the proceedings against the accused and of assisting in the 113779
accused's defense within one year if the accused is provided with 113780
a course of treatment; 113781

(d) If the examiner's opinion is that the accused is 113782
incapable of understanding the nature and objective of the 113783

proceedings against the accused or of assisting in the accused's 113784
defense and that the accused presently is mentally ill, the 113785
examiner's recommendation as to the least restrictive placement or 113786
commitment alternative, consistent with the accused's treatment 113787
needs for restoration to competency and with the safety of the 113788
community; 113789

(e) If the accused is charged before a special or summary 113790
court-martial with an offense that is not a violation of section 113791
5924.120, 5924.127, or 5924.128 of the Revised Code and the 113792
examiner's opinion is that the accused is incapable of 113793
understanding the nature and objective of the proceedings against 113794
the accused or of assisting in the accused's defense and that the 113795
accused is presently mentally ill, the examiner's recommendation 113796
as to whether the accused is amenable to engagement in mental 113797
health treatment. 113798

(4) If the evaluation was ordered to determine the accused's 113799
mental condition at the time of the offense charged, the 113800
examiner's findings as to whether the accused at the time of the 113801
offense charged did not know, as a result of a severe mental 113802
disease or defect, the wrongfulness of the accused's acts charged. 113803

(H) An examiner appointed under divisions (A) and (B) of this 113804
section to evaluate an accused to determine the accused's 113805
competence to stand trial also may be appointed to evaluate an 113806
accused who has entered a plea of not guilty by reason of 113807
insanity, but an examiner of that nature shall prepare separate 113808
reports on the issue of competence to stand trial and the defense 113809
of not guilty by reason of insanity. 113810

(I) No statement that an accused makes in an evaluation or 113811
hearing under divisions (A) to (H) of this section relating to the 113812
accused's competence to stand trial or to the accused's mental 113813
condition at the time of the offense charged may be used against 113814
the accused on the issue of guilt in any criminal action or 113815

proceeding, but, in a criminal action or proceeding, the trial 113816
counsel or defense counsel may call as a witness any person who 113817
evaluated the accused or prepared a report pursuant to a referral 113818
under this section. Neither the appointment nor the testimony of 113819
an examiner appointed under this section precludes the trial 113820
counsel or defense counsel from calling other witnesses or 113821
presenting other evidence on competency or insanity issues. 113822

(J) Persons appointed as examiners under divisions (A) and 113823
(B) of this section or under division (H) of this section shall be 113824
paid a reasonable amount for their services and expenses, as 113825
certified by the court. 113826

Sec. 5924.503. (A) If the issue of an accused's competence to 113827
stand trial is raised and if the court, upon conducting the 113828
hearing provided for in section 5924.502 of the Revised Code, 113829
finds that the accused is competent to stand trial, the accused 113830
shall be proceeded against as provided by law. If the court finds 113831
the accused competent to stand trial and the accused is receiving 113832
psychotropic drugs or other medication, the court may authorize 113833
the continued administration of the drugs or medication or other 113834
appropriate treatment in order to maintain the accused's 113835
competence to stand trial unless the accused's attending physician 113836
advises the court against continuation of the drugs, other 113837
medication, or treatment. 113838

(B)(1)(a) If, after taking into consideration all relevant 113839
reports, information, and other evidence, the court finds that the 113840
accused is incompetent to stand trial and that there is a 113841
substantial probability that the accused will become competent to 113842
stand trial within one year if the accused is provided with a 113843
course of treatment, the court shall order the accused to undergo 113844
treatment. If the accused is being tried by a general 113845
court-martial and if, after taking into consideration all relevant 113846

reports, information, and other evidence, the court finds that the 113847
accused is incompetent to stand trial, but the court is unable at 113848
that time to determine whether there is a substantial probability 113849
that the accused will become competent to stand trial within one 113850
year if the accused is provided with a course of treatment, the 113851
court shall order continuing evaluation and treatment of the 113852
accused for a period not to exceed four months to determine 113853
whether there is a substantial probability that the accused will 113854
become competent to stand trial within one year if the accused is 113855
provided with a course of treatment. 113856

(b) The court order for the accused to undergo treatment or 113857
continuing evaluation and treatment under division (B)(1)(a) of 113858
this section shall specify that the accused, if determined to 113859
require mental health treatment or continuing evaluation and 113860
treatment, shall be committed to the department of ~~mental health~~ 113861
mental health and addiction services for treatment or continuing 113862
evaluation and treatment at a hospital, facility, or agency 113863
determined to be clinically appropriate by the department of 113864
~~mental health~~ mental health and addiction services. The order may 113865
restrict the accused's freedom of movement as the court considers 113866
necessary. The trial counsel in the accused's case shall send to 113867
the chief clinical officer of the hospital, facility, or ~~agency~~ 113868
services provider where the accused is placed by the department of 113869
~~mental health~~ mental health and addiction services or to the 113870
managing officer of the institution, the director of the facility, 113871
or the person to which the accused is committed copies of relevant 113872
investigative reports and other background information that 113873
pertains to the accused and is available to the trial counsel 113874
unless the trial counsel determines that the release of any of the 113875
information in the investigative reports or any of the other 113876
background information to unauthorized persons would interfere 113877
with the effective prosecution of any person or would create a 113878
substantial risk of harm to any person. 113879

In committing the accused to the department of ~~mental health~~ 113880
mental health and addiction services, the court shall consider the 113881
extent to which the person is a danger to the person and to 113882
others, the need for security, and the type of crime involved and, 113883
if the court finds that restrictions on the accused's freedom of 113884
movement are necessary, shall specify the least restrictive 113885
limitations on the person's freedom of movement determined to be 113886
necessary to protect public safety. In weighing these factors, the 113887
court shall give preference to protecting public safety. 113888

(c) If the accused is found incompetent to stand trial, if 113889
the chief clinical officer of the hospital, facility, or ~~agency~~ 113890
services provider where the accused is placed, or the managing 113891
officer of the institution, the director of the facility, or the 113892
person to which the accused is committed for treatment or 113893
continuing evaluation and treatment under division (B)(1)(b) of 113894
this section determines that medication is necessary to restore 113895
the accused's competency to stand trial, and if the accused lacks 113896
the capacity to give informed consent or refuses medication, the 113897
chief clinical officer of the hospital, facility, or ~~agency~~ 113898
services provider where the accused is placed or the managing 113899
officer of the institution, the director of the facility, or the 113900
person to which the accused is committed for treatment or 113901
continuing evaluation and treatment may petition the court for 113902
authorization for the involuntary administration of medication. 113903
The court shall hold a hearing on the petition within five days of 113904
the filing of the petition. Following the hearing, the court may 113905
authorize the involuntary administration of medication or may 113906
dismiss the petition. 113907

(d) If the accused is charged before a special or summary 113908
court-martial with an offense that is not a violation of section 113909
5924.120, 5924.127, or 5924.128 of the Revised Code, the trial 113910
counsel may hold the charges in abeyance while the accused engages 113911

in mental health treatment. 113912

(2) If the court finds that the accused is incompetent to stand trial and that, even if the accused is provided with a course of treatment, there is not a substantial probability that the accused will become competent to stand trial within one year, the court shall order the discharge of the accused, unless upon motion of the trial counsel or on its own motion, the court either seeks to retain jurisdiction over the accused pursuant to division (A)(2) of section 5924.504 of the Revised Code or files an affidavit in the probate court for the civil commitment of the accused pursuant to Chapter 5122. of the Revised Code alleging that the accused is a mentally ill person subject to hospitalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the accused's mental condition that were prepared pursuant to section 5924.502 of the Revised Code. 113913
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The trial court may issue the temporary order of detention that a probate court may issue under section 5122.11 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. of the Revised Code. 113929
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(C) No accused shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable: 113935
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(1) One year, if the accused is being tried by a general court-martial; 113939
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(2) Six months, if the accused is being tried before a special court-martial; 113941
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(3) Sixty days, if the accused is being tried before a summary court-martial. 113943
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(D) Any accused who is committed pursuant to this section shall not voluntarily admit the accused or be voluntarily admitted to a hospital or institution pursuant to section 5122.02 or 5122.15 of the Revised Code. 113945
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(E) Except as otherwise provided in this division, an accused who is charged with an offense and is committed by the court under this section to the department of ~~mental health~~ mental health and addiction services with restrictions on the accused's freedom of movement shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant an accused supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the accused ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the accused is placed by the department of ~~mental health~~ mental health and addiction services. The chief clinical officer of the hospital or facility where the accused is placed by the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or director of the facility to which the accused is committed or a designee of any of those persons may grant an accused movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the accused, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the accused is placed by the department of ~~mental health~~ mental health and addiction services or the managing officer of the institution or 113949
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director of the facility to which the accused is committed shall 113975
notify the court within twenty-four hours of the accused's 113976
movement to the medical facility for an emergency medical 113977
situation under this division. 113978

(F) The person who supervises the treatment or continuing 113979
evaluation and treatment of an accused ordered to undergo 113980
treatment or continuing evaluation and treatment under division 113981
(B)(1)(a) of this section shall file a written report with the 113982
court at the following times: 113983

(1) Whenever the person believes the accused is capable of 113984
understanding the nature and objective of the proceedings against 113985
the accused and of assisting in the accused's defense; 113986

(2) Fourteen days before expiration of the maximum time for 113987
treatment as specified in division (C) of this section and 113988
fourteen days before the expiration of the maximum time for 113989
continuing evaluation and treatment as specified in division 113990
(B)(1)(a) of this section; 113991

(3) At a minimum, after each six months of treatment; 113992

(4) Whenever the person who supervises the treatment or 113993
continuing evaluation and treatment of an accused ordered under 113994
division (B)(1)(a) of this section believes that there is not a 113995
substantial probability that the accused will become capable of 113996
understanding the nature and objective of the proceedings against 113997
the accused or of assisting in the accused's defense even if the 113998
accused is provided with a course of treatment. 113999

(G) A report under division (F) of this section shall contain 114000
the examiner's findings, the facts in reasonable detail on which 114001
the findings are based, and the examiner's opinion as to the 114002
accused's capability of understanding the nature and objective of 114003
the proceedings against the accused and of assisting in the 114004
accused's defense. If, in the examiner's opinion, the accused 114005

remains incapable of understanding the nature and objective of the 114006
proceedings against the accused and of assisting in the accused's 114007
defense and there is a substantial probability that the accused 114008
will become capable of understanding the nature and objective of 114009
the proceedings against the accused and of assisting in the 114010
accused's defense if the accused is provided with a course of 114011
treatment, if in the examiner's opinion the accused remains 114012
mentally ill, and if the maximum time for treatment as specified 114013
in division (C) of this section has not expired, the report also 114014
shall contain the examiner's recommendation as to the least 114015
restrictive placement or commitment alternative that is consistent 114016
with the accused's treatment needs for restoration to competency 114017
and with the safety of the community. The court shall provide 114018
copies of the report to the trial counsel and defense counsel. 114019

(H) If an accused is committed pursuant to division (B)(1) of 114020
this section, within ten days after the treating physician of the 114021
accused or the examiner of the accused who is employed or retained 114022
by the treating facility advises that there is not a substantial 114023
probability that the accused will become capable of understanding 114024
the nature and objective of the proceedings against the accused or 114025
of assisting in the accused's defense even if the accused is 114026
provided with a course of treatment, within ten days after the 114027
expiration of the maximum time for treatment as specified in 114028
division (C) of this section, within ten days after the expiration 114029
of the maximum time for continuing evaluation and treatment as 114030
specified in division (B)(1)(a) of this section, within thirty 114031
days after an accused's request for a hearing that is made after 114032
six months of treatment, or within thirty days after being advised 114033
by the treating physician or examiner that the accused is 114034
competent to stand trial, whichever is the earliest, the court 114035
shall conduct another hearing to determine if the accused is 114036
competent to stand trial and shall do whichever of the following 114037
is applicable: 114038

(1) If the court finds that the accused is competent to stand trial, the accused shall be proceeded against as provided by law. 114039
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(2) If the court finds that the accused is incompetent to stand trial, but that there is a substantial probability that the accused will become competent to stand trial if the accused is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change least restrictive limitations on the accused's freedom of movement. 114041
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(3) If the court finds that the accused is incompetent to stand trial, if the accused is being tried by a general court-martial, and if the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, or if the maximum time for treatment as specified in division (C) of this section has expired, further proceedings shall be as provided in sections 5924.504 to 5924.506 of the Revised Code. 114050
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(4) If the court finds that the accused is incompetent to stand trial, if the accused is being tried before a special court-martial, and if the court finds that there is not a substantial probability that the accused will become competent to stand trial even if the accused is provided with a course of treatment, or if the maximum time for treatment as specified in division (C) of this section has expired, the court shall dismiss the charge against the accused. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the accused unless the court or trial counsel files an affidavit in probate court for civil commitment pursuant to Chapter 5122. of the Revised Code. If an affidavit for 114059
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civil commitment is filed, the court may detain the accused for 114071
ten days pending civil commitment. All of the following provisions 114072
apply to persons being tried by a special court-martial who are 114073
committed by the probate court subsequent to the court's or trial 114074
counsel's filing of an affidavit for civil commitment under 114075
authority of this division: 114076

(a) The chief clinical officer of the entity, hospital, or 114077
facility, the managing officer of the institution, or the person 114078
to which the accused is committed or admitted shall do all of the 114079
following: 114080

(i) Notify the trial counsel in writing of the discharge of 114081
the accused, send the notice at least ten days prior to the 114082
discharge unless the discharge is by the probate court, and state 114083
in the notice the date on which the accused will be discharged; 114084

(ii) Notify the trial counsel in writing when the accused is 114085
absent without leave or is granted unsupervised, off-grounds 114086
movement and send this notice promptly after the discovery of the 114087
absence without leave or prior to the granting of the 114088
unsupervised, off-grounds movement, whichever is applicable; 114089

(iii) Notify the trial counsel in writing of the change of 114090
the accused's commitment or admission to voluntary status, send 114091
the notice promptly upon learning of the change to voluntary 114092
status, and state in the notice the date on which the accused was 114093
committed or admitted on a voluntary status. 114094

(b) The trial counsel shall promptly inform the convening 114095
authority of any notification received under division (H)(4)(a) of 114096
this section. Upon receiving notice that the accused will be 114097
granted unsupervised, off-grounds movement, the convening 114098
authority either shall refer the charges against the accused to an 114099
investigating officer again or promptly notify the court that the 114100
convening authority does not intend to refer the charges against 114101

the accused again. 114102

(I) If an accused is convicted of a crime and sentenced to 114103
confinement, the accused's sentence shall be reduced by the total 114104
number of days the accused is confined for evaluation to determine 114105
the accused's competence to stand trial or treatment under this 114106
section and sections 5924.502 and 5924.504 of the Revised Code or 114107
by the total number of days the accused is confined for evaluation 114108
to determine the accused's mental condition at the time of the 114109
offense charged. 114110

Sec. 5924.504. (A) If an accused being tried by a general 114111
court-martial is found incompetent to stand trial, after the 114112
expiration of the maximum time for treatment as specified in 114113
division (C) of section 5924.503 of the Revised Code or after the 114114
court finds that there is not a substantial probability that the 114115
accused will become competent to stand trial even if the accused 114116
is provided with a course of treatment, one of the following 114117
applies: 114118

(1) The court or the trial counsel may file an affidavit in 114119
probate court for civil commitment of the accused in the manner 114120
provided in Chapter 5122. of the Revised Code. If the court or 114121
trial counsel files an affidavit for civil commitment, the court 114122
may detain the accused for ten days pending civil commitment. If 114123
the probate court commits the accused subsequent to the court's or 114124
trial counsel's filing of an affidavit for civil commitment, the 114125
chief clinical officer of the entity, hospital, or facility, the 114126
managing officer of the institution, or the person to which the 114127
accused is committed or admitted shall send to the trial counsel 114128
the notices described in divisions (H)(4)(a)(i) to (iii) of 114129
section 5924.503 of the Revised Code within the periods of time 114130
and under the circumstances specified in those divisions. 114131

(2) On the motion of the trial counsel or on its own motion, 114132

the court may retain jurisdiction over the accused if at a hearing 114133
the court finds both of the following by clear and convincing 114134
evidence: 114135

(a) The accused committed the offense with which the accused 114136
is charged. 114137

(b) The accused is a mentally ill person subject to 114138
hospitalization by court order. 114139

(B) In making its determination under division (A)(2) of this 114140
section as to whether to retain jurisdiction over the accused, the 114141
court may consider all relevant evidence, including, but not 114142
limited to, any relevant psychiatric, psychological, or medical 114143
testimony or reports, the acts constituting the offense charged, 114144
and any history of the accused that is relevant to the accused's 114145
ability to conform to the law. 114146

(C) If the court conducts a hearing as described in division 114147
(A)(2) of this section and if the court does not make both 114148
findings described in divisions (A)(2)(a) and (b) of this section 114149
by clear and convincing evidence, the court shall dismiss the 114150
charges against the accused. Upon the dismissal, the court shall 114151
discharge the accused unless the court or trial counsel files an 114152
affidavit in probate court for civil commitment of the accused 114153
pursuant to Chapter 5122. of the Revised Code. If the court or 114154
trial counsel files an affidavit for civil commitment, the court 114155
may order that the accused be detained for up to ten days pending 114156
the civil commitment. If the probate court commits the accused 114157
subsequent to the court's or trial counsel's filing of an 114158
affidavit for civil commitment, the chief clinical officer of the 114159
entity, hospital, or facility, the managing officer of the 114160
institution, or the person to which the accused is committed or 114161
admitted shall send to the trial counsel the notices described in 114162
divisions (H)(4)(a)(i) to (iii) of section 5924.503 of the Revised 114163
Code within the periods of time and under the circumstances 114164

specified in those divisions. A dismissal of charges under this 114165
division is not a bar to further criminal proceedings based on the 114166
same conduct. 114167

(D)(1) If the court conducts a hearing as described in 114168
division (A)(2) of this section and if the court makes the 114169
findings described in divisions (A)(2)(a) and (b) of this section 114170
by clear and convincing evidence, the court shall commit the 114171
accused, if determined to require mental health treatment, to the 114172
department of ~~mental health~~ mental health and addiction services 114173
for treatment at a hospital, facility, or ~~agency~~ services provider 114174
as determined clinically appropriate by the department of ~~mental~~ 114175
~~health~~ mental health and addiction services. In committing the 114176
accused to the department of ~~mental health~~ mental health and 114177
addiction services, the court shall specify the least restrictive 114178
limitations on the accused's freedom of movement determined to be 114179
necessary to protect public safety. 114180

(2) If a court makes a commitment of an accused under 114181
division (D)(1) of this section, the trial counsel shall send to 114182
the hospital, facility, or ~~agency~~ services provider where the 114183
accused is placed by the department of ~~mental health~~ mental health 114184
and addiction services or to the accused's place of commitment all 114185
reports of the accused's current mental condition and, except as 114186
otherwise provided in this division, any other relevant 114187
information, including, but not limited to, a transcript of the 114188
hearing held pursuant to division (A)(2) of this section, copies 114189
of relevant investigative reports, and copies of any prior arrest 114190
and conviction records that pertain to the accused and that the 114191
trial counsel possesses. The trial counsel shall send the reports 114192
of the accused's current mental condition in every case of 114193
commitment, and, unless the trial counsel determines that the 114194
release of any of the other relevant information to unauthorized 114195
persons would interfere with the effective prosecution of any 114196

person or would create a substantial risk of harm to any person, 114197
the trial counsel also shall send the other relevant information. 114198

(3) If a court makes a commitment under division (D)(1) of 114199
this section, all further proceedings shall be in accordance with 114200
Chapter 5122. of the Revised Code. 114201

Sec. 5924.506. (A) If an accused person is found not guilty 114202
by reason of insanity, the verdict shall state that finding, and 114203
the trial court shall conduct a full hearing to determine whether 114204
the person is a mentally ill person subject to hospitalization by 114205
court order. Prior to the hearing, if the military judge believes 114206
that there is probable cause that the person found not guilty by 114207
reason of insanity is a mentally ill person subject to 114208
hospitalization by court order, the military judge may issue a 114209
temporary order of detention for that person to remain in effect 114210
for ten court days or until the hearing, whichever occurs first. 114211

Any person detained pursuant to a temporary order of 114212
detention issued under this division shall be held in a suitable 114213
facility, taking into consideration the place and type of 114214
confinement prior to and during trial. 114215

(B) The court shall hold the hearing under division (A) of 114216
this section to determine whether the person found not guilty by 114217
reason of insanity is a mentally ill person subject to 114218
hospitalization by court order within ten court days after the 114219
finding of not guilty by reason of insanity. Failure to conduct 114220
the hearing within the ten-day period shall cause the immediate 114221
discharge of the respondent, unless the judge grants a continuance 114222
for not longer than ten court days for good cause shown or for any 114223
period of time upon motion of the respondent. 114224

(C) If a person is found not guilty by reason of insanity, 114225
the person has the right to attend a hearing conducted pursuant to 114226
this section. At the hearing, the court shall inform the person 114227

that the person has all of the following rights: 114228

(1) The right to be represented by defense counsel or to 114229
retain civilian counsel, if the person so chooses; 114230

(2) The right to have independent expert evaluation; 114231

(3) The right to subpoena witnesses and documents, to present 114232
evidence on the person's behalf, and to cross-examine witnesses 114233
against the person; 114234

(4) The right to testify in the person's own behalf and to 114235
not be compelled to testify; 114236

(5) The right to have copies of any relevant medical or 114237
mental health document in the custody of the state or of any place 114238
of commitment other than a document for which the court finds that 114239
the release to the person of information contained in the document 114240
would create a substantial risk of harm to any person. 114241

(D) The hearing under division (A) of this section shall be 114242
open to the public, and the court shall conduct the hearing in 114243
accordance with regulations prescribed by the adjutant general. 114244
The court shall make and maintain a full transcript and record of 114245
the hearing proceedings. The court may consider all relevant 114246
evidence, including, but not limited to, any relevant psychiatric, 114247
psychological, or medical testimony or reports, the acts 114248
constituting the offense in relation to which the person was found 114249
not guilty by reason of insanity, and any history of the person 114250
that is relevant to the person's ability to conform to the law. 114251

(E) Upon completion of the hearing under division (A) of this 114252
section, if the court finds there is not clear and convincing 114253
evidence that the person is a mentally ill person subject to 114254
hospitalization by court order, the court shall discharge the 114255
person, unless a detainer has been placed upon the person by the 114256
department of rehabilitation and correction, in which case the 114257
person shall be returned to that department. 114258

(F) If, at the hearing under division (A) of this section, 114259
the court finds by clear and convincing evidence that the person 114260
is a mentally ill person subject to hospitalization by court 114261
order, it shall commit the person to the department of ~~mental~~ 114262
~~health~~ mental health and addiction services for placement in a 114263
hospital, facility, or ~~agency~~ services provider as determined 114264
clinically appropriate by the department of ~~mental health~~ mental 114265
health and addiction services. Further proceedings shall be in 114266
accordance with Chapter 5122. or 5123. of the Revised Code. In 114267
committing the accused to the department of ~~mental health~~ mental 114268
health and addiction services, the court shall specify the least 114269
restrictive limitations on the accused's freedom of movement 114270
determined to be necessary to protect public safety. 114271

(G) If a court makes a commitment of a person under division 114272
(F) of this section, the trial counsel shall send to the hospital, 114273
facility, or ~~agency~~ services provider where the defendant is 114274
placed by the department of ~~mental health~~ mental health and 114275
addiction services or to the accused's place of commitment all 114276
reports of the person's current mental condition, and, except as 114277
otherwise provided in this division, any other relevant 114278
information, including, but not limited to, a transcript of the 114279
hearing held pursuant to division (A) of this section, copies of 114280
relevant investigative reports, and copies of any prior arrest and 114281
conviction records that pertain to the person and that the trial 114282
counsel possesses. The trial counsel shall send the reports of the 114283
person's current mental condition in every case of commitment, 114284
and, unless the trial counsel determines that the release of any 114285
of the other relevant information to unauthorized persons would 114286
interfere with the effective prosecution of any person or would 114287
create a substantial risk of harm to any person, the trial counsel 114288
also shall send the other relevant information. 114289

(H) A person who is committed pursuant to this section shall 114290

not voluntarily admit the person or be voluntarily admitted to a hospital or institution pursuant to sections 5122.02 and 5122.15 of the Revised Code.

Sec. 6109.21. (A) Except as provided in divisions (I) and (J) of this section, no person shall operate a public water system in this state without a license issued by the director of environmental protection.

(B)~~(1)~~ A person who proposes to operate a new public water system, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall obtain an initial license from the director. The person shall submit an application for the initial license at least forty-five days prior to commencing the operation of the system.

(C) A license shall expire on the thirtieth day of January in the year following its issuance.

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license.

(E) Through June 30, ~~2014~~ 2016, each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code. ~~However, an applicant for an initial license who is proposing to operate a new public water system shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.~~

(F) Not later than thirty days after receiving a completed application and the appropriate license fee for a license or license renewal for a public water system, the director shall do one of the following:

(1) Issue the license or license renewal for the public water system; 114321
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(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it; 114323
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(3) Deny the license or license renewal if the director finds that the public water system cannot be operated in substantial compliance with this chapter and rules adopted under it. 114326
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(G) The director may condition, suspend, or revoke a license or license renewal issued under this section at any time if the director finds that the public water system was not or will not be operated in substantial compliance with this chapter and rules adopted under it. 114329
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(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements governing both of the following: 114334
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(1) Information to be included on applications for licenses and license renewals issued under this section; 114337
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(2) The issuance, conditioning, suspension, revocation, and denial of licenses and license renewals under this section. 114339
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(I)(1) As used in division (I) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person. 114341
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(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. 114346
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(J) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(K) The environmental protection agency shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 6111.037. (A) ~~There is hereby created in the state treasury the nonpoint source pollution management fund. The fund shall consist of grant moneys received under~~ For purposes of state nonpoint source pollution management and pursuant to section 319 of the "Federal Water Pollution Control Act," ~~for purposes of assisting with the development and implementation of a comprehensive nonpoint source pollution management program pursuant to that section of the act. Moneys credited to the fund may be used for purposes of research, planning, water quality assessments, demonstration projects, enforcement, technical assistance, education, and training regarding management of nonpoint sources of water pollution. The~~ the director of environmental protection may enter into agreements to receive grant moneys for ~~the nonpoint source pollution management fund and~~ for deposit into the state treasury to the credit of the water quality protection fund created in section 6111.0381 of the Revised Code. The director may enter into agreements to make grants of moneys credited to the fund under this section, including, without limitation, passthrough grants to other state departments or agencies.

(B) The director shall periodically prepare and, by rules

adopted under division (O) of section 6111.036 of the Revised Code, establish a priority system for identifying activities eligible for assistance under this section. The priority system shall ensure that financial assistance available under this section is first provided to:

(1) Control particularly difficult or serious nonpoint source pollution problems, including, without limitation, problems resulting from mining activities;

(2) Implement innovative methods or practices for controlling nonpoint sources of pollution, including, without limitation, regulatory programs that the director determines are appropriate;

(3) Control interstate nonpoint source pollution problems;

(4) Implement ground and surface water quality protection activities that the director determines are part of a comprehensive nonpoint source pollution control program, which activities include research, planning, ~~ground~~ water quality assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ~~ground~~ water quality from nonpoint sources of pollution.

Sec. 6111.32. (A) The director of environmental protection, on behalf of the state, may apply for approval from the United States environmental protection agency, in accordance with 33 U.S.C. 1344(g)(1), for the state to assume responsibility for administering the section 404 permitting program for the discharge of dredged or fill material into navigable waters established under the Federal Water Pollution Control Act.

(B) Upon approval by the United States environmental protection agency of the state's application to assume responsibility for administering the section 404 permitting program, the director shall administer the program consistent with

and in the manner required by the Federal Water Pollution Control Act. 114412
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(C) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to obtain approval to administer the section 404 permitting program and to administer the program upon receiving approval to do so. The rules shall govern or establish all of the following, without limitation: 114414
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(1) The issuance of permits. The rules adopted under division (C)(1) of this section shall do all of the following: 114419
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(a) Require compliance with any applicable requirements of 33 U.S.C. 1317 and 33 U.S.C. 1344, including, but not limited to, the guidelines established under 33 U.S.C. 1344(b)(1); 114421
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(b) Require a permit to be issued for a fixed term not to exceed five years; 114424
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(c) Specify that a permit may be terminated or modified for cause, including, but not limited to, all the following: 114426
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(i) A violation of any condition of the permit; 114428

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts related to the permit; 114429
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(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. 114431
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(2) Requirements that ensure compliance with 33 U.S.C. 1318, including requirements for the inspection of, monitoring of, and right to enter property that is the subject of a section 404 permit and requirements governing the content and submission of reports; 114434
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(3) The provision of notice regarding the receipt of an application for a section 404 permit to the public, any other state with waters that may be affected by the issuance of the 114439
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permit, and the administrator of the United States environmental protection agency; 114442
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(4) The opportunity for a public hearing regarding an application for a section 404 permit to be conducted before issuance or denial of the permit; 114444
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(5) Requirements that authorize any other state with waters that may be affected by the issuance of a section 404 permit by the director to submit written recommendations to the director and the administrator of the United States environmental protection agency with respect to the permit application. The rules shall require the director to notify a state that has submitted recommendations if any or all of the recommendations are not accepted by the director and the reasons that the recommendations are not accepted. The rules shall require the notice to be in writing and a copy of the notice to be provided to the administrator. 114447
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(6) Requirements that the director ensure that a section 404 permit will not be issued if anchorage and navigation of any navigable waters would be substantially impaired. The rules shall require the director to do so based on the judgment of the secretary of the United States army after consultation with the secretary of the department of the federal government under which the United States coast guard is operating at the time that the application for the permit is submitted. 114458
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(7) Enforcement with regard to a violation of the terms of a permit or a violation of the permit program administered under this section. The rules adopted under division (C)(7) of this section shall establish requirements governing abatements of violations, civil and criminal penalties, and other means of enforcement. 114466
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(8) Coordination with federal and state water-related 114472

planning and review processes. 114473

(D) This section is intended solely to authorize the 114474
environmental protection agency to assume the role of the United 114475
States army corps of engineers in the regulation of the navigable 114476
waters of this state. Nothing in this section shall be construed 114477
as a preemption, modification, or amendment of Title 33 of the 114478
United States Code. This section shall not be enforced as an 114479
expansion of the laws, regulations, rules, or regulatory authority 114480
of the federal government. Any rule, policy, or permit adopted or 114481
issued by the director under this section shall not conflict with 114482
existing federal law and shall not exceed the limitations placed 114483
by the United States congress on the United States army corps of 114484
engineers. 114485

Section 101.02. That existing sections 9.03, 9.231, 9.239, 114486
9.24, 9.823, 9.833, 9.90, 9.901, 101.39, 101.391, 103.144, 105.41, 114487
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5747.022, 5747.025, 5747.05, 5747.08, 5747.10, 5747.11, 5747.113, 114667
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5751.07, 5751.081, 5751.09, 5751.20, 5751.21, 5753.01, 5753.03, 114671
5753.07, 5815.28, 5905.02, 5910.02, 5910.07, 5919.34, 5924.502, 114672
5924.503, 5924.504, 5924.506, 6109.21, and 6111.037 of the Revised 114673
Code are hereby repealed. 114674

Section 105.01. That sections 122.15, 122.151, 122.152, 114675
122.153, 122.154, 122.29, 123.23, 125.837, 125.838, 173.425, 114676
173.433, 183.28, 184.04, 340.022, 340.033, 340.06, 340.14, 114677
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5111.703, 5111.704, 5111.705, 5111.706, 5111.707, 5111.708, 114696
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5111.946, 5119.011, 5119.013, 5119.03, 5119.05, 5119.623, 5119.64, 114698
5119.65, 5119.66, 5119.67, 5119.68, 5707.05, 5727.41, 5733.35, 114699
5747.211, 5747.33, 6101.451, and 6111.029 of the Revised Code are 114700
hereby repealed. 114701

Section 110.10. That section 3313.88 of the Revised Code as 114702
it results from Section 101.01 of this act be amended and 114703
recodified as section 3313.482 of the Revised Code to read as 114704
follows: 114705

Sec. ~~3313.88~~ 3313.482. (A)(1) Prior to the first day of 114706
August of each school year, the board of education of any school 114707
district or the governing authority of any chartered nonpublic 114708
school may submit to the department of education a plan to require 114709
students to access and complete classroom lessons posted on the 114710
district's or nonpublic school's web portal or web site in order 114711
to make up ~~days~~ hours in that school year on which it is necessary 114712
to close schools for ~~any of the reasons specified in division (B)~~ 114713
~~of section 3317.01 of the Revised Code in excess of the number of~~ 114714
~~days permitted under sections 3313.48, 3313.481, and 3317.01 of~~ 114715
~~the Revised Code~~ disease epidemic, hazardous weather conditions, 114716
law enforcement emergencies, inoperability of school buses or 114717
other equipment necessary to the school's operation, damage to a 114718
school building, or other temporary circumstances due to utility 114719
failure rendering the school building unfit for school use. 114720

Prior to the first day of August of each school year, the 114722
governing authority of any community school established under 114723
Chapter 3314. that is not an internet- or computer-based community 114724
school, as defined in section 3314.02 of the Revised Code, may 114725

submit to the department a plan to require students to access and 114726
complete classroom lessons posted on the school's web portal or 114727
web site in order to make up ~~days or~~ hours in that school year on 114728
which it is necessary to close the school for any of the reasons 114729
specified in division (H)(4) of section 3314.08 of the Revised 114730
Code so that the school is in compliance with the minimum number 114731
of hours required under Chapter 3314. of the Revised Code. 114732

A plan submitted by a school district board ~~or~~ chartered 114733
nonpublic school governing authority ~~shall provide for making up~~ 114734
~~any number of days, up to a maximum of three days. A plan~~ 114735
~~submitted by a, or~~ community school governing authority shall 114736
provide for making up any number of hours, up to a maximum of the 114737
number of hours that are the equivalent of three school days. 114738
Provided the plan meets all requirements of this section, the 114739
department shall permit the board or governing authority to 114740
implement the plan for the applicable school year. 114741

(2) Each plan submitted under this section by a school 114742
district board of education shall include the written consent of 114743
the teachers' employee representative designated under division 114744
(B) of section 4117.04 of the Revised Code. 114745

(3) Each plan submitted under this section shall provide for 114746
the following: 114747

(a) Not later than the first day of November of the school 114748
year, each classroom teacher shall develop a sufficient number of 114749
lessons for each course taught by the teacher that school year to 114750
cover the number of make-up ~~days or~~ hours specified in the plan. 114751
The teacher shall designate the order in which the lessons are to 114752
be posted on the district's, community school's, or nonpublic 114753
school's web portal or web site in the event of a school closure. 114754
Teachers may be granted up to one professional development day to 114755
create lesson plans for those lessons. 114756

(b) To the extent possible and necessary, a classroom teacher shall update or replace, based on current instructional progress, one or more of the lesson plans developed under division (A)(3)(a) of this section before they are posted on the web portal or web site under division (A)(3)(c) of this section or distributed under division (B) of this section.

(c) As soon as practicable after a school closure, a district or school employee responsible for web portal or web site operations shall make the designated lessons available to students on the district's, community school's, or nonpublic school's portal or site. A lesson shall be posted for each course that was scheduled to meet on the day or hours of the closure.

(d) Each student enrolled in a course for which a lesson is posted on the portal or site shall be granted a two-week period from the date of posting to complete the lesson. The student's classroom teacher shall grade the lesson in the same manner as other lessons. The student may receive an incomplete or failing grade if the lesson is not completed on time.

(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons.

(B)(1) In addition to posting classroom lessons online under

division (A) of this section, the board of education of any school 114789
district or governing authority of any community or chartered 114790
nonpublic school may include in the plan distribution of "blizzard 114791
bags," which are paper copies of the lessons posted online. 114792

(2) If a school opts to use blizzard bags, teachers shall 114793
prepare paper copies in conjunction with the lessons to be posted 114794
online and update the paper copies whenever the teacher updates 114795
the online lesson plans. 114796

(3) The board of education of any school district or 114797
governing authority of any community or chartered nonpublic school 114798
that opts to use blizzard bags shall specify in the plan the 114799
method of distribution of blizzard bag lessons, which may include, 114800
but not be limited to, requiring distribution by a specific 114801
deadline or requiring distribution prior to anticipated school 114802
closure as directed by the superintendent of a school district or 114803
the principal, director, chief administrative officer, or the 114804
equivalent, of a school. 114805

(4) Students shall turn in completed lessons in accordance 114806
with division (A)(3)(d) of this section. 114807

(C)(1) No school district that implements a plan in 114808
accordance with this section shall be considered to have failed to 114809
comply with division (B) of section 3317.01 of the Revised Code 114810
with respect to the number of make-up ~~days~~ hours specified in the 114811
plan. 114812

(2) No community school that implements a plan in accordance 114813
with this section shall be considered to have failed to comply 114814
with the minimum number of hours required under Chapter 3314. of 114815
the Revised Code with respect to the number of make-up hours 114816
specified in the plan. 114817

Section 110.11. That existing section 3313.88 of the Revised 114818

Code is hereby repealed. 114819

Section 110.12. Sections 110.10 and 110.11 of this act shall 114820
take effect July 1, 2014. 114821

Section 110.20. That the versions of sections 109.57, 114822
2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, and 114823
5104.32 of the Revised Code that are scheduled to take effect 114824
January 1, 2014, be amended to read as follows: 114825

Sec. 109.57. (A)(1) The superintendent of the bureau of 114826
criminal identification and investigation shall procure from 114827
wherever procurable and file for record photographs, pictures, 114828
descriptions, fingerprints, measurements, and other information 114829
that may be pertinent of all persons who have been convicted of 114830
committing within this state a felony, any crime constituting a 114831
misdemeanor on the first offense and a felony on subsequent 114832
offenses, or any misdemeanor described in division (A)(1)(a), 114833
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 114834
all children under eighteen years of age who have been adjudicated 114835
delinquent children for committing within this state an act that 114836
would be a felony or an offense of violence if committed by an 114837
adult or who have been convicted of or pleaded guilty to 114838
committing within this state a felony or an offense of violence, 114839
and of all well-known and habitual criminals. The person in charge 114840
of any county, multicounty, municipal, municipal-county, or 114841
multicounty-municipal jail or workhouse, community-based 114842
correctional facility, halfway house, alternative residential 114843
facility, or state correctional institution and the person in 114844
charge of any state institution having custody of a person 114845
suspected of having committed a felony, any crime constituting a 114846
misdemeanor on the first offense and a felony on subsequent 114847
offenses, or any misdemeanor described in division (A)(1)(a), 114848

(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 114849
having custody of a child under eighteen years of age with respect 114850
to whom there is probable cause to believe that the child may have 114851
committed an act that would be a felony or an offense of violence 114852
if committed by an adult shall furnish such material to the 114853
superintendent of the bureau. Fingerprints, photographs, or other 114854
descriptive information of a child who is under eighteen years of 114855
age, has not been arrested or otherwise taken into custody for 114856
committing an act that would be a felony or an offense of violence 114857
who is not in any other category of child specified in this 114858
division, if committed by an adult, has not been adjudicated a 114859
delinquent child for committing an act that would be a felony or 114860
an offense of violence if committed by an adult, has not been 114861
convicted of or pleaded guilty to committing a felony or an 114862
offense of violence, and is not a child with respect to whom there 114863
is probable cause to believe that the child may have committed an 114864
act that would be a felony or an offense of violence if committed 114865
by an adult shall not be procured by the superintendent or 114866
furnished by any person in charge of any county, multicounty, 114867
municipal, municipal-county, or multicounty-municipal jail or 114868
workhouse, community-based correctional facility, halfway house, 114869
alternative residential facility, or state correctional 114870
institution, except as authorized in section 2151.313 of the 114871
Revised Code. 114872

(2) Every clerk of a court of record in this state, other 114873
than the supreme court or a court of appeals, shall send to the 114874
superintendent of the bureau a weekly report containing a summary 114875
of each case involving a felony, involving any crime constituting 114876
a misdemeanor on the first offense and a felony on subsequent 114877
offenses, involving a misdemeanor described in division (A)(1)(a), 114878
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 114879
involving an adjudication in a case in which a child under 114880

eighteen years of age was alleged to be a delinquent child for 114881
committing an act that would be a felony or an offense of violence 114882
if committed by an adult. The clerk of the court of common pleas 114883
shall include in the report and summary the clerk sends under this 114884
division all information described in divisions (A)(2)(a) to (f) 114885
of this section regarding a case before the court of appeals that 114886
is served by that clerk. The summary shall be written on the 114887
standard forms furnished by the superintendent pursuant to 114888
division (B) of this section and shall include the following 114889
information: 114890

(a) The incident tracking number contained on the standard 114891
forms furnished by the superintendent pursuant to division (B) of 114892
this section; 114893

(b) The style and number of the case; 114894

(c) The date of arrest, offense, summons, or arraignment; 114895

(d) The date that the person was convicted of or pleaded 114896
guilty to the offense, adjudicated a delinquent child for 114897
committing the act that would be a felony or an offense of 114898
violence if committed by an adult, found not guilty of the 114899
offense, or found not to be a delinquent child for committing an 114900
act that would be a felony or an offense of violence if committed 114901
by an adult, the date of an entry dismissing the charge, an entry 114902
declaring a mistrial of the offense in which the person is 114903
discharged, an entry finding that the person or child is not 114904
competent to stand trial, or an entry of a nolle prosequi, or the 114905
date of any other determination that constitutes final resolution 114906
of the case; 114907

(e) A statement of the original charge with the section of 114908
the Revised Code that was alleged to be violated; 114909

(f) If the person or child was convicted, pleaded guilty, or 114910
was adjudicated a delinquent child, the sentence or terms of 114911

probation imposed or any other disposition of the offender or the delinquent child. 114912
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If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records. 114914
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(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the 114919
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state and its political subdivisions. 114944

(4) The superintendent shall carry out Chapter 2950. of the 114945
Revised Code with respect to the registration of persons who are 114946
convicted of or plead guilty to a sexually oriented offense or a 114947
child-victim oriented offense and with respect to all other duties 114948
imposed on the bureau under that chapter. 114949

(5) The bureau shall perform centralized recordkeeping 114950
functions for criminal history records and services in this state 114951
for purposes of the national crime prevention and privacy compact 114952
set forth in section 109.571 of the Revised Code and is the 114953
criminal history record repository as defined in that section for 114954
purposes of that compact. The superintendent or the 114955
superintendent's designee is the compact officer for purposes of 114956
that compact and shall carry out the responsibilities of the 114957
compact officer specified in that compact. 114958

(B) The superintendent shall prepare and furnish to every 114959
county, multicounty, municipal, municipal-county, or 114960
multicounty-municipal jail or workhouse, community-based 114961
correctional facility, halfway house, alternative residential 114962
facility, or state correctional institution and to every clerk of 114963
a court in this state specified in division (A)(2) of this section 114964
standard forms for reporting the information required under 114965
division (A) of this section. The standard forms that the 114966
superintendent prepares pursuant to this division may be in a 114967
tangible format, in an electronic format, or in both tangible 114968
formats and electronic formats. 114969

(C)(1) The superintendent may operate a center for 114970
electronic, automated, or other data processing for the storage 114971
and retrieval of information, data, and statistics pertaining to 114972
criminals and to children under eighteen years of age who are 114973
adjudicated delinquent children for committing an act that would 114974
be a felony or an offense of violence if committed by an adult, 114975

criminal activity, crime prevention, law enforcement, and criminal 114976
justice, and may establish and operate a statewide communications 114977
network to be known as the Ohio law enforcement gateway to gather 114978
and disseminate information, data, and statistics for the use of 114979
law enforcement agencies and for other uses specified in this 114980
division. The superintendent may gather, store, retrieve, and 114981
disseminate information, data, and statistics that pertain to 114982
children who are under eighteen years of age and that are gathered 114983
pursuant to sections 109.57 to 109.61 of the Revised Code together 114984
with information, data, and statistics that pertain to adults and 114985
that are gathered pursuant to those sections. 114986

(2) The superintendent or the superintendent's designee shall 114987
gather information of the nature described in division (C)(1) of 114988
this section that pertains to the offense and delinquency history 114989
of a person who has been convicted of, pleaded guilty to, or been 114990
adjudicated a delinquent child for committing a sexually oriented 114991
offense or a child-victim oriented offense for inclusion in the 114992
state registry of sex offenders and child-victim offenders 114993
maintained pursuant to division (A)(1) of section 2950.13 of the 114994
Revised Code and in the internet database operated pursuant to 114995
division (A)(13) of that section and for possible inclusion in the 114996
internet database operated pursuant to division (A)(11) of that 114997
section. 114998

(3) In addition to any other authorized use of information, 114999
data, and statistics of the nature described in division (C)(1) of 115000
this section, the superintendent or the superintendent's designee 115001
may provide and exchange the information, data, and statistics 115002
pursuant to the national crime prevention and privacy compact as 115003
described in division (A)(5) of this section. 115004

(4) The attorney general may adopt rules under Chapter 119. 115005
of the Revised Code establishing guidelines for the operation of 115006
and participation in the Ohio law enforcement gateway. The rules 115007

may include criteria for granting and restricting access to 115008
information gathered and disseminated through the Ohio law 115009
enforcement gateway. The attorney general shall permit the state 115010
medical board and board of nursing to access and view, but not 115011
alter, information gathered and disseminated through the Ohio law 115012
enforcement gateway. 115013

The attorney general may appoint a steering committee to 115014
advise the attorney general in the operation of the Ohio law 115015
enforcement gateway that is comprised of persons who are 115016
representatives of the criminal justice agencies in this state 115017
that use the Ohio law enforcement gateway and is chaired by the 115018
superintendent or the superintendent's designee. 115019

(D)(1) The following are not public records under section 115020
149.43 of the Revised Code: 115021

(a) Information and materials furnished to the superintendent 115022
pursuant to division (A) of this section; 115023

(b) Information, data, and statistics gathered or 115024
disseminated through the Ohio law enforcement gateway pursuant to 115025
division (C)(1) of this section; 115026

(c) Information and materials furnished to any board or 115027
person under division (F) or (G) of this section. 115028

(2) The superintendent or the superintendent's designee shall 115029
gather and retain information so furnished under division (A) of 115030
this section that pertains to the offense and delinquency history 115031
of a person who has been convicted of, pleaded guilty to, or been 115032
adjudicated a delinquent child for committing a sexually oriented 115033
offense or a child-victim oriented offense for the purposes 115034
described in division (C)(2) of this section. 115035

(E)(1) The attorney general shall adopt rules, in accordance 115036
with Chapter 119. of the Revised Code and subject to division 115037
(E)(2) of this section, setting forth the procedure by which a 115038

person may receive or release information gathered by the 115039
superintendent pursuant to division (A) of this section. A 115040
reasonable fee may be charged for this service. If a temporary 115041
employment service submits a request for a determination of 115042
whether a person the service plans to refer to an employment 115043
position has been convicted of or pleaded guilty to an offense 115044
listed or described in division (A)(1), (2), or (3) of section 115045
109.572 of the Revised Code, the request shall be treated as a 115046
single request and only one fee shall be charged. 115047

(2) Except as otherwise provided in this division, a rule 115048
adopted under division (E)(1) of this section may provide only for 115049
the release of information gathered pursuant to division (A) of 115050
this section that relates to the conviction of a person, or a 115051
person's plea of guilty to, a criminal offense. The superintendent 115052
shall not release, and the attorney general shall not adopt any 115053
rule under division (E)(1) of this section that permits the 115054
release of, any information gathered pursuant to division (A) of 115055
this section that relates to an adjudication of a child as a 115056
delinquent child, or that relates to a criminal conviction of a 115057
person under eighteen years of age if the person's case was 115058
transferred back to a juvenile court under division (B)(2) or (3) 115059
of section 2152.121 of the Revised Code and the juvenile court 115060
imposed a disposition or serious youthful offender disposition 115061
upon the person under either division, unless either of the 115062
following applies with respect to the adjudication or conviction: 115063

(a) The adjudication or conviction was for a violation of 115064
section 2903.01 or 2903.02 of the Revised Code. 115065

(b) The adjudication or conviction was for a sexually 115066
oriented offense, the juvenile court was required to classify the 115067
child a juvenile offender registrant for that offense under 115068
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 115069
classification has not been removed. 115070

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

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, division (C) of section 3310.58, or section 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any provider or subcontractor as defined in section 5123.081 of the Revised Code; the chief administrator of any chartered nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed under Chapter 5104. of the Revised Code; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, subject to division (E)(2) of this

section, the superintendent shall determine whether that 115104
information exists and, upon request of the person, board, or 115105
entity requesting information, also shall request from the federal 115106
bureau of investigation any criminal records it has pertaining to 115107
that individual. The superintendent or the superintendent's 115108
designee also may request criminal history records from other 115109
states or the federal government pursuant to the national crime 115110
prevention and privacy compact set forth in section 109.571 of the 115111
Revised Code. Within thirty days of the date that the 115112
superintendent receives a request, subject to division (E)(2) of 115113
this section, the superintendent shall send to the board, entity, 115114
or person a report of any information that the superintendent 115115
determines exists, including information contained in records that 115116
have been sealed under section 2953.32 of the Revised Code, and, 115117
within thirty days of its receipt, subject to division (E)(2) of 115118
this section, shall send the board, entity, or person a report of 115119
any information received from the federal bureau of investigation, 115120
other than information the dissemination of which is prohibited by 115121
federal law. 115122

(b) When a board of education or a registered private 115123
provider is required to receive information under this section as 115124
a prerequisite to employment of an individual pursuant to division 115125
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 115126
may accept a certified copy of records that were issued by the 115127
bureau of criminal identification and investigation and that are 115128
presented by an individual applying for employment with the 115129
district in lieu of requesting that information itself. In such a 115130
case, the board shall accept the certified copy issued by the 115131
bureau in order to make a photocopy of it for that individual's 115132
employment application documents and shall return the certified 115133
copy to the individual. In a case of that nature, a district or 115134
provider only shall accept a certified copy of records of that 115135
nature within one year after the date of their issuance by the 115136

bureau. 115137

(c) Notwithstanding division (F)(2)(a) of this section, in 115138
the case of a request under section 3319.39, 3319.391, or 3327.10 115139
of the Revised Code only for criminal records maintained by the 115140
federal bureau of investigation, the superintendent shall not 115141
determine whether any information gathered under division (A) of 115142
this section exists on the person for whom the request is made. 115143

(3) The state board of education may request, with respect to 115144
any individual who has applied for employment after October 2, 115145
1989, in any position with the state board or the department of 115146
education, any information that a school district board of 115147
education is authorized to request under division (F)(2) of this 115148
section, and the superintendent of the bureau shall proceed as if 115149
the request has been received from a school district board of 115150
education under division (F)(2) of this section. 115151

(4) When the superintendent of the bureau receives a request 115152
for information under section 3319.291 of the Revised Code, the 115153
superintendent shall proceed as if the request has been received 115154
from a school district board of education and shall comply with 115155
divisions (F)(2)(a) and (c) of this section. 115156

(5) When a recipient of a classroom reading improvement grant 115157
paid under section 3301.86 of the Revised Code requests, with 115158
respect to any individual who applies to participate in providing 115159
any program or service funded in whole or in part by the grant, 115160
the information that a school district board of education is 115161
authorized to request under division (F)(2)(a) of this section, 115162
the superintendent of the bureau shall proceed as if the request 115163
has been received from a school district board of education under 115164
division (F)(2)(a) of this section. 115165

(G) In addition to or in conjunction with any request that is 115166
required to be made under section 3701.881, 3712.09, or 3721.121 115167

of the Revised Code with respect to an individual who has applied 115168
for employment in a position that involves providing direct care 115169
to an older adult or adult resident, the chief administrator of a 115170
home health agency, hospice care program, home licensed under 115171
Chapter 3721. of the Revised Code, or adult day-care program 115172
operated pursuant to rules adopted under section 3721.04 of the 115173
Revised Code may request that the superintendent of the bureau 115174
investigate and determine, with respect to any individual who has 115175
applied after January 27, 1997, for employment in a position that 115176
does not involve providing direct care to an older adult or adult 115177
resident, whether the bureau has any information gathered under 115178
division (A) of this section that pertains to that individual. 115179

In addition to or in conjunction with any request that is 115180
required to be made under section 173.27 of the Revised Code with 115181
respect to an individual who has applied for employment in a 115182
position that involves providing ombudsperson services to 115183
residents of long-term care facilities or recipients of 115184
community-based long-term care services, the state long-term care 115185
ombudsperson, ~~ombudsperson's designee, or the~~ director of health 115186
aging, a regional long-term care ombudsperson program, or the 115187
designee of the ombudsperson, director, or program may request 115188
that the superintendent investigate and determine, with respect to 115189
any individual who has applied for employment in a position that 115190
does not involve providing such ombudsperson services, whether the 115191
bureau has any information gathered under division (A) of this 115192
section that pertains to that applicant. 115193

In addition to or in conjunction with any request that is 115194
required to be made under section ~~173.394~~ 173.38 of the Revised 115195
Code with respect to an individual who has applied for employment 115196
in a direct-care position that involves providing direct care to 115197
an individual, the chief administrator of a ~~community based~~ 115198
long-term care agency provider, as defined in section 173.39 of 115199

the Revised Code, may request that the superintendent investigate 115200
and determine, with respect to any individual who has applied for 115201
employment in a position that ~~does is not involve providing direct~~ 115202
~~care~~ are a direct-care position, whether the bureau has any 115203
information gathered under division (A) of this section that 115204
pertains to that applicant. 115205

In addition to or in conjunction with any request that is 115206
required to be made under section 3712.09 of the Revised Code with 115207
respect to an individual who has applied for employment in a 115208
position that involves providing direct care to a pediatric 115209
respite care patient, the chief administrator of a pediatric 115210
respite care program may request that the superintendent of the 115211
bureau investigate and determine, with respect to any individual 115212
who has applied for employment in a position that does not involve 115213
providing direct care to a pediatric respite care patient, whether 115214
the bureau has any information gathered under division (A) of this 115215
section that pertains to that individual. 115216

On receipt of a request under this division, the 115217
superintendent shall determine whether that information exists 115218
and, on request of the individual requesting information, shall 115219
also request from the federal bureau of investigation any criminal 115220
records it has pertaining to the applicant. The superintendent or 115221
the superintendent's designee also may request criminal history 115222
records from other states or the federal government pursuant to 115223
the national crime prevention and privacy compact set forth in 115224
section 109.571 of the Revised Code. Within thirty days of the 115225
date a request is received, subject to division (E)(2) of this 115226
section, the superintendent shall send to the requester a report 115227
of any information determined to exist, including information 115228
contained in records that have been sealed under section 2953.32 115229
of the Revised Code, and, within thirty days of its receipt, shall 115230
send the requester a report of any information received from the 115231

federal bureau of investigation, other than information the 115232
dissemination of which is prohibited by federal law. 115233

(H) Information obtained by a government entity or person 115234
under this section is confidential and shall not be released or 115235
disseminated. 115236

(I) The superintendent may charge a reasonable fee for 115237
providing information or criminal records under division (F)(2) or 115238
(G) of this section. 115239

(J) As used in this section: 115240

(1) "Pediatric respite care program" and "pediatric care 115241
patient" have the same meanings as in section 3712.01 of the 115242
Revised Code. 115243

(2) "Sexually oriented offense" and "child-victim oriented 115244
offense" have the same meanings as in section 2950.01 of the 115245
Revised Code. 115246

(3) "Registered private provider" means a nonpublic school or 115247
entity registered with the superintendent of public instruction 115248
under section 3310.41 of the Revised Code to participate in the 115249
autism scholarship program or section 3310.58 of the Revised Code 115250
to participate in the Jon Peterson special needs scholarship 115251
program. 115252

Sec. 2151.011. (A) As used in the Revised Code: 115253

(1) "Juvenile court" means whichever of the following is 115254
applicable that has jurisdiction under this chapter and Chapter 115255
2152. of the Revised Code: 115256

(a) The division of the court of common pleas specified in 115257
section 2101.022 or 2301.03 of the Revised Code as having 115258
jurisdiction under this chapter and Chapter 2152. of the Revised 115259
Code or as being the juvenile division or the juvenile division 115260
combined with one or more other divisions; 115261

(b) The juvenile court of Cuyahoga county or Hamilton county 115262
that is separately and independently created by section 2151.08 or 115263
Chapter 2153. of the Revised Code and that has jurisdiction under 115264
this chapter and Chapter 2152. of the Revised Code; 115265

(c) If division (A)(1)(a) or (b) of this section does not 115266
apply, the probate division of the court of common pleas. 115267

(2) "Juvenile judge" means a judge of a court having 115268
jurisdiction under this chapter. 115269

(3) "Private child placing agency" means any association, as 115270
defined in section 5103.02 of the Revised Code, that is certified 115271
under section 5103.03 of the Revised Code to accept temporary, 115272
permanent, or legal custody of children and place the children for 115273
either foster care or adoption. 115274

(4) "Private noncustodial agency" means any person, 115275
organization, association, or society certified by the department 115276
of job and family services that does not accept temporary or 115277
permanent legal custody of children, that is privately operated in 115278
this state, and that does one or more of the following: 115279

(a) Receives and cares for children for two or more 115280
consecutive weeks; 115281

(b) Participates in the placement of children in certified 115282
foster homes; 115283

(c) Provides adoption services in conjunction with a public 115284
children services agency or private child placing agency. 115285

(B) As used in this chapter: 115286

(1) "Adequate parental care" means the provision by a child's 115287
parent or parents, guardian, or custodian of adequate food, 115288
clothing, and shelter to ensure the child's health and physical 115289
safety and the provision by a child's parent or parents of 115290
specialized services warranted by the child's physical or mental 115291

needs. 115292

(2) "Adult" means an individual who is eighteen years of age 115293
or older. 115294

(3) "Agreement for temporary custody" means a voluntary 115295
agreement authorized by section 5103.15 of the Revised Code that 115296
transfers the temporary custody of a child to a public children 115297
services agency or a private child placing agency. 115298

(4) "Alternative response" means the public children services 115299
agency's response to a report of child abuse or neglect that 115300
engages the family in a comprehensive evaluation of child safety, 115301
risk of subsequent harm, and family strengths and needs and that 115302
does not include a determination as to whether child abuse or 115303
neglect occurred. 115304

(5) "Certified foster home" means a foster home, as defined 115305
in section 5103.02 of the Revised Code, certified under section 115306
5103.03 of the Revised Code. 115307

(6) "Child" means a person who is under eighteen years of 115308
age, except that the juvenile court has jurisdiction over any 115309
person who is adjudicated an unruly child prior to attaining 115310
eighteen years of age until the person attains twenty-one years of 115311
age, and, for purposes of that jurisdiction related to that 115312
adjudication, a person who is so adjudicated an unruly child shall 115313
be deemed a "child" until the person attains twenty-one years of 115314
age. 115315

(7) "Child day camp," "child care," "child day-care center," 115316
"part-time child day-care center," "type A family day-care home," 115317
"licensed type B family day-care home," "type B family day-care 115318
home," "administrator of a child day-care center," "administrator 115319
of a type A family day-care home," and "in-home aide" have the 115320
same meanings as in section 5104.01 of the Revised Code. 115321

(8) "Child care provider" means an individual who is a 115322

child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(10) "Commit" means to vest custody as ordered by the court.

(11) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(12) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(13) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(14) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order,

in a public or private facility designed to physically restrict 115353
the movement and activities of children. 115354

(15) "Developmental disability" has the same meaning as in 115355
section 5123.01 of the Revised Code. 115356

(16) "Differential response approach" means an approach that 115357
a public children services agency may use to respond to accepted 115358
reports of child abuse or neglect with either an alternative 115359
response or a traditional response. 115360

(17) "Foster caregiver" has the same meaning as in section 115361
5103.02 of the Revised Code. 115362

(18) "Guardian" means a person, association, or corporation 115363
that is granted authority by a probate court pursuant to Chapter 115364
2111. of the Revised Code to exercise parental rights over a child 115365
to the extent provided in the court's order and subject to the 115366
residual parental rights of the child's parents. 115367

(19) "Habitual truant" means any child of compulsory school 115368
age who is absent without legitimate excuse for absence from the 115369
public school the child is supposed to attend for five or more 115370
consecutive school days, seven or more school days in one school 115371
month, or twelve or more school days in a school year. 115372

(20) "Juvenile traffic offender" has the same meaning as in 115373
section 2152.02 of the Revised Code. 115374

(21) "Legal custody" means a legal status that vests in the 115375
custodian the right to have physical care and control of the child 115376
and to determine where and with whom the child shall live, and the 115377
right and duty to protect, train, and discipline the child and to 115378
provide the child with food, shelter, education, and medical care, 115379
all subject to any residual parental rights, privileges, and 115380
responsibilities. An individual granted legal custody shall 115381
exercise the rights and responsibilities personally unless 115382
otherwise authorized by any section of the Revised Code or by the 115383

court. 115384

(22) A "legitimate excuse for absence from the public school 115385
the child is supposed to attend" includes, but is not limited to, 115386
any of the following: 115387

(a) The fact that the child in question has enrolled in and 115388
is attending another public or nonpublic school in this or another 115389
state; 115390

(b) The fact that the child in question is excused from 115391
attendance at school for any of the reasons specified in section 115392
3321.04 of the Revised Code; 115393

(c) The fact that the child in question has received an age 115394
and schooling certificate in accordance with section 3331.01 of 115395
the Revised Code. 115396

(23) "Mental illness" and "mentally ill person subject to 115397
hospitalization by court order" have the same meanings as in 115398
section 5122.01 of the Revised Code. 115399

(24) "Mental injury" means any behavioral, cognitive, 115400
emotional, or mental disorder in a child caused by an act or 115401
omission that is described in section 2919.22 of the Revised Code 115402
and is committed by the parent or other person responsible for the 115403
child's care. 115404

(25) "Mentally retarded person" has the same meaning as in 115405
section 5123.01 of the Revised Code. 115406

(26) "Nonsecure care, supervision, or training" means care, 115407
supervision, or training of a child in a facility that does not 115408
confine or prevent movement of the child within the facility or 115409
from the facility. 115410

(27) "Of compulsory school age" has the same meaning as in 115411
section 3321.01 of the Revised Code. 115412

(28) "Organization" means any institution, public, 115413

semipublic, or private, and any private association, society, or 115414
agency located or operating in the state, incorporated or 115415
unincorporated, having among its functions the furnishing of 115416
protective services or care for children, or the placement of 115417
children in certified foster homes or elsewhere. 115418

(29) "Out-of-home care" means detention facilities, shelter 115419
facilities, certified children's crisis care facilities, certified 115420
foster homes, placement in a prospective adoptive home prior to 115421
the issuance of a final decree of adoption, organizations, 115422
certified organizations, child day-care centers, type A family 115423
day-care homes, type B family day-care homes, child care provided 115424
by in-home aides, group home providers, group homes, institutions, 115425
state institutions, residential facilities, residential care 115426
facilities, residential camps, day camps, public schools, 115427
chartered nonpublic schools, educational service centers, 115428
hospitals, and medical clinics that are responsible for the care, 115429
physical custody, or control of children. 115430

(30) "Out-of-home care child abuse" means any of the 115431
following when committed by a person responsible for the care of a 115432
child in out-of-home care: 115433

(a) Engaging in sexual activity with a child in the person's 115434
care; 115435

(b) Denial to a child, as a means of punishment, of proper or 115436
necessary subsistence, education, medical care, or other care 115437
necessary for a child's health; 115438

(c) Use of restraint procedures on a child that cause injury 115439
or pain; 115440

(d) Administration of prescription drugs or psychotropic 115441
medication to the child without the written approval and ongoing 115442
supervision of a licensed physician; 115443

(e) Commission of any act, other than by accidental means, 115444

that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(31) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is

substantial risk that the isolation, if continued, will impair or 115475
retard the mental health or physical well-being of the child. 115476

(32) "Permanent custody" means a legal status that vests in a 115477
public children services agency or a private child placing agency, 115478
all parental rights, duties, and obligations, including the right 115479
to consent to adoption, and divests the natural parents or 115480
adoptive parents of all parental rights, privileges, and 115481
obligations, including all residual rights and obligations. 115482

(33) "Permanent surrender" means the act of the parents or, 115483
if a child has only one parent, of the parent of a child, by a 115484
voluntary agreement authorized by section 5103.15 of the Revised 115485
Code, to transfer the permanent custody of the child to a public 115486
children services agency or a private child placing agency. 115487

(34) "Person" means an individual, association, corporation, 115488
or partnership and the state or any of its political subdivisions, 115489
departments, or agencies. 115490

(35) "Person responsible for a child's care in out-of-home 115491
care" means any of the following: 115492

(a) Any foster caregiver, in-home aide, or provider; 115493

(b) Any administrator, employee, or agent of any of the 115494
following: a public or private detention facility; shelter 115495
facility; certified children's crisis care facility; organization; 115496
certified organization; child day-care center; type A family 115497
day-care home; licensed type B family day-care home; group home; 115498
institution; state institution; residential facility; residential 115499
care facility; residential camp; day camp; school district; 115500
community school; chartered nonpublic school; educational service 115501
center; hospital; or medical clinic; 115502

(c) Any person who supervises or coaches children as part of 115503
an extracurricular activity sponsored by a school district, public 115504
school, or chartered nonpublic school; 115505

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children. 115506
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(36) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction: 115508
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(a) A substantial impairment of vision, speech, or hearing; 115512

(b) A congenital orthopedic impairment; 115513

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause. 115514
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(37) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody. 115517
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(38) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody. 115521
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(39) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply: 115525
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(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights. 115527
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(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed. 115530
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(40) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the 115534
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Revised Code.	115536
(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.	115537 115538 115539 115540
(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.	115541 115542 115543 115544 115545 115546 115547 115548
(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.	115549 115550
(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.	115551 115552
(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.	115553 115554 115555
(46) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health <u>mental health and addiction services</u> under section 5119.22 <u>5119.34</u> of the Revised Code and that provides care for a child.	115556 115557 115558 115559 115560
(47) "Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.	115561 115562 115563 115564
(48) "Residual parental rights, privileges, and	115565

responsibilities" means those rights, privileges, and 115566
responsibilities remaining with the natural parent after the 115567
transfer of legal custody of the child, including, but not 115568
necessarily limited to, the privilege of reasonable visitation, 115569
consent to adoption, the privilege to determine the child's 115570
religious affiliation, and the responsibility for support. 115571

(49) "School day" means the school day established by the 115572
~~state~~ board of education of the applicable school district 115573
pursuant to section ~~3313.48~~ 3313.481 of the Revised Code. 115574

(50) "School ~~month~~ and ~~school~~ year" ~~have~~ has the same 115575
~~meanings~~ meaning as in section 3313.62 of the Revised Code. 115576

(51) "Secure correctional facility" means a facility under 115577
the direction of the department of youth services that is designed 115578
to physically restrict the movement and activities of children and 115579
used for the placement of children after adjudication and 115580
disposition. 115581

(52) "Sexual activity" has the same meaning as in section 115582
2907.01 of the Revised Code. 115583

(53) "Shelter" means the temporary care of children in 115584
physically unrestricted facilities pending court adjudication or 115585
disposition. 115586

(54) "Shelter for victims of domestic violence" has the same 115587
meaning as in section 3113.33 of the Revised Code. 115588

(55) "Temporary custody" means legal custody of a child who 115589
is removed from the child's home, which custody may be terminated 115590
at any time at the discretion of the court or, if the legal 115591
custody is granted in an agreement for temporary custody, by the 115592
person who executed the agreement. 115593

(56) "Traditional response" means a public children services 115594
agency's response to a report of child abuse or neglect that 115595

encourages engagement of the family in a comprehensive evaluation 115596
of the child's current and future safety needs and a fact-finding 115597
process to determine whether child abuse or neglect occurred and 115598
the circumstances surrounding the alleged harm or risk of harm. 115599

(C) For the purposes of this chapter, a child shall be 115600
presumed abandoned when the parents of the child have failed to 115601
visit or maintain contact with the child for more than ninety 115602
days, regardless of whether the parents resume contact with the 115603
child after that period of ninety days. 115604

Sec. 2923.126. (A) A concealed handgun license that is issued 115605
under section 2923.125 of the Revised Code shall expire five years 115606
after the date of issuance. A licensee who has been issued a 115607
license under that section shall be granted a grace period of 115608
thirty days after the licensee's license expires during which the 115609
licensee's license remains valid. Except as provided in divisions 115610
(B) and (C) of this section, a licensee who has been issued a 115611
concealed handgun license under section 2923.125 or 2923.1213 of 115612
the Revised Code may carry a concealed handgun anywhere in this 115613
state if the licensee also carries a valid license and valid 115614
identification when the licensee is in actual possession of a 115615
concealed handgun. The licensee shall give notice of any change in 115616
the licensee's residence address to the sheriff who issued the 115617
license within forty-five days after that change. 115618

If a licensee is the driver or an occupant of a motor vehicle 115619
that is stopped as the result of a traffic stop or a stop for 115620
another law enforcement purpose and if the licensee is 115621
transporting or has a loaded handgun in the motor vehicle at that 115622
time, the licensee shall promptly inform any law enforcement 115623
officer who approaches the vehicle while stopped that the licensee 115624
has been issued a concealed handgun license and that the licensee 115625
currently possesses or has a loaded handgun; the licensee shall 115626

not knowingly disregard or fail to comply with lawful orders of a 115627
law enforcement officer given while the motor vehicle is stopped, 115628
knowingly fail to remain in the motor vehicle while stopped, or 115629
knowingly fail to keep the licensee's hands in plain sight after 115630
any law enforcement officer begins approaching the licensee while 115631
stopped and before the officer leaves, unless directed otherwise 115632
by a law enforcement officer; and the licensee shall not knowingly 115633
have contact with the loaded handgun by touching it with the 115634
licensee's hands or fingers, in any manner in violation of 115635
division (E) of section 2923.16 of the Revised Code, after any law 115636
enforcement officer begins approaching the licensee while stopped 115637
and before the officer leaves. Additionally, if a licensee is the 115638
driver or an occupant of a commercial motor vehicle that is 115639
stopped by an employee of the motor carrier enforcement unit for 115640
the purposes defined in section 5503.04 of the Revised Code and if 115641
the licensee is transporting or has a loaded handgun in the 115642
commercial motor vehicle at that time, the licensee shall promptly 115643
inform the employee of the unit who approaches the vehicle while 115644
stopped that the licensee has been issued a concealed handgun 115645
license and that the licensee currently possesses or has a loaded 115646
handgun. 115647

If a licensee is stopped for a law enforcement purpose and if 115648
the licensee is carrying a concealed handgun at the time the 115649
officer approaches, the licensee shall promptly inform any law 115650
enforcement officer who approaches the licensee while stopped that 115651
the licensee has been issued a concealed handgun license and that 115652
the licensee currently is carrying a concealed handgun; the 115653
licensee shall not knowingly disregard or fail to comply with 115654
lawful orders of a law enforcement officer given while the 115655
licensee is stopped or knowingly fail to keep the licensee's hands 115656
in plain sight after any law enforcement officer begins 115657
approaching the licensee while stopped and before the officer 115658
leaves, unless directed otherwise by a law enforcement officer; 115659

and the licensee shall not knowingly remove, attempt to remove, 115660
grasp, or hold the loaded handgun or knowingly have contact with 115661
the loaded handgun by touching it with the licensee's hands or 115662
fingers, in any manner in violation of division (B) of section 115663
2923.12 of the Revised Code, after any law enforcement officer 115664
begins approaching the licensee while stopped and before the 115665
officer leaves. 115666

(B) A valid concealed handgun license does not authorize the 115667
licensee to carry a concealed handgun in any manner prohibited 115668
under division (B) of section 2923.12 of the Revised Code or in 115669
any manner prohibited under section 2923.16 of the Revised Code. A 115670
valid license does not authorize the licensee to carry a concealed 115671
handgun into any of the following places: 115672

(1) A police station, sheriff's office, or state highway 115673
patrol station, premises controlled by the bureau of criminal 115674
identification and investigation, a state correctional 115675
institution, jail, workhouse, or other detention facility, an 115676
airport passenger terminal, or an institution that is maintained, 115677
operated, managed, and governed pursuant to division (A) of 115678
section ~~5119.02~~ 5119.14 of the Revised Code or division (A)(1) of 115679
section 5123.03 of the Revised Code; 115680

(2) A school safety zone if the licensee's carrying the 115681
concealed handgun is in violation of section 2923.122 of the 115682
Revised Code; 115683

(3) A courthouse or another building or structure in which a 115684
courtroom is located, in violation of section 2923.123 of the 115685
Revised Code; 115686

(4) Any premises or open air arena for which a D permit has 115687
been issued under Chapter 4303. of the Revised Code if the 115688
licensee's carrying the concealed handgun is in violation of 115689
section 2923.121 of the Revised Code; 115690

(5) Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle;

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(6) Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;

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(7) A child day-care center, a type A family day-care home, or a type B family day-care home, except that this division does not prohibit a licensee who resides in a type A family day-care home or a type B family day-care home from carrying a concealed handgun at any time in any part of the home that is not dedicated or used for day-care purposes, or from carrying a concealed handgun in a part of the home that is dedicated or used for day-care purposes at any time during which no children, other than children of that licensee, are in the home;

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(8) An aircraft that is in, or intended for operation in, foreign air transportation, interstate air transportation, intrastate air transportation, or the transportation of mail by aircraft;

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(9) Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to division (B)(3) of this section;

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(10) A place in which federal law prohibits the carrying of handguns.

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(C)(1) Nothing in this section shall negate or restrict a rule, policy, or practice of a private employer that is not a

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private college, university, or other institution of higher 115722
education concerning or prohibiting the presence of firearms on 115723
the private employer's premises or property, including motor 115724
vehicles owned by the private employer. Nothing in this section 115725
shall require a private employer of that nature to adopt a rule, 115726
policy, or practice concerning or prohibiting the presence of 115727
firearms on the private employer's premises or property, including 115728
motor vehicles owned by the private employer. 115729

(2)(a) A private employer shall be immune from liability in a 115730
civil action for any injury, death, or loss to person or property 115731
that allegedly was caused by or related to a licensee bringing a 115732
handgun onto the premises or property of the private employer, 115733
including motor vehicles owned by the private employer, unless the 115734
private employer acted with malicious purpose. A private employer 115735
is immune from liability in a civil action for any injury, death, 115736
or loss to person or property that allegedly was caused by or 115737
related to the private employer's decision to permit a licensee to 115738
bring, or prohibit a licensee from bringing, a handgun onto the 115739
premises or property of the private employer. As used in this 115740
division, "private employer" includes a private college, 115741
university, or other institution of higher education. 115742

(b) A political subdivision shall be immune from liability in 115743
a civil action, to the extent and in the manner provided in 115744
Chapter 2744. of the Revised Code, for any injury, death, or loss 115745
to person or property that allegedly was caused by or related to a 115746
licensee bringing a handgun onto any premises or property owned, 115747
leased, or otherwise under the control of the political 115748
subdivision. As used in this division, "political subdivision" has 115749
the same meaning as in section 2744.01 of the Revised Code. 115750

(3)(a) Except as provided in division (C)(3)(b) of this 115751
section, the owner or person in control of private land or 115752
premises, and a private person or entity leasing land or premises 115753

owned by the state, the United States, or a political subdivision 115754
of the state or the United States, may post a sign in a 115755
conspicuous location on that land or on those premises prohibiting 115756
persons from carrying firearms or concealed firearms on or onto 115757
that land or those premises. Except as otherwise provided in this 115758
division, a person who knowingly violates a posted prohibition of 115759
that nature is guilty of criminal trespass in violation of 115760
division (A)(4) of section 2911.21 of the Revised Code and is 115761
guilty of a misdemeanor of the fourth degree. If a person 115762
knowingly violates a posted prohibition of that nature and the 115763
posted land or premises primarily was a parking lot or other 115764
parking facility, the person is not guilty of criminal trespass in 115765
violation of division (A)(4) of section 2911.21 of the Revised 115766
Code and instead is subject only to a civil cause of action for 115767
trespass based on the violation. 115768

(b) A landlord may not prohibit or restrict a tenant who is a 115769
licensee and who on or after September 9, 2008, enters into a 115770
rental agreement with the landlord for the use of residential 115771
premises, and the tenant's guest while the tenant is present, from 115772
lawfully carrying or possessing a handgun on those residential 115773
premises. 115774

(c) As used in division (C)(3) of this section: 115775

(i) "Residential premises" has the same meaning as in section 115776
5321.01 of the Revised Code, except "residential premises" does 115777
not include a dwelling unit that is owned or operated by a college 115778
or university. 115779

(ii) "Landlord," "tenant," and "rental agreement" have the 115780
same meanings as in section 5321.01 of the Revised Code. 115781

(D) A person who holds a concealed handgun license issued by 115782
another state that is recognized by the attorney general pursuant 115783
to a reciprocity agreement entered into pursuant to section 109.69 115784

of the Revised Code has the same right to carry a concealed 115785
handgun in this state as a person who was issued a concealed 115786
handgun license under section 2923.125 of the Revised Code and is 115787
subject to the same restrictions that apply to a person who 115788
carries a license issued under that section. 115789

(E) A peace officer has the same right to carry a concealed 115790
handgun in this state as a person who was issued a concealed 115791
handgun license under section 2923.125 of the Revised Code. For 115792
purposes of reciprocity with other states, a peace officer shall 115793
be considered to be a licensee in this state. 115794

(F)(1) A qualified retired peace officer who possesses a 115795
retired peace officer identification card issued pursuant to 115796
division (F)(2) of this section and a valid firearms 115797
requalification certification issued pursuant to division (F)(3) 115798
of this section has the same right to carry a concealed handgun in 115799
this state as a person who was issued a concealed handgun license 115800
under section 2923.125 of the Revised Code and is subject to the 115801
same restrictions that apply to a person who carries a license 115802
issued under that section. For purposes of reciprocity with other 115803
states, a qualified retired peace officer who possesses a retired 115804
peace officer identification card issued pursuant to division 115805
(F)(2) of this section and a valid firearms requalification 115806
certification issued pursuant to division (F)(3) of this section 115807
shall be considered to be a licensee in this state. 115808

(2)(a) Each public agency of this state or of a political 115809
subdivision of this state that is served by one or more peace 115810
officers shall issue a retired peace officer identification card 115811
to any person who retired from service as a peace officer with 115812
that agency, if the issuance is in accordance with the agency's 115813
policies and procedures and if the person, with respect to the 115814
person's service with that agency, satisfies all of the following: 115815

(i) The person retired in good standing from service as a 115816

peace officer with the public agency, and the retirement was not 115817
for reasons of mental instability. 115818

(ii) Before retiring from service as a peace officer with 115819
that agency, the person was authorized to engage in or supervise 115820
the prevention, detection, investigation, or prosecution of, or 115821
the incarceration of any person for, any violation of law and the 115822
person had statutory powers of arrest. 115823

(iii) At the time of the person's retirement as a peace 115824
officer with that agency, the person was trained and qualified to 115825
carry firearms in the performance of the peace officer's duties. 115826

(iv) Before retiring from service as a peace officer with 115827
that agency, the person was regularly employed as a peace officer 115828
for an aggregate of fifteen years or more, or, in the alternative, 115829
the person retired from service as a peace officer with that 115830
agency, after completing any applicable probationary period of 115831
that service, due to a service-connected disability, as determined 115832
by the agency. 115833

(b) A retired peace officer identification card issued to a 115834
person under division (F)(2)(a) of this section shall identify the 115835
person by name, contain a photograph of the person, identify the 115836
public agency of this state or of the political subdivision of 115837
this state from which the person retired as a peace officer and 115838
that is issuing the identification card, and specify that the 115839
person retired in good standing from service as a peace officer 115840
with the issuing public agency and satisfies the criteria set 115841
forth in divisions (F)(2)(a)(i) to (iv) of this section. In 115842
addition to the required content specified in this division, a 115843
retired peace officer identification card issued to a person under 115844
division (F)(2)(a) of this section may include the firearms 115845
requalification certification described in division (F)(3) of this 115846
section, and if the identification card includes that 115847
certification, the identification card shall serve as the firearms 115848

requalification certification for the retired peace officer. If 115849
the issuing public agency issues credentials to active law 115850
enforcement officers who serve the agency, the agency may comply 115851
with division (F)(2)(a) of this section by issuing the same 115852
credentials to persons who retired from service as a peace officer 115853
with the agency and who satisfy the criteria set forth in 115854
divisions (F)(2)(a)(i) to (iv) of this section, provided that the 115855
credentials so issued to retired peace officers are stamped with 115856
the word "RETIRED." 115857

(c) A public agency of this state or of a political 115858
subdivision of this state may charge persons who retired from 115859
service as a peace officer with the agency a reasonable fee for 115860
issuing to the person a retired peace officer identification card 115861
pursuant to division (F)(2)(a) of this section. 115862

(3) If a person retired from service as a peace officer with 115863
a public agency of this state or of a political subdivision of 115864
this state and the person satisfies the criteria set forth in 115865
divisions (F)(2)(a)(i) to (iv) of this section, the public agency 115866
may provide the retired peace officer with the opportunity to 115867
attend a firearms requalification program that is approved for 115868
purposes of firearms requalification required under section 115869
109.801 of the Revised Code. The retired peace officer may be 115870
required to pay the cost of the course. 115871

If a retired peace officer who satisfies the criteria set 115872
forth in divisions (F)(2)(a)(i) to (iv) of this section attends a 115873
firearms requalification program that is approved for purposes of 115874
firearms requalification required under section 109.801 of the 115875
Revised Code, the retired peace officer's successful completion of 115876
the firearms requalification program requalifies the retired peace 115877
officer for purposes of division (F) of this section for five 115878
years from the date on which the program was successfully 115879
completed, and the requalification is valid during that five-year 115880

period. If a retired peace officer who satisfies the criteria set forth in divisions (F)(2)(a)(i) to (iv) of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under division (F)(2) of this section.

A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under section 109.801 of the Revised Code may be required to pay the cost of the program.

(G) As used in this section:

(1) "Qualified retired peace officer" means a person who satisfies all of the following:

(a) The person satisfies the criteria set forth in divisions (F)(2)(a)(i) to (v) of this section.

(b) The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) The person is not prohibited by federal law from receiving firearms.

(2) "Retired peace officer identification card" means an identification card that is issued pursuant to division (F)(2) of this section to a person who is a retired peace officer.

(3) "Government facility of this state or a political subdivision of this state" means any of the following:

(a) A building or part of a building that is owned or leased by the government of this state or a political subdivision of this state and where employees of the government of this state or the political subdivision regularly are present for the purpose of performing their official duties as employees of the state or political subdivision;

(b) The office of a deputy registrar serving pursuant to Chapter 4503. of the Revised Code that is used to perform deputy registrar functions.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every ~~four~~ five years thereafter. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the

administrator may request that the superintendent include 115942
information from the federal bureau of investigation in the 115943
criminal records check, including fingerprint-based checks of 115944
national crime information databases as described in 42 U.S.C. 115945
671. 115946

(2) A person required by division (A)(1) of this section to 115947
request a criminal records check shall provide to each applicant a 115948
copy of the form prescribed pursuant to division (C)(1) of section 115949
109.572 of the Revised Code, provide to each applicant a standard 115950
impression sheet to obtain fingerprint impressions prescribed 115951
pursuant to division (C)(2) of section 109.572 of the Revised 115952
Code, obtain the completed form and impression sheet from each 115953
applicant, and forward the completed form and impression sheet to 115954
the superintendent of the bureau of criminal identification and 115955
investigation at the time the person requests a criminal records 115956
check pursuant to division (A)(1) of this section. On and after 115957
August 14, 2008, the administrator of a child day-care center or a 115958
type A family day-care home shall review the results of the 115959
criminal records check before the applicant has sole 115960
responsibility for the care, custody, or control of any child. 115961

(3) An applicant who receives pursuant to division (A)(2) of 115962
this section a copy of the form prescribed pursuant to division 115963
(C)(1) of section 109.572 of the Revised Code and a copy of an 115964
impression sheet prescribed pursuant to division (C)(2) of that 115965
section and who is requested to complete the form and provide a 115966
set of fingerprint impressions shall complete the form or provide 115967
all the information necessary to complete the form and shall 115968
provide the impression sheet with the impressions of the 115969
applicant's fingerprints. If an applicant, upon request, fails to 115970
provide the information necessary to complete the form or fails to 115971
provide impressions of the applicant's fingerprints, the center or 115972
type A home shall not employ that applicant for any position for 115973

which a criminal records check is required by division (A)(1) of 115974
this section. 115975

(B)(1) Except as provided in rules adopted under division (E) 115976
of this section, no child day-care center or type A family 115977
day-care home shall employ or contract with another entity for the 115978
services of a person as a person responsible for the care, 115979
custody, or control of a child if the person previously has been 115980
convicted of or pleaded guilty to any of the violations described 115981
in division (A)(5) of section 109.572 of the Revised Code. 115982

(2) A child day-care center or type A family day-care home 115983
may employ an applicant conditionally until the criminal records 115984
check required by this section is completed and the center or home 115985
receives the results of the criminal records check. If the results 115986
of the criminal records check indicate that, pursuant to division 115987
(B)(1) of this section, the applicant does not qualify for 115988
employment, the center or home shall release the applicant from 115989
employment. 115990

(C)(1) Each child day-care center and type A family day-care 115991
home shall pay to the bureau of criminal identification and 115992
investigation the fee prescribed pursuant to division (C)(3) of 115993
section 109.572 of the Revised Code for each criminal records 115994
check conducted in accordance with that section upon the request 115995
pursuant to division (A)(1) of this section of the administrator 115996
or provider of the center or home. 115997

(2) A child day-care center and type A family day-care home 115998
may charge an applicant a fee for the costs it incurs in obtaining 115999
a criminal records check under this section. A fee charged under 116000
this division shall not exceed the amount of fees the center or 116001
home pays under division (C)(1) of this section. If a fee is 116002
charged under this division, the center or home shall notify the 116003
applicant at the time of the applicant's initial application for 116004
employment of the amount of the fee and that, unless the fee is 116005

paid, the center or type A home will not consider the applicant 116006
for employment. 116007

(D) The report of any criminal records check conducted by the 116008
bureau of criminal identification and investigation in accordance 116009
with section 109.572 of the Revised Code and pursuant to a request 116010
under division (A)(1) of this section is not a public record for 116011
the purposes of section 149.43 of the Revised Code and shall not 116012
be made available to any person other than the applicant who is 116013
the subject of the criminal records check or the applicant's 116014
representative; the center or type A home requesting the criminal 116015
records check or its representative; the department of job and 116016
family services or a county department of job and family services; 116017
and any court, hearing officer, or other necessary individual 116018
involved in a case dealing with the denial of employment to the 116019
applicant. 116020

(E) The director of job and family services shall adopt rules 116021
pursuant to Chapter 119. of the Revised Code to implement this 116022
section, including rules specifying circumstances under which a 116023
center or home may hire a person who has been convicted of an 116024
offense listed in division (B)(1) of this section but who meets 116025
standards in regard to rehabilitation set by the department. 116026

(F) Any person required by division (A)(1) of this section to 116027
request a criminal records check shall inform each person, at the 116028
time of the person's initial application for employment, that the 116029
person is required to provide a set of impressions of the person's 116030
fingerprints and that a criminal records check is required to be 116031
conducted and satisfactorily completed in accordance with section 116032
109.572 of the Revised Code if the person comes under final 116033
consideration for appointment or employment as a precondition to 116034
employment for that position. 116035

(G) As used in this section: 116036

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers, type A family day-care homes, and licensed type B family day-care homes shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center;

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home;

(c) Any administrator of a licensed type B family day-care home and any person eighteen years of age or older who resides in a licensed type B family day-care home.

(2) At the time specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of in-home aides, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records

check with respect to any in-home aide. 116067

(3) The director of job and family services shall request a 116068
criminal records check pursuant to division (A)(1) of this section 116069
at the time of the initial application for licensure and every 116070
~~four~~ five years thereafter. The director of a county department of 116071
job and family services shall request a criminal records check 116072
pursuant to division (A)(2) of this section at the time of the 116073
initial application for certification and every ~~four~~ five years 116074
thereafter. When the director of job and family services or the 116075
director of a county department of job and family services 116076
requests pursuant to division (A)(1) or (2) of this section a 116077
criminal records check for a person at the time of the person's 116078
initial application for licensure or certification, the director 116079
shall request that the superintendent of the bureau of criminal 116080
identification and investigation obtain information from the 116081
federal bureau of investigation as a part of the criminal records 116082
check for the person, including fingerprint-based checks of 116083
national crime information databases as described in 42 U.S.C. 671 116084
for the person subject to the criminal records check. In all other 116085
cases in which the director of job and family services or the 116086
director of a county department of job and family services 116087
requests a criminal records check for an applicant pursuant to 116088
division (A)(1) or (2) of this section, the director may request 116089
that the superintendent include information from the federal 116090
bureau of investigation in the criminal records check, including 116091
fingerprint-based checks of national crime information databases 116092
as described in 42 U.S.C. 671. 116093

(4) The director of job and family services shall review the 116094
results of a criminal records check subsequent to a request made 116095
pursuant to divisions (A)(1) and (3) of this section prior to 116096
approval of a license. The director of a county department of job 116097
and family services shall review the results of a criminal records 116098

check subsequent to a request made pursuant to divisions (A)(2) 116099
and (3) of this section prior to approval of certification. 116100

(B) The director of job and family services or the director 116101
of a county department of job and family services shall provide to 116102
each person for whom a criminal records check is required under 116103
this section a copy of the form prescribed pursuant to division 116104
(C)(1) of section 109.572 of the Revised Code and a standard 116105
impression sheet to obtain fingerprint impressions prescribed 116106
pursuant to division (C)(2) of that section, obtain the completed 116107
form and impression sheet from that person, and forward the 116108
completed form and impression sheet to the superintendent of the 116109
bureau of criminal identification and investigation. 116110

(C) A person who receives pursuant to division (B) of this 116111
section a copy of the form and standard impression sheet described 116112
in that division and who is requested to complete the form and 116113
provide a set of fingerprint impressions shall complete the form 116114
or provide all the information necessary to complete the form and 116115
shall provide the impression sheet with the impressions of the 116116
person's fingerprints. If the person, upon request, fails to 116117
provide the information necessary to complete the form or fails to 116118
provide impressions of the person's fingerprints, the director may 116119
consider the failure as a reason to deny licensure or 116120
certification. 116121

(D) Except as provided in rules adopted under division (G) of 116122
this section, the director of job and family services shall not 116123
grant a license to a child day-care center, type A family day-care 116124
home, or type B family day-care home and a county director of job 116125
and family services shall not certify an in-home aide if a person 116126
for whom a criminal records check was required in connection with 116127
the center or home previously has been convicted of or pleaded 116128
guilty to any of the violations described in division (A)(5) of 116129
section 109.572 of the Revised Code. 116130

(E) Each child day-care center, type A family day-care home, 116131
and type B family day-care home shall pay to the bureau of 116132
criminal identification and investigation the fee prescribed 116133
pursuant to division (C)(3) of section 109.572 of the Revised Code 116134
for each criminal records check conducted in accordance with that 116135
section upon a request made pursuant to division (A) of this 116136
section. 116137

(F) The report of any criminal records check conducted by the 116138
bureau of criminal identification and investigation in accordance 116139
with section 109.572 of the Revised Code and pursuant to a request 116140
made under division (A) of this section is not a public record for 116141
the purposes of section 149.43 of the Revised Code and shall not 116142
be made available to any person other than the person who is the 116143
subject of the criminal records check or the person's 116144
representative, the director of job and family services, the 116145
director of a county department of job and family services, the 116146
center, type A home, or type B home involved, and any court, 116147
hearing officer, or other necessary individual involved in a case 116148
dealing with a denial of licensure or certification related to the 116149
criminal records check. 116150

(G) The director of job and family services shall adopt rules 116151
in accordance with Chapter 119. of the Revised Code to implement 116152
this section, including rules specifying exceptions to the 116153
prohibition in division (D) of this section for persons who have 116154
been convicted of an offense listed in that division but who meet 116155
standards in regard to rehabilitation set by the director. 116156

(H) As used in this section, "criminal records check" has the 116157
same meaning as in section 109.572 of the Revised Code. 116158

Sec. 5104.03. (A) Any person, firm, organization, 116159
institution, or agency seeking to establish a child day-care 116160
center, type A family day-care home, or licensed type B family 116161

day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in this chapter and a copy of the rules adopted pursuant to this chapter. The copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to sections 5104.015, 5104.017, and 5104.018 of the Revised Code and shall be paid at the time of application for a license to operate a center, type A home, or type B home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B)(1) Upon filing of the application for a license, the director shall investigate and inspect the center, type A home, or type B home to determine the license capacity for each age category of children of the center, type A home, or type B home and to determine whether the center, type A home, or type B home complies with this chapter and rules adopted pursuant to this chapter. When, after investigation and inspection, the director is satisfied that this chapter and rules adopted pursuant to it are complied with, subject to division (H) of this section, a license shall be issued as soon as practicable in such form and manner as prescribed by the director. The license shall be designated as provisional and shall be valid for twelve months from the date of issuance unless revoked.

(2) The director may contract with a government entity or a private nonprofit entity for the entity to inspect and license type B family day-care homes pursuant to this section. The department, government entity, or nonprofit entity shall conduct the inspection prior to the issuance of a license for the type B home and, as part of that inspection, ensure that the type B home is safe and sanitary.

(C)(1) On receipt of an application for licensure as a type B family day-care home to provide publicly funded child care, the department shall search the uniform statewide automated child welfare information system for information concerning any abuse or neglect report made pursuant to section 2151.421 of the Revised Code of which the applicant, any other adult residing in the applicant's home, or a person designated by the applicant to be an emergency or substitute caregiver for the applicant is the subject.

(2) The department shall consider any information it discovers pursuant to division (C)(1) of this section or that is provided by a public children services agency pursuant to section 5153.175 of the Revised Code. If the department determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the applicant may directly or indirectly endanger the health, safety, or welfare of children, the department shall deny the application for licensure or revoke the license of a type B family day-care home.

(D) The director shall investigate and inspect the center, type A home, or type B home at least once during operation under a license designated as provisional. If after the investigation and inspection the director determines that the requirements of this chapter and rules adopted pursuant to this chapter are met, subject to division (H) of this section, the director shall issue a new license to the center or home.

(E) Each license shall state the name of the licensee, the name of the administrator, the address of the center, type A home, or licensed type B home, and the license capacity for each age category of children. The license shall include thereon, in accordance with sections 5104.015, 5104.017, and 5104.018 of the Revised Code, the toll-free telephone number to be used by persons

suspecting that the center, type A home, or licensed type B home 116226
has violated a provision of this chapter or rules adopted pursuant 116227
to this chapter. A license is valid only for the licensee, 116228
administrator, address, and license capacity for each age category 116229
of children designated on the license. The license capacity 116230
specified on the license is the maximum number of children in each 116231
age category that may be cared for in the center, type A home, or 116232
licensed type B home at one time. 116233

The center or type A home licensee shall notify the director 116234
when the administrator of the center or home changes. The director 116235
shall amend the current license to reflect a change in an 116236
administrator, if the administrator meets the requirements of this 116237
chapter and rules adopted pursuant to this chapter, or a change in 116238
license capacity for any age category of children as determined by 116239
the director of job and family services. 116240

(F) If the director revokes the license of a center, a type A 116241
home, or a type B home, the director shall not issue another 116242
license to the owner of the center, type A home, or type B home 116243
until five years have elapsed from the date the license is 116244
revoked. 116245

If the director denies an application for a license, the 116246
director shall not accept another application from the applicant 116247
until five years have elapsed from the date the application is 116248
denied. 116249

(G) If during the application for licensure process the 116250
director determines that the license of the owner has been 116251
revoked, the investigation of the center, type A home, or type B 116252
home shall cease. This action does not constitute denial of the 116253
application and may not be appealed under division (H) of this 116254
section. 116255

(H) All actions of the director with respect to licensing 116256

centers, type A homes, or type B homes, refusal to license, and 116257
revocation of a license shall be in accordance with Chapter 119. 116258
of the Revised Code. Any applicant who is denied a license or any 116259
owner whose license is revoked may appeal in accordance with 116260
section 119.12 of the Revised Code. 116261

(I) In no case shall the director issue a license under this 116262
section for a center, type A home, or type B home if the director, 116263
based on documentation provided by the appropriate county 116264
department of job and family services, determines that the 116265
applicant had been certified as a type B family day-care home when 116266
such certifications were issued by county departments prior to ~~the~~ 116267
~~effective date of this amendment~~ January 1, 2014, that the county 116268
department revoked that certification within the immediately 116269
preceding five years, that the revocation was based on the 116270
applicant's refusal or inability to comply with the criteria for 116271
certification, and that the refusal or inability resulted in a 116272
risk to the health or safety of children. 116273

(J)(1) Except as provided in division (J)(2) of this section, 116274
an administrator of a type B family day-care home that receives a 116275
license pursuant to this section to provide publicly funded child 116276
care is an independent contractor and is not an employee of the 116277
department of job and family services. 116278

(2) For purposes of Chapter 4141. of the Revised Code, 116279
determinations concerning the employment of an administrator of a 116280
type B family day-care home that receives a license pursuant to 116281
this section shall be determined under Chapter 4141. of the 116282
Revised Code. 116283

Sec. 5104.08. (A) There is hereby created in the department 116284
of job and family services a child care advisory council to advise 116285
and assist the department in the administration of this chapter 116286
and in the development of child care. The council shall consist of 116287

twenty-two voting members appointed by the director of job and 116288
family services with the approval of the governor. The director of 116289
job and family services, the director of developmental 116290
disabilities, the director of ~~mental health~~ mental health and 116291
addiction services, the superintendent of public instruction, the 116292
director of health, the director of commerce, and the state fire 116293
marshal shall serve as nonvoting members of the council. 116294

Six members shall be representatives of child care centers 116295
subject to licensing, the members to represent a variety of 116296
centers, including nonprofit and proprietary, from different 116297
geographical areas of the state. At least three members shall be 116298
parents, guardians, or custodians of children receiving child care 116299
or publicly funded child care in the child's own home, a center, a 116300
type A home, a head start program, a licensed type B home, or a 116301
type B home at the time of appointment. Three members shall be 116302
representatives of in-home aides, type A homes, licensed type B 116303
homes, or type B homes or head start programs. At least six 116304
members shall represent county departments of job and family 116305
services. The remaining members shall be representatives of the 116306
teaching, child development, and health professions, and other 116307
individuals interested in the welfare of children. At least six 116308
members of the council shall not be employees or licensees of a 116309
child day-care center, head start program, or type A home, or 116310
providers operating a licensed type B home or type B home, or 116311
in-home aides. 116312

Appointments shall be for three-year terms. Vacancies shall 116313
be filled for the unexpired terms. A member of the council is 116314
subject to removal by the director of job and family services for 116315
a willful and flagrant exercise of authority or power that is not 116316
authorized by law, for a refusal or willful neglect to perform any 116317
official duty as a member of the council imposed by law, or for 116318
being guilty of misfeasance, malfeasance, nonfeasance, or gross 116319

neglect of duty as a member of the council. 116320

There shall be two co-chairpersons of the council. One 116321
co-chairperson shall be the director of job and family services or 116322
the director's designee, and one co-chairperson shall be elected 116323
by the members of the council. The council shall meet as often as 116324
is necessary to perform its duties, provided that it shall meet at 116325
least once in each quarter of each calendar year and at the call 116326
of the co-chairpersons. The co-chairpersons or their designee 116327
shall send to each member a written notice of the date, time, and 116328
place of each meeting. 116329

Members of the council shall serve without compensation, but 116330
shall be reimbursed for necessary expenses. 116331

(B) The child care advisory council shall advise the director 116332
on matters affecting the licensing of centers, type A homes, and 116333
type B homes and the certification of in-home aides. The council 116334
shall make an annual report to the director of job and family 116335
services that addresses the availability, affordability, 116336
accessibility, and quality of child care and that summarizes the 116337
recommendations and plans of action that the council has proposed 116338
to the director during the preceding fiscal year. The director of 116339
job and family services shall provide copies of the report to the 116340
governor, speaker and minority leader of the house of 116341
representatives, and the president and minority leader of the 116342
senate and, on request, shall make copies available to the public. 116343

(C) The director of job and family services shall adopt rules 116344
in accordance with Chapter 119. of the Revised Code to implement 116345
this section. 116346

Sec. 5104.32. (A) Except as provided in division (C) of this 116347
section, all purchases of publicly funded child care shall be made 116348
under a contract entered into by a licensed child day-care center, 116349
licensed type A family day-care home, licensed type B family 116350

day-care home, certified in-home aide, approved child day camp, 116351
licensed preschool program, licensed school child program, or 116352
border state child care provider and the department of job and 116353
family services. All contracts for publicly funded child care 116354
shall be contingent upon the availability of state and federal 116355
funds. The department shall prescribe a standard form to be used 116356
for all contracts for the purchase of publicly funded child care, 116357
regardless of the source of public funds used to purchase the 116358
child care. To the extent permitted by federal law and 116359
notwithstanding any other provision of the Revised Code that 116360
regulates state contracts or contracts involving the expenditure 116361
of state or federal funds, all contracts for publicly funded child 116362
care shall be entered into in accordance with the provisions of 116363
this chapter and are exempt from any other provision of the 116364
Revised Code that regulates state contracts or contracts involving 116365
the expenditure of state or federal funds. 116366

(B) Each contract for publicly funded child care shall 116367
specify at least the following: 116368

(1) That the provider of publicly funded child care agrees to 116369
be paid for rendering services at the lower of the rate 116370
customarily charged by the provider for children enrolled for 116371
child care or the reimbursement ceiling or rate of payment 116372
established pursuant to section 5104.30 of the Revised Code; 116373

(2) That, if a provider provides child care to an individual 116374
potentially eligible for publicly funded child care who is 116375
subsequently determined to be eligible, the department agrees to 116376
pay for all child care provided between the date the county 116377
department of job and family services receives the individual's 116378
completed application and the date the individual's eligibility is 116379
determined; 116380

(3) Whether the county department of job and family services, 116381
the provider, or a child care resource and referral service 116382

organization will make eligibility determinations, whether the 116383
provider or a child care resource and referral service 116384
organization will be required to collect information to be used by 116385
the county department to make eligibility determinations, and the 116386
time period within which the provider or child care resource and 116387
referral service organization is required to complete required 116388
eligibility determinations or to transmit to the county department 116389
any information collected for the purpose of making eligibility 116390
determinations; 116391

(4) That the provider, other than a border state child care 116392
provider, shall continue to be licensed, approved, or certified 116393
pursuant to this chapter and shall comply with all standards and 116394
other requirements in this chapter and in rules adopted pursuant 116395
to this chapter for maintaining the provider's license, approval, 116396
or certification; 116397

(5) That, in the case of a border state child care provider, 116398
the provider shall continue to be licensed, certified, or 116399
otherwise approved by the state in which the provider is located 116400
and shall comply with all standards and other requirements 116401
established by that state for maintaining the provider's license, 116402
certificate, or other approval; 116403

(6) Whether the provider will be paid by the state department 116404
of job and family services or in some other manner as prescribed 116405
by rules adopted under section 5104.42 of the Revised Code; 116406

(7) That the contract is subject to the availability of state 116407
and federal funds. 116408

(C) Unless specifically prohibited by federal law or by rules 116409
adopted under section 5104.42 of the Revised Code, the county 116410
department of job and family services shall give individuals 116411
eligible for publicly funded child care the option of obtaining 116412
certificates that the individual may use to purchase services from 116413

any provider qualified to provide publicly funded child care under 116414
section 5104.31 of the Revised Code. Providers of publicly funded 116415
child care may present these certificates for payment in 116416
accordance with rules that the director of job and family services 116417
shall adopt. Only providers may receive payment for certificates. 116418
The value of the certificate shall be based on the lower of the 116419
rate customarily charged by the provider or the rate of payment 116420
established pursuant to section 5104.30 of the Revised Code. The 116421
county department may provide the certificates to the individuals 116422
or may contract with child care providers or child care resource 116423
and referral service organizations that make determinations of 116424
eligibility for publicly funded child care pursuant to contracts 116425
entered into under section 5104.34 of the Revised Code for the 116426
providers or resource and referral service organizations to 116427
provide the certificates to individuals whom they determine are 116428
eligible for publicly funded child care. 116429

For each six-month period a provider of publicly funded child 116430
care provides publicly funded child care to the child of an 116431
individual given certificates, the individual shall provide the 116432
provider certificates for days the provider would have provided 116433
publicly funded child care to the child had the child been 116434
present. The maximum number of days providers shall be provided 116435
certificates shall not exceed ten days in a six-month period 116436
during which publicly funded child care is provided to the child 116437
regardless of the number of providers that provide publicly funded 116438
child care to the child during that period. 116439

(D)(1) The department shall establish the Ohio electronic 116440
child care system to track attendance and calculate payments for 116441
publicly funded child care. The system shall include issuing an 116442
electronic child care card to each caretaker parent to swipe 116443
through a point of service device issued to an eligible provider, 116444
as described in section 5104.31 of the Revised Code. 116445

(2) Each eligible provider that provides publicly funded child care shall participate in the Ohio electronic child care system. A provider participating in the system shall not do any of the following: 116446
116447
116448
116449

(a) Use or have possession of an electronic child care card issued to a caretaker parent; 116450
116451

(b) Falsify attendance records; 116452

(c) Knowingly seek payment for publicly funded child care that was not provided; 116453
116454

(d) Knowingly accept reimbursement for publicly funded child care that was not provided. 116455
116456

Section 110.21. That the existing versions of sections 116457
109.57, 2151.011, 2923.126, 5104.012, 5104.013, 5104.03, 5104.08, 116458
and 5104.32 of the Revised Code that are scheduled to take effect 116459
January 1, 2014, are hereby repealed. 116460

Section 110.22. Sections 110.20 and 110.21 of this act shall 116461
take effect January 1, 2014, except that the amendments by 116462
Sections 110.20 and 110.21 of this act to divisions (B)(49) and 116463
(50) of section 2151.011 of the Revised Code shall take effect 116464
July 1, 2014. 116465

Section 125.10. (A) Sections 5168.01, 5168.02, 5168.03, 116466
5168.04, 5168.05, 5168.06, 5168.07, 5168.08, 5168.09, 5168.10, 116467
5168.11, 5168.12, 5168.13, 5168.99, and 5168.991 of the Revised 116468
Code are hereby repealed, effective October 16, 2015. 116469

(B) Any money remaining in the Legislative Budget Services 116470
Fund on October 16, 2015, the date that section 5168.12 of the 116471
Revised Code is repealed by division (A) of this section, shall be 116472
used solely for the purposes stated in then former section 5168.12 116473
of the Revised Code. When all money in the Legislative Budget 116474

Services Fund has been spent after then former section 5168.12 of 116475
the Revised Code is repealed under division (A) of this section, 116476
the fund shall cease to exist. 116477

Section 125.11. Sections 5168.20, 5168.21, 5168.22, 5168.23, 116478
5168.24, 5168.25, 5168.26, 5168.27, and 5168.28 of the Revised 116479
Code are hereby repealed, effective October 1, 2015. 116480

Section 125.12. That Section 153 of Am. Sub. H.B. 117 of the 116481
121st General Assembly, as most recently amended by Am. Sub. H.B. 116482
153 of the 129th General Assembly, is hereby repealed. 116483

Section 125.13. That Section 125.10 of Am. Sub. H.B. 1 of the 116484
128th General Assembly, as most recently amended by Am. Sub. H.B. 116485
153 of the 129th General Assembly, is hereby repealed. 116486

Section 201.10. Except as otherwise provided in this act, all 116487
appropriation items in this act are appropriated out of any moneys 116488
in the state treasury to the credit of the designated fund that 116489
are not otherwise appropriated. For all appropriations made in 116490
this act, the amounts in the first column are for fiscal year 2014 116491
and the amounts in the second column are for fiscal year 2015. 116492
116493

Section 1. ACC ACCOUNTANCY BOARD OF OHIO				116494
General Services Fund Group				116495
4J80	889601	CPA Education	\$ 325,000 \$ 325,000	116496
Assistance				
4K90	889609	Operating Expenses	\$ 977,500 \$ 977,500	116497
TOTAL GSF General Services Fund				116498
Group				
			\$ 1,302,500 \$ 1,302,500	116499
TOTAL ALL BUDGET FUND GROUPS				116500
			\$ 1,302,500 \$ 1,302,500	

	Section 205.10.	ADJ ADJUTANT GENERAL				116502	
	General Revenue Fund					116503	
GRF	745401	Ohio Military Reserve	\$	12,308	\$	12,308	116504
GRF	745404	Air National Guard	\$	1,810,606	\$	1,810,606	116505
GRF	745407	National Guard	\$	400,000	\$	400,000	116506
		Benefits					
GRF	745409	Central	\$	2,682,098	\$	2,682,098	116507
		Administration					
GRF	745499	Army National Guard	\$	3,689,871	\$	3,689,871	116508
TOTAL GRF	General Revenue Fund		\$	8,594,883	\$	8,594,883	116509
	General Services Fund Group					116510	
5340	745612	Property Operations	\$	534,304	\$	534,304	116511
		Management					
5360	745605	Marksmanship	\$	128,600	\$	128,600	116512
		Activities					
5360	745620	Camp Perry and	\$	978,846	\$	978,846	116513
		Buckeye Inn					
		Operations					
5370	745604	Ohio National Guard	\$	62,000	\$	62,000	116514
		Facilities					
		Maintenance					
TOTAL GSF	General Services Fund		\$	1,703,750	\$	1,703,750	116515
	Group						
	Federal Special Revenue Fund Group					116516	
3410	745615	Air National Guard	\$	2,919,000	\$	2,919,000	116517
		Base Security					
3420	745616	Army National Guard	\$	15,063,000	\$	15,063,000	116518
		Service Agreement					
3E80	745628	Air National Guard	\$	16,850,000	\$	16,850,000	116519
		Operations and					
		Maintenance					

3R80 745603	Counter Drug Operations	\$	15,000	\$	15,000	116520
TOTAL FED	Federal Special Revenue	\$	34,847,000	\$	34,847,000	116521
Fund Group						
State Special Revenue Fund Group						116522
5U80 745613	Community Match Armories	\$	350,000	\$	350,000	116523
TOTAL SSR	State Special Revenue	\$	350,000	\$	350,000	116524
Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	45,495,633	\$	45,495,633	116525

NATIONAL GUARD BENEFITS 116526

The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs. 116527
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If necessary, in order to pay benefits in a timely manner pursuant to sections 5919.31 and 5919.33 of the Revised Code, the Adjutant General may request the Director of Budget and Management transfer appropriation from any appropriation item used by the Adjutant General to appropriation item 745407, National Guard Benefits. The Adjutant General may subsequently seek Controlling Board approval to restore the appropriation in the appropriation item from which such a transfer was made. 116531
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For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy. 116539
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STATE ACTIVE DUTY COSTS 116544

Of the foregoing appropriation item 745409, Central Administration, \$50,000 in each fiscal year shall be used for the 116545
116546

purpose of paying expenses related to state active duty of members 116547
of the Ohio organized militia, in accordance with a proclamation 116548
of the Governor. Expenses include, but are not limited to, the 116549
cost of equipment, supplies, and services, as determined by the 116550
Adjutant General's Department. 116551

Section 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES 116552

General Revenue Fund 116553

GRF 100403 Public Employees \$ 309,600 \$ 309,600 116554

Health Care Program

GRF 100414 MARCS Lease Rental \$ 5,133,700 \$ 5,135,800 116555

Payments

GRF 100415 OAKS Lease Rental \$ 22,998,500 \$ 22,982,500 116556

Payments

GRF 100416 STARS Lease Rental \$ 4,976,500 \$ 4,973,200 116557

Payments

GRF 100447 Administrative \$ 85,847,800 \$ 91,059,600 116558

Building Lease Rental

Payments

GRF 100448 Office Building \$ 20,000,000 \$ 20,000,000 116559

Operating Payments

GRF 100449 DAS - Building \$ 7,551,571 \$ 7,551,571 116560

Operating Payments

GRF 100452 Lean Ohio \$ 1,059,624 \$ 1,059,624 116561

GRF 100456 State IT Services \$ 1,739,038 \$ 1,739,038 116562

GRF 100457 Equal Opportunity \$ 1,910,516 \$ 1,910,516 116563

Services

GRF 100459 Ohio Business Gateway \$ 4,049,094 \$ 4,049,094 116564

GRF 130321 State Agency Support \$ 2,477,008 \$ 2,477,008 116565

Services

TOTAL GRF General Revenue Fund \$ 158,052,951 \$ 163,247,551 116566

General Services Fund Group 116567

1120	100616	DAS Administration	\$	6,127,659	\$	6,147,659	116568
1150	100632	Central Service Agency	\$	911,580	\$	927,699	116569
1170	100644	General Services	\$	12,993,870	\$	12,993,870	116570
		Division - Operating					
1220	100637	Fleet Management	\$	4,200,000	\$	4,200,000	116571
1250	100622	Human Resources	\$	16,649,839	\$	16,649,839	116572
		Division - Operating					
1250	100657	Benefits Communication	\$	712,316	\$	712,316	116573
1280	100620	Office of Collective Bargaining	\$	3,329,507	\$	3,329,507	116574
1300	100606	Risk Management Reserve	\$	6,635,784	\$	6,635,784	116575
1320	100631	DAS Building Management	\$	19,743,170	\$	19,743,170	116576
1330	100607	IT Services Delivery	\$	57,521,975	\$	57,521,975	116577
1880	100649	Equal Opportunity	\$	863,013	\$	863,013	116578
		Division - Operating					
2100	100612	State Printing	\$	20,459,526	\$	20,459,526	116579
2290	100630	IT Governance	\$	16,446,474	\$	16,446,474	116580
2290	100640	Leveraged Enterprise Purchases	\$	7,065,639	\$	7,065,639	116581
4270	100602	Investment Recovery	\$	3,885,000	\$	2,900,000	116582
4N60	100617	Major IT Purchases	\$	56,888,635	\$	56,888,635	116583
4P30	100603	DAS Information Services	\$	6,400,070	\$	6,400,070	116584
5C20	100605	MARCS Administration	\$	14,292,596	\$	14,512,028	116585
5C30	100608	Minor Construction Project Management	\$	204,375	\$	204,375	116586
5EB0	100635	OAKS Support Organization	\$	25,813,077	\$	19,813,077	116587
5EB0	100656	OAKS Updates and Developments	\$	9,886,923	\$	2,636,923	116588
5HU0	100655	Construction Reform	\$	150,000	\$	150,000	116589

	Demo Compliance				
5KZ0 100659	Building Improvement	\$	500,000	\$	500,000 116590
5L70 100610	Professional	\$	2,100,000	\$	2,100,000 116591
	Development				
5LA0 100660	Building Operation	\$	27,000,767	\$	27,214,648 116592
5LJ0 100661	IT Development	\$	13,200,000	\$	13,200,000 116593
5V60 100619	Employee Educational	\$	800,000	\$	800,000 116594
	Development				
TOTAL GSF General Services Fund					116595
Group		\$	334,781,795	\$	321,016,227 116596
Federal Special Revenue Fund Group					116597
3AJ0 100654	ARRA Broadband Mapping	\$	1,723,009	\$	1,723,009 116598
	Grant				
TOTAL FED Federal Special Revenue					116599
Fund Group		\$	1,723,009	\$	1,723,009 116600
State Special Revenue Fund Group					116601
5JQ0 100658	Professionals	\$	3,028,366	\$	990,000 116602
	Licensing System				
5MV0 100662	Theatre Equipment	\$	80,891	\$	80,891 116603
	Maintenance				
TOTAL SSR State Special Revenue					116604
Fund Group		\$	3,109,257	\$	1,070,891 116605
TOTAL ALL BUDGET FUND GROUPS		\$	497,667,012	\$	487,057,678 116606

Section 207.20. OAKS LEASE RENTAL PAYMENTS 116608

The foregoing appropriation item 100415, OAKS Lease Rental 116609
 Payments, shall be used for payments at the times they are 116610
 required to be made for the period from July 1, 2013, through June 116611
 30, 2015, pursuant to leases and agreements entered into under 116612
 Chapter 125. of the Revised Code, as supplemented by Section 116613
 281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and 116614
 other prior acts of the General Assembly, with respect to 116615

financing the costs associated with the acquisition, development, 116616
installation, and implementation of the Ohio Administrative 116617
Knowledge System. If it is determined that additional 116618
appropriations are necessary for this purpose, the amounts are 116619
hereby appropriated. 116620

Section 207.30. STARS LEASE RENTAL PAYMENTS 116621

The foregoing appropriation item 100416, STARS Lease Rental 116622
Payments, shall be used for payments at the times they are 116623
required to be made for the period from July 1, 2013, through June 116624
30, 2015, pursuant to leases and agreements entered into under 116625
Chapter 125. of the Revised Code, as supplemented by Section 116626
207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and 116627
other prior acts of the General Assembly, with respect to 116628
financing the cost for the acquisition, development, installation, 116629
and implementation of the State Taxation Accounting and Revenue 116630
System (STARS). If it is determined that additional appropriations 116631
are necessary for this purpose, the amounts are appropriated. 116632

The State Taxation Accounting and Revenue System (STARS) is 116633
an integrated tax collection and audit system that will replace 116634
all of the state's existing separate tax software and 116635
administration systems for the various taxes collected by the 116636
state. The Department of Administrative Services, in conjunction 116637
with the Department of Taxation, may acquire STARS, including, but 116638
not limited to, the application hardware and software and 116639
installation and implementation thereof, for the use of the 116640
Department of Taxation. Any lease-purchase agreement used under 116641
Chapter 125. of the Revised Code to acquire STARS, including any 116642
fractionalized interests as defined in division (N) of section 116643
133.01 of the Revised Code in the lease payments under that 116644
agreement, shall provide at the end of the lease period that the 116645
financed asset becomes the property of the state. The principal 116646

amount of any new such financing is limited, excluding the 116647
principal amounts of any lease-purchase financing heretofore 116648
completed for STARS, to the amount of \$20,000,000. 116649

Section 207.40. MARCS LEASE RENTAL PAYMENTS 116650

The foregoing appropriation item 100414, MARCS Lease Rental 116651
Payments, shall be used for payments at the times they are 116652
required to be made for the period from July 1, 2013, through June 116653
30, 2015, pursuant to leases and agreements entered into under 116654
Chapter 125. of the Revised Code, as supplemented by Section 116655
701.20 of Sub. H.B. 482 of the 129th General Assembly, with 116656
respect to financing the cost for the acquisition, development, 116657
installation, and implementation of the Multi-Agency Radio 116658
Communication System (MARCS) upgrade. If it is determined that 116659
additional appropriations are necessary for this purpose, the 116660
amounts are hereby appropriated. 116661

Section 207.50. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 116662
UPGRADE 116663

The Multi-Agency Radio Communications System (MARCS) is a 116664
statewide computer and communications network designed to provide 116665
instant voice and data communication and supply a communications 116666
backbone to public safety and emergency management. The Department 116667
of Administrative Services may update or add functionality to 116668
MARCS to upgrade the existing system to a 700/800 megahertz voice 116669
and data system specifically designed to support interoperable 116670
communications for public safety law enforcement and first 116671
responders. The improvements may include, but are not limited to, 116672
hardware and software and the installation and implementation 116673
thereof. Any lease-purchase agreement utilized under Chapter 125. 116674
of the Revised Code to acquire MARCS and the enhancements 116675
described above, including any fractionalized interest as defined 116676

in division (N) of section 133.01 of the Revised Code in the lease 116677
payments under that agreement, shall provide at the end of the 116678
lease period that the financed asset becomes the property of the 116679
state. The principal amount of any new such financing is limited, 116680
in addition to the principal amounts of lease-purchase financing 116681
heretofore completed for MARCS, to the amount of \$27,000,000. 116682

Section 207.60. ADMINISTRATIVE BUILDING LEASE RENTAL PAYMENTS 116683

The foregoing appropriation item 100447, Administrative 116684
Building Lease Rental Payments, shall be used to meet all payments 116685
at the times they are required to be made during the period from 116686
July 1, 2013, through June 30, 2015, by the Department of 116687
Administrative Services pursuant to leases and agreements under 116688
Chapters 152. and 154. of the Revised Code. These appropriations 116689
are the source of funds pledged for bond service charges on 116690
related obligations issued under Chapters 152. and 154. of the 116691
Revised Code. 116692

The foregoing appropriation item 100448, Office Building 116693
Operating Payments, shall be used to pay the expenses of vacant 116694
space, space undergoing renovation, agencies funded by the General 116695
Revenue Fund, and the rent expenses of tenants that have been 116696
relocated because of building renovations that occupy space in the 116697
James A. Rhodes State Office Tower, the Vern Riffe Center for 116698
Government and the Arts, the Frank J. Lausche State Office 116699
Building, the Michael V. DiSalle Government Center, and the Oliver 116700
R. Ocasek Government Office Building. 116701

At least once per year, the portion of appropriation item 116702
100448, Office Building Operating Payments, that is not used for 116703
expenses of agencies funded by the General Revenue Fund, vacant 116704
space, space undergoing renovation, and the rent expenses of 116705
tenants that are relocated because of building renovations shall 116706
be processed by the Department of Administrative Services through 116707

intrastate voucher and placed in the Building Improvements Fund 116708
(Fund 5KZ0). 116709

Section 207.70. DAS - BUILDING OPERATING PAYMENTS 116710

The foregoing appropriation item 100449, DAS - Building 116711
Operating Payments, shall be used to pay the rent expenses of 116712
veterans organizations pursuant to section 123.024 of the Revised 116713
Code in fiscal years 2014 and 2015. 116714

The foregoing appropriation item, 100449, DAS - Building 116715
Operating Payments, also may be used to provide funding for the 116716
cost of property appraisals or building studies that the 116717
Department of Administrative Services may be required to obtain 116718
for property that is being sold by the state or property under 116719
consideration to be renovated or purchased by the state. 116720

Notwithstanding section 125.28 of the Revised Code, the 116721
remaining portion of the appropriation may be used to pay the 116722
operating expenses of state facilities maintained by the 116723
Department of Administrative Services that are not billed to 116724
building tenants, or other costs associated with the Voinovich 116725
Center in Youngstown, Ohio. These expenses may include, but are 116726
not limited to, the costs for vacant space and space undergoing 116727
renovation, and the rent expenses of tenants that are relocated 116728
because of building renovations. These payments may be processed 116729
by the Department of Administrative Services through intrastate 116730
transfer vouchers and placed in the Building Management Fund (Fund 116731
1320). 116732

CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE 116733
HUMAN RESOURCES SERVICES FUND 116734

Upon request of the Director of Administrative Services, 116735
during the FY 2014 - FY 2015 biennium, the Director of Budget and 116736
Management shall transfer up to \$975,000 from the Workforce 116737

Development Fund (Fund 5D70) to the Human Resources Services Fund 116738
(Fund 1250) to support one-time human resources administration 116739
activities for state agencies. 116740

Section 207.80. CENTRAL SERVICE AGENCY FUND 116741

Appropriation item 100632, Central Service Agency, shall be 116742
used to purchase the equipment, products, and services that are 116743
needed to maintain existing automated applications for the 116744
professional licensing boards and the Casino Control Commission to 116745
support board licensing functions in fiscal years 2014 and 2015 116746
until these functions are replaced by the Ohio Professionals 116747
Licensing System. The Department of Administrative Services shall 116748
establish charges for recovering the costs of carrying out these 116749
functions. The charges shall be billed to the professional 116750
licensing boards and the Casino Control Commission, and deposited 116751
via intrastate transfer vouchers to the credit of the Central 116752
Service Agency Fund (Fund 1150). 116753

Upon implementation of the replacement Ohio Professionals 116754
Licensing System and the decommissioning of the existing automated 116755
applications, the Director of Budget and Management may transfer 116756
any cash balances that remain in the Central Service Agency Fund 116757
(Fund 1150) and that are attributable to the operation of the 116758
existing automated applications to the Professions Licensing 116759
System Fund (Fund 5JQ0). 116760

Section 207.90. GENERAL SERVICE CHARGES 116761

The Department of Administrative Services, with the approval 116762
of the Director of Budget and Management, shall establish charges 116763
for recovering the costs of administering the programs funded by 116764
the General Services Fund (Fund 1170) and the State Printing Fund 116765
(Fund 2100). Such charges within Fund 1170 may be used to recover 116766
the cost of paying a vendor to establish reduced pricing for 116767

contracted supplies or services. 116768

If the Director of Administrative Services determines that 116769
additional amounts are necessary to pay for consulting and 116770
administrative costs related to securing lower pricing, the 116771
Director of Administrative Services may request that the Director 116772
of Budget and Management approve additional expenditures. Such 116773
approved additional amounts are appropriated to appropriation item 116774
100644, General Services Division-Operating. 116775

Section 207.100. COLLECTIVE BARGAINING ARBITRATION EXPENSES 116776

With approval of the Director of Budget and Management, the 116777
Department of Administrative Services may seek reimbursement from 116778
state agencies for the actual costs and expenses the Department 116779
incurs in the collective bargaining arbitration process. The 116780
reimbursements shall be processed through intrastate transfer 116781
vouchers and credited to the Collective Bargaining Fund (Fund 116782
1280). 116783

Section 207.110. EQUAL OPPORTUNITY PROGRAM 116784

The Department of Administrative Services, with the approval 116785
of the Director of Budget and Management, shall establish charges 116786
for recovering the costs of administering the activities supported 116787
by the State EEO Fund (Fund 1880). These charges shall be 116788
deposited to the credit of the State EEO Fund (Fund 1880) upon 116789
payment made by state agencies, state-supported or state-assisted 116790
institutions of higher education, and tax-supported agencies, 116791
municipal corporations, and other political subdivisions of the 116792
state, for services rendered. 116793

Section 207.113. LEVERAGED ENTERPRISE PURCHASES 116794

The foregoing appropriation item 100640, Leveraged Enterprise 116795
Purchases, shall be used by the Department of Administrative 116796

Services to make information technology purchases for the benefit 116797
of one or more government entities as authorized under division 116798
(G) of section 125.18 of the Revised Code. If the Director of 116799
Administrative Services determines that additional amounts are 116800
necessary to pay for pass-through information technology purchases 116801
that will be billed to one or more state agencies, the Director of 116802
Administrative Services shall seek Controlling Board approval for 116803
an increase in appropriation to make the requested purchases. 116804

Section 207.120. INVESTMENT RECOVERY FUND 116805

Notwithstanding division (B) of section 125.14 of the Revised 116806
Code, cash balances in the Investment Recovery Fund (Fund 4270) 116807
may be used to support the operating expenses of the Federal 116808
Surplus Operating Program created in sections 125.84 to 125.90 of 116809
the Revised Code. 116810

Of the foregoing appropriation item 100602, Investment 116811
Recovery, up to \$1,618,062 in fiscal year 2014 and up to 116812
\$1,638,515 in fiscal year 2015 may be used to pay the operating 116813
expenses of the State Surplus Property Program and the Surplus 116814
Federal Property Program, under Chapter 125. of the Revised Code 116815
and this section. If additional appropriations are necessary for 116816
the operations of these programs, the Director of Administrative 116817
Services shall seek increased appropriations from the Controlling 116818
Board under section 131.35 of the Revised Code. 116819

Of the foregoing appropriation item 100602, Investment 116820
Recovery, up to \$2,266,938 in fiscal year 2014 and up to 116821
\$1,261,485 in fiscal year 2015 shall be used to transfer proceeds 116822
from the sale of surplus property from the Investment Recovery 116823
Fund to non-General Revenue Funds under division (A)(2) of section 116824
125.14 of the Revised Code. If it is determined by the Director of 116825
Administrative Services that additional amounts are necessary for 116826
the transfer of such sale proceeds, the Director of Administrative 116827

Services may request the Director of Budget and Management to 116828
authorize additional amounts. Such authorized additional amounts 116829
are hereby appropriated. 116830

Section 207.130. MAJOR IT PURCHASES CHARGES 116831

The Department of Administrative Services may bill agencies 116832
for actual expenditures made for major IT purchases if those 116833
expenditures are not recovered as part of the information 116834
technology services rates the Department charges and deposits into 116835
the Information Technology Fund (Fund 1330) created in section 116836
125.15 of the Revised Code. These charges shall be deposited to 116837
the credit of the Major IT Purchases Fund (Fund 4N60). 116838

Section 207.140. DAS INFORMATION SERVICES 116839

There is hereby established in the State Treasury the DAS 116840
Information Services Fund. The foregoing appropriation item 116841
100603, DAS Information Services, shall be used to pay the costs 116842
of providing information systems and services in the Department of 116843
Administrative Services. Any state agency, board, or commission 116844
may use DAS Information Services by paying for the services 116845
rendered. 116846

The Department of Administrative Services shall establish 116847
user charges for all information systems and services that are 116848
allowable in the statewide indirect cost allocation plan submitted 116849
annually to the United States Department of Health and Human 116850
Services. These charges shall comply with federal regulations and 116851
shall be deposited to the credit of the DAS Information Services 116852
Fund (Fund 4P30). 116853

Section 207.150. CASH TRANSFER FROM THE MARCS ADMINISTRATION 116854
FUND TO GRF 116855

Upon the request of the Director of Administrative Services, 116856

the Director of Budget and Management may transfer unobligated 116857
cash in the MARCS Administration Fund (Fund 5C20) to the General 116858
Revenue Fund to reimburse the General Revenue Fund for lease 116859
rental payments made on behalf of the MARCS upgrade. 116860

Section 207.160. PROFESSIONS LICENSING SYSTEM 116861

There is hereby created in the state treasury the Professions 116862
Licensing System Fund (Fund 5JQ0). Appropriation item 100658, Ohio 116863
Professionals Licensing System, shall be used to make payments 116864
from the fund. The fund shall be used to purchase the equipment, 116865
products, and services necessary to develop and maintain a 116866
replacement automated licensing system for the professional 116867
licensing boards. The Director of Budget and Management may 116868
transfer up to a total of \$990,000 in cash from the Occupational 116869
Licensing and Regulatory Fund (4K90), the State Medical Board 116870
Operating Fund (Fund 5C60), and the Casino Control Commission - 116871
Operating Fund (Fund 5HS0) to the Professions Licensing System 116872
Fund during the FY 2014 - FY 2015 biennium. These transfers shall 116873
be in proportion to the number of current licensees issued by the 116874
professional licensing boards and current and anticipated licenses 116875
in the case of the Casino Control Commission. The purpose of these 116876
cash transfers is to fund the initial acquisition and development 116877
of the system. Any cash balances not expended in fiscal year 2014 116878
are hereby reappropriated in fiscal year 2015. 116879

Effective with the implementation of the replacement 116880
licensing system, the Department of Administrative Services shall 116881
establish charges for recovering the costs of ongoing maintenance 116882
of the system. The charges shall be billed to the professional 116883
licensing boards and the Casino Control Commission, and deposited 116884
via intrastate transfer vouchers to the credit of the Professions 116885
Licensing System Fund. 116886

Section 207.170. BUILDING IMPROVEMENT FUND 116887

The foregoing appropriation item 100659, Building 116888
Improvement, shall be used to make payments from the Building 116889
Improvement Fund (Fund 5KZ0) for major maintenance or improvements 116890
required in the James A. Rhodes State Office Tower, the Vern Riffe 116891
Center for Government and the Arts, the Frank J. Lausche State 116892
Office Building, the Michael V. DiSalle Government Center, and the 116893
Oliver R. Ocasek Government Office. The Department of 116894
Administrative Services shall conduct or contract for regular 116895
assessments of these buildings and shall maintain a cash balance 116896
in the Building Improvement Fund equal to the cost of the repairs 116897
and improvements that are recommended to occur within the next 116898
five years, with the following exception described below. 116899

Upon request of the Director of Administrative Services, the 116900
Director of Budget and Management may permit a cash transfer from 116901
the Building Improvement Fund (Fund 5KZ0) to the Building 116902
Operating Fund (Fund 5LA0) to pay costs of operating and 116903
maintaining the James A. Rhodes State Office Tower, the Vern Riffe 116904
Center for Government and the Arts, the Frank J. Lausche State 116905
Office Building, the Michael V. DiSalle Government Center, and the 116906
Oliver R. Ocasek Government Office that are not charged to tenants 116907
during the same fiscal year. 116908

Should the cash balance in the Building Operating Fund (Fund 116909
5LA0) be determined to be sufficient, the Director of 116910
Administrative Services may request that the Director of Budget 116911
and Management transfer cash from the Building Operating Fund 116912
(Fund 5LA0) to the Building Improvement Fund (Fund 5KZ0) in an 116913
amount equal to the initial cash transfer made under this section 116914
plus applicable interest. 116915

Section 207.180. PROFESSIONAL DEVELOPMENT FUND 116916

The foregoing appropriation item 100610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L70) under section 124.182 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

Section 207.190. BUILDING OPERATING FUND

The foregoing appropriation item 100660, Building Operation, shall be used to make payments from the Building Operating Fund (Fund 5LA0) to pay costs of operating and maintaining the James A. Rhodes State Office Tower, the Vern Riffe Center for Government and the Arts, the Frank J. Lausche State Office Building, the Michael V. DiSalle Government Center, and the Oliver R. Ocasek Government Office.

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges to be reimbursed for the cost of operating these buildings. These charges shall include the cost of applicable depreciation on the buildings and the resulting revenue shall be deposited in the Building Operating Fund (Fund 5LA0).

Section 207.200. INFORMATION TECHNOLOGY DEVELOPMENT

The foregoing appropriation item 100661, IT Development, shall be used by the Department of Administrative Services to pay the costs of modernizing the state's information technology management and investment practices away from a limited, agency-specific focus in favor of a statewide methodology supporting development of enterprise solutions.

The Department of Administrative Services, with the approval

of the Director of Budget and Management, may charge state 116947
agencies an information technology development assessment based on 116948
state agencies' information technology expenditures or other 116949
methodology. The revenue from this assessment shall be deposited 116950
in the Information Technology Development Fund (Fund 5LJ0), which 116951
is hereby created. 116952

Section 207.210. EMPLOYEE EDUCATIONAL DEVELOPMENT 116953

The foregoing appropriation item 100619, Employee Educational 116954
Development, shall be used to make payments from the Employee 116955
Educational Development Fund (Fund 5V60) under section 124.86 of 116956
the Revised Code. The fund shall be used to pay the costs of 116957
administering educational programs under existing collective 116958
bargaining agreements with District 1199, the Health Care and 116959
Social Service Union; State Council of Professional Educators; 116960
Ohio Education Association and National Education Association; the 116961
Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio 116962
State Troopers Association, Units 1 and 15. 116963

If it is determined by the Director of Administrative 116964
Services that additional amounts are necessary, the Director of 116965
Administrative Services may request that the Director of Budget 116966
and Management approve additional amounts. Such approved 116967
additional amounts are hereby appropriated. 116968

Section 207.220. CASH TRANSFERS TO THE MAJOR IT PURCHASES 116969
FUND 116970

Upon request of the Director of Administrative Services, the 116971
Director of Budget and Management may transfer up to \$4,000,000 116972
from the OAKS Support Organization Fund (Fund 5EB0) to the Major 116973
IT Purchases Fund (Fund 4N60). This amount represents cash 116974
transferred from Fund 4N60 during fiscal year 2010 pursuant to 116975
Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General 116976

Assembly. Any portion of appropriation item 100617, Major IT Purchases, that is unencumbered and unexpended at the end of fiscal year 2014 is hereby reappropriated for fiscal year 2015.

Section 207.230. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100447, Administrative Building Lease Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 7036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

Section 207.240. ENTERPRISE IT STRATEGY IMPLEMENTATION

The Director of Administrative Services shall determine and implement strategies that benefit the enterprise by improving efficiency, reducing costs or enhancing capacity of information technology (IT) services. Such improvements and efficiencies may result in the consolidation and transfer of such services. As

determined to be necessary for successful implementation of this 117007
section and notwithstanding any provision of law to the contrary, 117008
the Director of Administrative Services may request the Director 117009
of Budget and Management to consolidate or transfer IT-specific 117010
budget authority between agencies as necessary to implement 117011
enterprise IT cost containment strategies and related 117012
efficiencies. Once the Director of Budget and Management is 117013
satisfied that the proposed initiative is cost advantageous to the 117014
enterprise, the Director of Budget and Management may transfer 117015
appropriations, funds and cash as needed to implement the proposed 117016
initiative. The establishment of any new fund or total increased 117017
appropriation as a result of this section will be subject to 117018
approval by the Controlling Board. 117019

The Director of Budget and Management and the Director of 117020
Administrative Services may transfer any employees, assets, and 117021
liabilities, including, but not limited to, records, contracts, 117022
and agreements in order to facilitate the improvements determined 117023
in accordance with this section. 117024

Section 209.10. AGE DEPARTMENT OF AGING 117025

General Revenue Fund 117026

GRF 490321 Operating Expenses \$ 1,487,418 \$ 1,487,418 117027

GRF 490410 Long-Term Care \$ 477,448 \$ 477,448 117028

Ombudsman

GRF 490411 Senior Community \$ 7,060,844 \$ 7,060,844 117029

Services

GRF 490414 Alzheimer's Respite \$ 1,895,245 \$ 1,895,245 117030

GRF 490506 National Senior \$ 241,413 \$ 241,413 117031

Service Corps

GRF 656423 Long-Term Care \$ 3,385,057 \$ 3,385,057 117032

Program Support -

State

TOTAL GRF General Revenue Fund	\$	14,547,425	\$	14,547,425	117033
General Services Fund Group					117034
4800 490606 Senior Community	\$	372,523	\$	372,523	117035
Outreach and					
Education					
TOTAL GSF General Services Fund					117036
Group	\$	372,523	\$	372,523	117037
Federal Special Revenue Fund Group					117038
3220 490618 Federal Aging Grants	\$	12,000,000	\$	12,000,000	117039
3C40 656623 Long-Term Care	\$	3,385,057	\$	3,385,057	117040
Program Support -					
Federal					
3M40 490612 Federal Independence	\$	58,655,080	\$	58,655,080	117041
Services					
TOTAL FED Federal Special Revenue					117042
Fund Group	\$	74,040,137	\$	74,040,137	117043
State Special Revenue Fund Group					117044
4C40 490609 Regional Long-Term	\$	935,000	\$	935,000	117045
Care Ombudsman					
Program					
5BA0 490620 Ombudsman Support	\$	1,250,000	\$	1,250,000	117046
5K90 490613 Long-Term Care	\$	1,059,400	\$	1,059,400	117047
Consumers Guide					
5MT0 490627 Board of Executives	\$	600,000	\$	600,000	117048
of LTSS					
5W10 490616 Resident Services	\$	344,700	\$	344,700	117049
Coordinator Program					
TOTAL SSR State Special Revenue					117050
Fund Group	\$	4,189,100	\$	4,189,100	117051
TOTAL ALL BUDGET FUND GROUPS	\$	93,149,185	\$	93,149,185	117052
Section 209.20. LONG-TERM CARE					117054

Pursuant to an interagency agreement, the Department of Medicaid may designate the Department of Aging to perform assessments under section 5165.04 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and PACE as delegated by the Department of Medicaid in an interagency agreement. The foregoing appropriation items 656423, Long-Term Care Program Support - State, and 656623, Long-Term Care Program Support - Federal, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

PERFORMANCE-BASED REIMBURSEMENT

The Department of Aging may design and utilize a payment method for PASSPORT administrative agency operations that includes a pay-for-performance incentive component that is earned by a PASSPORT administrative agency when defined consumer and policy outcomes are achieved.

Section 209.30. LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

The State Ombudsman may explore the design of a payment method for the Ombudsman Program that includes a pay-for-performance incentive component that is earned by designated regional long-term care ombudsman programs.

SENIOR COMMUNITY SERVICES 117085

The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, prevention and disease self-management, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMER'S RESPITE 117098

The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

NATIONAL SENIOR SERVICE CORPS 117102

The foregoing appropriation item 490506, National Senior Service Corps, shall be used by the Department of Aging to fund grants for three Corporation for National and Community Service/Senior Corps programs: the Foster Grandparents Program, the Senior Companion Program, and the Retired Senior Volunteer Program. A recipient of these grant funds shall use the funds to support priorities established by the Department and the Ohio State Office of the Corporation for National and Community Service. The expenditure of these funds by any grant recipient shall be in accordance with Senior Corps policies and procedures, as stated in the Domestic Volunteer Service Act of 1973, as amended. Neither the Department nor any area agencies on aging that are involved in the distribution of these funds to

lower-tiered grant recipients may use any portion of these funds 117116
to cover administrative costs. 117117

SENIOR COMMUNITY OUTREACH AND EDUCATION 117118

The foregoing appropriation item 490606, Senior Community 117119
Outreach and Education, may be used to provide training to workers 117120
in the field of aging pursuant to division (G) of section 173.02 117121
of the Revised Code. 117122

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES 117123
AND FEDERAL AGING GRANTS 117124

At the request of the Director of Aging, the Director of 117125
Budget and Management may transfer appropriation between 117126
appropriation items 490612, Federal Independence Services, and 117127
490618, Federal Aging Grants. The amounts transferred shall not 117128
exceed 30 per cent of the appropriation from which the transfer is 117129
made. Any transfers shall be reported by the Department of Aging 117130
to the Controlling Board at the next scheduled meeting of the 117131
board. 117132

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 117133

The foregoing appropriation item 490609, Regional Long-Term 117134
Care Ombudsman Program, shall be used to pay the costs of 117135
operating the regional long-term care ombudsman programs 117136
designated by the State Long-Term Care Ombudsman. 117137

TRANSFER OF RESIDENT PROTECTION FUNDS 117138

In each fiscal year, the Director of Budget and Management 117139
may transfer up to \$1,250,000 cash from the Resident Protection 117140
Fund (Fund 4E30), which is used by the Department of Medicaid, to 117141
the Ombudsman Support Fund (Fund 5BA0), which is used by the 117142
Department of Aging. 117143

The Director of Aging and the Office of the State Long-Term 117144
Care Ombudsman may use moneys in the Ombudsman Support Fund (Fund 117145

5BA0) to implement a nursing home quality initiative as specified 117146
in section 173.51 of the Revised Code. 117147

LONG-TERM CARE CONSUMERS GUIDE 117148

The foregoing appropriation item 490613, Long-Term Care 117149
Consumers Guide, shall be used to conduct annual consumer 117150
satisfaction surveys and to pay for other administrative expenses 117151
related to the publication of the Ohio Long-Term Care Consumer 117152
Guide. 117153

CASH TRANSFER FROM THE GENERAL OPERATIONS FUND TO THE BOARD 117154
OF EXECUTIVES OF LONG-TERM SERVICES AND SUPPORTS FUND 117155

On July 1, 2013, or as soon as possible thereafter, the 117156
Director of Health shall certify to the Director of Budget and 117157
Management the cash balance relating to the Board of Examiners of 117158
Nursing Home Administrators in the General Operations Fund (Fund 117159
4700), used by the Department of Health. Upon receiving this 117160
certification, the Director of Budget and Management may transfer 117161
this cash from the General Operations Fund (Fund 4700) to the 117162
Board of Executives of Long-Term Services and Supports Fund (Fund 117163
5MT0), used by the Department of Aging. If this transfer occurs, 117164
the Director of Budget and Management shall cancel any existing 117165
encumbrances pertaining to the Board of Examiners of Nursing Home 117166
Administrators against appropriation item 440647, Fee Supported 117167
Programs, and re-establish them against appropriation item 490627, 117168
Board of Executives of LTSS. The re-established encumbrance 117169
amounts are hereby appropriated. 117170

Section 209.40. DEPARTMENT OF AGING'S APPROPRIATION ITEM 117171
STRUCTURE 117172

Upon request from the Director of Aging, the Director of 117173
Budget and Management may establish new funds, new appropriation 117174
items, and appropriations in order to support the transition to a 117175

new appropriation item structure in the Department of Aging's 117176
budget. Any appropriations established by the Director of Budget 117177
and Management under this section are hereby appropriated. Also, 117178
upon request of the Director of Aging, the Director of Budget and 117179
Management may transfer appropriations between GRF appropriation 117180
items, transfer cash between any funds used by the Department of 117181
Aging, abolish existing funds used by the Department of Aging, and 117182
cancel and reestablish encumbrances. 117183

Section 209.50. UPDATING AUTHORIZING STATUTE CITATIONS 117184

As used in this section, "authorizing statute" means a 117185
Revised Code section or provision of a Revised Code section that 117186
is cited in the Ohio Administrative Code as the statute that 117187
authorizes the adoption of a rule. 117188

The Director of Aging is not required to amend any rule for 117189
the sole purpose of updating the citation in the Ohio 117190
Administrative Code to the rule's authorizing statute to reflect 117191
that this act renumbers the authorizing statute or relocates it to 117192
another Revised Code section. Such citations shall be updated as 117193
the Director amends the rules for other purposes. 117194

Section 211.10. AGR DEPARTMENT OF AGRICULTURE 117195

General Revenue Fund 117196

GRF 700401	Animal Disease Control	\$	3,936,687	\$	3,936,687	117197
GRF 700403	Dairy Division	\$	1,088,115	\$	1,088,115	117198
GRF 700404	Ohio Proud	\$	50,000	\$	50,000	117199
GRF 700406	Consumer Analytical	\$	1,287,556	\$	1,287,556	117200
	Lab					
GRF 700407	Food Safety	\$	848,792	\$	848,792	117201
GRF 700409	Farmland Preservation	\$	72,750	\$	72,750	117202
GRF 700412	Weights and Measures	\$	600,000	\$	600,000	117203
GRF 700415	Poultry Inspection	\$	392,978	\$	392,978	117204

GRF 700418	Livestock Regulation Program	\$	1,108,071	\$	1,108,071	117205
GRF 700424	Livestock Testing and Inspections	\$	102,770	\$	102,770	117206
GRF 700426	Dangerous and Restricted Animals	\$	800,000	\$	800,000	117207
GRF 700427	High Volume Breeder Kennel Control	\$	400,000	\$	200,000	117208
GRF 700499	Meat Inspection Program - State Share	\$	4,175,097	\$	4,175,097	117209
GRF 700501	County Agricultural Societies	\$	391,415	\$	391,415	117210
TOTAL GRF	General Revenue Fund	\$	15,254,231	\$	15,054,231	117211
	General Services Fund Group					117212
5DA0 700644	Laboratory Administration Support	\$	1,115,000	\$	1,115,000	117213
5GH0 700655	Central Support Indirect Cost	\$	4,368,013	\$	4,404,073	117214
TOTAL GSF	General Services Fund Group	\$	5,483,013	\$	5,519,073	117215
	Federal Special Revenue Fund Group					117216
3260 700618	Meat Inspection Program - Federal Share	\$	4,450,000	\$	4,450,000	117217
3360 700617	Ohio Farm Loan Revolving Fund	\$	150,000	\$	150,000	117218
3820 700601	Cooperative Contracts	\$	4,500,000	\$	4,500,000	117219
3AB0 700641	Agricultural Easement	\$	1,000,000	\$	1,000,000	117220
3J40 700607	Indirect Cost	\$	1,100,000	\$	1,100,000	117221
3R20 700614	Federal Plant Industry	\$	1,606,000	\$	1,606,000	117222

TOTAL FED Federal Special Revenue				117223
Fund Group	\$	12,806,000	\$ 12,806,000	117224
State Special Revenue Fund Group				117225
4900 700651 License Plates -	\$	10,000	\$ 10,000	117226
Sustainable				
Agriculture				
4940 700612 Agricultural	\$	218,000	\$ 213,000	117227
Commodity Marketing				
Program				
4960 700626 Ohio Grape Industries	\$	970,000	\$ 970,000	117228
4970 700627 Commodity Handlers	\$	482,672	\$ 482,672	117229
Regulatory Program				
4C90 700605 Commercial Feed and	\$	1,760,000	\$ 1,760,000	117230
Seed				
4D20 700609 Auction Education	\$	35,000	\$ 35,000	117231
4E40 700606 Utility Radiological	\$	130,000	\$ 130,000	117232
Safety				
4P70 700610 Food Safety	\$	1,017,328	\$ 1,017,328	117233
Inspection				
4R00 700636 Ohio Proud Marketing	\$	45,500	\$ 45,500	117234
4R20 700637 Dairy Industry	\$	1,738,247	\$ 1,738,247	117235
Inspection				
4T60 700611 Poultry and Meat	\$	120,000	\$ 120,000	117236
Inspection				
5780 700620 Ride Inspection Fees	\$	1,175,142	\$ 1,175,142	117237
5880 700633 Brand Registration	\$	5,000	\$ 5,000	117238
5B80 700629 Auctioneers	\$	340,000	\$ 340,000	117239
5CP0 700652 License Plate	\$	10,000	\$ 10,000	117240
Scholarships				
5FC0 700648 Plant Pest Program	\$	1,190,000	\$ 1,190,000	117241
5H20 700608 Metrology Lab and	\$	552,000	\$ 552,000	117242
Scale Certification				
5L80 700604 Livestock Management	\$	145,000	\$ 145,000	117243

		Program					
5MA0	700657	Dangerous and	\$	195,000	\$	195,000	117244
		Restricted Animals					
6520	700634	Animal and Consumer	\$	4,966,383	\$	4,966,383	117245
		Analytical Laboratory					
6690	700635	Pesticide,	\$	3,418,041	\$	3,418,041	117246
		Fertilizer, and Lime					
		Inspection Program					
TOTAL SSR		State Special Revenue					117247
Fund Group			\$	18,523,313	\$	18,518,313	117248
Clean Ohio Conservation Fund Group							117249
7057	700632	Clean Ohio	\$	310,000	\$	310,000	117250
		Agricultural Easement					
TOTAL CLF		Clean Ohio Conservation	\$	310,000	\$	310,000	117251
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	52,376,557	\$	52,207,617	117252
		DANGEROUS AND RESTRICTED WILD ANIMALS					117253
		The foregoing GRF appropriation item 700426, Dangerous and					117254
		Restricted Animals, shall be used to administer the Dangerous and					117255
		Restricted Wild Animal Permitting Program.					117256
		COUNTY AGRICULTURAL SOCIETIES					117257
		The foregoing appropriation item 700501, County Agricultural					117258
		Societies, shall be used to reimburse county and independent					117259
		agricultural societies for expenses related to Junior Fair					117260
		activities.					117261
		CLEAN OHIO AGRICULTURAL EASEMENT					117262
		The foregoing appropriation item 700632, Clean Ohio					117263
		Agricultural Easement, shall be used by the Department of					117264
		Agriculture in administering Ohio Agricultural Easement Fund (Fund					117265
		7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to					117266
		5301.70 of the Revised Code.					117267

Section 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY				117268	
General Services Fund Group				117269	
5EG0 898608 Energy Strategy	\$	240,681	\$	240,681	117270
Development					
TOTAL GSF General Services Fund	\$	240,681	\$	240,681	117271
State Special Revenue Fund Group					117272
4Z90 898602 Small Business	\$	288,232	\$	288,232	117273
Ombudsman					
5700 898601 Operating Expenses	\$	323,980	\$	323,980	117274
5A00 898603 Small Business	\$	900,000	\$	1,125,000	117275
Assistance					
TOTAL SSR State Special Revenue	\$	1,512,212	\$	1,737,212	117276
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	1,752,893	\$	1,977,893	117277
Section 213.20. ENERGY STRATEGY DEVELOPMENT				117279	
The Energy Strategy Development Program shall develop energy				117280	
initiatives, projects, and policy that align with the energy				117281	
policy for the state. Issues addressed by such initiatives,				117282	
projects, and policy shall not be limited to those governed by				117283	
Chapter 3706. of the Revised Code. The Ohio Air Quality				117284	
Development Authority shall be responsible for the monitoring of				117285	
the program.				117286	
There is hereby created in the state treasury the Energy				117287	
Strategy Development Fund (Fund 5EG0). The fund shall consist of				117288	
money credited to it and money obtained for advanced energy				117289	
projects from federal or private grants, loans, or other sources.				117290	
Money in the fund shall be used to carry out the purposes of the				117291	
program. Interest earned on the money in the fund shall be				117292	
credited to the General Revenue Fund.				117293	
On July 1 of each fiscal year, or as soon as possible				117294	

thereafter, the Director of Budget and Management may transfer 117295
 cash from the funds specified below, up to the amounts specified 117296
 below, to the Energy Strategy Development Fund. Fund 5EG0 may 117297
 accept contributions and transfers made to the fund. On July 1, 117298
 2015, or as soon as possible thereafter, the Director shall 117299
 transfer to the General Revenue Fund all cash credited to Fund 117300
 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished. 117301

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2014</u>	<u>FY 2015</u>	
1170	Office Services	Department of Administrative Services	\$27,405	\$27,439	117302 117303
5GH0	Central Support Indirect Cost	Department of Agriculture	\$27,405	\$27,439	117304
1350	Supportive Services	Development Services Agency	\$27,405	\$27,439	117305
2190	Central Support Indirect Cost	Environmental Protection Agency	\$27,405	\$27,439	117306
1570	Central Support Indirect Chargeback	Department of Natural Resources	\$27,405	\$27,439	117307
7002	Highway Operating	Department of Transportation	\$39,150	\$39,199	117308

Section 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT 117309

AUTHORITY TRUST ACCOUNT 117310

Notwithstanding any other provision of law to the contrary, 117311
 the Air Quality Development Authority may reimburse the Air 117312
 Quality Development Authority trust account established under 117313
 section 3706.10 of the Revised Code from all operating funds of 117314
 the agency for expenses pertaining to the administration and 117315
 shared costs incurred by the Air Quality Development Authority in 117316
 the execution of responsibilities as prescribed in Chapter 3706. 117317
 of the Revised Code. Reimbursement shall be made by voucher and 117318

completed in accordance with the administrative indirect costs 117319
allocation plan approved by the Office of Budget and Management. 117320

Section 215.10. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS 117321

General Services Fund Group 117322

4K90 891609 Operating \$ 481,379 \$ 485,954 117323

TOTAL GSF General Services Fund 117324

Group \$ 481,379 \$ 485,954 117325

TOTAL ALL BUDGET FUND GROUPS \$ 481,379 \$ 485,954 117326

Section 217.10. ART OHIO ARTS COUNCIL 117328

General Revenue Fund 117329

GRF 370321 Operating Expenses \$ 1,599,204 \$ 1,599,204 117330

GRF 370502 State Program \$ 8,000,000 \$ 8,000,000 117331

Subsidies

TOTAL GRF General Revenue Fund \$ 9,599,204 \$ 9,599,204 117332

General Services Fund Group 117333

4600 370602 Management Expenses \$ 247,000 \$ 247,000 117334
and Donations

4B70 370603 Percent for Art \$ 247,000 \$ 247,000 117335
Acquisitions

TOTAL GSF General Services Fund \$ 494,000 \$ 494,000 117336

Group

Federal Special Revenue Fund Group 117337

3140 370601 Federal Support \$ 1,000,000 \$ 1,000,000 117338

TOTAL FED Federal Special Revenue \$ 1,000,000 \$ 1,000,000 117339

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 11,093,204 \$ 11,093,204 117340

FEDERAL SUPPORT 117341

Notwithstanding any provision of law to the contrary, the 117342

foregoing appropriation item 370601, Federal Support, shall be 117343

used by the Ohio Arts Council for subsidies only, and not for its 117344
 administrative costs, unless the Council is required to use a 117345
 portion of the funds for administrative costs under conditions of 117346
 the federal grant. 117347

Section 219.10. ATH ATHLETIC COMMISSION 117348

General Services Fund Group 117349
 4K90 175609 Operating Expenses \$ 312,000 \$ 320,000 117350
 TOTAL GSF General Services Fund \$ 312,000 \$ 320,000 117351
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 312,000 \$ 320,000 117352

Section 221.10. AGO ATTORNEY GENERAL 117354

General Revenue Fund 117355
 GRF 055321 Operating Expenses \$ 42,514,169 \$ 42,514,169 117356
 GRF 055405 Law-Related Education \$ 100,000 \$ 100,000 117357
 GRF 055407 Tobacco Settlement \$ 1,500,000 \$ 1,500,000 117358
 Enforcement
 GRF 055411 County Sheriffs' Pay \$ 757,921 \$ 757,921 117359
 Supplement
 GRF 055415 County Prosecutors' \$ 831,499 \$ 831,499 117360
 Pay Supplement
 TOTAL GRF General Revenue Fund \$ 45,703,589 \$ 45,703,589 117361
 General Services Fund Group 117362
 1060 055612 General Reimbursement \$ 54,726,192 \$ 55,820,716 117363
 1950 055660 Workers' Compensation \$ 8,415,504 \$ 8,415,504 117364
 Section
 4180 055615 Charitable \$ 8,286,000 \$ 8,286,000 117365
 Foundations
 4200 055603 Attorney General \$ 1,839,074 \$ 1,839,074 117366
 Antitrust
 4210 055617 Police Officers' \$ 500,000 \$ 500,000 117367

		Training Academy Fee					
4Z20	055609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,000,000	\$	1,000,000	117368
5900	055633	Peace Officer Private Security Fund	\$	79,438	\$	95,325	117369
5A90	055618	Telemarketing Fraud Enforcement	\$	45,000	\$	10,000	117370
5L50	055619	Law Enforcement Assistance Program	\$	375,255	\$	187,627	117371
5LR0	055655	Peace Officer Training - Casino	\$	4,629,409	\$	4,629,409	117372
5MP0	055657	Peace Officer Training Commission	\$	25,000	\$	25,000	117373
6310	055637	Consumer Protection Enforcement	\$	6,700,000	\$	6,834,000	117374
TOTAL GSF General Services Fund							117375
Group			\$	86,620,872	\$	87,642,655	117376
Federal Special Revenue Fund Group							117377
3060	055620	Medicaid Fraud Control	\$	4,537,408	\$	4,628,156	117378
3810	055611	Civil Rights Legal Service	\$	75,000	\$	35,574	117379
3830	055634	Crime Victims Assistance	\$	15,000,000	\$	15,000,000	117380
3E50	055638	Attorney General Pass-Through Funds	\$	599,999	\$	599,999	117381
3FV0	055656	Crime Victim Compensation	\$	7,000,000	\$	7,000,000	117382
3R60	055613	Attorney General Federal Funds	\$	999,999	\$	999,999	117383
TOTAL FED Federal Special Revenue							117384
Fund Group			\$	28,212,406	\$	28,263,728	117385

State Special Revenue Fund Group					117386	
4020 055616	Victims of Crime	\$	16,456,769	\$	16,456,769	117387
4190 055623	Claims Section	\$	55,920,716	\$	56,937,131	117388
4L60 055606	DARE Programs	\$	3,578,901	\$	3,486,209	117389
4Y70 055608	Title Defect Recision	\$	600,000	\$	600,000	117390
6590 055641	Solid and Hazardous Waste Background Investigations	\$	310,730	\$	310,730	117391
TOTAL SSR State Special Revenue Fund Group		\$	76,867,116	\$	77,790,839	117392 117393
Holding Account Redistribution Fund Group						117394
R004 055631	General Holding Account	\$	1,000,000	\$	1,000,000	117395
R005 055632	Antitrust Settlements	\$	1,000	\$	1,000	117396
R018 055630	Consumer Frauds	\$	750,000	\$	750,000	117397
R042 055601	Organized Crime Commission Distributions	\$	25,025	\$	25,025	117398
R054 055650	Collection Outside Counsel Payments	\$	4,500,000	\$	4,500,000	117399
TOTAL 090 Holding Account Redistribution Fund Group		\$	6,276,025	\$	6,276,025	117400 117401
Tobacco Master Settlement Agreement Fund Group						117402
U087 055402	Tobacco Settlement Oversight, Administration, and Enforcement	\$	500,000	\$	500,000	117403
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$	500,000	\$	500,000	117404
TOTAL ALL BUDGET FUND GROUPS		\$	244,180,008	\$	246,176,836	117405
COUNTY SHERIFFS' PAY SUPPLEMENT						117406
The foregoing appropriation item 055411, County Sheriffs' Pay						117407

Supplement, shall be used for the purpose of supplementing the 117408
annual compensation of county sheriffs as required by section 117409
325.06 of the Revised Code. 117410

At the request of the Attorney General, the Director of 117411
Budget and Management may transfer appropriation from 117412
appropriation item 055321, Operating Expenses, to appropriation 117413
item 055411, County Sheriffs' Pay Supplement. Any appropriation so 117414
transferred shall be used to supplement the annual compensation of 117415
county sheriffs as required by section 325.06 of the Revised Code. 117416

COUNTY PROSECUTORS' PAY SUPPLEMENT 117417

The foregoing appropriation item 055415, County Prosecutors' 117418
Pay Supplement, shall be used for the purpose of supplementing the 117419
annual compensation of certain county prosecutors as required by 117420
section 325.111 of the Revised Code. 117421

At the request of the Attorney General, the Director of 117422
Budget and Management may transfer appropriation from 117423
appropriation item 055321, Operating Expenses, to appropriation 117424
item 055415, County Prosecutors' Pay Supplement. Any appropriation 117425
so transferred shall be used to supplement the annual compensation 117426
of county prosecutors as required by section 325.111 of the 117427
Revised Code. 117428

WORKERS' COMPENSATION SECTION 117429

The Workers' Compensation Fund (Fund 1950) is entitled to 117430
receive payments from the Bureau of Workers' Compensation and the 117431
Ohio Industrial Commission at the beginning of each quarter of 117432
each fiscal year to fund legal services to be provided to the 117433
Bureau of Workers' Compensation and the Ohio Industrial Commission 117434
during the ensuing quarter. The advance payment shall be subject 117435
to adjustment. 117436

In addition, the Bureau of Workers' Compensation shall 117437
transfer payments at the beginning of each quarter for the support 117438

of the Workers' Compensation Fraud Unit.	117439
All amounts shall be mutually agreed upon by the Attorney	117440
General, the Bureau of Workers' Compensation, and the Ohio	117441
Industrial Commission.	117442
ATTORNEY GENERAL PASS-THROUGH FUNDS	117443
The foregoing appropriation item 055638, Attorney General	117444
Pass-Through Funds, shall be used to receive federal grant funds	117445
provided to the Attorney General by other state agencies,	117446
including, but not limited to, the Department of Youth Services	117447
and the Department of Public Safety.	117448
GENERAL HOLDING ACCOUNT	117449
The foregoing appropriation item 055631, General Holding	117450
Account, shall be used to distribute moneys under the terms of	117451
relevant court orders or other settlements received in a variety	117452
of cases involving the Office of the Attorney General. If it is	117453
determined that additional amounts are necessary for this purpose,	117454
the amounts are hereby appropriated.	117455
ANTITRUST SETTLEMENTS	117456
The foregoing appropriation item 055632, Antitrust	117457
Settlements, shall be used to distribute moneys under the terms of	117458
relevant court orders or other out of court settlements in	117459
antitrust cases or antitrust matters involving the Office of the	117460
Attorney General. If it is determined that additional amounts are	117461
necessary for this purpose, the amounts are hereby appropriated.	117462
CONSUMER FRAUDS	117463
The foregoing appropriation item 055630, Consumer Frauds,	117464
shall be used for distribution of moneys from court-ordered	117465
judgments against sellers in actions brought by the Office of	117466
Attorney General under sections 1334.08 and 4549.48 and division	117467
(B) of section 1345.07 of the Revised Code. These moneys shall be	117468

used to provide restitution to consumers victimized by the fraud 117469
that generated the court-ordered judgments. If it is determined 117470
that additional amounts are necessary for this purpose, the 117471
amounts are hereby appropriated. 117472

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 117473

The foregoing appropriation item 055601, Organized Crime 117474
Commission Distributions, shall be used by the Organized Crime 117475
Investigations Commission, as provided by section 177.011 of the 117476
Revised Code, to reimburse political subdivisions for the expenses 117477
the political subdivisions incur when their law enforcement 117478
officers participate in an organized crime task force. If it is 117479
determined that additional amounts are necessary for this purpose, 117480
the amounts are hereby appropriated. 117481

COLLECTION OUTSIDE COUNSEL PAYMENTS 117482

The foregoing appropriation item 055650, Collection Outside 117483
Counsel Payments, shall be used for the purpose of paying 117484
contingency counsel fees for cases where debtors mistakenly paid 117485
the client agencies instead of the Attorney General's Revenue 117486
Recovery/Collections Enforcement Section. If it is determined that 117487
additional amounts are necessary for this purpose, the amounts are 117488
hereby appropriated. 117489

Section 223.10. AUD AUDITOR OF STATE 117490

General Revenue Fund 117491

GRF 070321 Operating Expenses \$ 27,434,452 \$ 27,434,452 117492

GRF 070403 Fiscal \$ 800,000 \$ 800,000 117493

Watch/Emergency

Technical Assistance

TOTAL GRF General Revenue Fund \$ 28,234,452 \$ 28,234,452 117494

Auditor of State Fund Group 117495

1090 070601 Public Audit Expense \$ 9,069,804 \$ 9,196,081 117496

		- Intra-State				
4220	070602	Public Audit Expense	\$	31,052,999	\$	31,031,044 117497
		- Local Government				
5840	070603	Training Program	\$	181,730	\$	181,250 117498
5JZ0	070606	LEAP Revolving Loans	\$	650,000	\$	650,000 117499
6750	070605	Uniform Accounting	\$	3,241,533	\$	3,160,637 117500
		Network				
TOTAL AUD		Auditor of State Fund				117501
Group			\$	44,196,066	\$	44,219,012 117502
TOTAL ALL BUDGET FUND GROUPS			\$	72,430,518	\$	72,453,464 117503
		FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE				117504
		The foregoing appropriation item 070403, Fiscal				117505
		Watch/Emergency Technical Assistance, shall be used for expenses				117506
		incurred by the Office of the Auditor of State in its role				117507
		relating to fiscal watch or fiscal emergency activities under				117508
		Chapters 118. and 3316. of the Revised Code. Expenses include, but				117509
		are not limited to, the following: duties related to the				117510
		determination or termination of fiscal watch or fiscal emergency				117511
		of municipal corporations, counties, townships, or school				117512
		districts; development of preliminary accounting reports;				117513
		performance of annual forecasts; provision of performance audits;				117514
		and supervisory, accounting, or auditing services for the				117515
		municipal corporations, counties, townships, or school districts.				117516
		Section 225.10. BRB BOARD OF BARBER EXAMINERS				117517
		General Services Fund Group				117518
4K90	877609	Operating Expenses	\$	670,882	\$	674,272 117519
TOTAL GSF		General Services Fund				117520
Group			\$	670,882	\$	674,272 117521
TOTAL ALL BUDGET FUND GROUPS			\$	670,882	\$	674,272 117522
		Section 227.10. OBM OFFICE OF BUDGET AND MANAGEMENT				117524

General Revenue Fund				117525
GRF	042321	Budget Development	\$ 2,703,189 \$ 2,697,483	117526
		and Implementation		
GRF	042409	Commission Closures	\$ 304,000 \$ 155,000	117527
GRF	042416	Office of Health	\$ 484,486 \$ 498,571	117528
		Transformation		
GRF	042425	Shared Services	\$ 1,250,000 \$ 1,250,000	117529
		Development		
TOTAL GRF	General Revenue Fund		\$ 4,741,675 \$ 4,601,054	117530
General Services Fund Group				117531
1050	042603	Financial Management	\$ 14,060,275 \$ 14,451,086	117532
1050	042620	Shared Services	\$ 8,837,518 \$ 8,924,830	117533
		Operating		
TOTAL GSF	General Services Fund		\$ 22,897,793 \$ 23,375,916	117534
Group				
Federal Special Revenue Fund Group				117535
3CM0	042606	Office of Health	\$ 438,723 \$ 438,723	117536
		Transformation -		
		Federal		
TOTAL FED	Federal Special Revenue		\$ 438,723 \$ 438,723	117537
Fund Group				
Agency Fund Group				117538
5EH0	042604	Forgery Recovery	\$ 40,000 \$ 40,000	117539
TOTAL AGY	Agency Fund Group		\$ 40,000 \$ 40,000	117540
TOTAL ALL BUDGET FUND GROUPS			\$ 28,118,191 \$ 28,455,693	117541

COMMISSION CLOSURES 117542

The foregoing appropriation item 042409, Commission Closures, 117543
 may be used to pay obligations associated with the closure of any 117544
 state agency, whether in the executive, legislative, or judicial 117545
 branch of government. Notwithstanding any provision of law to the 117546
 contrary, this appropriation item may also be used to pay final 117547

payroll expenses occurring after the closure of any state agency, 117548
whether in the executive, legislative, or judicial branch of 117549
government in the event that appropriations or cash in the closing 117550
agency are insufficient to do so. 117551

The Director of Budget and Management may request Controlling 117552
Board approval for funds to be transferred to appropriation item 117553
042409, Commission Closures, from appropriation item 911614, CB 117554
Emergency Purposes, for anticipated expenses associated with 117555
agency closures. 117556

AUDIT COSTS AND DUES 117557

All centralized audit costs associated with either Single 117558
Audit Schedules or financial statements prepared in conformance 117559
with generally accepted accounting principles for the state shall 117560
be paid from the foregoing appropriation item 042603, Financial 117561
Management. 117562

Costs associated with the audit of the Auditor of State and 117563
national association dues shall be paid from the foregoing 117564
appropriation item 042321, Budget Development and Implementation. 117565

SHARED SERVICES CENTER 117566

The foregoing appropriation items 042425, Shared Services 117567
Development, and 042620, Shared Services Operating, shall be used 117568
by the Director of Budget and Management to support a Shared 117569
Services Center within the Office of Budget and Management for the 117570
purpose of consolidating statewide business functions and common 117571
transactional processes. 117572

The Director of Budget and Management shall include the 117573
recovery of costs to operate the Shared Services Center in the 117574
accounting and budgeting services payroll rate and through a 117575
direct charges using intrastate transfer vouchers to agencies for 117576
services rendered. The Director of Budget and Management shall 117577
determine the cost recovery methodology. Such cost recovery 117578

revenues shall be deposited to the credit of Fund 1050. 117579

INTERNAL AUDIT 117580

The Director of Budget and Management shall include the 117581
recovery of costs to operate the Internal Audit Program in the 117582
accounting and budgeting services payroll rate and through a 117583
direct charge using intrastate transfer vouchers to agencies 117584
reviewed by the program. The Director of Budget and Management, 117585
with advice from the Internal Audit Advisory Council, shall 117586
determine the cost recovery methodology. Such cost recovery 117587
revenues shall be deposited to the credit of the Accounting and 117588
Budgeting Fund (Fund 1050). 117589

FORGERY RECOVERY 117590

The foregoing appropriation item 042604, Forgery Recovery, 117591
shall be used to reissue warrants that have been certified as 117592
forgeries by the rightful recipient as determined by the Bureau of 117593
Criminal Identification and Investigation and the Treasurer of 117594
State. Upon receipt of funds to cover the reissuance of the 117595
warrant, the Director of Budget and Management shall reissue a 117596
state warrant of the same amount. Any additional amounts needed to 117597
reissue warrants backed by the receipt of funds are hereby 117598
appropriated. 117599

ABOLISHMENT OF FUND 5N40 AND FUND 5Z80 117600

On or before December 31, 2013, the Director of Budget and 117601
Management shall transfer the cash balances of the OAKS Project 117602
Implementation Fund (Fund 5N40) and the Office of Health 117603
Transformation Administration Fund (Fund 5Z80) to the General 117604
Revenue Fund. Upon completion of the transfers, Fund 5N40 and Fund 117605
5Z80 are abolished. 117606

Section 229.10. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD 117607

General Revenue Fund 117608

GRF	874100	Personal Services	\$	2,417,467	\$	2,417,467	117609
GRF	874320	Maintenance and Equipment	\$	1,161,098	\$	1,161,098	117610
TOTAL GRF	General Revenue Fund		\$	3,578,565	\$	3,578,565	117611
General Services Fund Group							117612
4G50	874603	Capitol Square Education Center and Arts	\$	5,882	\$	5,882	117613
4S70	874602	Statehouse Gift Shop/Events	\$	629,409	\$	629,409	117614
TOTAL GSF	General Services Fund Group		\$	635,291	\$	635,291	117615 117616
Underground Parking Garage							117617
2080	874601	Underground Parking Garage Operations	\$	3,039,740	\$	2,981,740	117618
TOTAL UPG	Underground Parking Garage		\$	3,039,740	\$	2,981,740	117619 117620
TOTAL ALL BUDGET FUND GROUPS			\$	7,253,596	\$	7,195,596	117621
WAREHOUSE PAYMENTS							117622
Of the foregoing appropriation item 874601, Underground Parking Garage Operations, \$48,000 in each fiscal year shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, to the Department of Administrative Services for bond service charges relating to the purchase and improvement of a warehouse acquired pursuant to section 105.41 of the Revised Code, in which to store items of the Capitol Collection Trust and, whenever necessary, equipment or other property of the Board.							117623 117624 117625 117626 117627 117628 117629 117630 117631
UNDERGROUND PARKING GARAGE FUND							117632
Notwithstanding division (G) of section 105.41 of the Revised Code and any other provision to the contrary, moneys in the							117633 117634

Underground Parking Garage Fund (Fund 2080) may be used for 117635
 personnel and operating costs related to the operations of the 117636
 Statehouse and the Statehouse Underground Parking Garage. 117637

Section 231.10. SCR STATE BOARD OF CAREER COLLEGES AND 117638
 SCHOOLS 117639

General Services Fund Group 117640
 4K90 233601 Operating Expenses \$ 579,328 \$ 579,328 117641
 TOTAL GSF General Services Fund \$ 579,328 \$ 579,328 117642
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 579,328 \$ 579,328 117643

Section 233.10. CAC CASINO CONTROL COMMISSION 117645

State Special Revenue Fund Group 117646
 5HS0 955321 Casino Control - \$ 13,121,283 \$ 13,542,674 117647
 Operating
 TOTAL SSR State Special Revenue \$ 13,121,283 \$ 13,542,674 117648
 Fund Group
 TOTAL ALL BUDGET FUND GROUPS \$ 13,121,283 \$ 13,542,674 117649

Section 235.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD 117651

General Services Fund Group 117652
 4K90 930609 Operating Expenses \$ 476,642 \$ 469,349 117653
 TOTAL GSF General Services Fund \$ 476,642 \$ 469,349 117654
 Group
 TOTAL ALL BUDGET FUND GROUPS \$ 476,642 \$ 469,349 117655

Section 237.10. CHR STATE CHIROPRACTIC BOARD 117657

General Services Fund Group 117658
 4K90 878609 Operating Expenses \$ 617,829 \$ 630,775 117659
 TOTAL GSF General Services Fund \$ 617,829 \$ 630,775 117660
 Group

TOTAL ALL BUDGET FUND GROUPS	\$	617,829	\$	630,775	117661
Section 239.10. CIV OHIO CIVIL RIGHTS COMMISSION					117663
General Revenue Fund					117664
GRF 876321 Operating Expenses	\$	4,725,784	\$	4,725,784	117665
TOTAL GRF General Revenue Fund	\$	4,725,784	\$	4,725,784	117666
General Services Fund Group					117667
2170 876604 Operations Support	\$	4,000	\$	4,000	117668
TOTAL GSF General Services					117669
Fund Group	\$	4,000	\$	4,000	117670
Federal Special Revenue Fund Group					117671
3340 876601 Federal Programs	\$	2,820,670	\$	2,947,983	117672
TOTAL FED Federal Special Revenue					117673
Fund Group	\$	2,820,670	\$	2,947,983	117674
TOTAL ALL BUDGET FUND GROUPS	\$	7,550,454	\$	7,677,767	117675
Section 241.10. COM DEPARTMENT OF COMMERCE					117677
General Services Fund Group					117678
1630 800620 Division of	\$	6,200,000	\$	6,200,000	117679
Administration					
1630 800637 Information Technology	\$	6,011,977	\$	6,011,977	117680
5430 800602 Unclaimed	\$	7,737,546	\$	7,737,546	117681
Funds-Operating					
5430 800625 Unclaimed Funds-Claims	\$	64,000,000	\$	64,000,000	117682
5F10 800635 Small Government Fire	\$	300,000	\$	300,000	117683
Departments					
TOTAL GSF General Services Fund					117684
Group	\$	84,249,523	\$	84,249,523	117685
Federal Special Revenue Fund Group					117686
3480 800622 Underground Storage	\$	1,129,518	\$	1,129,518	117687
Tanks					
3480 800624 Leaking Underground	\$	1,556,211	\$	1,556,211	117688

Storage Tanks

TOTAL FED Federal Special Revenue				117689
Fund Group	\$	2,685,729	\$ 2,685,729	117690
State Special Revenue Fund Group				117691
4B20 800631 Real Estate Appraisal	\$	35,000	\$ 35,000	117692
Recovery				
4H90 800608 Cemeteries	\$	266,688	\$ 266,688	117693
4X20 800619 Financial Institutions	\$	1,854,298	\$ 1,854,298	117694
5440 800612 Banks	\$	6,836,589	\$ 6,836,589	117695
5450 800613 Savings Institutions	\$	2,259,536	\$ 2,259,536	117696
5460 800610 Fire Marshal	\$	15,315,738	\$ 15,324,574	117697
5460 800639 Fire Department Grants	\$	2,198,802	\$ 2,198,802	117698
5470 800603 Real Estate	\$	69,655	\$ 69,655	117699
Education/Research				
5480 800611 Real Estate Recovery	\$	50,000	\$ 50,000	117700
5490 800614 Real Estate	\$	3,310,412	\$ 3,310,412	117701
5500 800617 Securities	\$	4,238,814	\$ 4,238,814	117702
5520 800604 Credit Union	\$	3,297,888	\$ 3,297,888	117703
5530 800607 Consumer Finance	\$	3,481,692	\$ 3,481,692	117704
5560 800615 Industrial Compliance	\$	26,612,520	\$ 27,104,205	117705
5FW0 800616 Financial Literacy	\$	200,000	\$ 200,000	117706
Education				
5GK0 800609 Securities Investor	\$	432,150	\$ 432,150	117707
Education/Enforcement				
5HV0 800641 Cigarette Enforcement	\$	118,800	\$ 118,800	117708
5LP0 800646 Liquor Regulatory	\$	7,988,921	\$ 7,844,537	117709
Operating Expenses				
5X60 800623 Video Service	\$	337,224	\$ 337,224	117710
6530 800629 UST Registration/Permit	\$	3,831,888	\$ 3,612,588	117711
Fee				
6A40 800630 Real Estate	\$	672,973	\$ 672,973	117712
Appraiser-Operating				
TOTAL SSR State Special Revenue				117713

Fund Group		\$	83,409,588	\$	83,546,425	117714
Liquor Control Fund Group						117715
5LC0 800644	Liquor JobsOhio	\$	209,279	\$	198,097	117716
	Extraordinary Allowance					
5LN0 800645	Liquor Operating Services	\$	5,231,967	\$	4,952,417	117717
TOTAL LCF Liquor Control						117718
Fund Group		\$	5,441,246	\$	5,150,514	117719
TOTAL ALL BUDGET FUND GROUPS		\$	175,786,086	\$	175,632,191	117720

ADMINISTRATIVE ASSESSMENTS 117721

Notwithstanding any other provision of law to the contrary, 117722
the Division of Administration Fund (Fund 1630) is entitled to 117723
receive assessments from all operating funds of the Department in 117724
accordance with procedures prescribed by the Director of Commerce 117725
and approved by the Director of Budget and Management. 117726

UNCLAIMED FUNDS PAYMENTS 117727

The foregoing appropriation item 800625, Unclaimed 117728
Funds-Claims, shall be used to pay claims under section 169.08 of 117729
the Revised Code. If it is determined that additional amounts are 117730
necessary, the amounts are appropriated. 117731

FIRE DEPARTMENT GRANTS 117732

Of the foregoing appropriation item 800639, Fire Department 117733
Grants, up to \$2,146,802 in each fiscal year shall be used to make 117734
annual grants to the following eligible recipients: volunteer fire 117735
departments, fire departments that serve one or more small 117736
municipalities or small townships, joint fire districts comprised 117737
of fire departments that primarily serve small municipalities or 117738
small townships, local units of government responsible for such 117739
fire departments, and local units of government responsible for 117740
the provision of fire protection services for small municipalities 117741

or small townships. For the purposes of these grants, a private fire company, as that phrase is defined in section 9.60 of the Revised Code, that is providing fire protection services under a contract to a political subdivision of the state, is an additional eligible recipient for a training grant.

Eligible recipients that consist of small municipalities or small townships that all intend to contract with the same fire department or private fire company for fire protection services may jointly apply and be considered for a grant. If a joint applicant is awarded a grant, the State Fire Marshal shall, if feasible, proportionately award the grant and any equipment purchased with grant funds to each of the joint applicants based upon each applicant's contribution to and demonstrated need for fire protection services.

If the grant awarded to joint applicants is an equipment grant and the equipment to be purchased cannot be readily distributed or possessed by multiple recipients, each of the joint applicants shall be awarded by the State Fire Marshal an ownership interest in the equipment so purchased in proportion to each applicant's contribution to and demonstrated need for fire protection services. The joint applicants shall then mutually agree on how the equipment is to be maintained, operated, stored, or disposed of. If, for any reason, the joint applicants cannot agree as to how jointly owned equipment is to be maintained, operated, stored, or disposed of or any of the joint applicants no longer maintain a contract with the same fire protection service provider as the other applicants, then the joint applicants shall, with the assistance of the State Fire Marshal, mutually agree as to how the jointly owned equipment is to be maintained, operated, stored, disposed of, or owned. If the joint applicants cannot agree how the grant equipment is to be maintained, operated, stored, disposed of, or owned, the State Fire Marshal may, in its

discretion, require all of the equipment acquired by the joint applicants with grant funds to be returned to the State Fire Marshal. The State Fire Marshal may then award the returned equipment to any eligible recipients.

The grants shall be used by recipients to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in that grant recipient's jurisdiction.

Grant awards for firefighting or rescue equipment or gear or for fire department costs of providing fire protection services shall be up to \$15,000 per fiscal year, or up to \$25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded. In addition to any grant funds awarded for rescue equipment or gear, or for fire department costs associated with the provision of fire protection services, an eligible entity may receive a grant for up to \$15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training. For each fiscal year, the State Fire Marshal shall determine the total amounts to be allocated for each eligible purpose.

The grant program shall be administered by the State Fire Marshal in accordance with rules the State Fire Marshal adopts as part of the state fire code adopted pursuant to section 3737.82 of the Revised Code that are necessary for the administration and operation of the grant program. The rules may further define the entities eligible to receive grants and establish criteria for the awarding and expenditure of grant funds, including methods the State Fire Marshal may use to verify the proper use of grant funds or to obtain reimbursement for or the return of equipment for

improperly used grant funds. Any amounts in appropriation item 117806
800639, Fire Department Grants, in excess of the amount allocated 117807
for these grants may be used for the administration of the grant 117808
program. 117809

CASH TRANSFERS TO DIVISION OF REAL ESTATE OPERATING FUND 117810

The Director of Budget and Management, upon the request of 117811
the Director of Commerce, may transfer up to \$500,000 in cash from 117812
the Real Estate Recovery Fund (Fund 5480) and up to \$250,000 in 117813
cash from the Real Estate Appraiser Recovery Fund (Fund 4B20) to 117814
the Division of Real Estate Operating Fund (Fund 5490) during the 117815
biennium ending June 30, 2015. 117816

Section 243.10. OCC OFFICE OF CONSUMERS' COUNSEL 117817

General Services Fund Group 117818

5F50 053601 Operating Expenses \$ 5,641,093 \$ 5,641,093 117819

TOTAL GSF General Services Fund \$ 5,641,093 \$ 5,641,093 117820

Group

TOTAL ALL BUDGET FUND GROUPS \$ 5,641,093 \$ 5,641,093 117821

Section 245.10. CEB CONTROLLING BOARD 117823

General Revenue Fund 117824

GRF 911441 Ballot Advertising \$ 475,000 \$ 475,000 117825

Costs

TOTAL GRF General Revenue Fund \$ 475,000 \$ 475,000 117826

General Services Fund Group 117827

5KM0 911614 CB Emergency Purposes \$ 10,000,000 \$ 10,000,000 117828

TOTAL GSF General Services Fund \$ 10,000,000 \$ 10,000,000 117829

Group

TOTAL ALL BUDGET FUND GROUPS \$ 10,475,000 \$ 10,475,000 117830

FEDERAL SHARE 117831

In transferring appropriations to or from appropriation items 117832

that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have a written Governor's authorization, and the State Individual Assistance Program for disasters that have a written Governor's authorization and is declared by the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters that have a written Governor's authorization, if the Director of Budget and Management determines that sufficient funds exist.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon

requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

Section 247.10. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group				117881
4K90 879609 Operating Expenses	\$	3,474,030	\$ 3,474,030	117882
TOTAL GSF General Services Fund Group				117883
	\$	3,474,030	\$ 3,474,030	117884
TOTAL ALL BUDGET FUND GROUPS	\$	3,474,030	\$ 3,474,030	117885

Section 249.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

General Services Fund Group				117889
4K90 899609 Operating Expenses	\$	1,265,856	\$ 1,281,478	117890
TOTAL GSF General Services Fund Group				117891
	\$	1,265,856	\$ 1,281,478	117892
TOTAL ALL BUDGET FUND GROUPS	\$	1,265,856	\$ 1,281,478	117893

Section 251.10. CLA COURT OF CLAIMS				117895
General Revenue Fund				117896
GRF 015321 Operating Expenses	\$	2,501,052	\$ 2,501,052	117897
TOTAL GRF General Revenue Fund	\$	2,501,052	\$ 2,501,052	117898
State Special Revenue Fund Group				117899
5K20 015603 CLA Victims of Crime	\$	415,556	\$ 415,953	117900
TOTAL SSR State Special Revenue				117901
Fund Group	\$	415,556	\$ 415,953	117902
TOTAL ALL BUDGET FUND GROUPS	\$	2,916,608	\$ 2,917,005	117903
Section 253.10. DEN STATE DENTAL BOARD				117905
General Services Fund Group				117906
4K90 880609 Operating Expenses	\$	1,566,484	\$ 1,566,484	117907
TOTAL GSF General Services Fund				117908
Group	\$	1,566,484	\$ 1,566,484	117909
TOTAL ALL BUDGET FUND GROUPS	\$	1,566,484	\$ 1,566,484	117910
Section 255.10. BDP BOARD OF DEPOSIT				117912
General Services Fund Group				117913
4M20 974601 Board of Deposit	\$	1,876,000	\$ 1,876,000	117914
TOTAL GSF General Services Fund				117915
Group	\$	1,876,000	\$ 1,876,000	117916
TOTAL ALL BUDGET FUND GROUPS	\$	1,876,000	\$ 1,876,000	117917
BOARD OF DEPOSIT EXPENSE FUND				117918
Upon receiving certification of expenses from the Treasurer				117919
of State, the Director of Budget and Management shall transfer				117920
cash from the Investment Earnings Redistribution Fund (Fund 6080)				117921
to the Board of Deposit Expense Fund (Fund 4M20). The latter fund				117922
shall be used pursuant to section 135.02 of the Revised Code to				117923
pay for any and all necessary expenses of the Board of Deposit or				117924
for banking charges and fees required for the operation of the				117925

State of Ohio Regular Account.					117926
Section 257.10. DEV DEVELOPMENT SERVICES AGENCY					117927
General Revenue Fund					117928
GRF 195402	Coal Research	\$	261,205	\$ 261,405	117929
	Operating				
GRF 195407	Travel and Tourism	\$	1,300,000	\$ 0	117930
GRF 195415	Business Development	\$	2,413,387	\$ 2,413,387	117931
	Services				
GRF 195426	Redevelopment	\$	468,365	\$ 468,365	117932
	Assistance				
GRF 195497	CDBG Operating Match	\$	1,015,000	\$ 1,015,000	117933
GRF 195532	Technology Programs	\$	13,547,341	\$ 13,547,341	117934
	and Grants				
GRF 195533	Business Assistance	\$	5,899,465	\$ 5,899,465	117935
GRF 195535	Appalachia Assistance	\$	4,286,482	\$ 4,286,482	117936
GRF 195901	Coal Research &	\$	2,858,900	\$ 4,327,200	117937
	Development General				
	Obligation Debt				
	Service				
GRF 195905	Third Frontier	\$	66,511,600	\$ 83,783,000	117938
	Research &				
	Development General				
	Obligation Debt				
	Service				
GRF 195912	Job Ready Site	\$	15,498,400	\$ 19,124,500	117939
	Development General				
	Obligation Debt				
	Service				
TOTAL GRF	General Revenue Fund	\$	114,060,145	\$ 135,126,145	117940
General Services Fund Group					117941
1350 195684	Development Services	\$	10,800,000	\$ 10,800,000	117942

		Operations				
4W10	195646	Minority Business	\$	2,500,000	\$	2,500,000 117943
		Enterprise Loan				
5KN0	195640	Local Government	\$	16,130,986	\$	16,000,000 117944
		Innovation				
5MB0	195623	Business Incentive	\$	15,000,000	\$	0 117945
		Grants				
5MK0	195600	Vacant Facilities	\$	1,000,000	\$	1,000,000 117946
		Grant				
5W50	195690	Travel and Tourism	\$	150,000	\$	150,000 117947
		Cooperative Projects				
6850	195636	Development Services	\$	700,000	\$	700,000 117948
		Reimbursable				
		Expenditures				
TOTAL	GSF	General Services Fund				117949
Group			\$	46,280,986	\$	31,150,000 117950
Federal	Special	Revenue Fund Group				117951
3080	195602	Appalachian Regional	\$	475,000	\$	475,000 117952
		Commission				
3080	195603	Housing Assistance	\$	10,000,000	\$	10,000,000 117953
		Programs				
3080	195609	Small Business	\$	5,271,381	\$	5,271,381 117954
		Administration Grants				
3080	195618	Energy Grants	\$	9,307,779	\$	4,109,193 117955
3080	195670	Home Weatherization	\$	17,000,000	\$	17,000,000 117956
		Program				
3080	195671	Brownfield	\$	5,000,000	\$	5,000,000 117957
		Redevelopment				
3080	195672	Manufacturing	\$	5,359,305	\$	5,359,305 117958
		Extension Partnership				
3080	195675	Procurement Technical	\$	600,000	\$	600,000 117959
		Assistance				
3080	195681	SBDC Disability	\$	1,300,000	\$	1,300,000 117960

		Consulting					
3350	195610	Energy Programs	\$	200,000	\$	200,000	117961
3AE0	195643	Workforce Development	\$	1,800,000	\$	1,800,000	117962
		Initiatives					
3DB0	195642	Federal Stimulus -	\$	38,152	\$	0	117963
		Energy Efficiency &					
		Conservation Block					
		Grants					
3FJ0	195626	Small Business	\$	32,046,846	\$	5,655,326	117964
		Capital Access and					
		Collateral					
		Enhancement Program					
3FJ0	195661	Technology Targeted	\$	12,750,410	\$	2,250,072	117965
		Investment Program					
3K80	195613	Community Development	\$	65,000,000	\$	65,000,000	117966
		Block Grant					
3K90	195611	Home Energy	\$	172,000,000	\$	172,000,000	117967
		Assistance Block					
		Grant					
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	117968
3L00	195612	Community Services	\$	27,240,217	\$	27,240,217	117969
		Block Grant					
3V10	195601	HOME Program	\$	30,000,000	\$	30,000,000	117970
TOTAL FED		Federal Special Revenue					117971
Fund Group			\$	417,389,090	\$	375,260,494	117972
State Special Revenue Fund Group							117973
4500	195624	Minority Business	\$	74,868	\$	74,905	117974
		Bonding Program					
		Administration					
4510	195649	Business Assistance	\$	6,300,800	\$	6,700,800	117975
		Programs					
4F20	195639	State Special Projects	\$	102,145	\$	102,104	117976
4F20	195699	Utility Community	\$	500,000	\$	500,000	117977

		Assistance					
5CG0	195679	Alternative Fuel	\$	750,000	\$	750,000	117978
		Transportation					
5HR0	195526	Incumbent Workforce	\$	30,000,000	\$	30,000,000	117979
		Training Vouchers					
5HR0	195622	Defense Development	\$	5,000,000	\$	5,000,000	117980
		Assistance					
5JR0	195635	Redevelopment Program	\$	100,000	\$	100,000	117981
		Support					
5KP0	195645	Historic Rehab	\$	650,000	\$	650,000	117982
		Operating					
5LU0	195673	Racetrack Facility	\$	12,000,000	\$	0	117983
		Community Economic					
		Redevelopment Fund					
5M40	195659	Low Income Energy	\$	350,000,000	\$	350,000,000	117984
		Assistance (USF)					
5M50	195660	Advanced Energy Loan	\$	8,000,000	\$	8,000,000	117985
		Programs					
5MH0	195644	SiteOhio	\$	100,000	\$	100,000	117986
		Administration					
5MJ0	195683	TourismOhio	\$	7,000,000	\$	8,000,000	117987
		Administration					
5W60	195691	International Trade	\$	18,000	\$	18,000	117988
		Cooperative Projects					
6170	195654	Volume Cap	\$	32,562	\$	32,562	117989
		Administration					
6460	195638	Low- and Moderate-	\$	53,000,000	\$	53,000,000	117990
		Income Housing Trust					
		Fund					
TOTAL SSR		State Special Revenue					117991
Fund Group			\$	473,628,375	\$	463,028,371	117992
Facilities Establishment		Fund Group					117993
5S90	195628	Capital Access Loan	\$	3,000,000	\$	3,000,000	117994

		Program					
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000	117995
7010	195665	Research and	\$	22,000,000	\$	22,000,000	117996
		Development					
7037	195615	Facilities	\$	50,000,000	\$	50,000,000	117997
		Establishment					
TOTAL	037	Facilities					117998
Establishment	Fund Group		\$	90,000,000	\$	90,000,000	117999
Clean Ohio	Revitalization	Fund					118000
7003	195663	Clean Ohio Program	\$	950,000	\$	950,000	118001
TOTAL	7003	Clean Ohio	\$	950,000	\$	950,000	118002
Revitalization	Fund						
Third Frontier	Research & Development	Fund Group					118003
7011	195686	Third Frontier	\$	1,149,750	\$	1,149,750	118004
		Operating					
7011	195687	Third Frontier	\$	90,850,250	\$	90,850,250	118005
		Research &					
		Development Projects					
7014	195620	Third Frontier	\$	1,700,000	\$	1,700,000	118006
		Operating - Tax					
7014	195692	Research &	\$	38,300,000	\$	38,300,000	118007
		Development Taxable					
		Bond Projects					
TOTAL	011	Third Frontier Research &	\$	132,000,000	\$	132,000,000	118008
Development	Fund Group						
Job Ready	Site Development	Fund Group					118009
7012	195688	Job Ready Site	\$	800,000	\$	800,000	118010
		Development					
TOTAL	012	Job Ready Site	\$	800,000	\$	800,000	118011
Development	Fund Group						
Tobacco	Master Settlement Agreement	Fund Group					118012
M087	195435	Biomedical Research	\$	1,896,595	\$	1,906,025	118013

and Technology
Transfer

TOTAL TSF Tobacco Master Settlement Agreement Fund Group	\$	1,896,595	\$	1,906,025	118014
TOTAL ALL BUDGET FUND GROUPS	\$	1,277,005,191	\$	1,230,221,035	118015

Section 257.20. COAL RESEARCH OPERATING 118017

The foregoing appropriation item 195402, Coal Research Operating, shall be used for the operating expenses of the Community Services Division in support of the Ohio Coal Development Office. 118018
118019
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TRAVEL AND TOURISM 118022

The foregoing appropriation item 195407, Travel and Tourism, shall be used for marketing the state of Ohio as a tourism destination and to support administrative expenses and contracts necessary to market Ohio. 118023
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BUSINESS DEVELOPMENT SERVICES 118027

The foregoing appropriation item 195415, Business Development Services, shall be used for the operating expenses of the Business Services Division and the regional economic development offices and for grants for cooperative economic development ventures. 118028
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REDEVELOPMENT ASSISTANCE 118032

The foregoing appropriation item 195426, Redevelopment Assistance, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the Development Services Agency. 118033
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CDBG OPERATING MATCH 118038

The foregoing appropriation item 195497, CDBG Operating Match, shall be used as matching funds for grants from the United States Department of Housing and Urban Development pursuant to the 118039
118040
118041

Housing and Community Development Act of 1974 and regulations and 118042
policy guidelines for the programs pursuant thereto. 118043

TECHNOLOGY PROGRAMS AND GRANTS 118044

Of the foregoing appropriation item 195532, Technology 118045
Programs and Grants, up to \$547,341 in each fiscal year shall be 118046
used for operating expenses incurred in administering the Ohio 118047
Third Frontier pursuant to sections 184.10 to 184.20 of the 118048
Revised Code; and up to \$13,000,000 in each fiscal year shall be 118049
used for the Thomas Edison Program pursuant to sections 122.28 to 118050
122.38 of the Revised Code, of which not more than ten per cent 118051
shall be used for operating expenses incurred in administering the 118052
program. 118053

BUSINESS ASSISTANCE 118054

The foregoing appropriation item 195533, Business Assistance, 118055
may be used to provide a range of business assistance, including 118056
grants to local organizations to support economic development 118057
activities that promote minority business development, small 118058
business development, entrepreneurship, and exports of Ohio's 118059
goods and services. This appropriation item shall also be used as 118060
matching funds for grants from the United States Small Business 118061
Administration and other federal agencies, pursuant to Public Law 118062
No. 96-302 as amended by Public Law No. 98-395, and regulations 118063
and policy guidelines for the programs pursuant thereto. 118064

APPALACHIA ASSISTANCE 118065

The foregoing appropriation item 195535, Appalachia 118066
Assistance, may be used for the administrative costs of planning 118067
and liaison activities for the Governor's Office of Appalachia, to 118068
provide financial assistance to projects in Ohio's Appalachian 118069
counties, and to pay dues for the Appalachian Regional Commission. 118070
These funds may be used to match federal funds from the 118071
Appalachian Regional Commission. 118072

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE 118073

The foregoing appropriation line item 195901, Coal Research 118074
and Development General Obligation Debt Service, shall be used to 118075
pay all debt service and related financing costs during the period 118076
July 1, 2013, through June 30, 2015 for obligations issued under 118077
sections 151.01 and 151.07 of the Revised Code. 118078

THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT 118079
SERVICE 118080

The foregoing appropriation item 195905, Third Frontier 118081
Research & Development General Obligation Debt Service, shall be 118082
used to pay all debt service and related financing costs during 118083
the period from July 1, 2013, through June 30, 2015, on 118084
obligations issued for research and development purposes under 118085
sections 151.01 and 151.10 of the Revised Code. 118086

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE 118087

The foregoing appropriation item 195912, Job Ready Site 118088
Development General Obligation Debt Service, shall be used to pay 118089
all debt service and related financing costs during the period 118090
from July 1, 2013, through June 30, 2015, on obligations issued 118091
for job ready site development purposes under sections 151.01 and 118092
151.11 of the Revised Code. 118093

Section 257.30. DEVELOPMENT SERVICES OPERATIONS 118094

The Director of Development Services may assess offices of 118095
the agency for the cost of central service operations. An 118096
assessment shall contain the characteristics of administrative 118097
ease and uniform application. A division's payments shall be 118098
credited to the Supportive Services Fund (Fund 1350) using an 118099
intrastate transfer voucher. 118100

The foregoing appropriation item 195640, Local Government 118101
Innovation, shall be used for the purposes of making loans and 118102

grants to political subdivisions under the Local Government 118103
Innovation Program in accordance with sections 189.01 to 189.10 of 118104
the Revised Code. Of the foregoing appropriation item 195640, 118105
Local Government Innovation, up to \$175,000 in each fiscal year 118106
shall be used for administrative costs incurred by the Development 118107
Services Agency. 118108

TRAVEL AND TOURISM COOPERATIVE PROJECTS 118109

The foregoing appropriation item 195690, Travel and Tourism 118110
Cooperative Projects, shall consist solely of leveraged private 118111
sector paid advertising dollars received in tourism marketing 118112
assistance and co-op programs. These funds are to be used for the 118113
marketing and promotion of travel and tourism in Ohio. 118114

DEVELOPMENT SERVICES REIMBURSABLE EXPENDITURES 118115

The foregoing appropriation item 195636, Development Services 118116
Reimbursable Expenditures, shall be used for reimbursable costs 118117
incurred by the agency. Revenues to the General Reimbursement Fund 118118
(Fund 6850) shall consist of moneys charged for administrative 118119
costs that are not central service costs. 118120

Section 257.40. HEAP WEATHERIZATION 118121

Up to fifteen per cent of the federal funds deposited to the 118122
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 118123
may be expended from appropriation item 195614, HEAP 118124
Weatherization, to provide home weatherization services in the 118125
state as determined by the Director of Development Services. Any 118126
transfers or increases in appropriation for the foregoing 118127
appropriation items 195614, HEAP Weatherization, or 195611, Home 118128
Energy Assistance Block Grant, shall be subject to approval by the 118129
Controlling Board. 118130

Section 257.50. BUSINESS ASSISTANCE PROGRAMS 118131

The foregoing appropriation item 195649, Business Assistance Programs, shall be used for administrative expenses associated with the operation of tax credit programs, loan servicing, the Ohio Film Office, workforce initiatives, and the Office of Strategic Business Investments, and for payments to the JobsOhio corporation established in Chapter 187. of the Revised Code for services provided for the administration of the 166 Direct Loan Program, Ohio Enterprise Bond Fund, Research and Development Loan Program, and Innovation Ohio Loan Program.

STATE SPECIAL PROJECTS

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited may also be used to match federal housing grants for the homeless.

MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development Services may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2014-fiscal year 2015 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code.

If needed for the payment of losses arising from the Minority Business Bonding Program, the Director of Budget and Management may, at the request of the Director of Development Services,

request that the Director of Commerce transfer unclaimed funds 118163
that have been reported by holders of unclaimed funds under 118164
section 169.05 of the Revised Code to the Minority Bonding Fund 118165
(Fund 4490). The transfer of unclaimed funds shall only occur 118166
after proceeds of the initial transfer of \$2,700,000 by the 118167
Controlling Board to the Minority Business Bonding Program have 118168
been used for that purpose. If expenditures are required for 118169
payment of losses arising from the Minority Business Bonding 118170
Program, such expenditures shall be made from appropriation item 118171
195658, Minority Business Bonding Contingency in the Minority 118172
Business Bonding Fund, and such amounts are hereby appropriated. 118173

INCUMBENT WORKFORCE TRAINING VOUCHERS 118174

(A) The Director of Budget and Management may transfer up to 118175
\$30,000,000 cash in each fiscal year from the Economic Development 118176
Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio 118177
Incumbent Workforce Job Training Fund (Fund 5HR0) used by the 118178
Development Services Agency. 118179

(B) Of the foregoing appropriation item 195526, Incumbent 118180
Workforce Training Vouchers, up to \$30,000,000 in each fiscal year 118181
shall be used to support the Ohio Incumbent Workforce Training 118182
Voucher Program. 118183

(C) The Ohio Incumbent Workforce Training Voucher Program 118184
shall conform to guidelines for the operation of the program, 118185
including, but not limited to, the following: 118186

(1) A requirement that a training voucher under the program 118187
shall not exceed \$6,000 per worker per year; 118188

(2) A provision for an employer of an eligible employee to 118189
apply for a voucher on behalf of the eligible employee; 118190

(3) A provision for an eligible employee to apply directly 118191
for a training voucher with the pre-approval of the employee's 118192
employer; and 118193

(4) A requirement that an employee participating in the 118194
program, or the employee's employer, shall pay for not less than 118195
thirty-three per cent of the training costs under the program. 118196

On July 1, 2014, or as soon as possible thereafter, the 118197
Director of Development Services may request that the Director of 118198
Budget and Management reappropriate any unexpended, unencumbered 118199
balance of the prior fiscal year's appropriation to the foregoing 118200
appropriation item 195526, Incumbent Workforce Training Vouchers, 118201
for fiscal year 2015. The Director of Budget and Management may 118202
request additional information necessary for evaluating the 118203
request, and the Director of Development Services shall provide 118204
the requested information to the Director of Budget and 118205
Management. Based on the information provided by the Director of 118206
Development Services, the Director of Budget and Management shall 118207
determine the amount to be reappropriated, and those amounts are 118208
hereby reappropriated for fiscal year 2015. 118209

DEFENSE DEVELOPMENT ASSISTANCE 118210

The Director of Budget and Management may transfer up to 118211
\$5,000,000 in cash in each fiscal year from the Economic 118212
Development Programs Fund (Fund 5JC0) used by the Board of Regents 118213
to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used 118214
by the Development Services Agency. The transferred funds shall be 118215
used for appropriation item 195622, Defense Development 118216
Assistance, for economic development programs and the creation of 118217
new jobs to leverage and support mission gains at Department of 118218
Defense facilities in Ohio by working with future base realignment 118219
and closure activities and ongoing Department of Defense 118220
efficiency initiatives, assisting efforts to secure Department of 118221
Defense support contracts for Ohio companies, assessing and 118222
supporting regional job training and workforce development needs 118223
generated by the Department of Defense and the Ohio aerospace 118224
industry, and for expanding job training and economic development 118225

programs in human performance related initiatives. A portion of 118226
these funds shall be matched by private industry partners or the 118227
Department of Defense. 118228

On July 1, 2014, or as soon as possible thereafter, the 118229
Director of Development Services may request that the Director of 118230
Budget and Management reappropriate any unexpended, unencumbered 118231
balance of the prior fiscal year's appropriation to the foregoing 118232
appropriation item 195622, Defense Development Assistance, for 118233
fiscal year 2015. The Director of Budget and Management may 118234
request additional information necessary for evaluating the 118235
request, and the Director of Development Services shall provide 118236
the requested information to the Director of Budget and 118237
Management. Based on the information provided by the Director of 118238
Development Services, the Director of Budget and Management shall 118239
determine the amount to be reappropriated, and those amounts are 118240
hereby reappropriated for fiscal year 2015. 118241

ADVANCED ENERGY LOAN PROGRAMS 118242

The foregoing appropriation item 195660, Advanced Energy Loan 118243
Programs, shall be used to provide financial assistance to 118244
customers for eligible advanced energy projects for residential, 118245
commercial, and industrial business, local government, educational 118246
institution, nonprofit, and agriculture customers, and to pay for 118247
the program's administrative costs as provided in sections 4928.61 118248
to 4928.63 of the Revised Code and rules adopted by the Director 118249
of Development Services. 118250

VOLUME CAP ADMINISTRATION 118251

The foregoing appropriation item 195654, Volume Cap 118252
Administration, shall be used for expenses related to the 118253
administration of the Volume Cap Program. Revenues received by the 118254
Volume Cap Administration Fund (Fund 6170) shall consist of 118255
application fees, forfeited deposits, and interest earned from the 118256

custodial account held by the Treasurer of State. 118257

Section 257.60. CAPITAL ACCESS LOAN PROGRAM 118258

The foregoing appropriation item 195628, Capital Access Loan 118259
Program, shall be used for operating, program, and administrative 118260
expenses of the program. Funds of the Capital Access Loan Program 118261
shall be used to assist participating financial institutions in 118262
making program loans to eligible businesses that face barriers in 118263
accessing working capital and obtaining fixed-asset financing. 118264

INNOVATION OHIO LOAN FUND 118265

The foregoing appropriation item 195664, Innovation Ohio, 118266
shall be used to provide for Innovation Ohio purposes, including 118267
loan guarantees and loans under Chapter 166. and particularly 118268
sections 166.12 to 166.16 of the Revised Code. 118269

RESEARCH AND DEVELOPMENT 118270

The foregoing appropriation item 195665, Research and 118271
Development, shall be used to provide for research and development 118272
purposes, including loans, under Chapter 166. and particularly 118273
sections 166.17 to 166.21 of the Revised Code. 118274

FACILITIES ESTABLISHMENT 118275

The foregoing appropriation item 195615, Facilities 118276
Establishment, shall be used for the purposes of the Facilities 118277
Establishment Fund (Fund 7037) under Chapter 166. of the Revised 118278
Code. 118279

Notwithstanding Chapter 166. of the Revised Code, an amount 118280
not to exceed \$3,000,000 in cash in each fiscal year may be 118281
transferred from the Facilities Establishment Fund (Fund 7037) to 118282
the Business Assistance Fund (Fund 4510). The transfer is subject 118283
to Controlling Board approval under division (B) of section 166.03 118284
of the Revised Code. 118285

Notwithstanding Chapter 166. of the Revised Code, the 118286
Director of Budget and Management may transfer an amount not to 118287
exceed \$1,000,000 in cash in each fiscal year from the Facilities 118288
Establishment Fund (Fund 7037) to the Minority Business Enterprise 118289
Loan Fund (Fund 4W10). 118290

Notwithstanding Chapter 166. of the Revised Code, the 118291
Director of Budget and Management may transfer an amount not to 118292
exceed \$2,000,000 in cash in each fiscal year from the Facilities 118293
Establishment Fund (Fund 7037) to the Capital Access Loan Fund 118294
(Fund 5S90). 118295

Section 257.70. CLEAN OHIO OPERATING EXPENSES 118296

The foregoing appropriation item 195663, Clean Ohio Program, 118297
shall be used by the Development Services Agency in administering 118298
Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to 118299
sections 122.65 to 122.658 of the Revised Code. 118300

Section 257.80. THIRD FRONTIER OPERATING 118301

The foregoing appropriation items 195686, Third Frontier 118302
Operating, and 195620, Third Frontier Operating - Tax, shall be 118303
used for operating expenses incurred by the Development Services 118304
Agency in administering projects pursuant to sections 184.10 to 118305
184.20 of the Revised Code. Operating expenses paid from item 118306
195686 shall be limited to the administration of projects funded 118307
from the Third Frontier Research & Development Fund (Fund 7011) 118308
and operating expenses paid from item 195620 shall be limited to 118309
the administration of projects funded from the Third Frontier 118310
Research & Development Taxable Bond Project Fund (Fund 7014). 118311

**THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH 118312
AND DEVELOPMENT TAXABLE BOND PROJECTS** 118313

The foregoing appropriation items 195687, Third Frontier 118314
Research & Development Projects, 195692, Research & Development 118315

Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, 118316
shall be used by the Development Services Agency to fund selected 118317
projects. Eligible costs are those costs of research and 118318
development projects to which the proceeds of the Third Frontier 118319
Research & Development Fund (Fund 7011) and the Research & 118320
Development Taxable Bond Project Fund (Fund 7014) are to be 118321
applied. 118322

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS 118323

The Director of Budget and Management may approve written 118324
requests from the Director of Development Services for the 118325
transfer of appropriations between appropriation items 195687, 118326
Third Frontier Research & Development Projects, and 195692, 118327
Research & Development Taxable Bond Projects, based upon awards 118328
recommended by the Third Frontier Commission. The transfers are 118329
subject to approval by the Controlling Board. 118330

In fiscal year 2015, the Director of Development Services may 118331
request that the Director of Budget and Management reappropriate 118332
any unexpended, unencumbered balances of the prior fiscal year's 118333
appropriation to the foregoing appropriation items 195687, Third 118334
Frontier Research & Development Projects, and 195692, Research & 118335
Development Taxable Bond Projects, for fiscal year 2015. The 118336
Director of Budget and Management may request additional 118337
information necessary for evaluating these requests, and the 118338
Director of Development Services shall provide the requested 118339
information to the Director of Budget and Management. Based on the 118340
information provided by the Director of Development Services, the 118341
Director of Budget and Management shall determine the amounts to 118342
be reappropriated, and those amounts are hereby reappropriated for 118343
fiscal year 2015. 118344

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS 118345

The Ohio Public Facilities Commission is hereby authorized to 118346

issue and sell, in accordance with Section 2p of Article VIII, 118347
Ohio Constitution, and particularly sections 151.01 and 151.10 of 118348
the Revised Code, original obligations of the State of Ohio in an 118349
aggregate amount not to exceed \$350,000,000 in addition to the 118350
original issuance of obligations authorized by prior acts of the 118351
General Assembly. The authorized obligations shall be issued and 118352
sold from time to time and in amounts necessary to ensure 118353
sufficient moneys to the credit of the Third Frontier Research and 118354
Development Fund (Fund 7011) and the Third Frontier Research and 118355
Development Taxable Bond Fund (Fund 7014) to pay costs of research 118356
and development projects. 118357

Section 257.90. JOB READY SITE PROGRAM 118358

The foregoing appropriation item 195688, Job Ready Site 118359
Development, shall be used for operating expenses incurred by the 118360
Development Services Agency in administering Job Ready Site 118361
Development Fund (Fund 7012) projects pursuant to sections 122.085 118362
to 122.0820 of the Revised Code. Operating expenses include, but 118363
are not limited to, certain qualified expenses of the District 118364
Public Works Integrating Committees, as applicable, engineering 118365
review of submitted applications by the State Architect or a 118366
third-party engineering firm, audit and accountability activities, 118367
and costs associated with formal certifications verifying that 118368
site infrastructure is in place and is functional. 118369

Section 257.100. THIRD FRONTIER BIOMEDICAL RESEARCH AND 118370
COMMERCIALIZATION SUPPORT 118371

The General Assembly and the Governor recognize the role that 118372
the biomedical industry has in job creation, innovation, and 118373
economic development throughout Ohio. It is the intent of the 118374
General Assembly, the Governor, the Director of Development 118375
Services, and the Director of Budget and Management to work 118376

together in continuing to provide comprehensive state support for 118377
the biomedical industry. 118378

Section 257.110. (A) ASSORTED TRANSFERS FOR RESTRUCTURING 118379

On July 1, 2013, or as soon as possible thereafter, the 118380
Director of Budget and Management may transfer the cash balances 118381
in the Motion Picture Tax Credit Program Operating Fund (Fund 118382
5HJ0), the Tax Incentive Program Operating Fund (Fund 4S00), and 118383
the Tax Credit Operating Fund (Fund 4S10), to the Business 118384
Assistance Fund (Fund 4510). 118385

On July 1, 2013, or as soon as possible thereafter, the 118386
Director of Budget and Management may transfer the cash balances 118387
in the Family Farm Loan Fund (Fund 5H10), the First Frontier Fund 118388
(Fund 4H40), and the Rapid Outreach Loan Fund (Fund 7022) to the 118389
Facility Establishment Fund (Fund 7037). 118390

On July 1, 2013, or as soon as possible thereafter, the 118391
Director of Budget and Management may transfer the cash balance in 118392
the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New Markets 118393
Tax Credit Program Fund (Fund 5JR0). 118394

On July 1, 2013, or as soon as possible thereafter, the 118395
Director of Budget and Management may transfer the cash balance in 118396
the Water and Sewer Fund (Fund 4440) and the Water and Sewer 118397
Administrative Fund (Fund 6110) to the General Reimbursements Fund 118398
(Fund 6850). 118399

On July 1, 2013, or as soon as possible thereafter, the 118400
Director of Budget and Management may transfer the cash balance in 118401
the Local Government Services Collaboration Grant Fund (Fund 7088) 118402
to the Local Government Innovation Fund (Fund 5KN0). 118403

On July 1, 2013, or as soon as possible thereafter, the 118404
Director of Budget and Management may transfer the cash balance in 118405
the Exempt Facility Inspection Fund (Fund 5X10) to the Advanced 118406

Energy Fund (Fund 5M50).					118407
(B) ABOLISHMENT OF FUNDS					118408
On July 1, 2013, or as soon as possible thereafter, upon					118409
completion of all transfers described in division (A) of this					118410
section by the Director of Budget and Management, the following					118411
funds are abolished: Diesel Emissions Reduction Grant Fund (Fund					118412
3BD0), TANF Heating Assistance Fund (Fund 3BJ0), TANF Housing Fund					118413
(Fund 3X30), Water & Sewer Fund (Fund 4440), First Frontier Fund					118414
(Fund 4H40), Tax Incentive Program Operating Fund (Fund 4S00), Tax					118415
Credit Operating Fund (Fund 4S10), Shovel Ready Sites Fund (Fund					118416
5CA0), Defense Conversion Assistance Fund (Fund 5CV0), Port					118417
Authority Bond Reserves Fund (Fund 5D10), Urban Redevelopment Loan					118418
Fund (Fund 5D20), Energy Projects Fund (Fund 5DU0), Family Farm					118419
Loan Fund (Fund 5H10), Motion Picture Tax Credit Program Operating					118420
Fund (Fund 5HJ0), Brownfield Stormwater Loan Fund (Fund 5KD0),					118421
Exempt Facility Inspection Fund (Fund 5X10), Family Homelessness					118422
Prevention Pilot Fund (Fund 5X50), Water & Sewer Administrative					118423
Fund (Fund 6110), Rapid Outreach Loan Fund (Fund 7022), Logistics					118424
& Distribution Taxable Bond Fund (Fund 7048), and the Local					118425
Government Services Collaboration Grant Fund (Fund 7088).					118426
Section 259.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES					118427
General Revenue Fund					118428
GRF 320412 Protective Services	\$	1,918,196	\$	1,918,196	118429
GRF 320415 Lease-Rental Payments	\$	15,843,300	\$	16,076,700	118430
GRF 322420 Screening and Early Intervention	\$	300,000	\$	300,000	118431
GRF 322451 Family Support Services	\$	5,932,758	\$	5,932,758	118432
GRF 322501 County Boards Subsidies	\$	44,449,280	\$	44,449,280	118433
GRF 322503 Tax Equity	\$	14,000,000	\$	14,000,000	118434

GRF	322507	County Board Case Management	\$	2,500,000	\$	2,500,000	118435
GRF	322508	Employment First Pilot Program	\$	1,000,000	\$	1,000,000	118436
GRF	653321	Medicaid Program Support - State	\$	6,186,694	\$	6,186,694	118437
GRF	653407	Medicaid Services	\$	428,056,111	\$	433,574,237	118438
TOTAL GRF		General Revenue Fund	\$	520,186,339	\$	525,937,865	118439
		General Services Fund Group					118440
1520	653609	DC and Residential Operating Services	\$	3,414,317	\$	3,414,317	118441
TOTAL GSF		General Services Fund Group	\$	3,414,317	\$	3,414,317	118442
		Federal Special Revenue Fund Group					118443
3A50	320613	DD Council	\$	3,297,656	\$	3,324,187	118444
3250	322612	Community Social Service Programs	\$	10,604,896	\$	10,604,896	118445
3A40	653604	DC & ICF/IID Program Support	\$	8,013,611	\$	8,013,611	118446
3A40	653605	DC and Residential Services and Support	\$	159,548,565		159,548,565	118447
3A40	653653	ICF/IID	\$	354,712,840	\$	353,895,717	118448
3G60	653639	Medicaid Waiver Services	\$	928,623,249	\$	1,019,035,423	118449
3G60	653640	Medicaid Waiver Program Support	\$	36,934,303	\$	36,170,872	118450
3M70	653650	CAFS Medicaid	\$	3,000,000	\$	3,000,000	118451
TOTAL FED		Federal Special Revenue Fund Group	\$	1,504,735,120	\$	1,593,593,271	118452
		State Special Revenue Fund Group					118453
5GE0	320606	Operating and Services	\$	7,407,297	\$	7,407,297	118454

2210	322620	Supplement Service Trust	\$	150,000	\$	150,000	118455
5DJ0	322625	Targeted Case Management Match	\$	33,750,000	\$	37,260,000	118456
5DK0	322629	Capital Replacement Facilities	\$	750,000	\$	750,000	118457
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000	118458
5JX0	322651	Interagency Workgroup - Autism	\$	45,000		45,000	118459
4890	653632	DC Direct Care Services	\$	16,497,169	\$	16,497,169	118460
5CT0	653607	Intensive Behavioral Needs	\$	1,000,000	\$	1,000,000	118461
5DJ0	653626	Targeted Case Management Services	\$	91,740,000	\$	100,910,000	118462
5EV0	653627	Medicaid Program Support	\$	685,000	\$	685,000	118463
5GE0	653606	ICF/IID and Waiver Match	\$	40,353,139	\$	39,106,638	118464
5S20	653622	Medicaid Admin and Oversight	\$	17,341,201	\$	19,032,154	118465
5Z10	653624	County Board Waiver Match	\$	284,740,000	\$	336,480,000	118466
TOTAL SSR	State Special Revenue		\$	494,618,806	\$	559,483,258	118467
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	2,522,954,582	\$	2,682,428,711	118468

Section 259.20. LEASE-RENTAL PAYMENTS 118470

The foregoing appropriation item 320415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Developmental Disabilities under leases and agreements made under section 154.20 of the

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Revised Code. These appropriations are the source of funds pledged 118476
for bond service charges on related obligations issued under 118477
Chapter 154. of the Revised Code. 118478

Section 259.30. SCREENING AND EARLY INTERVENTION 118479

The foregoing appropriation item 322420, Screening and Early 118480
Intervention, shall be used for screening and early intervention 118481
programs for children with autism selected by the Director of 118482
Developmental Disabilities. 118483

Section 259.40. FAMILY SUPPORT SERVICES SUBSIDY 118484

The foregoing appropriation item 322451, Family Support 118485
Services, may be used as follows in fiscal year 2014 and fiscal 118486
year 2015: 118487

(A) The appropriation item may be used to provide a subsidy 118488
to county boards of developmental disabilities for family support 118489
services provided under section 5126.11 of the Revised Code. The 118490
subsidy shall be paid in quarterly installments and allocated to 118491
county boards according to a formula the Director of Developmental 118492
Disabilities shall develop in consultation with representatives of 118493
county boards. A county board shall use not more than seven per 118494
cent of its subsidy for administrative costs. 118495

(B) The appropriation item may be used to distribute funds to 118496
county boards for the purpose of addressing economic hardships and 118497
to promote efficiency of operations. In consultation with 118498
representatives of county boards, the Director shall determine the 118499
amount of funds to distribute for these purposes and the criteria 118500
for distributing the funds. 118501

Section 259.50. STATE SUBSIDY TO COUNTY DD BOARDS 118502

(A) Except as provided in the section of this act titled 118503
"NONFEDERAL SHARE OF ICF/IID SERVICES," the foregoing 118504

appropriation item 322501, County Boards Subsidies, shall be used 118505
for the following purposes: 118506

(1) To provide a subsidy to county boards of developmental 118507
disabilities in quarterly installments and allocated according to 118508
a formula developed by the Director of Developmental Disabilities 118509
in consultation with representatives of county boards. Except as 118510
provided in section 5126.0511 of the Revised Code or in division 118511
(B) of this section, county boards shall use the subsidy for early 118512
childhood services and adult services provided under section 118513
5126.05 of the Revised Code, service and support administration 118514
provided under section 5126.15 of the Revised Code, or supported 118515
living as defined in section 5126.01 of the Revised Code. 118516

(2) To provide funding, as determined necessary by the 118517
Director, for residential services, including room and board, and 118518
support service programs that enable individuals with 118519
developmental disabilities to live in the community. 118520

(3) To distribute funds to county boards of developmental 118521
disabilities to address economic hardships and promote efficiency 118522
of operations. The Director shall determine, in consultation with 118523
representatives of county boards, the amount of funds to 118524
distribute for these purposes and the criteria for distributing 118525
the funds. 118526

(B) In collaboration with the county's family and children 118527
first council, a county board of developmental disabilities may 118528
transfer portions of funds received under this section, to a 118529
flexible funding pool in accordance with the section of this act 118530
titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." 118531

Section 259.60. COUNTY BOARD SHARE OF WAIVER SERVICES 118532

As used in this section, "home and community-based services" 118533
has the same meaning as in section 5123.01 of the Revised Code. 118534

The Director of Developmental Disabilities shall establish a methodology to be used in fiscal year 2014 and fiscal year 2015 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of home and community-based services that section 5126.0510 of the Revised Code requires county boards to pay. Each quarter, the Director shall submit to a county board written notice of the amount the county board is to pay for that quarter. The notice shall specify when the payment is due.

Section 259.70. TAX EQUITY

Notwithstanding section 5126.18 of the Revised Code, the foregoing appropriation item 322503, Tax Equity, may be used to distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director of Developmental Disabilities shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

Section 259.80. MEDICAID SERVICES

Except as provided in section 5123.0416 of the Revised Code, the purposes for which the foregoing appropriation item 653407, Medicaid Services, shall be used include the following:

(A) Home and community-based services, as defined in section 5123.01 of the Revised Code;

(B) Implementation of the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division;

(C) Implementation of the requirements of the agreement settling the consent decree in the *Martin v. Strickland*, Case No.

89-CV-00362, United States District Court for the Southern District of Ohio, Eastern Division; 118565
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(D) ICF/IID services, as defined in 42 C.F.R. 440.150; 118567

(E) Other programs as identified by the Director of Developmental Disabilities. 118568
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Section 259.90. EMPLOYMENT FIRST PILOT PROGRAM 118570

The foregoing appropriation item 322508, Employment First Pilot Program, shall be used to increase employment opportunities for individuals with developmental disabilities through the Employment First Initiative in accordance with section 5123.022 of the Revised Code. 118571
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Of the foregoing appropriation item, 322508, Employment First Pilot Program, the Director of Developmental Disabilities shall transfer, in each fiscal year, to the Opportunities for Ohioans with Disabilities Agency an amount agreed upon by the Director of Developmental Disabilities and the Executive Director of the Opportunities for Ohioans with Disabilities Agency. The transfer shall be made via an intrastate transfer voucher. The transferred funds shall be used to support the Employment First Pilot Program. The Opportunities for Ohioans with Disabilities Agency shall use the funds transferred as state matching funds to obtain available federal grant dollars for vocational rehabilitation services. Any federal match dollars received by the Opportunities for Ohioans with Disabilities Agency shall be used for the pilot program. The Director of Developmental Disabilities and the Executive Director of the Opportunities for Ohioans with Disabilities Agency shall enter into an interagency agreement in accordance with section 3304.181 of the Revised Code that will specify the responsibilities of each agency under the pilot program. Under the interagency agreement, the Opportunities for Ohioans with Disabilities Agency shall retain responsibility for eligibility 118576
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determination, order of selection, plan approval, plan amendment, 118596
and release of vendor payments. 118597

The remainder of appropriation item 322508, Employment First 118598
Pilot Program, shall be used to develop a long term, sustainable 118599
system that places individuals with developmental disabilities in 118600
community employment, as defined in section 5126.01 of the Revised 118601
Code. 118602

Section 259.100. EMPLOYMENT FIRST TASKFORCE FUND 118603

If an employment first task force is established by the 118604
Director of Developmental Disabilities in accordance with section 118605
5123.023 of the Revised Code, the Director of Budget and 118606
Management shall establish an appropriation item from the 118607
Employment First Taskforce Fund for use by the Department of 118608
Developmental Disabilities to support the work of the task force. 118609
In fiscal year 2014 and fiscal year 2015, if an employment first 118610
task force is established, the Director of Developmental 118611
Disabilities shall certify to the Director of Budget and 118612
Management the appropriation amounts necessary for the Department 118613
of Developmental Disabilities to fulfill its obligation to support 118614
the work of the task force. Once the certification required under 118615
this section has been submitted and approved by the Director of 118616
Budget and Management, the appropriations established under this 118617
section are hereby appropriated in the amounts approved by the 118618
Director of Budget and Management. 118619

Section 259.110. TRANSFER TO OPERATING AND SERVICES FUND 118620

On July 1, 2013, or as soon as possible thereafter, the 118621
Director of Developmental Disabilities shall request the Director 118622
of Budget and Management to transfer the cash balance in the Home 118623
and Community-Based Services Fund (Fund 4K80) to the Operating and 118624
Services Fund (Fund 5GE0). Upon completion of the transfer, Fund 118625

4K80 is hereby abolished. The Director of Budget and Management 118626
shall cancel any existing encumbrances against appropriation item 118627
322604, Medicaid Waiver - State Match, and reestablish them 118628
against appropriation item 653606, ICF/IID and Waiver Match. The 118629
reestablished encumbrance amounts are hereby appropriated. 118630

Section 259.120. OPERATING AND SERVICES 118631

Of the foregoing appropriation item 320606, Operating and 118632
Services, \$100,000 in each fiscal year shall be provided to the 118633
Ohio Center for Autism and Low Incidence to establish a lifespan 118634
autism hub to support families and professionals. 118635

Section 259.130. TARGETED CASE MANAGEMENT SERVICES 118636

County boards of developmental disabilities shall pay the 118637
nonfederal portion of targeted case management costs to the 118638
Department of Developmental Disabilities. 118639

The Director of Developmental Disabilities and the Medicaid 118640
Director may enter into an interagency agreement under which the 118641
Department of Developmental Disabilities shall transfer cash from 118642
the Targeted Case Management Fund (Fund 5DJ0) to the Health 118643
Care/Medicaid Support and Recoveries Fund (Fund 5DL0) used by the 118644
Department of Medicaid in an amount equal to the nonfederal 118645
portion of the cost of targeted case management services paid by 118646
county boards. Under the agreement, the Department of Medicaid 118647
shall pay the total cost of targeted case management claims. The 118648
transfer shall be made using an intrastate transfer voucher. 118649

Section 259.140. WITHHOLDING OF FUNDS OWED THE DEPARTMENT 118650

If a county board of developmental disabilities does not 118651
fully pay any amount owed to the Department of Developmental 118652
Disabilities by the due date established by the Department, the 118653
Director of Developmental Disabilities may withhold the amount the 118654

county board did not pay from any amounts due to the county board. 118655
The Director may use any appropriation item or fund used by the 118656
Department to transfer cash to any other fund used by the 118657
Department in an amount equal to the amount owed the Department 118658
that the county board did not pay. Transfers under this section 118659
shall be made using an intrastate transfer voucher. 118660

Section 259.150. DEVELOPMENTAL CENTER BILLING FOR SERVICES 118661

Developmental centers of the Department of Developmental 118662
Disabilities may provide services to persons with mental 118663
retardation or developmental disabilities living in the community 118664
or to providers of services to these persons. The Department may 118665
develop a method for recovery of all costs associated with the 118666
provision of these services. 118667

Section 259.160. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER 118668
PHARMACY PROGRAMS 118669

The Director of Developmental Disabilities shall quarterly 118670
transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the 118671
Health Care/Medicaid Support and Recoveries Fund (Fund 5DL0) used 118672
by the Department of Medicaid, in an amount equal to the 118673
nonfederal share of Medicaid prescription drug claim costs for all 118674
developmental centers paid by the Department of Medicaid. The 118675
quarterly transfer shall be made using an intrastate transfer 118676
voucher. 118677

Section 259.170. NONFEDERAL MATCH FOR ACTIVE TREATMENT 118678
SERVICES 118679

Any county funds received by the Department of Developmental 118680
Disabilities from county boards of developmental disabilities for 118681
active treatment shall be deposited in the Developmental 118682
Disabilities Operating Fund (Fund 4890). 118683

Section 259.180. ODODD INNOVATIVE PILOT PROJECTS 118684

(A) In fiscal year 2014 and fiscal year 2015, the Director of 118685
Developmental Disabilities may authorize the continuation or 118686
implementation of one or more innovative pilot projects that, in 118687
the judgment of the Director, are likely to assist in promoting 118688
the objectives of Chapter 5123. or 5126. of the Revised Code. 118689
Subject to division (B) of this section and notwithstanding any 118690
provision of Chapters 5123. and 5126. of the Revised Code and any 118691
rule adopted under either chapter, a pilot project authorized by 118692
the Director may be continued or implemented in a manner 118693
inconsistent with one or more provisions of either chapter or one 118694
or more rules adopted under either chapter. Before authorizing a 118695
pilot program, the Director shall consult with entities interested 118696
in the issue of developmental disabilities, including the Ohio 118697
Provider Resource Association, Ohio Association of County Boards 118698
of Developmental Disabilities, and ARC of Ohio. 118699

(B) The Director may not authorize a pilot project to be 118700
implemented in a manner that would cause the state to be out of 118701
compliance with any requirements for a program funded in whole or 118702
in part with federal funds. 118703

Section 259.190. DEPARTMENT OF DEVELOPMENTAL DISABILITIES' 118704
APPROPRIATION ITEM STRUCTURE 118705

Upon request from the Director of Developmental Disabilities, 118706
the Director of Budget and Management may establish new funds, new 118707
appropriation items, and appropriations in order to support the 118708
transition to a new appropriation item structure in the Department 118709
of Developmental Disabilities' budget. Any appropriations 118710
established by the Director of Budget and Management under this 118711
section are hereby appropriated. Also, upon request of the 118712
Director of Developmental Disabilities, the Director of Budget and 118713

Management may transfer appropriations between GRF appropriation 118714
items, transfer cash between any funds used by the Department of 118715
Developmental Disabilities, abolish existing funds used by the 118716
Department of Developmental Disabilities, and cancel and 118717
reestablish encumbrances. 118718

Section 259.200. FISCAL YEAR 2014 MEDICAID PAYMENT RATES FOR 118719
ICFs/IID 118720

(A) As used in this section: 118721

"Capped per diem rate" means the per Medicaid day payment 118722
rate calculated for an ICF/IID under division (D) of this section. 118723

"Change of operator," "entering operator," "exiting 118724
operator," "ICF/IID," "ICF/IID services," "Medicaid days," 118725
"provider," and "provider agreement" have the same meanings as in 118726
section 5124.01 of the Revised Code. 118727

"Franchise permit fee" means the fee imposed by sections 118728
5168.60 to 5168.71 of the Revised Code. 118729

"Modified per diem rate" means the per Medicaid day payment 118730
rate calculated for an ICF/IID under division (C) of this section. 118731

"Unmodified per diem rate" means the per Medicaid day payment 118732
rate calculated for an ICF/IID under Chapter 5124. of the Revised 118733
Code. 118734

(B) This section applies to each ICF/IID provider to which 118735
either of the following applies: 118736

(1) The provider has a valid Medicaid provider agreement for 118737
the ICF/IID on June 30, 2013, and a valid Medicaid provider 118738
agreement for the ICF/IID during fiscal year 2014. 118739

(2) The ICF/IID undergoes a change of operator that takes 118740
effect during fiscal year 2014, the exiting operator has a valid 118741
Medicaid provider agreement for the ICF/IID on the day immediately 118742

preceding the effective date of the change of operator, and the 118743
entering operator has a valid Medicaid provider agreement for the 118744
ICF/IID during fiscal year 2014. 118745

(C) An ICF/IID's total modified per diem rate for fiscal year 118746
2014 shall be the ICF/IID's total unmodified per diem rate for 118747
that fiscal year with the following modifications: 118748

(1) In place of the inflation adjustment otherwise made under 118749
section 5124.23 of the Revised Code, the ICF/IID's desk-reviewed, 118750
actual, allowable, per diem other protected costs, excluding the 118751
franchise permit fee, from calendar year 2012 shall be multiplied 118752
by 1.0123. 118753

(2) In place of the maximum cost per case-mix unit 118754
established for the ICF/IID's peer group under division (C) of 118755
section 5124.23 of the Revised Code, the ICF/IID's maximum costs 118756
per case-mix unit shall be the following: 118757

(a) In the case of an ICF/IID with more than eight beds, 118758
\$108.21; 118759

(b) In the case of an ICF/IID with eight or fewer beds, 118760
\$102.21. 118761

(3) In place of the inflation adjustment otherwise calculated 118762
under division (D) of section 5124.19 of the Revised Code for the 118763
purpose of division (A)(1)(b) of that section, an inflation 118764
adjustment of 1.0123 shall be used. 118765

(4) In place of the maximum rate for indirect care costs 118766
established for the ICF/IID's peer group under division (C) of 118767
section 5124.21 of the Revised Code, the maximum rate for indirect 118768
care costs for the ICF/IID's peer group shall be the following: 118769

(a) In the case of an ICF/IID with more than eight beds, 118770
\$68.98; 118771

(b) In the case of an ICF/IID with eight or fewer beds, 118772

\$59.60. 118773

(5) In place of the inflation adjustment otherwise calculated 118774
under division (D)(1) of section 5124.21 of the Revised Code for 118775
the purpose of division (B)(1) of that section only, an inflation 118776
adjustment of 1.0123 shall be used. 118777

(6) In place of the efficiency incentive otherwise calculated 118778
under division (B)(2) of section 5124.21 of the Revised Code, the 118779
ICF/IID's efficiency incentive for indirect care costs shall be 118780
the following: 118781

(a) In the case of an ICF/IID with more than eight beds, 118782
\$3.69; 118783

(b) In the case of an ICF/IID with eight or fewer beds, 118784
\$3.19. 118785

(7) The ICF/IID's efficiency incentive for capital costs, as 118786
determined under division (E) of section 5124.17 of the Revised 118787
Code, shall be reduced by 50%. 118788

(D) An ICF/IID's total capped per diem rate for fiscal year 118789
2014 shall be the ICF/IID's total unmodified per diem rate for 118790
that fiscal year reduced by the percentage by which the mean total 118791
unmodified per diem rates for all ICFs/IID in this state for 118792
fiscal year 2014, weighted by May 2013 Medicaid days and 118793
calculated as of July 1, 2013, exceeds \$282.84. 118794

(E) Except as otherwise provided by this section, an ICF/IID 118795
provider to which this section applies shall be paid, for ICF/IID 118796
services the ICF/IID provides during fiscal year 2014, a total per 118797
diem rate determined as follows: 118798

(1) Add the ICF/IID's total modified per diem rate to the 118799
ICF/IID's total capped per diem rate; 118800

(2) Divide the amount determined under division (E)(1) of 118801
this section by two. 118802

(F) If the mean total per diem rate for all ICFs/IID to which this section applies, weighted by May 2013 Medicaid days and determined under division (E) of this section as of July 1, 2013, is other than \$282.84, the Department of Developmental Disabilities shall adjust, for fiscal year 2014, the total per diem rate for each ICF/IID to which this section applies by a percentage that is equal to the percentage by which the mean total per diem rate is greater or less than \$282.84.

(G) If the United States Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department of Developmental Disabilities shall reduce the amount it pays ICF/IID providers under this section as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

(H) The Department of Developmental Disabilities shall follow this section in determining the rate to be paid ICF/IID providers subject to this section notwithstanding anything to the contrary in Chapter 5124. of the Revised Code.

Of the foregoing appropriation items 653407, Medicaid Services, 653606, ICF/IID and Waiver Match, and 653653, ICF/IID, portions shall be used to pay the Medicaid payment rates determined in accordance with this section for ICF/IID services provided during fiscal year 2014.

Section 259.210. FISCAL YEAR 2015 MEDICAID PAYMENT RATES FOR ICFs/IID

(A) As used in this section:

"Capped per diem rate" means the per Medicaid day payment rate calculated for an ICF/IID under division (D) of this section.

"Change of operator," "entering operator," "exiting

operator," "ICF/IID," "ICF/IID services," "Medicaid days," 118833
"provider," and "provider agreement" have the same meanings as in 118834
section 5124.01 of the Revised Code. 118835

"Franchise permit fee" means the fee imposed by sections 118836
5168.60 to 5168.71 of the Revised Code. 118837

"Modified per diem rate" means the per Medicaid day payment 118838
rate calculated for an ICF/IID under division (C) of this section. 118839

"Unmodified per diem rate" means the per Medicaid day payment 118840
rate calculated for an ICF/IID under Chapter 5124. of the Revised 118841
Code. 118842

(B) This section applies to each ICF/IID provider to which 118843
either of the following applies: 118844

(1) The provider has a valid Medicaid provider agreement for 118845
the ICF/IID on June 30, 2014, and a valid Medicaid provider 118846
agreement for the ICF/IID during fiscal year 2015. 118847

(2) The ICF/IID undergoes a change of operator that takes 118848
effect during fiscal year 2015, the exiting operator has a valid 118849
Medicaid provider agreement for the ICF/IID on the day immediately 118850
preceding the effective date of the change of operator, and the 118851
entering operator has a valid Medicaid provider agreement for the 118852
ICF/IID during fiscal year 2015. 118853

(C) An ICF/IID's total modified per diem rate for fiscal year 118854
2015 shall be the ICF/IID's total unmodified per diem rate for 118855
that fiscal year with the following modifications: 118856

(1) In place of the inflation adjustment otherwise made under 118857
section 5124.23 of the Revised Code, the ICF/IID's desk-reviewed, 118858
actual, allowable, per diem other protected costs, excluding the 118859
franchise permit fee, from calendar year 2013 shall be multiplied 118860
by 1.0123. 118861

(2) In place of the maximum cost per case-mix unit 118862

established for the ICF/IID's peer group under division (C) of 118863
section 5124.19 of the Revised Code, the ICF/IID's maximum costs 118864
per case-mix unit shall be the following: 118865

(a) In the case of an ICF/IID with more than eight beds, 118866
\$108.21; 118867

(b) In the case of an ICF/IID with eight or fewer beds, 118868
\$102.21. 118869

(3) In place of the inflation adjustment otherwise calculated 118870
under division (D) of section 5124.19 of the Revised Code for the 118871
purpose of division (A)(1)(b) of that section, an inflation 118872
adjustment of 1.0123 shall be used. 118873

(4) In place of the maximum rate for indirect care costs 118874
established for the ICF/IID's peer group under division (C) of 118875
section 5124.21 of the Revised Code, the maximum rate for indirect 118876
care costs for the ICF/IID's peer group shall be the following: 118877

(a) In the case of an ICF/IID with more than eight beds, 118878
\$68.98; 118879

(b) In the case of an ICF/IID with eight or fewer beds, 118880
\$59.60. 118881

(5) In place of the inflation adjustment otherwise calculated 118882
under divisions (D)(1) and (2) of section 5124.21 of the Revised 118883
Code for the purpose of division (B)(1) of that section only, an 118884
inflation adjustment of 1.0123 shall be used. 118885

(6) In place of the efficiency incentive otherwise calculated 118886
under division (B)(2) of section 5124.21 of the Revised Code, the 118887
ICF/IID's efficiency incentive for indirect care costs shall be 118888
the following: 118889

(a) In the case of an ICF/IID with more than eight beds, 118890
\$3.69; 118891

(b) In the case of an ICF/IID with eight or fewer beds, 118892

\$3.19. 118893

(7) The ICF/IID's efficiency incentive for capital costs, as 118894
determined under division (E) of section 5124.17 of the Revised 118895
Code, shall be reduced by 50%. 118896

(D) An ICF/IID's total capped per diem rate for fiscal year 118897
2015 shall be the ICF/IID's total unmodified per diem rate for 118898
that fiscal year reduced by the percentage by which the mean total 118899
unmodified per diem rates for all ICFs/IID in this state for 118900
fiscal year 2015, weighted by May 2014 Medicaid days and 118901
calculated as of July 1, 2014, exceeds \$282.77. 118902

(E) Except as otherwise provided by this section, an ICF/IID 118903
provider to which this section applies shall be paid, for ICF/IID 118904
services the ICF/IID provides during fiscal year 2015, a total per 118905
diem rate determined as follows: 118906

(1) Add the ICF/IID's total modified per diem rate to the 118907
ICF/IID's total capped per diem rate; 118908

(2) Divide the amount determined under division (E)(1) of 118909
this section by two. 118910

(F) If the mean total per diem rate for all ICFs/IID to which 118911
this section applies, weighted by May 2014 Medicaid days and 118912
determined under division (E) of this section as of July 1, 2014, 118913
is other than \$282.77, the Department of Developmental 118914
Disabilities shall adjust, for fiscal year 2015, the total per 118915
diem rate for each ICF/IID to which this section applies by a 118916
percentage that is equal to the percentage by which the mean total 118917
per diem rate is greater or less than \$282.77. 118918

(G) If the United States Centers for Medicare and Medicaid 118919
Services requires that the franchise permit fee be reduced or 118920
eliminated, the Department of Developmental Disabilities shall 118921
reduce the amount it pays ICF/IID providers under this section as 118922
necessary to reflect the loss to the state of the revenue and 118923

federal financial participation generated from the franchise 118924
permit fee. 118925

(H) The Department of Developmental Disabilities shall follow 118926
this section in determining the rate to be paid ICF/IID providers 118927
subject to this section notwithstanding anything to the contrary 118928
in Chapter 5124. of the Revised Code. 118929

Of the foregoing appropriation items 653407, Medicaid 118930
Services, 653606, ICF/IID and Waiver Match, and 653653, ICF/IID, 118931
portions shall be used to pay the Medicaid payment rates 118932
determined in accordance with this section for ICF/IID services 118933
provided during fiscal year 2015. 118934

Section 259.220. TRANSFER OF FUNDS FOR OUTLIER SERVICES 118935
PROVIDED TO PEDIATRIC VENTILATOR-DEPENDENT ICF/IID RESIDENTS 118936

As used in this section, "ICF/IID" and "ICF/IID services" 118937
have the same meanings as in section 5124.01 of the Revised Code. 118938

Each quarter during fiscal year 2015, the Director of 118939
Developmental Disabilities shall certify to the Director of Budget 118940
and Management the amount needed to pay the nonfederal share of 118941
the costs of the Medicaid rate add-on paid to ICFs/IID pursuant to 118942
section 5124.25 of the Revised Code for providing outlier ICF/IID 118943
services to residents who qualify for the services and are 118944
transferred to ICFs/IID from hospitals at which they receive 118945
ventilator services at the time of their transfer to the ICFs/IID. 118946

On receipt of a certification, the Director of Budget and 118947
Management shall transfer appropriations equaling the certified 118948
amount from appropriation item 651525, Medicaid/Health Care 118949
Services, to appropriation item 653407, Medicaid Services, and, in 118950
addition, shall reduce the appropriation in 651525, 118951
Medicaid/Health Care Services, by the corresponding federal share. 118952

If receipts credited to the Developmental Center and 118953

Residential Facility Services and Support Fund (Fund 3A40), used 118954
by the Department of Developmental Disabilities, exceed the 118955
amounts appropriated in appropriation item 653653, ICF/IID, the 118956
Director of Developmental Disabilities may request the Director of 118957
Budget and Management to authorize expenditures from the fund in 118958
excess of the amounts appropriated. Upon approval of the Director 118959
of Budget and Management, the additional amounts are hereby 118960
appropriated. 118961

Section 259.230. ICF/IID MEDICAID RATE WORKGROUP 118962

As used in this section, "ICF/IID," "ICF/IID services," and 118963
"Medicaid-certified capacity" have the same meanings as in section 118964
5124.01 of the Revised Code. 118965

For the purpose of assisting the Department of Developmental 118966
Disabilities during fiscal year 2014 and fiscal year 2015 with an 118967
evaluation of revisions to the formula used to determine Medicaid 118968
payment rates for ICF/IID services, the Department shall retain 118969
the workgroup that was created to assist with the study required 118970
by Section 309.30.80 of Am. Sub. H.B. 153 of the 129th General 118971
Assembly. In conducting the evaluation, the Department and 118972
workgroup shall do both of the following: 118973

(A) Focus primarily on the service needs of individuals with 118974
complex challenges that ICFs/IID are able to meet; 118975

(B) Pursue the goal of reducing the Medicaid-certified 118976
capacity of individual ICFs/IID and the total number of ICF/IID 118977
beds in the state for the purpose of increasing the service 118978
choices and community integration of individuals eligible for 118979
ICF/IID services. 118980

Section 259.240. NONFEDERAL SHARE OF ICF/IID SERVICES 118981

(A) As used in this section, "ICF/IID," "ICF/IID services," 118982
and "Medicaid-certified capacity" have the same meanings as in 118983

section 5124.01 of the Revised Code. 118984

(B) The Director of Developmental Disabilities shall pay the 118985
nonfederal share of a claim for ICF/IID services using funds 118986
specified in division (C) of this section if all of the following 118987
apply: 118988

(1) Medicaid covers the ICF/IID services. 118989

(2) The ICF/IID services are provided to a Medicaid recipient 118990
to whom both of the following apply: 118991

(a) The Medicaid recipient is eligible for the ICF/IID 118992
services; 118993

(b) The Medicaid recipient does not occupy a bed in the 118994
ICF/IID that used to be included in the Medicaid-certified 118995
capacity of another ICF/IID certified by the Director of Health 118996
before June 1, 2003. 118997

(3) The ICF/IID services are provided by an ICF/IID whose 118998
Medicaid certification by the Director of Health was initiated or 118999
supported by a county board of developmental disabilities. 119000

(4) The provider of the ICF/IID services has a valid Medicaid 119001
provider agreement for the services for the time that the services 119002
are provided. 119003

(C) When required by division (B) of this section to pay the 119004
nonfederal share of a claim, the Director of Developmental 119005
Disabilities shall use the following funds to pay the claim: 119006

(1) Funds available from appropriation item 322501, County 119007
Boards Subsidies, that the Director allocates to the county board 119008
that initiated or supported the Medicaid certification of the 119009
ICF/IID that provided the ICF/IID services for which the claim is 119010
made; 119011

(2) If the amount of funds used pursuant to division (C)(1) 119012
of this section is insufficient to pay the claim in full, an 119013

amount of funds that are needed to make up the difference and 119014
available from amounts the Director allocates to other county 119015
boards from appropriation item 322501, County Boards Subsidies. 119016

Section 259.250. FY 2014 AND FY 2015 RATES FOR CERTAIN 119017
HOMEMAKER/PERSONAL CARE SERVICES UNDER IO WAIVER 119018

(A) As used in this section: 119019

"Converted facility" means an ICF/IID, or former ICF/IID, 119020
that converted some or all of its beds to providing home and 119021
community-based services under the IO Waiver pursuant to section 119022
5124.60 of the Revised Code. 119023

"Developmental center" and "ICF/IID" have the same meanings 119024
as in section 5124.01 of the Revised Code. 119025

"H.B. 153 increased Medicaid payment rate" means the total 119026
Medicaid payment rate for each fifteen minutes of routine 119027
homemaker/personal care services that was set by Section 263.20.70 119028
of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 119029
Am. Sub. H.B. 487 of the 129th General Assembly. 119030

"IO Waiver" means the Medicaid waiver component, as defined 119031
in section 5166.01 of the Revised Code, known as Individual 119032
Options. 119033

"Public hospital" has the same meaning as in section 5122.01 119034
of the Revised Code. 119035

"Regular Medicaid payment rate" means the total Medicaid 119036
payment rate for each fifteen minutes of routine 119037
homemaker/personal care services that are available under the IO 119038
Waiver and to which this section does not apply. 119039

(B) This section applies to routine homemaker/personal care 119040
services to which both of the following apply: 119041

(1) The services are provided to an IO Waiver enrollee to 119042

whom all of the following apply: 119043

(a) The enrollee began to receive the services from the 119044
provider on or after July 1, 2011. 119045

(b) The enrollee resided in a developmental center, converted 119046
facility, or public hospital immediately before enrolling in the 119047
IO Wavier. 119048

(c) The Director of Developmental Disabilities has determined 119049
that the enrollee's special circumstances (including the 119050
enrollee's diagnosis, service needs, or length of stay at the 119051
developmental center, converted facility, or public hospital) 119052
warrants paying the Medicaid payment rate authorized by this 119053
section. 119054

(2) The provider of the services has a valid Medicaid 119055
provider agreement for the services for the period during which 119056
the enrollee receives the services from the provider. 119057

(C) The total Medicaid payment rate for each fifteen minutes 119058
of routine homemaker/personal care services to which this section 119059
applies and that are provided during the period beginning July 1, 119060
2013, and ending June 30, 2015, shall be the greater of the 119061
following: 119062

(1) The H.B. 153 increased Medicaid payment rate; 119063

(2) The regular Medicaid payment rate in effect at the time 119064
the services are provided. 119065

(D) Of the foregoing appropriation items 653407, Medicaid 119066
Services, and 653639, Medicaid Waiver Services, portions shall be 119067
used to pay the Medicaid payment rates determined in accordance 119068
with this section for certain homemaker/personal care services 119069
under the IO Waiver. 119070

Section 259.260. UPDATING AUTHORIZING STATUTE CITATIONS 119071

As used in this section, "authorizing statute" means a 119072
Revised Code section or provision of a Revised Code section that 119073
is cited in the Ohio Administrative Code as the statute that 119074
authorizes the adoption of a rule. 119075

The Director of Developmental Disabilities is not required to 119076
amend any rule for the sole purpose of updating the citation in 119077
the Ohio Administrative Code to the rule's authorizing statute to 119078
reflect that this act renumbers the authorizing statute or 119079
relocates it to another Revised Code section. Such citations shall 119080
be updated as the Director amends the rules for other purposes. 119081

Section 259.270. REASON FOR THE REPEAL OF R.C. 5111.236 119082

This act repeals section 5111.236 of the Revised Code to 119083
carry out the intent of the Governor as indicated in the veto 119084
message regarding Am. Sub. H.B. 1 of the 128th General Assembly 119085
transmitted to the Clerk of the House of Representatives on July 119086
17, 2009. The actual veto removed the section from the title and 119087
enacting clause of H.B. 1 and an earmark related to the section. 119088
However, the actual veto inadvertently showed only division (C) of 119089
the section, rather than the entire section, as being vetoed. 119090

Section 261.10. OBD OHIO BOARD OF DIETETICS 119091

General Services Fund Group				119092
4K90 860609 Operating Expenses	\$	330,592	\$ 342,592	119093
TOTAL GSF General Services Fund				119094
Group	\$	330,592	\$ 342,592	119095
TOTAL ALL BUDGET FUND GROUPS	\$	330,592	\$ 342,592	119096

Section 263.10. EDU DEPARTMENT OF EDUCATION 119098

General Revenue Fund				119099
GRF 200321 Operating Expenses	\$	13,142,780	\$ 13,142,780	119100
GRF 200408 Early Childhood	\$	23,268,341	\$ 25,268,341	119101

		Education				
GRF 200420	Information Technology	\$	4,241,296	\$	4,241,296	119102
	Development and					
	Support					
GRF 200421	Alternative Education	\$	7,403,998	\$	7,403,998	119103
	Programs					
GRF 200422	School Management	\$	3,000,000	\$	3,000,000	119104
	Assistance					
GRF 200424	Policy Analysis	\$	328,558	\$	328,558	119105
GRF 200425	Tech Prep Consortia	\$	260,542	\$	260,542	119106
	Support					
GRF 200426	Ohio Educational	\$	29,625,569	\$	19,625,569	119107
	Computer Network					
GRF 200427	Academic Standards	\$	3,800,000	\$	3,800,000	119108
GRF 200437	Student Assessment	\$	55,895,000	\$	75,895,000	119109
GRF 200439	Accountability/Report	\$	3,500,000	\$	3,750,000	119110
	Cards					
GRF 200442	Child Care Licensing	\$	827,140	\$	827,140	119111
GRF 200446	Education Management	\$	6,833,070	\$	6,833,070	119112
	Information System					
GRF 200447	GED Testing	\$	879,551	\$	879,551	119113
GRF 200448	Educator Preparation	\$	1,136,737	\$	1,564,237	119114
GRF 200455	Community Schools and	\$	2,438,685	\$	2,491,395	119115
	Choice Programs					
GRF 200464	General Technology	\$	192,097	\$	192,097	119116
	Operations					
GRF 200465	Technology Integration	\$	1,778,879	\$	1,778,879	119117
	and Professional					
	Development					
GRF 200502	Pupil Transportation	\$	442,113,527	\$	442,113,527	119118
GRF 200505	School Lunch Match	\$	9,100,000	\$	9,100,000	119119
GRF 200511	Auxiliary Services	\$	133,114,737	\$	137,122,293	119120
GRF 200532	Nonpublic	\$	60,133,175	\$	61,943,546	119121

		Administrative Cost				
		Reimbursement				
GRF 200540	Special Education	\$ 156,871,292	\$ 157,871,292	119122		
	Enhancements					
GRF 200545	Career-Technical	\$ 8,802,699	\$ 8,802,699	119123		
	Education Enhancements					
GRF 200550	Foundation Funding	\$ 5,924,495,823	\$ 6,102,858,841	119124		
GRF 200901	Property Tax	\$ 1,138,800,000	\$ 1,184,352,000	119125		
	Allocation - Education					
TOTAL GRF	General Revenue Fund	\$ 8,031,983,496	\$ 8,275,446,651	119126		
	General Services Fund Group			119127		
1380 200606	Information	\$ 6,850,090	\$ 6,850,090	119128		
	Technology					
	Development and					
	Support					
4520 200638	Miscellaneous	\$ 500,000	\$ 500,000	119129		
	Educational Services					
4L20 200681	Teacher Certification	\$ 8,313,762	\$ 13,658,274	119130		
	and Licensure					
5960 200656	Ohio Career	\$ 529,761	\$ 529,761	119131		
	Information System					
5H30 200687	School District	\$ 25,000,000	\$ 25,000,000	119132		
	Solvency Assistance					
5KX0 200691	Ohio School	\$ 487,419	\$ 487,419	119133		
	Sponsorship Program					
5KY0 200693	Community Schools	\$ 83,000	\$ 83,000	119134		
	Temporary Sponsorship					
5MX0 200670	Exceptional Cost	\$ 111,566,822	\$ 119,505,133	119135		
	Reimbursement					
TOTAL GSF	General Services			119136		
Fund Group		\$ 153,330,854	\$ 166,613,677	119137		
Federal Special Revenue Fund Group				119138		

3090	200601	Neglected and Delinquent Education	\$	2,168,642	\$	2,168,642	119139
3670	200607	School Food Services	\$	8,200,664	\$	8,700,149	119140
3700	200624	Education of Exceptional Children	\$	1,530,000	\$	1,530,000	119141
3AF0	200603	Schools Medicaid Administrative Claims	\$	750,000	\$	750,000	119142
3AN0	200671	School Improvement Grants	\$	20,400,000	\$	20,400,000	119143
3BK0	200628	Longitudinal Data Systems	\$	1,250,000	\$	0	119144
3C50	200661	Early Childhood Education	\$	14,554,749	\$	14,554,749	119145
3CG0	200646	Teacher Incentive	\$	15,125,588	\$	15,183,285	119146
3D20	200667	Math Science Partnerships	\$	6,000,000	\$	6,000,000	119147
3EC0	200653	Teacher Incentive - Federal Stimulus	\$	1,300,000	\$	0	119148
3EH0	200620	Migrant Education	\$	2,900,000	\$	2,900,000	119149
3EJ0	200622	Homeless Children Education	\$	2,600,000	\$	2,600,000	119150
3EK0	200637	Advanced Placement	\$	450,000	\$	450,000	119151
3EN0	200655	State Data Systems - Federal Stimulus	\$	1,250,000	\$	0	119152
3FD0	200665	Race to the Top	\$	136,000,000	\$	58,074,046	119153
3FN0	200672	Early Learning Challenge - Race to the Top	\$	7,040,000	\$	7,040,000	119154
3GE0	200674	Summer Food Service Program	\$	13,596,000	\$	14,003,800	119155
3GF0	200675	Miscellaneous Nutrition Grants	\$	700,000	\$	700,000	119156
3GG0	200676	Fresh Fruit and	\$	4,738,000	\$	4,880,140	119157

		Vegetable Program				
3H90	200605	Head Start	\$	225,000	\$	225,000 119158
		Collaboration Project				
3L60	200617	Federal School Lunch	\$	350,608,075	\$	361,126,273 119159
3L70	200618	Federal School	\$	108,480,590	\$	112,819,813 119160
		Breakfast				
3L80	200619	Child/Adult Food	\$	106,992,650	\$	110,202,428 119161
		Programs				
3L90	200621	Career-Technical	\$	44,663,900	\$	44,663,900 119162
		Education Basic Grant				
3M00	200623	ESEA Title 1A	\$	560,000,000	\$	560,000,000 119163
3M20	200680	Individuals with	\$	443,170,050	\$	443,170,050 119164
		Disabilities				
		Education Act				
3T40	200613	Public Charter	\$	500,000	\$	0 119165
		Schools				
3Y20	200688	21st Century	\$	48,201,810	\$	50,611,900 119166
		Community Learning				
		Centers				
3Y60	200635	Improving Teacher	\$	101,900,000	\$	101,900,000 119167
		Quality				
3Y70	200689	English Language	\$	9,700,000	\$	9,700,000 119168
		Acquisition				
3Y80	200639	Rural and Low Income	\$	3,300,000	\$	3,300,000 119169
		Technical Assistance				
3Z20	200690	State Assessments	\$	11,800,000	\$	11,800,000 119170
3Z30	200645	Consolidated Federal	\$	7,949,280	\$	7,949,280 119171
		Grant Administration				
TOTAL FED		Federal Special				119172
Revenue Fund Group			\$	2,038,044,998	\$	1,977,403,455 119173
State Special Revenue Fund Group						119174
4540	200610	GED Testing	\$	1,050,000	\$	250,000 119175
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000 119176

4R70	200695	Indirect Operational Support	\$	6,600,000	\$	6,600,000	119177
4V70	200633	Interagency Program Support	\$	717,725	\$	717,725	119178
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	119179
5BJ0	200626	Half-Mill Maintenance Equalization	\$	19,000,000	\$	20,000,000	119180
5MM0	200677	Child Nutrition Refunds	\$	500,000	\$	500,000	119181
5T30	200668	Gates Foundation Grants	\$	200,000	\$	153,000	119182
5U20	200685	National Education Statistics	\$	300,000	\$	300,000	119183
6200	200615	Educational Improvement Grants	\$	300,000	\$	300,000	119184
TOTAL SSR State Special Revenue							119185
Fund Group			\$	53,996,635	\$	54,149,635	119186
Lottery Profits Education Fund Group							119187
7017	200612	Foundation Funding	\$	725,000,000	\$	750,000,000	119188
7017	200648	Straight A Fund	\$	100,000,000	\$	200,000,000	119189
7017	200666	EdChoice Expansion	\$	8,500,000	\$	17,000,000	119190
7017	200684	Community School Facilities	\$	7,500,000		7,500,000	119191
TOTAL LPE Lottery Profits							119192
Education Fund Group			\$	841,000,000	\$	974,500,000	119193
Revenue Distribution Fund Group							119194
7047	200909	School District Property Tax Replacement-Business	\$	482,000,000	\$	482,000,000	119195
7053	200900	School District Property Tax	\$	28,000,000	\$	28,000,000	119196

Replacement-Utility

TOTAL RDF Revenue Distribution			119197
Fund Group	\$ 510,000,000	\$ 510,000,000	119198
TOTAL ALL BUDGET FUND GROUPS	\$11,628,355,983	\$11,958,113,418	119199

Section 263.20. OPERATING EXPENSES 119201

A portion of the foregoing appropriation item 200321, 119202
Operating Expenses, shall be used by the Department of Education 119203
to provide matching funds under 20 U.S.C. 2321. 119204

EARLY CHILDHOOD EDUCATION 119205

The Department of Education shall distribute the foregoing 119206
appropriation item 200408, Early Childhood Education, to pay the 119207
costs of early childhood education programs. 119208

(A) As used in this section: 119209

(1) "Provider" means a city, local, exempted village, or 119210
joint vocational school district, or an educational service 119211
center. 119212

(2) In the case of a city, local, or exempted village school 119213
district, "new eligible provider" means a district that did not 119214
receive state funding for Early Childhood Education in the 119215
previous fiscal year or demonstrates a need for early childhood 119216
programs as defined in division (D) of this section. 119217

(3) "Eligible child" means a child who is at least three 119218
years of age as of the district entry date for kindergarten, is 119219
not of the age to be eligible for kindergarten, and whose family 119220
earns not more than two hundred per cent of the federal poverty 119221
guidelines as defined in division (A)(3) of section 5101.46 of the 119222
Revised Code. Children with an Individualized Education Program 119223
and where the Early Childhood Education program is the least 119224
restrictive environment may be enrolled on their third birthday. 119225

(4) "Early learning program standards" means early learning 119226

program standards for school readiness developed by the Department 119227
to assess the operation of early learning programs. 119228

(B) In each fiscal year, up to two per cent of the total 119229
appropriation may be used by the Department for program support 119230
and technical assistance. The Department shall distribute the 119231
remainder of the appropriation in each fiscal year to serve 119232
eligible children. 119233

(C) The Department shall provide an annual report to the 119234
Governor, the Speaker of the House of Representatives, and the 119235
President of the Senate and post the report to the Department's 119236
web site, regarding early childhood education programs operated 119237
under this section and the early learning program standards. 119238

(D) After setting aside the amounts to make payments due from 119239
the previous fiscal year, in fiscal year 2014, the Department 119240
shall distribute funds first to recipients of funds for early 119241
childhood education programs under Section 267.10.10 of Am. Sub. 119242
H.B. 153 of the 129th General Assembly, as amended by Am. Sub. 119243
H.B. 487 of the 129th General Assembly, in the previous fiscal 119244
year and the balance to new eligible providers of early childhood 119245
education programs under this section or to existing providers to 119246
serve more eligible children or for purposes of program expansion, 119247
improvement, or special projects to promote quality and 119248
innovation. 119249

After setting aside the amounts to make payments due from the 119250
previous fiscal year, in fiscal year 2015, the Department shall 119251
distribute funds first to providers of early childhood education 119252
programs under this section in the previous fiscal year and the 119253
balance to new eligible providers or to existing providers to 119254
serve more eligible children as outlined under division (E) of 119255
this section or for purposes of program expansion, improvement, or 119256
special projects to promote quality and innovation. 119257

(E) The Department shall distribute any new or remaining funding to existing providers of early childhood education programs or any new eligible providers in an effort to invest in high quality early childhood programs where there is a need as determined by the Department. The Department shall distribute the new or remaining funds to existing providers of early childhood education programs or any new eligible providers to serve additional eligible children based on community economic disadvantage, limited access to high quality preschool or childcare services, and demonstration of high quality preschool services as determined by the Department using new metrics developed pursuant to Ohio's Race to the Top—Early Learning Challenge Grant, awarded to the Department in December 2011.

Awards under divisions (D) and (E) of this section shall be distributed on a per-pupil basis, and in accordance with division (I) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(F) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (K) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program standards. The approved

provider shall administer and use such property and funds for the 119290
purposes specified. 119291

(G) The Department may examine a provider's financial and 119292
program records. If the financial practices of the program are not 119293
in accordance with standard accounting principles or do not meet 119294
financial standards outlined under division (F) of this section, 119295
or if the program fails to substantially meet the early learning 119296
program standards, meet a quality rating level in the tiered 119297
quality rating and improvement system developed under section 119298
5104.30 of the Revised Code as prescribed by the Department, or 119299
exhibits below average performance as measured against the 119300
standards, the early childhood education program shall propose and 119301
implement a corrective action plan that has been approved by the 119302
Department. The approved corrective action plan shall be signed by 119303
the chief executive officer and the executive of the official 119304
governing body of the provider. The corrective action plan shall 119305
include a schedule for monitoring by the Department. Such 119306
monitoring may include monthly reports, inspections, a timeline 119307
for correction of deficiencies, and technical assistance to be 119308
provided by the Department or obtained by the early childhood 119309
education program. The Department may withhold funding pending 119310
corrective action. If an early childhood education program fails 119311
to satisfactorily complete a corrective action plan, the 119312
Department may deny expansion funding to the program or withdraw 119313
all or part of the funding to the program and establish a new 119314
eligible provider through a selection process established by the 119315
Department. 119316

(H) Each early childhood education program shall do all of 119317
the following: 119318

(1) Meet teacher qualification requirements prescribed by 119319
section 3301.311 of the Revised Code; 119320

(2) Align curriculum to the early learning content standards 119321

developed by the Department; 119322

(3) Meet any child or program assessment requirements 119323
prescribed by the Department; 119324

(4) Require teachers, except teachers enrolled and working to 119325
obtain a degree pursuant to section 3301.311 of the Revised Code, 119326
to attend a minimum of twenty hours every two years of 119327
professional development as prescribed by the Department; 119328

(5) Document and report child progress as prescribed by the 119329
Department; 119330

(6) Meet and report compliance with the early learning 119331
program standards as prescribed by the Department; 119332

(7) Participate in the tiered quality rating and improvement 119333
system developed under section 5104.30 of the Revised Code. 119334
Effective July 1, 2016, all programs shall be rated through the 119335
system. 119336

(I) Per-pupil funding for programs subject to this section 119337
shall be sufficient to provide eligible children with services for 119338
a standard early childhood schedule which shall be defined in this 119339
section as a minimum of twelve and one-half hours per school week 119340
as defined in section 3313.62 of the Revised Code for the minimum 119341
school year as defined in sections 3313.48, 3313.481, and 3313.482 119342
of the Revised Code. Nothing in this section shall be construed to 119343
prohibit program providers from utilizing other funds to serve 119344
eligible children in programs that exceed the twelve and one-half 119345
hours per week or that exceed the minimum school year. For any 119346
provider for which a standard early childhood education schedule 119347
creates a hardship or for which the provider shows evidence that 119348
the provider is working in collaboration with a preschool special 119349
education program, the provider may submit a waiver to the 119350
Department requesting an alternate schedule. If the Department 119351
approves a waiver for an alternate schedule that provides services 119352

for less time than the standard early childhood education 119353
schedule, the Department may reduce the provider's annual 119354
allocation proportionately. Under no circumstances shall an annual 119355
allocation be increased because of the approval of an alternate 119356
schedule. 119357

(J) Each provider shall develop a sliding fee scale based on 119358
family incomes and shall charge families who earn more than two 119359
hundred per cent of the federal poverty guidelines, as defined in 119360
division (A)(3) of section 5101.46 of the Revised Code, for the 119361
early childhood education program. 119362

The Department shall conduct an annual survey of each 119363
provider to determine whether the provider charges families 119364
tuition or fees, the amount families are charged relative to 119365
family income levels, and the number of families and students 119366
charged tuition and fees for the early childhood program. 119367

(K) If an early childhood education program voluntarily 119368
waives its right for funding, or has its funding eliminated for 119369
not meeting financial standards or the early learning program 119370
standards, the provider shall transfer control of title to 119371
property, equipment, and remaining supplies obtained through the 119372
program to providers designated by the Department and return any 119373
unexpended funds to the Department along with any reports 119374
prescribed by the Department. The funding made available from a 119375
program that waives its right for funding or has its funding 119376
eliminated or reduced may be used by the Department for new grant 119377
awards or expansion grants. The Department may award new grants or 119378
expansion grants to eligible providers who apply. The eligible 119379
providers who apply must do so in accordance with the selection 119380
process established by the Department. 119381

(L) Eligible expenditures for the Early Childhood Education 119382
Program shall be claimed each fiscal year to help meet the state's 119383
TANF maintenance of effort requirement. The Superintendent of 119384

Public Instruction and the Director of Job and Family Services 119385
shall enter into an interagency agreement to carry out the 119386
requirements under this division, which shall include developing 119387
reporting guidelines for these expenditures. 119388

Section 263.30. INFORMATION TECHNOLOGY DEVELOPMENT AND 119389
SUPPORT 119390

The foregoing appropriation item 200420, Information 119391
Technology Development and Support, shall be used to support the 119392
development and implementation of information technology solutions 119393
designed to improve the performance and services of the Department 119394
of Education. Funds may be used for personnel, maintenance, and 119395
equipment costs related to the development and implementation of 119396
these technical system projects. Implementation of these systems 119397
shall allow the Department to provide greater levels of assistance 119398
to school districts and to provide more timely information to the 119399
public, including school districts, administrators, and 119400
legislators. Funds may also be used to support data-driven 119401
decision-making and differentiated instruction, as well as to 119402
communicate academic content standards and curriculum models to 119403
schools through web-based applications. 119404

Section 263.40. ALTERNATIVE EDUCATION PROGRAMS 119405

The foregoing appropriation item 200421, Alternative 119406
Education Programs, shall be used for the renewal of successful 119407
implementation grants and for competitive matching grants to 119408
school districts for alternative educational programs for existing 119409
and new at-risk and delinquent youth. Programs shall be focused on 119410
youth in one or more of the following categories: those who have 119411
been expelled or suspended, those who have dropped out of school 119412
or who are at risk of dropping out of school, those who are 119413
habitually truant or disruptive, or those on probation or on 119414

parole from a Department of Youth Services facility. Grants shall 119415
be awarded only to programs in which the grant will not serve as 119416
the program's primary source of funding. These grants shall be 119417
administered by the Department of Education. 119418

The Department of Education may waive compliance with any 119419
minimum education standard established under section 3301.07 of 119420
the Revised Code for any alternative school that receives a grant 119421
under this section on the grounds that the waiver will enable the 119422
program to more effectively educate students enrolled in the 119423
alternative school. 119424

Of the foregoing appropriation item 200421, Alternative 119425
Education Programs, a portion may be used for program 119426
administration, monitoring, technical assistance, support, 119427
research, and evaluation. 119428

Section 263.50. SCHOOL MANAGEMENT ASSISTANCE 119429

Of the foregoing appropriation item 200422, School Management 119430
Assistance, \$1,000,000 in each fiscal year shall be used by the 119431
Auditor of State in consultation with the Department of Education 119432
for expenses incurred in the Auditor of State's role relating to 119433
fiscal caution, fiscal watch, and fiscal emergency activities as 119434
defined in Chapter 3316. of the Revised Code, unless an amount 119435
less than \$1,000,000 is needed and mutually agreed to by the 119436
Department and the Auditor of State. This set-aside may also be 119437
used by the Auditor of State to conduct performance audits of 119438
other school districts with priority given to districts in fiscal 119439
distress. Districts in fiscal distress shall be determined by the 119440
Auditor of State and shall include districts that the Auditor of 119441
State, in consultation with the Department of Education, 119442
determines are employing fiscal practices or experiencing 119443
budgetary conditions that could produce a state of fiscal watch or 119444
fiscal emergency. 119445

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

Section 263.60. POLICY ANALYSIS

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management, the Governor's Office of 21st Century Education, and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200425, Tech Prep Consortia

Support, shall be used by the Department of Education to support 119477
state-level activities designed to support, promote, and expand 119478
tech prep programs. Use of these funds shall include, but not be 119479
limited to, administration of grants, program evaluation, 119480
professional development, curriculum development, assessment 119481
development, program promotion, communications, and statewide 119482
coordination of tech prep consortia. 119483

Section 263.70. OHIO EDUCATIONAL COMPUTER NETWORK 119484

The foregoing appropriation item 200426, Ohio Educational 119485
Computer Network, shall be used by the Department of Education to 119486
maintain a system of information technology throughout Ohio and to 119487
provide technical assistance for such a system in support of the 119488
P-16 State Education Technology Plan developed under section 119489
3353.09 of the Revised Code. 119490

Of the foregoing appropriation item 200426, Ohio Educational 119491
Computer Network, up to \$10,705,569 in each fiscal year shall be 119492
used by the Department of Education to support connection of all 119493
public school buildings and participating chartered nonpublic 119494
schools to the state's education network, to each other, and to 119495
the Internet. In each fiscal year the Department of Education 119496
shall use these funds to assist information technology centers or 119497
school districts with the operational costs associated with this 119498
connectivity. The Department of Education shall develop a formula 119499
and guidelines for the distribution of these funds to information 119500
technology centers or individual school districts. As used in this 119501
section, "public school building" means a school building of any 119502
city, local, exempted village, or joint vocational school 119503
district, any community school established under Chapter 3314. of 119504
the Revised Code, any college preparatory boarding school 119505
established under Chapter 3328. of the Revised Code, any STEM 119506
school established under Chapter 3326. of the Revised Code, any 119507

educational service center building used for instructional 119508
purposes, the Ohio School for the Deaf and the Ohio School for the 119509
Blind, high schools chartered by the Ohio Department of Youth 119510
Services, or high schools operated by Ohio Department of 119511
Rehabilitation and Corrections' Ohio Central School System. 119512

Of the foregoing appropriation item 200426, Ohio Educational 119513
Computer Network, up to \$2,500,000 in each fiscal year shall be 119514
used for the Union Catalog and InfOhio Network and to support the 119515
provision of electronic resources with priority given to resources 119516
that support the teaching of state academic content standards in 119517
all public schools. Consideration shall be given by the Department 119518
of Education to coordinating the allocation of these moneys with 119519
the efforts of Libraries Connect Ohio, whose members include 119520
OhioLINK, the Ohio Public Information Network, and the State 119521
Library of Ohio. 119522

Of the foregoing appropriation item 200426, Ohio Educational 119523
Computer Network, up to \$5,220,000 in each fiscal year shall be 119524
used, through a formula and guidelines devised by the Department, 119525
to subsidize the activities of designated information technology 119526
centers, as defined by State Board of Education rules, to provide 119527
school districts and chartered nonpublic schools with 119528
computer-based student and teacher instructional and 119529
administrative information services, including approved 119530
computerized financial accounting, and to ensure the effective 119531
operation of local automated administrative and instructional 119532
systems. 119533

Of the foregoing appropriation item 200426, Ohio Educational 119534
Computer Network, up to \$10,000,000 in fiscal year 2014 shall be 119535
used for middle mile connections for the information technology 119536
centers established under section 3301.075 of the Revised Code and 119537
select large urban districts to connect to the state broadband 119538
backbone managed by the Ohio Technology Consortium and for other 119539

connectivity upgrades necessary for K-12 school buildings with severely restricted broadband connections. The Department of Education shall develop an expenditure plan aligned with the capacity and timeline requirements of the achievement assessments developed by the Partnership for Assessment of Readiness for College and Careers and other instructional technology/blended learning initiatives. The State Chief Information Officer and the Education Technology Division of the Ohio Board of Regents shall review the plan to ensure it coincides with State of Ohio and higher education network strategies and shall either approve or reject the plan. If the plan is rejected, the State Chief Information Officer and the Education Technology Division of the Ohio Board of Regents shall identify deficiencies in the plan and work with the Department to complete an acceptable plan. "Select large urban districts" are those districts that connect to the state broadband backbone directly rather than through an information technology center. At the request of the Superintendent of Public Instruction, the Director of Budget and Management may authorize the expenditure in fiscal year 2015 of any unexpended and unencumbered portion of this set-aside at the end of fiscal year 2014. The authorized expenditure is hereby reappropriated to the Department for the same purpose for fiscal year 2015.

The remainder of appropriation item 200426, Ohio Educational Computer Network, shall be used to support the work of the development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems as well as the teacher student linkage/roster verification process and the eTranscript/student records exchange initiative. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and information technology

centers may jointly purchase equipment, materials, and services 119573
from funds provided under this appropriation for use by the 119574
network and, when considered practical by the Department, may 119575
utilize the services of appropriate state purchasing agencies. 119576

Section 263.80. ACADEMIC STANDARDS 119577

The foregoing appropriation item 200427, Academic Standards, 119578
shall be used by the Department of Education to develop, revise, 119579
and communicate to school districts academic content standards and 119580
curriculum models and to develop professional development programs 119581
and other tools on the new content standards and model curriculum. 119582

Section 263.90. STUDENT ASSESSMENT 119583

Of the foregoing appropriation item 200437, Student 119584
Assessment, up to \$95,000 in each fiscal year may be used to 119585
support the assessments required under section 3301.0715 of the 119586
Revised Code. 119587

The remainder of appropriation item 200437, Student 119588
Assessment, shall be used to develop, field test, print, 119589
distribute, score, report results, and support other associated 119590
costs for the tests required under sections 3301.0710, 3301.0711, 119591
and 3301.0712 of the Revised Code and for similar purposes as 119592
required by section 3301.27 of the Revised Code. The funds may 119593
also be used to update and develop diagnostic assessments required 119594
under sections 3301.079, 3301.0715, and 3313.608 of the Revised 119595
Code. 119596

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT 119597
ASSESSMENT 119598

In fiscal year 2014 and fiscal year 2015, if the 119599
Superintendent of Public Instruction determines that additional 119600
funds are needed to fully fund the requirements of sections 119601
3301.0710, 3301.0711, 3301.0712, and 3301.27 of the Revised Code 119602

and this act for assessments of student performance, the 119603
Superintendent of Public Instruction may recommend the 119604
reallocation of unexpended and unencumbered General Revenue Fund 119605
appropriations within the Department of Education to appropriation 119606
item 200437, Student Assessment, to the Director of Budget and 119607
Management. If the Director of Budget and Management determines 119608
that such a reallocation is required, the Director of Budget and 119609
Management may transfer unexpended and unencumbered appropriations 119610
within the Department of Education as necessary to appropriation 119611
item 200437, Student Assessment. If these transferred 119612
appropriations are not sufficient to fully fund the assessment 119613
requirements in fiscal year 2014 or fiscal year 2015, the 119614
Superintendent of Public Instruction may request that the 119615
Controlling Board transfer up to \$9,000,000 cash from the Lottery 119616
Profits Education Reserve Fund (Fund 7018) to the General Revenue 119617
Fund. Upon approval of the Controlling Board, the Director of 119618
Budget and Management shall transfer the cash. These transferred 119619
funds are hereby appropriated for the same purpose as 119620
appropriation item 200437, Student Assessment. 119621

Section 263.100. Notwithstanding anything to the contrary in 119622
sections 3301.0710 and 3301.0711 of the Revised Code, in the 119623
2013-2014 school year, the Department of Education shall not 119624
furnish, and school districts and schools shall not administer, 119625
the elementary writing and social studies achievement assessments 119626
prescribed by section 3301.0710 of the Revised Code, unless the 119627
Superintendent of Public Instruction determines the Department has 119628
sufficient funds to pay the costs of furnishing and scoring those 119629
assessments. 119630

Section 263.110. ACCOUNTABILITY/REPORT CARDS 119631

Of the foregoing appropriation item 200439, 119632
Accountability/Report Cards, a portion in each fiscal year may be 119633

used to train district and regional specialists and district 119634
educators in the use of the value-added progress dimension and in 119635
the use of data as it relates to improving student achievement. 119636
This training may include teacher and administrator professional 119637
development in the use of data to improve instruction and student 119638
learning, and teacher and administrator training in understanding 119639
teacher value-added reports and how they can be used as a 119640
component in measuring teacher and administrator effectiveness. A 119641
portion of this funding may be provided to a credible nonprofit 119642
organization with expertise in value-added progress dimensions. 119643

The remainder of appropriation item 200439, 119644
Accountability/Report Cards, shall be used by the Department to 119645
incorporate a statewide value-added progress dimension into 119646
performance ratings for school districts and for the development 119647
of an accountability system that includes the preparation and 119648
distribution of school report cards, funding and expenditure 119649
accountability reports under sections 3302.03 and 3302.031 of the 119650
Revised Code, and the development and maintenance of teacher 119651
value-added reports. 119652

CHILD CARE LICENSING 119653

The foregoing appropriation item 200442, Child Care 119654
Licensing, shall be used by the Department of Education to license 119655
and to inspect preschool and school-age child care programs under 119656
sections 3301.52 to 3301.59 of the Revised Code. 119657

Section 263.120. EDUCATION MANAGEMENT INFORMATION SYSTEM 119658

The foregoing appropriation item 200446, Education Management 119659
Information System, shall be used by the Department of Education 119660
to improve the Education Management Information System (EMIS). 119661

Of the foregoing appropriation item 200446, Education 119662
Management Information System, up to \$729,000 in each fiscal year 119663

shall be distributed to designated information technology centers 119664
for costs relating to processing, storing, and transferring data 119665
for the effective operation of the EMIS. These costs may include, 119666
but are not limited to, personnel, hardware, software development, 119667
communications connectivity, professional development, and support 119668
services, and to provide services to participate in the State 119669
Education Technology Plan developed under section 3353.09 of the 119670
Revised Code. 119671

The remainder of appropriation item 200446, Education 119672
Management Information System, shall be used to develop and 119673
support a common core of data definitions and standards as adopted 119674
by the Education Management Information System Advisory Board, 119675
including the ongoing development and maintenance of the data 119676
dictionary and data warehouse. In addition, such funds shall be 119677
used to support the development and implementation of data 119678
standards; the design, development, and implementation of a new 119679
data exchange system; and responsibilities related to the school 119680
report cards prescribed by section 3302.03 of the Revised Code and 119681
value-added progress dimension calculations. 119682

Any provider of software meeting the standards approved by 119683
the Education Management Information System Advisory Board shall 119684
be designated as an approved vendor and may enter into contracts 119685
with local school districts, community schools, STEMS schools, 119686
information technology centers, or other educational entities for 119687
the purpose of collecting and managing data required under Ohio's 119688
education management information system (EMIS) laws. On an annual 119689
basis, the Department of Education shall convene an advisory group 119690
of school districts, community schools, and other 119691
education-related entities to review the Education Management 119692
Information System data definitions and data format standards. The 119693
advisory group shall recommend changes and enhancements based upon 119694
surveys of its members, education agencies in other states, and 119695

current industry practices, to reflect best practices, align with 119696
federal initiatives, and meet the needs of school districts. 119697

School districts, STEM schools, and community schools not 119698
implementing a common and uniform set of data definitions and data 119699
format standards for Education Management Information System 119700
purposes shall have all EMIS funding withheld until they are in 119701
compliance. 119702

Section 263.130. GED TESTING 119703

The foregoing appropriation item 200447, GED Testing, shall 119704
be used to provide General Educational Development (GED) testing 119705
under rules adopted by the State Board of Education. 119706

Section 263.140. EDUCATOR PREPARATION 119707

Of the foregoing appropriation item 200448, Educator 119708
Preparation, up to \$500,000 in each fiscal year may be used by the 119709
Department of Education to monitor and support Ohio's State System 119710
of Support in accordance with the "No Child Left Behind Act of 119711
2011," 20 U.S.C. 6317, as administered pursuant to the Elementary 119712
and Secondary Education Act flexibility waivers approved for Ohio 119713
by the United States Department of Education. 119714

A portion of the foregoing appropriation item 200448, 119715
Educator Preparation, may be used by the Department to support the 119716
Educator Standards Board under section 3319.61 of the Revised Code 119717
and reforms under sections 3302.042, 3302.06 through 3302.068, 119718
3302.12, 3302.20 through 3302.22, and 3319.58 of the Revised Code. 119719

The remainder of the foregoing appropriation item 200448, 119720
Educator Preparation, in fiscal year 2015 may be used for 119721
implementation of teacher and principal evaluation systems, 119722
including incorporation of student growth as a metric in those 119723
systems, and teacher value-added reports. 119724

Section 263.150. COMMUNITY SCHOOLS AND CHOICE PROGRAMS 119725

The foregoing appropriation item 200455, Community Schools 119726
and Choice Programs, may be used by the Department of Education 119727
for additional services and responsibilities under section 3314.11 119728
of the Revised Code and for operation of the school choice 119729
programs. 119730

Of the foregoing appropriation item 200455, Community Schools 119731
and Choice Programs, a portion in each fiscal year may be used by 119732
the Department of Education for developing and conducting training 119733
sessions for community schools and sponsors and prospective 119734
sponsors of community schools as prescribed in division (A)(1) of 119735
section 3314.015 of the Revised Code, and other schools 119736
participating in school choice programs. 119737

Section 263.160. TECHNOLOGY INTEGRATION AND PROFESSIONAL 119738
DEVELOPMENT 119739

The foregoing appropriation item 200465, Technology 119740
Integration and Professional Development, shall be used by the 119741
Department of Education to contract with educational television 119742
stations and education technology centers to provide Ohio public 119743
schools with instructional resources and services, with priority 119744
given to resources and services aligned with state academic 119745
content standards. Such resources and services shall be based upon 119746
the advice and approval of the Department, based on a formula used 119747
by the eTech Ohio Commission unless and until a substitute formula 119748
is developed in consultation with the Ohio Board of Regents. 119749

Section 263.170. PUPIL TRANSPORTATION 119750

Of the foregoing appropriation item 200502, Pupil 119751
Transportation, up to \$838,930 in each fiscal year may be used by 119752
the Department of Education for training prospective and 119753

experienced school bus drivers in accordance with training 119754
programs prescribed by the Department. Up to \$60,469,220 in each 119755
fiscal year may be used by the Department of Education for special 119756
education transportation reimbursements to school districts and 119757
county DD boards for transportation operating costs as provided in 119758
divisions (C) and (F) of section 3317.024 of the Revised Code. Up 119759
to \$5,000,000 in each fiscal year may be used by the Department of 119760
Education to reimburse school districts that make payments to 119761
parents in lieu of transportation under section 3327.02 of the 119762
Revised Code and whose transportation is not funded under division 119763
(C) of section 3317.024 of the Revised Code. 119764

The remainder of appropriation item 200502, Pupil 119765
Transportation, shall be used to distribute the amounts calculated 119766
for transportation aid under section 3317.0212 of the Revised 119767
Code. The Department shall pay each school district a pro rata 119768
portion of the amounts calculated under section 3317.0212 of the 119769
Revised Code so that the aggregate amount appropriated is not 119770
exceeded. 119771

Section 263.180. SCHOOL LUNCH MATCH 119772

The foregoing appropriation item 200505, School Lunch Match, 119773
shall be used to provide matching funds to obtain federal funds 119774
for the school lunch program. 119775

Any remaining appropriation after providing matching funds 119776
for the school lunch program may be used to partially reimburse 119777
school buildings within school districts that are required to have 119778
a school breakfast program under section 3313.813 of the Revised 119779
Code, at a rate decided by the Department. 119780

Section 263.190. AUXILIARY SERVICES 119781

The foregoing appropriation item 200511, Auxiliary Services, 119782
shall be used by the Department of Education for the purpose of 119783

implementing section 3317.06 of the Revised Code. Of the 119784
appropriation, up to \$1,888,106 in fiscal year 2014 and up to 119785
\$1,944,949 in fiscal year 2015 may be used for payment of the 119786
College Credit Plus Program for nonpublic students, except that in 119787
fiscal year 2014 the Department may spend above the set-aside to 119788
pay for outstanding obligations for the Post-Secondary Enrollment 119789
Options Program in fiscal year 2013. 119790

Section 263.200. NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT 119791

The foregoing appropriation item 200532, Nonpublic 119792
Administrative Cost Reimbursement, shall be used by the Department 119793
of Education for the purpose of implementing section 3317.063 of 119794
the Revised Code. 119795

Section 263.210. SPECIAL EDUCATION ENHANCEMENTS 119796

Of the foregoing appropriation item 200540, Special Education 119797
Enhancements, up to \$50,000,000 in each fiscal year shall be used 119798
to fund special education and related services at county boards of 119799
developmental disabilities for eligible students under section 119800
3317.20 of the Revised Code and at institutions for eligible 119801
students under section 3317.201 of the Revised Code. 119802

Of the foregoing appropriation item 200540, Special Education 119803
Enhancements, up to \$1,333,468 in each fiscal year shall be used 119804
for parent mentoring programs. 119805

Of the foregoing appropriation item 200540, Special Education 119806
Enhancements, up to \$2,537,824 in each fiscal year may be used for 119807
school psychology interns. 119808

The remainder of appropriation item 200540, Special Education 119809
Enhancements, shall be distributed by the Department of Education 119810
to school districts and institutions, as defined in section 119811
3323.091 of the Revised Code, for preschool special education 119812
funding under section 3317.0213 of the Revised Code. 119813

The Department may reimburse school districts and 119814
institutions for services provided by instructional assistants, 119815
related services as defined in rule 3301-51-11 of the 119816
Administrative Code, physical therapy services provided by a 119817
licensed physical therapist or physical therapist assistant under 119818
the supervision of a licensed physical therapist as required under 119819
Chapter 4755. of the Revised Code and Chapter 4755-27 of the 119820
Administrative Code and occupational therapy services provided by 119821
a licensed occupational therapist or occupational therapy 119822
assistant under the supervision of a licensed occupational 119823
therapist as required under Chapter 4755. of the Revised Code and 119824
Chapter 4755-7 of the Administrative Code. Nothing in this section 119825
authorizes occupational therapy assistants or physical therapist 119826
assistants to generate or manage their own caseloads. 119827

The Department of Education shall require school districts, 119828
educational service centers, county DD boards, and institutions 119829
serving preschool children with disabilities to adhere to Ohio's 119830
early learning program standards, participate in the tiered 119831
quality rating and improvement system developed under section 119832
5104.30 of the Revised Code, and document child progress using 119833
research-based indicators prescribed by the Department and report 119834
results annually. The reporting dates and method shall be 119835
determined by the Department. Effective July 1, 2018, all programs 119836
shall be rated through the tiered quality rating and improvement 119837
system. 119838

Section 263.220. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 119839

Of the foregoing appropriation item 200545, Career-Technical 119840
Education Enhancements, up to \$2,563,568 in each fiscal year shall 119841
be used to fund secondary career-technical education at 119842
institutions using a grant-based methodology, notwithstanding 119843
section 3317.05 of the Revised Code. 119844

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,838,281 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions. This support may include the purchase of equipment.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$3,100,850 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside.

Section 263.230. FOUNDATION FUNDING 119874

Of the foregoing appropriation item 200550, Foundation 119875

Funding, up to \$675,000 in fiscal year 2014 shall be used to 119876
support the work of the College of Education and Human Ecology at 119877
the Ohio State University in reviewing and assessing the alignment 119878
of courses offered through the distance learning clearinghouse 119879
established in sections 3333.81 to 3333.88 of the Revised Code 119880
with the academic content standards adopted under division (A) of 119881
section 3301.079 of the Revised Code. 119882

Of the foregoing appropriation item 200550, Foundation 119883
Funding, up to \$2,000,000 in each fiscal year shall be reserved 119884
for Youth Services tuition payments under section 3317.024 of the 119885
Revised Code. 119886

Of the foregoing appropriation item 200550, Foundation 119887
Funding, up to \$27,500,000 in fiscal year 2014 and up to 119888
\$20,000,000 in fiscal year 2015 shall be reserved to fund the 119889
state reimbursement of educational service centers under the 119890
section of this act entitled "EDUCATIONAL SERVICE CENTERS 119891
FUNDING"; and up to \$3,500,000 in each fiscal year shall be 119892
distributed to educational service centers for School Improvement 119893
Initiatives and, in consultation with the Governor's Director of 119894
21st Century Education, for the provision of technical assistance 119895
as required by the Elementary and Secondary Education Act 119896
Flexibility waivers approved for Ohio by the United States 119897
Department of Education. Educational service centers shall be 119898
required to support districts in the development and 119899
implementation of their continuous improvement plans as required 119900
in section 3302.04 of the Revised Code and to provide technical 119901
assistance and support in accordance with Title I of the "No Child 119902
Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317, as 119903
administered pursuant to the Elementary and Secondary Education 119904
Act Flexibility waivers approved for Ohio by the United States 119905
Department of Education. 119906

Of the foregoing appropriation item 200550, Foundation 119907

Funding, up to \$20,000,000 in each fiscal year shall be reserved 119908
for payments under sections 3317.026, 3317.027, and 3317.028 of 119909
the Revised Code. If this amount is not sufficient, the Department 119910
of Education shall prorate the payment amounts so that the 119911
aggregate amount allocated in this paragraph is not exceeded. 119912

Of the foregoing appropriation item 200550, Foundation 119913
Funding, up to \$2,000,000 in each fiscal year shall be used to pay 119914
career-technical planning districts for the amounts reimbursed to 119915
students, as prescribed in this paragraph. Each career-technical 119916
planning district shall reimburse individuals taking the online 119917
General Educational Development (GED) test for the first time for 119918
application/test fees in excess of \$40. Each career-technical 119919
planning district shall designate a site or sites where 119920
individuals may register and take the exam. For each individual 119921
that registers for the exam, the career-technical planning 119922
district shall make available and offer career counseling 119923
services, including information on adult education programs that 119924
are available. 119925

Of the foregoing appropriation item 200550, Foundation 119926
Funding, up to \$410,000 in each fiscal year shall be used to pay 119927
career-technical planning districts \$500 for each student that 119928
receives a journeyman certification, as recognized by the United 119929
States Department of Labor. 119930

Of the foregoing appropriation item 200550, Foundation 119931
Funding, up to \$18,713,327 in each fiscal year shall be used to 119932
support school choice programs. 119933

Of the portion of the funds distributed to the Cleveland 119934
Municipal School District under this section, up to \$11,901,887 in 119935
each fiscal year shall be used to operate the school choice 119936
program in the Cleveland Municipal School District under sections 119937
3313.974 to 3313.979 of the Revised Code. Notwithstanding 119938
divisions (B) and (C) of section 3313.978 and division (C) of 119939

section 3313.979 of the Revised Code, up to \$1,000,000 in each 119940
fiscal year of this amount shall be used by the Cleveland 119941
Municipal School District to provide tutorial assistance as 119942
provided in division (H) of section 3313.974 of the Revised Code. 119943
The Cleveland Municipal School District shall report the use of 119944
these funds in the district's three-year continuous improvement 119945
plan as described in section 3302.04 of the Revised Code in a 119946
manner approved by the Department of Education. 119947

Of the foregoing appropriation item 200550, Foundation 119948
Funding, an amount shall be available in each fiscal year to be 119949
paid to joint vocational school districts in accordance with 119950
section 3317.16 of the Revised Code and the section of this act 119951
entitled "TEMPORARY TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 119952
DISTRICTS." 119953

Of the foregoing appropriation item 200550, Foundation 119954
Funding, an amount shall be available in each fiscal year to pay 119955
career-technical planning districts in accordance with section 119956
3317.162 of the Revised Code. 119957

The remainder of appropriation item 200550, Foundation 119958
Funding, shall be used to distribute the amounts calculated for 119959
formula aid under section 3317.022 of the Revised Code and the 119960
section of this act entitled "TEMPORARY TRANSITIONAL AID FOR CITY, 119961
LOCAL, AND EXEMPTED VILLAGE SCHOOL DISTRICTS." 119962

Appropriation items 200502, Pupil Transportation, 200540, 119963
Special Education Enhancements, and 200550, Foundation Funding, 119964
other than specific set-asides, are collectively used in each 119965
fiscal year to pay state formula aid obligations for school 119966
districts, community schools, STEM schools, college preparatory 119967
boarding schools, and joint vocational school districts under this 119968
act. The first priority of these appropriation items, with the 119969
exception of specific set-asides, is to fund state formula aid 119970
obligations. It may be necessary to reallocate funds among these 119971

appropriation items or use excess funds from other general revenue 119972
fund appropriation items in the Department of Education's budget 119973
in each fiscal year, in order to meet state formula aid 119974
obligations. If it is determined that it is necessary to transfer 119975
funds among these appropriation items or to transfer funds from 119976
other General Revenue Fund appropriations in the Department of 119977
Education's budget to meet state formula aid obligations, the 119978
Department of Education shall seek approval from the Controlling 119979
Board to transfer funds as needed. 119980

The Superintendent of Public Instruction shall make payments, 119981
transfers, and deductions, as authorized by Title XXXIII of the 119982
Revised Code and Sections 267.30.50, 267.30.53, 267.30.56, and 119983
267.30.60 of Am. Sub. H.B. 153 of the 129th General Assembly, in 119984
amounts substantially equal to those made in the prior year, or 119985
otherwise, at the discretion of the Superintendent, until at least 119986
the effective date of the amendments and enactments made to Title 119987
XXXIII by this act. If a new school district, community school, or 119988
STEM school opens prior to the effective date of this act, the 119989
Department of Education shall pay to the district or school an 119990
amount of \$5,000 per pupil, based upon the estimated number of 119991
students that the district or school is expected to serve. Any 119992
funds paid to districts or schools under this section shall be 119993
credited toward the annual funds calculated for the district or 119994
school after the changes made to Title XXXIII in this act are 119995
effective. Upon the effective date of changes made to Title XXXIII 119996
in this act, funds shall be calculated as an annual amount. 119997

**Section 263.240. TEMPORARY TRANSITIONAL AID FOR CITY, LOCAL, 119998
AND EXEMPTED VILLAGE SCHOOL DISTRICTS 119999**

The Department of Education shall distribute funds within 120000
appropriation item 200550, Foundation Funding, for temporary 120001
transitional aid in each fiscal year to each qualifying city, 120002

local, and exempted village school district. 120003

(A) For fiscal years 2014 and 2015, the Department shall pay 120004
temporary transitional aid to each city, local, or exempted 120005
village school district that experiences any decrease in its state 120006
core foundation funding under section 3317.022 of the Revised 120007
Code, as re-enacted by this act, for the current fiscal year from 120008
its transitional aid guarantee base for the current fiscal year. 120009
The amount of the temporary transitional aid payment shall equal 120010
the difference between its funding under section 3317.022 of the 120011
Revised Code for the current fiscal year and its transitional aid 120012
guarantee base for the current fiscal year. If the computation 120013
made under this division results in a negative number, the 120014
district's funding under this division shall be zero. 120015

(1) The transitional aid guarantee base for each city, local, 120016
and exempted village school district for fiscal year 2014 equals: 120017

(a) The sum of the amounts computed for the district for 120018
fiscal year 2013, under Sections 267.30.50, 267.30.53, and 120019
267.30.56 of Am. Sub. H.B. 153 of the 129th General Assembly; 120020

Minus 120021

(b) The sum of both the amount allocated for the district for 120022
career-technical education funding for fiscal year 2011, as 120023
calculated for the district under division (B) of section 3306.052 120024
of the Revised Code, as that section existed prior to July 1, 120025
2011, and the amount allocated for pupil transportation for the 120026
district for fiscal year 2011, as calculated for the district 120027
under divisions (L)(1) and (2) of section 3306.12 of the Revised 120028
Code, as that section existed prior to July 1, 2011. 120029

(2) The transitional aid guarantee base for each city, local, 120030
and exempted village school district for fiscal year 2015 equals 120031
the amount computed for state core foundation funding for the 120032
district for fiscal year 2014 under section 3317.022 of the 120033

Revised Code, as re-enacted by this act, plus any amount 120034
calculated for temporary transitional aid for fiscal year 2014 120035
under division (A) of this section and after any reductions made 120036
for fiscal year 2014 under division (B) of this section. 120037

(B) Notwithstanding section 3317.022 of the Revised Code, as 120038
re-enacted by this act, and division (A) of this section, in 120039
either fiscal year 2014 or 2015, no city, local, or exempted 120040
village school district shall receive combined funding for state 120041
core foundation funding, under section 3317.022 of the Revised 120042
Code, as re-enacted by this act, and temporary transitional aid 120043
under division (A) of this section that is greater than the 120044
greater of (a) the opportunity grant calculated for the district 120045
under division (A)(1) of section 3317.022 of the Revised Code, as 120046
re-enacted by this act, and (b) the lesser of 1.25 times the 120047
district's transitional aid guarantee base for the current fiscal 120048
year, and 0.1 times the district's computed total resources for 120049
the fiscal year two years preceding the current fiscal year plus 120050
its transitional aid guarantee base for the current fiscal year. 120051
The Department shall reduce a district's payments under divisions 120052
(A)(2) to (7) of section 3317.022 of the Revised Code, as 120053
re-enacted by this act, proportionately as necessary in order to 120054
comply with this division. 120055

(C) As used in this section, a district's "total resources" 120056
for a given fiscal year means the sum of the following: 120057

(1) The sum of the amounts computed for the district for that 120058
fiscal year, under Sections 267.30.50, 267.30.53, and 267.30.56 of 120059
Am. Sub. H.B. 153 of the 129th General Assembly; 120060

(2) The sum of the payments received by the school district 120061
for that fiscal year for current expense levy losses pursuant to 120062
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 120063
section 5751.21 of the Revised Code, excluding the portion of such 120064
payments attributable to levies for joint vocational school 120065

district purposes;	120066
(3) The sum of the fixed-sum levy loss payments received by the school district for that fiscal year pursuant to division (E)(1) of section 5727.85 and division (E)(1) of section 5751.21 of the Revised Code for fixed-sum levies charged and payable for a purpose other than paying debt charges;	120067 120068 120069 120070 120071
(4) The average of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses, including taxes charged and payable from emergency levies charged and payable under section 5709.194 of the Revised Code and excluding taxes levied for joint vocational school district purposes, for the tax year two years preceding that fiscal year and the tax year one year preceding that fiscal year;	120072 120073 120074 120075 120076 120077 120078 120079
(5) The amount certified for that fiscal year under division (A)(2) of section 3317.08 of the Revised Code;	120080 120081
(6) Distributions received during the calendar year one year preceding that fiscal year from taxes levied under section 718.09 of the Revised Code.	120082 120083 120084
Section 263.250. TEMPORARY TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS	120085 120086
The Department of Education shall distribute funds within appropriation item 200550, Foundation Funding, for temporary transitional aid in each fiscal year to each qualifying joint vocational school district.	120087 120088 120089 120090
(A) For fiscal years 2014 and 2015, the Department shall pay temporary transitional aid to each joint vocational school district that experiences any decrease in its state core foundation funding under section 3317.16 of the Revised Code, as re-enacted by this act, for the current fiscal year from its	120091 120092 120093 120094 120095

transitional aid guarantee base for the current fiscal year. The 120096
amount of the temporary transitional aid payment shall equal the 120097
difference between the district's funding under section 3317.16 of 120098
the Revised Code for the current fiscal year and its transitional 120099
aid guarantee base for the current fiscal year. If the computation 120100
made under this division results in a negative number, the 120101
district's funding under this division shall be zero. 120102

(1) The transitional aid guarantee base for each joint 120103
vocational school district for fiscal year 2014 equals: 120104

(a) The amount computed for the district for fiscal year 120105
2013, under Section 267.30.60 of Am. Sub. H.B. 153 of the 129th 120106
General Assembly; 120107

Minus 120108

(b) The amount computed for the district for state vocational 120109
education additional weighted costs for fiscal year 2009, as 120110
calculated for the district under divisions (C)(1) and (2) of 120111
section 3317.16 of the Revised Code, as that section existed prior 120112
to July 1, 2010. 120113

(2) The transitional aid guarantee base for each joint 120114
vocational school district for fiscal year 2015 equals the amount 120115
computed for the state core foundation funding for the district 120116
for fiscal year 2014 under section 3317.16 of the Revised Code 120117
plus any amount calculated for temporary transitional aid for 120118
fiscal year 2014 under division (A) of this section and after any 120119
reductions made for fiscal year 2014 under division (B) of this 120120
section. 120121

(B) Notwithstanding section 3317.16 of the Revised Code, as 120122
re-enacted by this act, and division (A) of this section, in 120123
either fiscal year 2014 or 2015, no joint vocational school 120124
district shall receive combined funding for state core foundation 120125
funding, as computed under section 3317.16 of the Revised Code, as 120126

re-enacted by this act, and temporary transitional aid under 120127
division (A) of this section that is greater than the greater of 120128
(a) the opportunity grant calculated for the district under 120129
division (A)(1) of section 3317.16 of the Revised Code, as 120130
re-enacted by this act, and (b) 1.25 times the district's 120131
transitional aid guarantee base for the current fiscal year. The 120132
Department shall reduce a district's payments under divisions 120133
(A)(2) to (6) of section 3317.16 of the Revised Code, as 120134
re-enacted by this act, proportionately as necessary in order to 120135
comply with this division. 120136

Section 263.260. PROPERTY TAX ALLOCATION - EDUCATION 120137

The Superintendent of Public Instruction shall not request, 120138
and the Controlling Board shall not approve, the transfer of 120139
appropriation from appropriation item 200901, Property Tax 120140
Allocation - Education, to any other appropriation item. 120141

The appropriation item 200901, Property Tax Allocation - 120142
Education, is appropriated to pay for the state's costs incurred 120143
because of the homestead exemption, the property tax rollback, and 120144
payments required under division (C) of section 5705.2110 of the 120145
Revised Code. In cooperation with the Department of Taxation, the 120146
Department of Education shall distribute these funds directly to 120147
the appropriate school districts of the state, notwithstanding 120148
sections 321.24 and 323.156 of the Revised Code, which provide for 120149
payment of the homestead exemption and property tax rollback by 120150
the Tax Commissioner to the appropriate county treasurer and the 120151
subsequent redistribution of these funds to the appropriate local 120152
taxing districts by the county auditor. 120153

Upon receipt of these amounts, each school district shall 120154
distribute the amount among the proper funds as if it had been 120155
paid as real or tangible personal property taxes. Payments for the 120156
costs of administration shall continue to be paid to the county 120157

treasurer and county auditor as provided for in sections 319.54, 120158
321.26, and 323.156 of the Revised Code. 120159

Any sums, in addition to the amount specifically appropriated 120160
in appropriation items 200901, Property Tax Allocation - 120161
Education, for the homestead exemption and the property tax 120162
rollback payments, and payments required under division (C) of 120163
section 5705.2110 of the Revised Code, which are determined to be 120164
necessary for these purposes, are hereby appropriated. 120165

Section 263.270. TEACHER CERTIFICATION AND LICENSURE 120166

The foregoing appropriation item 200681, Teacher 120167
Certification and Licensure, shall be used by the Department of 120168
Education in each year of the biennium to administer and support 120169
teacher certification and licensure activities. 120170

SCHOOL DISTRICT SOLVENCY ASSISTANCE 120171

(A) Of the foregoing appropriation item 200687, School 120172
District Solvency Assistance, \$20,000,000 in each fiscal year 120173
shall be allocated to the School District Shared Resource Account 120174
and \$5,000,000 in each fiscal year shall be allocated to the 120175
Catastrophic Expenditures Account. These funds shall be used to 120176
provide assistance and grants to school districts to enable them 120177
to remain solvent under section 3316.20 of the Revised Code. 120178
Assistance and grants shall be subject to approval by the 120179
Controlling Board. Except as provided under division (C) of this 120180
section, any required reimbursements from school districts for 120181
solvency assistance shall be made to the appropriate account in 120182
the School District Solvency Assistance Fund (Fund 5H30). 120183

(B) Notwithstanding any provision of law to the contrary, 120184
upon the request of the Superintendent of Public Instruction, the 120185
Director of Budget and Management may make transfers to the School 120186
District Solvency Assistance Fund (Fund 5H30) from any fund used 120187

by the Department of Education or the General Revenue Fund to 120188
maintain sufficient cash balances in Fund 5H30 in fiscal years 120189
2014 and 2015. Any cash transferred is hereby appropriated. The 120190
transferred cash may be used by the Department of Education to 120191
provide assistance and grants to school districts to enable them 120192
to remain solvent and to pay unforeseeable expenses of a temporary 120193
or emergency nature that the school district is unable to pay from 120194
existing resources. The Director of Budget and Management shall 120195
notify the members of the Controlling Board of any such transfers. 120196

(C) If the cash balance of the School District Solvency 120197
Assistance Fund (Fund 5H30) is insufficient to pay solvency 120198
assistance in fiscal years 2014 and 2015, at the request of the 120199
Superintendent of Public Instruction, and with the approval of the 120200
Controlling Board, the Director of Budget and Management may 120201
transfer cash from the Lottery Profits Education Reserve Fund 120202
(Fund 7018) to Fund 5H30 to provide assistance and grants to 120203
school districts to enable them to remain solvent and to pay 120204
unforeseeable expenses of a temporary nature that they are unable 120205
to pay from existing resources under section 3316.20 of the 120206
Revised Code. Such transfers are hereby appropriated to 120207
appropriation item 200670, School District Solvency Assistance - 120208
Lottery. Any required reimbursements from school districts for 120209
solvency assistance granted from appropriation item 200670, School 120210
District Solvency Assistance - Lottery, shall be made to Fund 120211
7018. 120212

EXCEPTIONAL COST REIMBURSEMENT 120213

The foregoing appropriation item 200670, Exceptional Cost 120214
Reimbursement, shall be used in each fiscal year to provide 120215
additional state aid to school districts, joint vocational school 120216
districts, community schools, and STEM schools for special 120217
education students pursuant to section 3317.0214 of the Revised 120218
Code. 120219

Section 263.280. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS 120220

Upon the request of the Superintendent of Public Instruction, 120221
the Director of Budget and Management may transfer up to \$750,000 120222
cash in each fiscal year from the General Revenue Fund to the 120223
Schools Medicaid Administrative Claims Fund (Fund 3AF0). The 120224
transferred cash is to be used by the Department of Education to 120225
pay the expenses the Department incurs in administering the 120226
Medicaid School Component of the Medicaid program established 120227
under sections 5162.36 to 5162.364 of the Revised Code. On June 1 120228
of each fiscal year, or as soon as possible thereafter, the 120229
Director of Budget and Management shall transfer cash from Fund 120230
3AF0 back to the General Revenue Fund in an amount equal to the 120231
total amount transferred to Fund 3AF0 in that fiscal year. 120232

The money deposited into Fund 3AF0 under division (B) of 120233
section 5162.64 of the Revised Code is hereby appropriated for 120234
fiscal years 2014 and 2015 and shall be used in accordance with 120235
division (C) of section 5162.64 of the Revised Code. 120236

Section 263.290. HALF-MILL MAINTENANCE EQUALIZATION 120237

The foregoing appropriation item 200626, Half-Mill 120238
Maintenance Equalization, shall be used to make payments pursuant 120239
to section 3318.18 of the Revised Code. 120240

Section 263.300. GATES FOUNDATION GRANTS 120241

The foregoing appropriation item 200668, Gates Foundation 120242
Grants, shall be used by the Department of Education to provide 120243
professional development to school district principals, 120244
superintendents, and other administrative staff on the use of 120245
education technology. 120246

Section 263.310. AUXILIARY SERVICES REIMBURSEMENT 120247

Notwithstanding section 3317.064 of the Revised Code, if the unexpended, unencumbered cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2014 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2015 by August 1, 2014, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Auxiliary Services Reimbursement Fund (Fund 5980) used by the Department of Education.

Section 263.320. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200612, Foundation Funding (Fund 7017), shall be used in conjunction with appropriation item 200550, Foundation Funding (GRF), to provide state foundation payments to school districts.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200550, Foundation Funding (GRF), and appropriation item 200612, Foundation Funding (Fund 7017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

STRAIGHT A FUND

The foregoing appropriation item 200648, Straight A Fund, shall be used to make competitive grants in accordance with section 3317.52 of the Revised Code.

EDCHOICE EXPANSION

The foregoing appropriation item 200666, EdChoice Expansion, shall be used as follows:

(A) In fiscal year 2014, notwithstanding section 3310.032 of the Revised Code, the Department of Education shall administer an

expansion of the Educational Choice Scholarship program as 120278
follows: 120279

(1) A student is an "eligible student" for purposes of the 120280
expansion of the Educational Choice Scholarship Pilot Program 120281
under division (A) of this section if the student's resident 120282
district is not a school district in which the pilot project 120283
scholarship program is operating under sections 3313.974 to 120284
3313.979 of the Revised Code and the student's family income is at 120285
or below two hundred per cent of the federal poverty guidelines, 120286
as defined in section 5101.46 of the Revised Code. 120287

(2) The Department shall pay scholarships to attend chartered 120288
nonpublic schools in accordance with section 3310.08 of the 120289
Revised Code. The number of scholarships awarded under division 120290
(A) of this section shall not exceed the number that can be funded 120291
with appropriations made by the general assembly for this purpose. 120292

(3) Scholarships under division (A) of this section shall be 120293
awarded for the 2013-2014 school year, to eligible students who 120294
are entering kindergarten in that school year for the first time. 120295

(4) If the number of eligible students who apply for a 120296
scholarship exceeds the scholarships available based on the 120297
appropriation for division (A) of this section, the department 120298
shall award scholarships in the following order of priority: 120299

(a) First, to eligible students with family incomes at or 120300
below one hundred per cent of the federal poverty guidelines. 120301

(b) Second, to other eligible students who qualify under 120302
division (A) of this section. If the number of students described 120303
in division (A)(4)(b) of this section exceeds the number of 120304
available scholarships after awards are made under division 120305
(A)(4)(a) of this section, the department shall select students 120306
described in division (A)(4)(b) of this section by lot to receive 120307
any remaining scholarships. 120308

(5) A student who receives a scholarship under division (A) 120309
of this section remains an eligible student and may continue to 120310
receive scholarships under section 3310.032 of the Revised Code in 120311
subsequent school years until the student completes grade twelve, 120312
so long as the student satisfies the conditions specified in 120313
divisions (E)(2) and (3) of section 3310.03 of the Revised Code. 120314

Once a scholarship is awarded under this section, the student 120315
shall remain eligible for that scholarship for the current and 120316
subsequent school years, even if the student's family income rises 120317
above the amount specified in division (A) of section 3310.032 of 120318
the Revised Code, provided the student remains enrolled in a 120319
chartered nonpublic school. 120320

(B) In fiscal year 2015, to provide for the scholarships 120321
awarded under the expansion of the educational choice program 120322
established under section 3310.032 of the Revised Code. The number 120323
of scholarships awarded under the expansion of the educational 120324
choice program shall not exceed the number that can be funded with 120325
the appropriations made by the General Assembly for this purpose. 120326

COMMUNITY SCHOOL FACILITIES 120327

The foregoing appropriation item 200684, Community School 120328
Facilities, shall be used to pay each community school established 120329
under Chapter 3314. of the Revised Code that is not an internet- 120330
or computer-based community school an amount equal to \$100 for 120331
each full-time equivalent pupil for assistance with the cost 120332
associated with facilities. If the amount appropriated is not 120333
sufficient, the Department of Education shall prorate the amounts 120334
so that the aggregate amount appropriated is not exceeded. 120335

Section 263.330. LOTTERY PROFITS EDUCATION RESERVE FUND 120336

(A) There is hereby created the Lottery Profits Education 120337
Reserve Fund (Fund 7018) in the State Treasury. Investment 120338

earnings of the Lottery Profits Education Reserve Fund shall be 120339
credited to the fund. 120340

(B) Notwithstanding any other provision of law to the 120341
contrary, the Director of Budget and Management may transfer cash 120342
from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) 120343
in fiscal year 2014 and fiscal year 2015. 120344

(C) On July 15, 2013, or as soon as possible thereafter, the 120345
Director of the Ohio Lottery Commission shall certify to the 120346
Director of Budget and Management the amount by which lottery 120347
profit transfers received by Fund 7017 exceeded \$680,500,000 in 120348
fiscal year 2013. 120349

(D) On July 15, 2014, or as soon as possible thereafter, the 120350
Director of the Ohio Lottery Commission shall certify to the 120351
Director of Budget and Management the amount by which lottery 120352
profit transfers received by Fund 7017 exceeded \$841,000,000 in 120353
fiscal year 2014. 120354

(E) Notwithstanding any provision of law to the contrary, in 120355
fiscal year 2014 and fiscal year 2015, the Director of Budget and 120356
Management may transfer cash in excess of the amounts necessary to 120357
support appropriations in Fund 7017 from that fund to Fund 7018. 120358

Section 263.340. GENERAL REVENUE FUND TRANSFERS TO SCHOOL 120359
DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047) 120360

Notwithstanding any provision of law to the contrary, in 120361
fiscal year 2014 and fiscal year 2015 the Director of Budget and 120362
Management may make temporary transfers between the General 120363
Revenue Fund and the School District Property Tax Replacement - 120364
Business Fund (Fund 7047), used by the Department of Education, to 120365
ensure sufficient balances in Fund 7047 and to replenish the 120366
General Revenue Fund for such transfers. 120367

Section 263.350. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 120368

BUSINESS	120369
The foregoing appropriation item 200909, School District	120370
Property Tax Replacement - Business, shall be used by the	120371
Department of Education, in consultation with the Department of	120372
Taxation, to make payments to school districts and joint	120373
vocational school districts under section 5751.21 of the Revised	120374
Code. If it is determined by the Director of Budget and Management	120375
that additional appropriations are necessary for this purpose,	120376
such amounts are hereby appropriated.	120377
 SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY	120378
The foregoing appropriation item 200900, School District	120379
Property Tax Replacement-Utility, shall be used by the Department	120380
of Education, in consultation with the Department of Taxation, to	120381
make payments to school districts and joint vocational school	120382
districts under section 5727.85 of the Revised Code. If it is	120383
determined by the Director of Budget and Management that	120384
additional appropriations are necessary for this purpose, such	120385
amounts are hereby appropriated.	120386
 DISTRIBUTION FORMULAS	120387
The Department of Education shall report the following to the	120388
Director of Budget and Management and the Legislative Service	120389
Commission:	120390
(A) Changes in formulas for distributing state	120391
appropriations, including administratively defined formula	120392
factors;	120393
(B) Discretionary changes in formulas for distributing	120394
federal appropriations;	120395
(C) Federally mandated changes in formulas for distributing	120396
federal appropriations.	120397
Any such changes shall be reported two weeks prior to the	120398

effective date of the change. 120399

Section 263.360. EDUCATIONAL SERVICE CENTERS FUNDING 120400

In fiscal year 2014, each Educational Service Center shall 120401
receive funding equal to seventy-seven and one-half per cent of 120402
the amount received in fiscal year 2013 under Section 267.40.70 of 120403
Am. Sub. H.B. 153 of the 129th General Assembly. 120404

In fiscal year 2015, each Educational Service Center shall 120405
receive funding equal to seventy-two and three tenths per cent of 120406
the amount received in fiscal year 2014 under this section. 120407

Notwithstanding any provision of law to the contrary, the 120408
Department of Education shall modify the payments under this 120409
section as follows: 120410

(A) If an educational service center ceases operation, the 120411
Department shall redistribute that center's funding, as calculated 120412
under this section, to the remaining centers in proportion to each 120413
center's service center ADM as defined in former section 3317.11 120414
of the Revised Code, as that section existed prior to the date of 120415
its repeal. 120416

(B) If two or more educational service centers merge 120417
operations to create a single service center, the Department shall 120418
distribute the sum of the original service centers' funding, as 120419
calculated under this section, to the new service center. 120420

Section 263.370. SCHOOL DISTRICT PARTICIPATION IN NATIONAL 120421
ASSESSMENT OF EDUCATION PROGRESS 120422

The General Assembly intends for the Superintendent of Public 120423
Instruction to provide for school district participation in the 120424
administration of the National Assessment of Education Progress in 120425
accordance with section 3301.27 of the Revised Code. Each school 120426
and school district selected for participation by the 120427

Superintendent of Public Instruction shall participate. 120428

Section 263.380. EARMARK ACCOUNTABILITY 120429

At the request of the Superintendent of Public Instruction, 120430
any entity that receives a budget earmark under the Department of 120431
Education shall submit annually to the chairpersons of the 120432
committees of the House of Representatives and the Senate 120433
primarily concerned with education and to the Department of 120434
Education a report that includes a description of the services 120435
supported by the funds, a description of the results achieved by 120436
those services, an analysis of the effectiveness of the program, 120437
and an opinion as to the program's applicability to other school 120438
districts. For an earmarked entity that received state funds from 120439
an earmark in the prior fiscal year, no funds shall be provided by 120440
the Department of Education to an earmarked entity for a fiscal 120441
year until its report for the prior fiscal year has been 120442
submitted. 120443

Section 263.390. COMMUNITY SCHOOL OPERATING FROM HOME 120444

A community school established under Chapter 3314. of the 120445
Revised Code that was open for operation as a community school as 120446
of May 1, 2005, may operate from or in any home, as defined in 120447
section 3313.64 of the Revised Code, located in the state, 120448
regardless of when the community school's operations from or in a 120449
particular home began. 120450

Section 263.400. USE OF VOLUNTEERS 120451

The Department of Education may utilize the services of 120452
volunteers to accomplish any of the purposes of the Department. 120453
The Superintendent of Public Instruction shall approve for what 120454
purposes volunteers may be used and for these purposes may 120455
recruit, train, and oversee the services of volunteers. The 120456

Superintendent may reimburse volunteers for necessary and 120457
appropriate expenses in accordance with state guidelines and may 120458
designate volunteers as state employees for the purpose of motor 120459
vehicle accident liability insurance under section 9.83 of the 120460
Revised Code, for immunity under section 9.86 of the Revised Code, 120461
and for indemnification from liability incurred in the performance 120462
of their duties under section 9.87 of the Revised Code. 120463

Section 263.410. RESTRICTION OF LIABILITY FOR CERTAIN 120464
REIMBURSEMENTS 120465

(A) Except as expressly required under a court judgment not 120466
subject to further appeals, or a settlement agreement with a 120467
school district executed on or before June 1, 2009, in the case of 120468
a school district for which the formula ADM for fiscal year 2005, 120469
as reported for that fiscal year under division (A) of section 120470
3317.03 of the Revised Code, was reduced based on enrollment 120471
reports for community schools, made under section 3314.08 of the 120472
Revised Code, regarding students entitled to attend school in the 120473
district, which reduction of formula ADM resulted in a reduction 120474
of foundation funding or transitional aid funding for fiscal year 120475
2005, 2006, or 2007, no school district, except a district named 120476
in the court's judgment or the settlement agreement, shall have a 120477
legal claim for reimbursement of the amount of such reduction in 120478
foundation funding or transitional aid funding, and the state 120479
shall not have liability for reimbursement of the amount of such 120480
reduction in foundation funding or transitional aid funding. 120481

(B) As used in this section: 120482

(1) "Community school" means a community school established 120483
under Chapter 3314. of the Revised Code. 120484

(2) "Entitled to attend school" means entitled to attend 120485
school in a school district under section 3313.64 or 3313.65 of 120486
the Revised Code. 120487

(3) "Foundation funding" means payments calculated for the
respective fiscal year under Chapter 3317. of the Revised Code.

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(4) "Transitional aid funding" means payments calculated for
the respective fiscal year under Section 41.37 of Am. Sub. H.B. 95
of the 125th General Assembly, as subsequently amended; Section
206.09.39 of Am. Sub. H.B. 66 of the 126th General Assembly, as
subsequently amended; and Section 269.30.80 of Am. Sub. H.B. 119
of the 127th General Assembly.

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Section 263.420. UNAUDITABLE COMMUNITY SCHOOL 120496

(A) If the Auditor of State or a public accountant, pursuant
to section 117.41 of the Revised Code, declares a community school
established under Chapter 3314. of the Revised Code to be
unauditable, the Auditor of State shall provide written
notification of that declaration to the school, the school's
sponsor, and the Department of Education. The Auditor of State
also shall post the notification on the Auditor of State's web
site.

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(B) Notwithstanding any provision to the contrary in Chapter
3314. of the Revised Code or any other provision of law, a sponsor
of a community school that is notified by the Auditor of State
under division (A) of this section that a community school it
sponsors is unauditabile shall not enter into contracts with any
additional community schools under section 3314.03 of the Revised
Code until the Auditor of State or a public accountant has
completed a financial audit of that school.

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(C) Not later than forty-five days after receiving
notification by the Auditor of State under division (A) of this
section that a community school is unauditabile, the sponsor of the
school shall provide a written response to the Auditor of State.
The response shall include the following:

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(1) An overview of the process the sponsor will use to review 120518
and understand the circumstances that led to the community school 120519
becoming unauditabile; 120520

(2) A plan for providing the Auditor of State with the 120521
documentation necessary to complete an audit of the community 120522
school and for ensuring that all financial documents are available 120523
in the future; 120524

(3) The actions the sponsor will take to ensure that the plan 120525
described in division (C)(2) of this section is implemented. 120526

(D) If a community school fails to make reasonable efforts 120527
and continuing progress to bring its accounts, records, files, or 120528
reports into an auditable condition within ninety days after being 120529
declared unauditabile, the Auditor of State, in addition to 120530
requesting legal action under sections 117.41 and 117.42 of the 120531
Revised Code, shall notify the Department of the school's failure. 120532
If the Auditor of State or a public accountant subsequently is 120533
able to complete a financial audit of the school, the Auditor of 120534
State shall notify the Department that the audit has been 120535
completed. 120536

(E) Notwithstanding any provision to the contrary in Chapter 120537
3314. of the Revised Code or any other provision of law, upon 120538
notification by the Auditor of State under division (D) of this 120539
section that a community school has failed to make reasonable 120540
efforts and continuing progress to bring its accounts, records, 120541
files, or reports into an auditable condition following a 120542
declaration that the school is unauditabile, the Department shall 120543
immediately cease all payments to the school under Chapter 3314. 120544
of the Revised Code and any other provision of law. Upon 120545
subsequent notification from the Auditor of State under that 120546
division that the Auditor of State or a public accountant was able 120547
to complete a financial audit of the community school, the 120548
Department shall release all funds withheld from the school under 120549

this section. 120550

Section 263.430. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 120551

In collaboration with the County Family and Children First 120552
Council, a city, local, or exempted village school district, 120553
community school, STEM school, joint vocational school district, 120554
educational service center, or county board of developmental 120555
disabilities that receives allocations from the Department of 120556
Education from appropriation item 200550, Foundation Funding, or 120557
appropriation item 200540, Special Education Enhancements, may 120558
transfer portions of those allocations to a flexible funding pool 120559
authorized by the Section of this act entitled "FAMILY AND 120560
CHILDREN FIRST FLEXIBLE FUNDING POOL." Allocations used for 120561
maintenance of effort or for federal or state funding matching 120562
requirements shall not be transferred unless the allocation may 120563
still be used to meet such requirements. 120564

Section 263.440. The Department of Education shall conduct a 120565
formative evaluation of the Jon Peterson Special Needs Scholarship 120566
Program established under sections 3310.51 to 3310.64 of the 120567
Revised Code, using both quantitative and qualitative analyses, 120568
and shall report its findings to the General Assembly, in 120569
accordance with section 101.68 of the Revised Code, not later than 120570
December 31, 2014. 120571

The study shall include an assessment of: 120572

(A) The level of the participating student's satisfaction 120573
with the program; 120574

(B) The level of the participating parent's satisfaction with 120575
the program; 120576

(C) The fiscal impact to the state and resident school 120577
districts affected by the program. 120578

In conducting the evaluation, the Department shall to the 120579
extent possible gather comments from parents who have been awarded 120580
scholarships under the program, school district officials, 120581
representatives of registered private providers, educators, and 120582
representatives of educational organizations for inclusion in the 120583
report required under this section. 120584

The Department may contract with one or more qualified 120585
researchers who have previous experience evaluating school choice 120586
programs to conduct this study. The Department may accept grants 120587
to assist in funding this study. 120588

Section 263.450. (A) The Ohio Open Enrollment Task Force is 120589
hereby established to review and make recommendations on open 120590
enrollment. The Superintendent of Public Instruction shall consult 120591
with the Governor's Office of 21st Century Education to convene a 120592
taskforce that consists of representatives from school districts 120593
that represent all sectors of Ohio's educational community. 120594

(B) The Superintendent shall designate the chairperson of the 120595
Task Force. All meetings of the Task Force shall be held at the 120596
call of the chairperson. 120597

(C) The Task Force shall review and make recommendations 120598
regarding the process by which students may enroll in other school 120599
districts under open enrollment and the funding mechanisms 120600
associated with open enrollment deductions and credits. 120601

(D) Not later than December 31, 2013, the Task Force shall 120602
issue a report of its findings and recommendations to the 120603
Governor, the President of the Senate, and the Speaker of the 120604
House of Representatives. Upon issuance of the report, the Task 120605
Force shall cease to exist. 120606

Section 263.460. Not later than December 31, 2013, the State 120607
Board of Education shall review and revise the operating standards 120608

adopted in accordance with division (D) of section 3301.07 of the Revised Code. The operating standards adopted in accordance with division (D) of section 3301.07 of the Revised Code shall be limited to the requirements necessary to ensure the health and safety of students and the requirements necessary to ensure each student has mastered a common knowledge base in order to graduate from high school. As much as possible, the state board shall provide schools with flexibility in meeting the standards adopted.

Section 263.470. (A) On July 1, 2013, or as soon as possible thereafter, notwithstanding any provision of law to the contrary, and if requested by the Department of Education, the Director of Budget and Management shall make budget changes made necessary by the transfer of the operations and related management functions of the eTech Ohio Commission to the Department of Education, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds, as authorized by this section. The Director of Budget and Management may, if necessary, establish encumbrances or parts of encumbrances in the fiscal year 2014-2015 biennium in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor. The established encumbrances plus any additional amounts determined to be necessary for the Ohio Department of Education to perform the operations and related management functions of the eTech Ohio Commission are hereby appropriated.

(B) Not later than 30 days after the transfer and consolidation of the operations and related management functions of the eTech Ohio Commission to the Department of Education, an authorized officer of the eTech Ohio Commission shall certify to the Department of Education the unexpended balance and location of any funds and accounts designated for building and facility

operation and management functions, and the custody of such funds 120640
and accounts shall be transferred to the Department of Education. 120641

(C) Effective July 1, 2013, the Director of Budget and 120642
Management shall cancel any existing encumbrances against 120643
appropriation item 935607, Gates Foundation Grants, and 120644
re-establish them against appropriation item 200668, Gates 120645
Foundation Grants. The re-established encumbrance amounts are 120646
hereby appropriated. Any business commenced but not completed 120647
under appropriation item 935607 by July 1, 2013, shall be 120648
completed under appropriation item 200668 in the same manner and 120649
with the same effect as if it were completed with regard to 120650
appropriation item 935607. 120651

(D) Effective July 1, 2013, the Director of Budget and 120652
Management shall cancel existing encumbrances against 120653
appropriation item 935408, General Operations, and re-establish 120654
them, as determined to be appropriate by the Director of Budget 120655
and Management, against appropriation item 200464, General 120656
Technology Operations. The re-established encumbrance amounts are 120657
hereby appropriated. Any business commenced but not completed 120658
under appropriation item 935408 by July 1, 2013, shall be 120659
completed, as determined to be appropriate by the Director of 120660
Budget and Management, under appropriation item 200464 in the same 120661
manner and with the same effect as if it were completed with 120662
regard to appropriation item 935408. 120663

(E) Effective July 1, 2013, the Director of Budget and 120664
Management shall cancel existing encumbrances against 120665
appropriation item 935411, Technology Integration and Professional 120666
Development, and re-establish them, as determined to be 120667
appropriate by the Director of Budget and Management, against 120668
appropriation item 200465, Technology Integration and Professional 120669
Development. The re-established encumbrance amounts are hereby 120670
appropriated. Any business commenced but not completed under 120671

appropriation item 935411 by July 1, 2013, shall be completed, as 120672
determined to be appropriate by the Director of Budget and 120673
Management, under appropriation item 200465 in the same manner and 120674
with the same effect as if it were completed with regard to 120675
appropriation item 935411. 120676

(F) There is hereby created the Educational Technology 120677
Practice Office as a cross-functional office comprised of 120678
employees of the Ohio Board of Regents and the Department of 120679
Education, including former employees of the eTech Ohio Commission 120680
transferred to the Ohio Board of Regents and the Department of 120681
Education. The Office shall work with educational service centers 120682
and information technology centers to develop digital learning, 120683
blended learning, and professional development materials using 120684
shared infrastructure. The Office shall also evaluate new 120685
educational technology and methodologies of teaching and learning 120686
and work with educators to increase awareness of such new 120687
technology and methodologies shown to be helpful to Ohio students. 120688

(G) TRANSFER OF EMPLOYEES 120689

As of July 1, 2013, all employees of the former eTech Ohio 120690
Commission who transferred to the Department of Education upon the 120691
abolishment of the Commission as prescribed by this section and 120692
who when employed by that Commission or a predecessor agency were 120693
included in a bargaining unit established under Chapter 4117. of 120694
the Revised Code, shall continue to be included in that bargaining 120695
unit, are public employees as defined in section 4117.01 of the 120696
Revised Code, and may collectively bargain with the Department in 120697
accordance with that chapter. Otherwise, any employee hired by the 120698
Department on or after the effective date of this section, either 120699
to fill vacancies or to fill new positions related to the 120700
transferred employees' duties, shall be exempt from Chapter 4117. 120701
of the Revised Code and shall not be public employees as defined 120702
in section 4117.01 of the Revised Code. 120703

Section 265.10. ELC OHIO ELECTIONS COMMISSION				120704
General Revenue Fund				120705
GRF 051321	Operating Expenses	\$ 333,117	\$ 333,117	120706
TOTAL GRF General Revenue Fund				120707
General Services Fund Group				120708
4P20 051601	Ohio Elections	\$ 225,000	\$ 225,000	120709
Commission Fund				
TOTAL GSF General Services Fund				120710
Group				
TOTAL ALL BUDGET FUND GROUPS				120711
 Section 267.10. FUN STATE BOARD OF EMBALMERS AND FUNERAL				120713
DIRECTORS				120714
General Services Fund Group				120715
4K90 881609	Operating Expenses	\$ 737,000	\$ 741,000	120716
TOTAL GSF General Services				120717
Fund Group				120718
TOTAL ALL BUDGET FUND GROUPS				120719
 Section 269.10. PAY EMPLOYEE BENEFITS FUNDS				120721
Accrued Leave Liability Fund Group				120722
8060 995666	Accrued Leave Fund	\$ 73,494,242	\$ 74,964,127	120723
8070 995667	Disability Fund	\$ 26,593,747	\$ 27,345,147	120724
TOTAL ALF Accrued Leave Liability				120725
Fund Group				120726
Agency Fund Group				120727
1240 995673	Payroll Deductions	\$ 775,712,468	\$ 814,498,091	120728
8080 995668	State Employee Health	\$ 689,654,314	\$ 758,608,963	120729
Benefit Fund				
8090 995669	Dependent Care	\$ 2,967,711	\$ 3,116,097	120730
Spending Account				

8100	995670	Life Insurance	\$	2,143,053	\$	2,143,053	120731
		Investment Fund					
8110	995671	Parental Leave	\$	3,668,471	\$	3,741,840	120732
		Benefit Fund					
8130	995672	Health Care Spending	\$	8,033,020	\$	8,434,671	120733
		Account					
TOTAL AGY	Agency Fund Group		\$	1,482,179,037	\$	1,590,542,715	120734
							120735
TOTAL ALL BUDGET FUND GROUPS			\$	1,582,267,026	\$	1,692,851,989	120736
		ACCRUED LEAVE LIABILITY FUND					120737
		The foregoing appropriation item 995666, Accrued Leave Fund,					120738
		shall be used to make payments from the Accrued Leave Liability					120739
		Fund (Fund 8060) pursuant to section 125.211 of the Revised Code.					120740
		If it is determined by the Director of Budget and Management that					120741
		additional amounts are necessary, the amounts are hereby					120742
		appropriated.					120743
		STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND					120744
		The foregoing appropriation item 995667, Disability Fund,					120745
		shall be used to make payments from the State Employee Disability					120746
		Leave Benefit Fund (Fund 8070) pursuant to section 124.83 of the					120747
		Revised Code. If it is determined by the Director of Budget and					120748
		Management that additional amounts are necessary, the amounts are					120749
		hereby appropriated.					120750
		PAYROLL DEDUCTION FUND					120751
		The foregoing appropriation item 995673, Payroll Deductions,					120752
		shall be used to make payments from the Payroll Deduction Fund					120753
		(Fund 1240) pursuant to section 125.21 of the Revised Code. If it					120754
		is determined by the Director of Budget and Management that					120755
		additional appropriation amounts are necessary, the amounts are					120756
		hereby appropriated.					120757
		STATE EMPLOYEE HEALTH BENEFIT FUND					120758

The foregoing appropriation item 995668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 8080) pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

DEPENDENT CARE SPENDING FUND

The foregoing appropriation item 995669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Fund (Fund 8090) to employees eligible for dependent care expenses pursuant to section 124.822 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 8100) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 8110) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

HEALTH CARE SPENDING ACCOUNT FUND

The foregoing appropriation item 995672, Health Care Spending Account, shall be used to make payments from the Health Care Spending Account Fund (Fund 8130) for payments pursuant to state employees' participation in a flexible spending account for non-reimbursed health care expenses and section 124.821 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

Section 269.20. CASH TRANSFERS FROM THE COST SAVINGS FUND 120800

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$735,000 cash from the Cost Savings Fund (Fund 8140) to the Investment Recovery Fund (Fund 4270) used by the Department of Administrative Services, and up to \$5,200,000 cash from the Cost Savings Fund (Fund 8140) to the Accrued Leave Fund (Fund 8060) in order to support accrued leave payouts to state employees who are participating in an annual leave conversion or who are separating from state service.

Section 271.10. ERB STATE EMPLOYMENT RELATIONS BOARD 120810

General Revenue Fund					120811
GRF 125321 Operating Expenses	\$	3,761,457	\$	3,761,457	120812
TOTAL GRF General Revenue Fund	\$	3,761,457	\$	3,761,457	120813
General Services Fund Group					120814
5720 125603 Training and Publications	\$	85,000	\$	85,000	120815
TOTAL GSF General Services Fund Group	\$	85,000	\$	85,000	120817
TOTAL ALL BUDGET FUND GROUPS	\$	3,846,457	\$	3,846,457	120818

Section 273.10. ENG STATE BOARD OF ENGINEERS AND SURVEYORS				120820
General Services Fund Group				120821
4K90 892609	Operating	\$	996,938 \$	993,889 120822
TOTAL GSF General Services				120823
Fund Group		\$	996,938 \$	993,889 120824
TOTAL ALL BUDGET FUND GROUPS				120825
 Section 275.10. EPA ENVIRONMENTAL PROTECTION AGENCY				120827
General Revenue Fund				120828
GRF 715502	Auto Emissions	\$	10,923,093 \$	10,923,093 120829
	e-Check Program			
TOTAL GRF General Revenue Fund				120830
General Services Fund Group				120831
1990 715602	Laboratory Services	\$	252,153 \$	326,029 120832
2190 715604	Central Support	\$	10,255,680 \$	10,255,680 120833
	Indirect			
4A10 715640	Operating Expenses	\$	2,600,000 \$	2,602,000 120834
4D50 715618	Recycled State	\$	50,000 \$	50,000 120835
	Materials			
TOTAL GSF General Services				120836
Fund Group		\$	13,157,833 \$	13,233,709 120837
Federal Special Revenue Fund Group				120838
3530 715612	Public Water Supply	\$	2,562,578 \$	2,474,605 120839
3540 715614	Hazardous Waste	\$	4,088,383 \$	4,088,383 120840
	Management - Federal			
3570 715619	Air Pollution Control	\$	6,310,203 \$	6,310,203 120841
	- Federal			
3620 715605	Underground Injection	\$	111,874 \$	111,874 120842
	Control - Federal			
3BU0 715684	Water Quality	\$	16,205,000 \$	15,280,000 120843
	Protection			

3CS0	715688	Federal NRD Settlements	\$	200,000	\$	200,000	120844
3F20	715630	Revolving Loan Fund - Operating	\$	832,543	\$	1,114,543	120845
3F30	715632	Federally Supported Cleanup and Response	\$	3,012,021	\$	3,012,991	120846
3FH0	715693	Diesel Emission Reduction Grants	\$	10,000,000	\$	10,000,000	120847
3T30	715669	Drinking Water State Revolving Fund	\$	2,609,198	\$	2,824,076	120848
3V70	715606	Agencywide Grants	\$	600,000	\$	600,000	120849
TOTAL FED Federal Special Revenue							120850
Fund Group			\$	46,531,800	\$	46,016,675	120851
State Special Revenue Fund Group							120852
4J00	715638	Underground Injection Control	\$	389,126	\$	402,697	120853
4K20	715648	Clean Air - Non Title V	\$	3,165,400	\$	3,237,450	120854
4K30	715649	Solid Waste	\$	15,685,342	\$	16,330,873	120855
4K40	715650	Surface Water Protection	\$	6,993,800	\$	7,688,800	120856
4K40	715686	Environmental Laboratory Services	\$	2,096,007	\$	2,096,007	120857
4K50	715651	Drinking Water Protection	\$	6,316,772	\$	6,476,011	120858
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000	120859
4R50	715656	Scrap Tire Management	\$	1,059,378	\$	1,070,532	120860
4R90	715658	Voluntary Action Program	\$	916,690	\$	945,195	120861
4T30	715659	Clean Air - Title V Permit Program	\$	14,528,885	\$	15,080,366	120862
4U70	715660	Construction and Demolition Debris	\$	335,000	\$	335,000	120863

5000	715608	Immediate Removal Special Account	\$	660,033	\$	660,293	120864
5030	715621	Hazardous Waste Facility Management	\$	7,615,403	\$	8,224,041	120865
5050	715623	Hazardous Waste Cleanup	\$	14,528,609	\$	14,933,345	120866
5050	715674	Clean Ohio Environmental Review	\$	108,104	\$	108,104	120867
5320	715646	Recycling and Litter Control	\$	4,514,500	\$	4,535,500	120868
5410	715670	Site Specific Cleanup	\$	1,548,101	\$	1,548,101	120869
5420	715671	Risk Management Reporting	\$	208,936	\$	214,826	120870
5860	715637	Scrap Tire Market Development	\$	1,497,645	\$	1,497,645	120871
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455	120872
5BC0	715622	Local Air Pollution Control	\$	2,297,980	\$	2,297,980	120873
5BC0	715624	Surface Water	\$	9,614,974	\$	9,614,974	120874
5BC0	715672	Air Pollution Control	\$	5,684,758	\$	5,684,758	120875
5BC0	715673	Drinking and Ground Water	\$	4,863,521	\$	4,863,521	120876
5BC0	715676	Assistance and Prevention	\$	695,069	\$	695,069	120877
5BC0	715677	Laboratory	\$	1,358,586	\$	1,558,586	120878
5BC0	715678	Corrective Actions	\$	705,423	\$	705,423	120879
5BC0	715687	Areawide Planning Agencies	\$	450,000	\$	450,000	120880
5BC0	715692	Administration	\$	10,582,627	\$	10,582,627	120881
5BC0	715694	Environmental Resource Coordination	\$	170,000	\$	170,000	120882
5BT0	715679	C&DD Groundwater Monitoring	\$	203,800	\$	203,800	120883

5CD0	715682	Clean Diesel School Buses	\$	475,000	\$	475,000	120884
5H40	715664	Groundwater Support	\$	128,212	\$	223,212	120885
5Y30	715685	Surface Water Improvement	\$	1,800,000	\$	1,800,000	120886
6440	715631	Emergency Response Radiological Safety	\$	284,266	\$	290,674	120887
6600	715629	Infectious Waste Management	\$	88,764	\$	88,764	120888
6760	715642	Water Pollution Control Loan Administration	\$	3,921,605	\$	3,921,605	120889
6780	715635	Air Toxic Release	\$	133,636	\$	133,636	120890
6790	715636	Emergency Planning	\$	2,623,252	\$	2,623,252	120891
6960	715643	Air Pollution Control Administration	\$	1,100,000	\$	1,125,000	120892
6990	715644	Water Pollution Control Administration	\$	345,000	\$	345,000	120893
6A10	715645	Environmental Education	\$	1,350,000	\$	1,350,000	120894
TOTAL SSR		State Special Revenue	\$	131,755,659	\$	135,299,122	120895
Fund Group							
Clean Ohio Conservation Fund Group							120896
5S10	715607	Clean Ohio - Operating	\$	284,124	\$	284,124	120897
TOTAL CLF		Clean Ohio Conservation	\$	284,124	\$	284,124	120898
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	202,652,509	\$	205,756,723	120899
AREAWIDE PLANNING AGENCIES							120900
The Director of Environmental Protection Agency may award							120901
grants from appropriation item 715687, Areawide Planning Agencies,							120902
to areawide planning agencies engaged in areawide water quality							120903

management and planning activities in accordance with Section 208 120904
of the "Federal Clean Water Act," 33 U.S.C. 1288. 120905

CASH TRANSFERS 120906

On July 1, 2013, or as soon as possible thereafter, the 120907
Director of Budget and Management may transfer up to \$11,400,000 120908
cash from the Hazardous Waste Management Fund (Fund 5030) to the 120909
Hazardous Waste Cleanup Fund (Fund 5050) to support closure and 120910
corrective action programs that were transferred to the Division 120911
of Environmental Response and Revitalization. 120912

On July 1, 2013, or as soon as possible thereafter, the 120913
Director of Environmental Protection shall certify to the Director 120914
of Budget and Management the cash balance in the Dredge and Fill 120915
Fund (Fund 5N20). The Director of Budget and Management shall 120916
transfer the certified amount from Fund 5N20 to the Surface Water 120917
Protection Fund (Fund 4K40). Any existing encumbrances against 120918
appropriation item 715613, Dredge and Fill, shall be canceled and 120919
reestablished against appropriation item 715650, Surface Water 120920
Protection. The reestablished encumbrance amounts are hereby 120921
appropriated and Fund 5N20 is abolished. 120922

Section 277.10. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 120923

General Revenue Fund 120924

GRF 172321	Operating Expenses	\$	545,530	\$	545,530	120925
TOTAL GRF	General Revenue Fund	\$	545,530	\$	545,530	120926
TOTAL ALL BUDGET	FUND GROUPS	\$	545,530	\$	545,530	120927

Section 279.10. ETH OHIO ETHICS COMMISSION 120929

General Revenue Fund 120930

GRF 146321	Operating Expenses	\$	1,409,751	\$	1,381,556	120931
TOTAL GRF	General Revenue Fund	\$	1,409,751	\$	1,381,556	120932

General Services Fund Group 120933

4M60 146601	Operating Expenses	\$	636,388	\$	641,000	120934
TOTAL GSF General Services						120935
Fund Group		\$	636,388	\$	641,000	120936
TOTAL ALL BUDGET FUND GROUPS						120937

Section 281.10. EXP OHIO EXPOSITIONS COMMISSION 120939

General Revenue Fund						120940
GRF 723403	Junior Fair Subsidy	\$	250,000	\$	250,000	120941
TOTAL GRF General Revenue Fund						120942
State Special Revenue Fund Group						120943
4N20 723602	Ohio State Fair	\$	235,000	\$	235,000	120944
Harness Racing						
5060 723601	Operating Expenses	\$	12,894,000	\$	12,894,000	120945
TOTAL SSR State Special Revenue						120946
Fund Group		\$	13,129,000	\$	13,129,000	120947
TOTAL ALL BUDGET FUND GROUPS						120948

STATE FAIR RESERVE 120949

The General Manager of the Expositions Commission, in 120950
consultation with the Director of Budget and Management, may 120951
submit a request to the Controlling Board to use available amounts 120952
in the State Fair Reserve Fund (Fund 6400) if revenues for the 120953
Ohio State Fair for the 2013 or 2014 Ohio State Fair are 120954
unexpectedly low. 120955

Section 282.10. FCC OHIO FACILITIES CONSTRUCTION COMMISSION 120956

General Revenue Fund						120957
GRF 230401	Lease Rental Payments	\$	33,106,400	\$	29,854,500	120958
- Cultural Facilities						
GRF 230458	State Construction	\$	2,495,751	\$	2,245,751	120959
Management Services						
GRF 230908	Common Schools	\$	351,806,100	\$	377,364,700	120960
General Obligation						

Debt Service

TOTAL GRF General Revenue Fund	\$	387,408,251	\$	409,464,951	120961
General Services Fund Group					120962
1310 230639 State Construction	\$	9,463,342	\$	9,463,342	120963
Management Operations					
TOTAL GSF General Services Fund	\$	9,463,342	\$	9,463,342	120964
Group					
State Special Revenue Fund Group					120965
4T80 230603 Community Project	\$	200,000	\$	200,000	120966
Administration					
5E30 230644 Operating Expenses	\$	8,550,000	\$	8,550,000	120967
TOTAL SSR State Special Revenue					120968
Fund Group	\$	8,750,000	\$	8,750,000	120969
TOTAL ALL BUDGET FUND GROUPS	\$	405,621,593	\$	427,678,293	120970

Section 282.20. LEASE RENTAL PAYMENTS 120972

The foregoing appropriation item 230401, Lease Rental 120973
 Payments - Cultural Facilities, shall be used to meet all payments 120974
 at the times they are required to be made during the period from 120975
 July 1, 2013 through June 30, 2015, from the Ohio Facilities 120976
 Construction Commission under the primary leases and agreements 120977
 for those arts and sports facilities made under Chapters 152. and 120978
 154. of the Revised Code. These appropriations are the source of 120979
 funds pledged for bond service charges on related obligations 120980
 issued under Chapters 152. and 154. of the Revised Code. 120981

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE 120982

The foregoing appropriation item 230908, Common Schools 120983
 General Obligation Debt Service, shall be used to pay all debt 120984
 service and related financing costs at the times they are required 120985
 to be made during the period from July 1, 2013, through June 30, 120986
 2015, for obligations issued under sections 151.01 and 151.03 of 120987
 the Revised Code. 120988

Section 282.30. COMMUNITY PROJECT ADMINISTRATION 120989

The foregoing appropriation item 230603, Community Project Administration, shall be used by the Ohio Facilities Construction Commission in administering Cultural and Sports Facilities Building Fund (Fund 7030) projects pursuant to section 123.201 of the Revised Code. 120990
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Section 282.40. OPERATING EXPENSES 120995

The foregoing appropriation item 230644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities under this section and Chapter 3318. of the Revised Code. 120996
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In both fiscal years 2014 and 2015, the Executive Director of the Ohio School Facilities Commission shall certify on a quarterly basis to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 7032), the Public School Building Fund (Fund 7021), and the Educational Facilities Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30). The amount transferred from the School Building Assistance Fund (Fund 7032) may not exceed investment earnings credited to the fund, less any amount required to be paid for federal arbitrage rebate purposes. 121000
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If the Executive Director of the Ohio Facilities Construction Commission determines that transferring cash from interest earnings is insufficient to support operations and carry out its responsibilities under this section and Chapter 3318. of the Revised Code, the Commission may, with the approval of the Controlling Board, transfer cash not generated from interest from the Public School Building Fund (Fund 7021) and the Educational Trust Fund (Fund N087) to the Ohio School Facilities Commission Fund (Fund 5E30). 121010
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SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION 121019

At the request of the Executive Director of the Ohio School 121020
Facilities Commission, the Director of Budget and Management may 121021
cancel encumbrances for school district projects from a previous 121022
biennium if the district has not raised its local share of project 121023
costs within thirteen months of receiving Controlling Board 121024
approval under section 3318.05 or 3318.41 of the Revised Code. The 121025
Executive Director of the Ohio School Facilities Commission shall 121026
certify the amounts of the canceled encumbrances to the Director 121027
of Budget and Management on a quarterly basis. The amounts of the 121028
canceled encumbrances are hereby appropriated. 121029

Section 282.50. CAPITAL DONATIONS FUND CERTIFICATIONS AND 121030
APPROPRIATIONS 121031

The Executive Director of the Facilities Construction 121032
Commission shall certify to the Director of Budget and Management 121033
the amount of cash receipts and related investment income, 121034
irrevocable letters of credit from a bank, or certification of the 121035
availability of funds that have been received from a county or a 121036
municipal corporation for deposit into the Capital Donations Fund 121037
(Fund 5A10) and that are related to an anticipated project. These 121038
amounts are hereby appropriated to appropriation item C37146, 121039
Capital Donations. Prior to certifying these amounts to the 121040
Director, the Executive Director shall make a written agreement 121041
with the participating entity on the necessary cash flows required 121042
for the anticipated construction or equipment acquisition project. 121043

Section 282.60. AMENDMENT TO PROJECT AGREEMENT FOR 121044
MAINTENANCE LEVY 121045

The Ohio School Facilities Commission shall amend the project 121046
agreement between the Commission and a school district that is 121047
participating in the Accelerated Urban School Building Assistance 121048

Program on the effective date of this section, if the Commission 121049
determines that it is necessary to do so in order to comply with 121050
division (B)(3)(c) of section 3318.38 of the Revised Code. 121051

Section 282.70. Notwithstanding any other provision of law to 121052
the contrary, the Ohio School Facilities Commission may determine 121053
the amount of funding available for disbursement in a given fiscal 121054
year for any project approved under sections 3318.01 to 3318.20 of 121055
the Revised Code in order to keep aggregate state capital spending 121056
within approved limits and may take actions including, but not 121057
limited to, determining the schedule for design or bidding of 121058
approved projects, to ensure appropriate and supportable cash 121059
flow. 121060

Section 282.80. Notwithstanding division (B) of section 121061
3318.40 of the Revised Code, the Ohio School Facilities Commission 121062
may provide assistance to at least one joint vocational school 121063
district each fiscal year for the acquisition of classroom 121064
facilities in accordance with sections 3318.40 to 3318.45 of the 121065
Revised Code. 121066

Section 282.90. The Ohio Cultural Facilities Commission is 121067
abolished. Except as otherwise provided in this section, all 121068
obligations of the Ohio Cultural Facilities Commission under 121069
agreements to which the Ohio Cultural Facilities Commission is a 121070
party, and all records and assets of the Ohio Cultural Facilities 121071
Commission, including, without limitation, equipment, inventory, 121072
contract rights, accounts, and general intangibles, are 121073
transferred to the Ohio Facilities Construction Commission. 121074

The Ohio Facilities Construction Commission shall designate 121075
the positions, if any, to be transferred to the Ohio Facilities 121076
Construction Commission, along with any equipment assigned to 121077
those positions. Any employee transferred to the Ohio Facilities 121078

Construction Commission retains the employee's respective 121079
classification, but the Ohio Facilities Construction Commission 121080
may reassign and reclassify the employee's position and 121081
compensation as the Ohio Facilities Construction Commission 121082
determines to be in the best interest of office administration. 121083

The Ohio Facilities Construction Commission shall complete 121084
any activities related to the design, planning, construction, and 121085
related management functions commenced but not completed by the 121086
Ohio Cultural Facilities Commission in the same manner and with 121087
the same effect as if the Ohio Cultural Facilities Commission had 121088
completed them. The consolidation of the commissions shall not 121089
cause the loss or impairment of any validation, cure, right, 121090
privilege, remedy, obligation, or liability, which the Ohio 121091
Facilities Construction Commission shall administer. 121092

All rules, orders, and determinations related to the design, 121093
planning, and construction and related management functions of the 121094
Ohio Cultural Facilities Commission continue in effect as rules, 121095
orders, and determinations of the Ohio Facilities Construction 121096
Commission until the Ohio Facilities Construction Commission 121097
modifies or rescinds them. The Director of the Legislative Service 121098
Commission shall renumber the rules of the Ohio Cultural 121099
Facilities Commission related to that commission's design, 121100
planning, and construction and related management functions to 121101
reflect their transfer to the Ohio Facilities Construction 121102
Commission. 121103

The transfer of functions from the Ohio Cultural Facilities 121104
Commission to the Ohio Facilities Construction Commission does not 121105
affect any pending judicial or administrative action or proceeding 121106
to which the Ohio Cultural Facilities Commission is a party and 121107
that is related to that commission's design, planning, 121108
construction, capital funding, or related management functions. 121109
Any such action or proceeding shall be prosecuted or defended in 121110

the name of the Ohio Facilities Construction Commission. On 121111
application to the court or agency, the Ohio Facilities 121112
Construction Commission shall be substituted for the Ohio Cultural 121113
Facilities Commission as a party to the action or proceeding. 121114

Effective July 1, 2013, the Director of Budget and Management 121115
shall cancel any existing encumbrances against appropriation item 121116
371603, Project Administration, and re-establish them against 121117
appropriation item 230603, Community Project Administration. The 121118
re-established encumbrance amounts are hereby appropriated. Any 121119
business commenced but not completed under appropriation item 121120
371603 by July 1, 2013, shall be completed under appropriation 121121
item 230603 in the same manner and with the same effect as if it 121122
were completed with regard to appropriation item 371603. 121123

Ticket receipts collected as part of a management contract 121124
for the Riffe Theatres, which previously were deposited in the 121125
Ohio Cultural Facilities Commission Administration Fund (Fund 121126
4T80), shall be credited to the Theater Equipment Maintenance Fund 121127
(Fund 5MV0), which is hereby created in the State Treasury. The 121128
Director of Budget and Management shall transfer from the Ohio 121129
Cultural Facilities Commission Administration Fund to the Theater 121130
Equipment Maintenance Fund any remaining cash balances from ticket 121131
receipts collected as part of a management contract for the Riffe 121132
Theatres. In order to facilitate this transfer, the Executive 121133
Director of the Ohio Facilities Construction Commission, by July 121134
1, 2013, or as soon as possible thereafter, shall certify to the 121135
Director of Budget and Management an estimate of the amount to be 121136
transferred. The Department of Administrative Services shall use 121137
appropriation item 100662, Theatre Equipment Maintenance, to spend 121138
cash in the Theatre Equipment Maintenance Fund (Fund 5MV0). 121139

The Ohio Facilities Construction Commission and the 121140
Department of Administrative Services shall enter into an 121141
interagency agreement to transfer to the Department of 121142

Administrative Services the management of the cultural facilities 121143
currently managed by the Ohio Cultural Facilities Commission and 121144
any necessary equipment, assets, and records by July 1, 2013, or 121145
as soon as possible thereafter. 121146

Any reference to the Ohio Cultural Facilities Commission in 121147
any statute, rule, contract, grant, or other document is deemed to 121148
refer to the Ohio Facilities Construction Commission. 121149

The Ohio Facilities Construction Commission, the Ohio Public 121150
Facilities Commission, and the issuing authority of any 121151
obligations issued for the financing of capital facilities for 121152
Ohio cultural facilities and Ohio sports facilities may execute 121153
instruments, documents, and agreements and may take necessary or 121154
appropriate actions to effect the orderly transfer of those 121155
obligations from the Ohio Cultural Facilities Commission to the 121156
Ohio Facilities Construction Commission. 121157

This section takes effect July 1, 2013. 121158

Section 283.10. GOV OFFICE OF THE GOVERNOR 121159

General Revenue Fund 121160

GRF 040321	Operating Expenses	\$	2,851,552	\$	2,851,552	121161
TOTAL GRF	General Revenue Fund	\$	2,851,552	\$	2,851,552	121162

General Services Fund Group 121163

5AK0 040607	Government Relations	\$	365,149	\$	365,149	121164
TOTAL GSF	General Services Fund	\$	365,149	\$	365,149	121165

Group

TOTAL ALL BUDGET FUND GROUPS		\$	3,216,701	\$	3,216,701	121166
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GOVERNMENT RELATIONS 121167

A portion of the foregoing appropriation item 040607, 121168
Government Relations, may be used to support Ohio's membership in 121169
national or regional associations. 121170

The Office of the Governor may charge any state agency of the 121171

executive branch using an intrastate transfer voucher such amounts 121172
 necessary to defray the costs incurred for the conduct of 121173
 governmental relations associated with issues that can be 121174
 attributed to the agency. Amounts collected shall be deposited in 121175
 the Government Relations Fund (Fund 5AK0). 121176

Section 285.10. DOH DEPARTMENT OF HEALTH 121177

General Revenue Fund 121178

GRF 440412	Cancer Incidence	\$	600,000	\$	600,000	121179
	Surveillance System					
GRF 440413	Local Health	\$	823,061	\$	823,061	121180
	Departments					
GRF 440416	Mothers and Children	\$	4,228,015	\$	4,228,015	121181
	Safety Net Services					
GRF 440418	Immunizations	\$	8,825,829	\$	8,825,829	121182
GRF 440431	Free Clinics Safety	\$	437,326	\$	437,326	121183
	Net Services					
GRF 440438	Breast and Cervical	\$	823,217	\$	823,217	121184
	Cancer Screening					
GRF 440444	AIDS Prevention and	\$	5,842,315	\$	5,842,315	121185
	Treatment					
GRF 440451	Public Health	\$	3,655,449	\$	3,655,449	121186
	Laboratory					
GRF 440452	Child and Family	\$	630,444	\$	630,444	121187
	Health Services Match					
GRF 440453	Health Care Quality	\$	4,874,361	\$	4,874,361	121188
	Assurance					
GRF 440454	Environmental Health	\$	1,194,634	\$	1,194,634	121189
GRF 440459	Help Me Grow	\$	33,673,987	\$	33,673,987	121190
GRF 440467	Access to Dental Care	\$	540,484	\$	540,484	121191
GRF 440468	Chronic Disease and	\$	2,447,251	\$	2,447,251	121192
	Injury Prevention					

GRF 440472	Alcohol Testing	\$	1,100,000	\$	1,100,000	121193
GRF 440473	Tobacco Prevention and Cessation	\$	1,050,000	\$	1,050,000	121194
GRF 440474	Infant Mortality	\$	3,116,688	\$	3,116,688	121195
GRF 440505	Medically Handicapped Children	\$	7,512,451	\$	7,512,451	121196
GRF 440507	Targeted Health Care Services Over 21	\$	1,045,414	\$	1,045,414	121197
GRF 654453	Medicaid - Health Care Quality Assurance	\$	3,300,000	\$	3,300,000	121198
TOTAL GRF General Revenue Fund		\$	85,720,926	\$	85,720,926	121199
State Highway Safety Fund Group						121200
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894	121201
TOTAL HSF State Highway Safety Fund Group						121202
						\$ 233,894 \$ 233,894 121203
General Services Fund Group						121204
1420 440646	Agency Health Services	\$	820,998	\$	820,998	121205
2110 440613	Central Support Indirect Costs	\$	30,615,591	\$	31,052,469	121206
4730 440622	Lab Operating Expenses	\$	5,000,000	\$	5,000,000	121207
6830 440633	Employee Assistance Program	\$	1,100,000	\$	1,100,000	121208
6980 440634	Nurse Aide Training	\$	99,265	\$	99,265	121209
TOTAL GSF General Services Fund Group						121210
						\$ 37,635,854 \$ 38,072,732 121211
Federal Special Revenue Fund Group						121212
3200 440601	Maternal Child Health Block Grant	\$	23,889,057	\$	23,889,057	121213
3870 440602	Preventive Health Block Grant	\$	6,000,000	\$	6,000,000	121214

3890	440604	Women, Infants, and Children	\$	250,000,000	\$	250,000,000	121215
3910	440606	Medicare Survey and Certification	\$	19,449,282	\$	19,961,405	121216
3920	440618	Federal Public Health Programs	\$	134,546,304	\$	135,140,586	121217
3GD0	654601	Medicaid Program Support	\$	21,126,014	\$	22,392,094	121218
TOTAL FED Federal Special Revenue							121219
Fund Group			\$	455,010,657	\$	457,383,142	121220
State Special Revenue Fund Group							121221
4700	440647	Fee Supported Programs	\$	25,305,250	\$	25,613,586	121222
4710	440619	Certificate of Need	\$	878,433	\$	878,433	121223
4770	440627	Medically Handicapped Children Audit	\$	3,692,703	\$	3,692,703	121224
4D60	440608	Genetics Services	\$	3,311,039	\$	3,311,039	121225
4F90	440610	Sickle Cell Disease Control	\$	1,032,824	\$	1,032,824	121226
4G00	440636	Heirloom Birth Certificate	\$	5,000	\$	5,000	121227
4G00	440637	Birth Certificate Surcharge	\$	5,000	\$	5,000	121228
4L30	440609	HIV Care and Miscellaneous Expenses	\$	8,333,164	\$	8,333,164	121229
4P40	440628	Ohio Physician Loan Repayment	\$	476,870	\$	476,870	121230
4V60	440641	Save Our Sight	\$	2,255,789	\$	2,255,789	121231
5B50	440616	Quality, Monitoring, and Inspection	\$	878,997	\$	878,997	121232
5CN0	440645	Choose Life	\$	75,000	\$	75,000	121233
5D60	440620	Second Chance Trust	\$	1,151,902	\$	1,151,902	121234

5ED0	440651	Smoke Free Indoor Air	\$	250,000	\$	250,000	121235
5G40	440639	Adoption Services	\$	20,000	\$	20,000	121236
5Z70	440624	Ohio Dentist Loan	\$	140,000	\$	140,000	121237
		Repayment					
6100	440626	Radiation Emergency	\$	1,049,954	\$	1,086,098	121238
		Response					
6660	440607	Medically Handicapped	\$	19,739,617	\$	19,739,617	121239
		Children - County					
		Assessments					
TOTAL SSR State Special Revenue							121240
Fund Group			\$	68,601,542	\$	68,946,022	121241
Holding Account Redistribution Fund Group							121242
R014	440631	Vital Statistics	\$	44,986	\$	44,986	121243
R048	440625	Refunds, Grants	\$	20,000	\$	20,000	121244
		Reconciliation, and					
		Audit Settlements					
TOTAL 090 Holding Account							121245
Redistribution Fund Group			\$	64,986	\$	64,986	121246
Tobacco Master Settlement Agreement Fund Group							121247
5BX0	440656	Tobacco Use	\$	1,450,000	\$	1,450,000	121248
		Prevention					
TOTAL TSF Tobacco Master Settlement			\$	1,450,000	\$	1,450,000	121249
Agreement Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	648,717,859	\$	651,871,702	121250

Section 285.20. HIV/AIDS PREVENTION/TREATMENT 121252

The foregoing appropriation item 440444, AIDS Prevention and Treatment, shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications and to administer educational prevention initiatives. 121253
121254
121255
121256

PUBLIC HEALTH LABORATORY 121257

A portion of the foregoing appropriation item 440451, Public 121258

Health Laboratory, shall be used for coordination and management 121259
of prevention program operations and the purchase of drugs for 121260
sexually transmitted diseases. 121261

HELP ME GROW 121262

The foregoing appropriation item 440459, Help Me Grow, shall 121263
be used by the Department of Health to implement the Help Me Grow 121264
Program. Funds shall be distributed to counties through 121265
agreements, contracts, grants, or subsidies in accordance with 121266
section 3701.61 of the Revised Code. Appropriation item 440459, 121267
Help Me Grow, may be used in conjunction with other early 121268
childhood funds and services to promote the optimal development of 121269
young children and family-centered programs and services that 121270
acknowledge and support the social, emotional, cognitive, 121271
intellectual, and physical development of children and the vital 121272
role of families in ensuring the well-being and success of 121273
children. The Department of Health shall enter into interagency 121274
agreements with the Department of Education, Department of 121275
Developmental Disabilities, Department of Job and Family Services, 121276
and Department of Mental Health and Addiction Services to ensure 121277
that all early childhood programs and initiatives are coordinated 121278
and school linked. 121279

The foregoing appropriation item 440459, Help Me Grow, may 121280
also be used for the Developmental Autism and Screening Program. 121281

INFANT MORTALITY 121282

The foregoing appropriation item 440474, Infant Mortality, 121283
shall be used to fund the following projects, which are hereby 121284
created: 121285

(A) The Infant Safe Sleep Campaign to educate parents and 121286
caregivers with a uniform message regarding safe sleep 121287
environments; 121288

(B) The Progesterone Prematurity Prevention Project to enable 121289

prenatal care providers to identify, screen, treat, and track 121290
outcomes for women eligible for progesterone supplementation; and 121291

(C) The Prenatal Smoking Cessation Project to enable prenatal 121292
care providers who work with women of reproductive age, including 121293
pregnant women, to have the tools, training, and technical 121294
assistance needed to treat smokers effectively. 121295

TARGETED HEALTH CARE SERVICES OVER 21 121296

The foregoing appropriation item 440507, Targeted Health Care 121297
Services Over 21, shall be used to administer the Cystic Fibrosis 121298
Program and to implement the Hemophilia Insurance Premium Payment 121299
Program. 121300

The foregoing appropriation item 440507, Targeted Health Care 121301
Services Over 21, shall also be used to provide essential 121302
medications and to pay the copayments for drugs approved by the 121303
Department of Health and covered by Medicare Part D that are 121304
dispensed to Bureau for Children with Medical Handicaps (BCMh) 121305
participants for the Cystic Fibrosis Program. 121306

The Department shall expend all of these funds. 121307

GENETICS SERVICES 121308

The foregoing appropriation item 440608, Genetics Services 121309
(Fund 4D60), shall be used by the Department of Health to 121310
administer programs authorized by sections 3701.501 and 3701.502 121311
of the Revised Code. None of these funds shall be used to counsel 121312
or refer for abortion, except in the case of a medical emergency. 121313

MEDICALLY HANDICAPPED CHILDREN AUDIT 121314

The Medically Handicapped Children Audit Fund (Fund 4770) 121315
shall receive revenue from audits of hospitals and recoveries from 121316
third-party payers. Moneys may be expended for payment of audit 121317
settlements and for costs directly related to obtaining recoveries 121318
from third-party payers and for encouraging Medically Handicapped 121319

Children's Program recipients to apply for third-party benefits. 121320
Moneys also may be expended for payments for diagnostic and 121321
treatment services on behalf of medically handicapped children, as 121322
defined in division (A) of section 3701.022 of the Revised Code, 121323
and Ohio residents who are twenty-one or more years of age and who 121324
are suffering from cystic fibrosis or hemophilia. Moneys may also 121325
be expended for administrative expenses incurred in operating the 121326
Medically Handicapped Children's Program. 121327

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS 121328

The foregoing appropriation item 440607, Medically 121329
Handicapped Children - County Assessments (Fund 6660), shall be 121330
used to make payments under division (E) of section 3701.023 of 121331
the Revised Code. 121332

CASH TRANSFER FROM THE PUBLIC HEALTH PRIORITIES TRUST FUND TO 121333
THE TOBACCO USE PREVENTION FUND 121334

On July 1, 2013, or as soon as possible thereafter, the 121335
Director of Budget and Management shall transfer \$2,439,230 cash 121336
from the Public Health Priorities Trust Fund (Fund L087) to the 121337
Tobacco Use Prevention Fund (Fund 5BX0) to meet the operating 121338
needs of the Department of Health's tobacco enforcement and 121339
cessation efforts. 121340

Section 285.30. DEPARTMENT OF HEALTH'S APPROPRIATION ITEM 121341
STRUCTURE 121342

Upon request from the Director of Health, the Director of 121343
Budget and Management may establish new funds, new appropriation 121344
items, and appropriations in order to support the transition to a 121345
new appropriation item structure in the Department of Health's 121346
budget. Any appropriations established by the Director of Budget 121347
and Management under this section are hereby appropriated. Also, 121348
upon request of the Director of Health, the Director of Budget and 121349

Management may transfer appropriations between GRF appropriation 121350
 items, transfer cash between any funds used by the Department of 121351
 Health, abolish existing funds used by the Department of Health, 121352
 and cancel and reestablish encumbrances. 121353

Section 287.10. HEF HIGHER EDUCATIONAL FACILITY COMMISSION 121354

Agency Fund Group 121355

4610 372601	Operating Expenses	\$	12,500	\$	12,500	121356
TOTAL AGY	Agency Fund Group	\$	12,500	\$	12,500	121357
TOTAL ALL BUDGET FUND GROUPS		\$	12,500	\$	12,500	121358

Section 289.10. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS 121360

General Revenue Fund 121361

GRF 148100	Personal Services	\$	279,998	\$	279,998	121362
GRF 148402	Community Programs	\$	44,924	\$	44,924	121363
TOTAL GRF	General Revenue Fund	\$	324,922	\$	324,922	121364

General Services Fund Group 121365

6010 148602	Special Initiatives	\$	24,558	\$	24,558	121366
TOTAL GSF	General Services					121367
Fund Group		\$	24,558	\$	24,558	121368
TOTAL ALL BUDGET FUND GROUPS		\$	349,480	\$	349,480	121369

Section 291.10. OHS OHIO HISTORICAL SOCIETY 121371

General Revenue Fund 121372

GRF 360501	Education and Collections	\$	2,368,997	\$	2,368,997	121373
GRF 360502	Site and Museum Operations	\$	4,426,288	\$	4,926,288	121374
GRF 360504	Ohio Preservation Office	\$	290,000	\$	290,000	121375
GRF 360505	National Afro-American Museum	\$	414,798	\$	414,798	121376

GRF	360506	Hayes Presidential Center	\$	281,043	\$	281,043	121377
GRF	360509	Outreach and Partnership	\$	90,395	\$	90,395	121378
TOTAL GRF	General Revenue Fund		\$	7,871,521	\$	8,371,521	121379
Agency Fund Group							121380
5KL0	360602	Ohio History Tax Check-off	\$	250,000	\$	250,000	121381
TOTAL AGY	Agency Fund Group		\$	250,000	\$	250,000	121382
TOTAL ALL BUDGET FUND GROUPS			\$	8,121,521	\$	8,621,521	121383

SUBSIDY APPROPRIATION 121384

Upon approval by the Director of Budget and Management, the 121385
foregoing appropriation items shall be released to the Ohio 121386
Historical Society in quarterly amounts that in total do not 121387
exceed the annual appropriations. The funds and fiscal records of 121388
the society for fiscal year 2014 and fiscal year 2015 shall be 121389
examined by independent certified public accountants approved by 121390
the Auditor of State, and a copy of the audited financial 121391
statements shall be filed with the Office of Budget and 121392
Management. The society shall prepare and submit to the Office of 121393
Budget and Management the following: 121394

(A) An estimated operating budget for each fiscal year of the 121395
biennium. The operating budget shall be submitted at or near the 121396
beginning of each calendar year. 121397

(B) Financial reports, indicating actual receipts and 121398
expenditures for the fiscal year to date. These reports shall be 121399
filed at least semiannually during the fiscal biennium. 121400

The foregoing appropriations shall be considered to be the 121401
contractual consideration provided by the state to support the 121402
state's offer to contract with the Ohio Historical Society under 121403
section 149.30 of the Revised Code. 121404

Section 293.10. REP OHIO HOUSE OF REPRESENTATIVES				121405
General Revenue Fund				121406
GRF 025321	Operating Expenses	\$ 21,031,091	\$ 21,031,091	121407
TOTAL GRF General Revenue Fund				121408
General Services Fund Group				121409
1030 025601	House Reimbursement	\$ 1,433,664	\$ 1,433,664	121410
4A40 025602	Miscellaneous Sales	\$ 37,849	\$ 37,849	121411
TOTAL GSF General Services				121412
Fund Group				121413
TOTAL ALL BUDGET FUND GROUPS				121414
OPERATING EXPENSES				121415
On July 1, 2013, or as soon as possible thereafter, the Chief				121416
Administrative Officer of the House of Representatives may certify				121417
to the Director of Budget and Management the amount of the				121418
unexpended, unencumbered balance of the foregoing appropriation				121419
item 025321, Operating Expenses, at the end of fiscal year 2013 to				121420
be reappropriated to fiscal year 2014. The amount certified is				121421
hereby reappropriated to the same appropriation item for fiscal				121422
year 2014.				121423
On July 1, 2014, or as soon as possible thereafter, the Chief				121424
Administrative Officer of the House of Representatives may certify				121425
to the Director of Budget and Management the amount of the				121426
unexpended, unencumbered balance of the foregoing appropriation				121427
item 025321, Operating Expenses, at the end of fiscal year 2014 to				121428
be reappropriated to fiscal year 2015. The amount certified is				121429
hereby reappropriated to the same appropriation item for fiscal				121430
year 2015.				121431
HOUSE REIMBURSEMENT				121432
If it is determined by the Chief Administrative Officer of				121433
the House of Representatives that additional appropriations are				121434

necessary for the foregoing appropriation item 025601, House 121435
Reimbursement, the amounts are hereby appropriated. 121436

Section 295.10. HFA OHIO HOUSING FINANCE AGENCY 121437

State Special Revenue Fund Group 121438

5AZ0 997601 Housing Finance Agency \$ 12,156,982 \$ 12,156,982 121439

Personal Services

TOTAL SSR State Special Revenue \$ 12,156,982 \$ 12,156,982 121440

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 12,156,982 \$ 12,156,982 121441

Section 297.10. IGO OFFICE OF THE INSPECTOR GENERAL 121443

General Revenue Fund 121444

GRF 965321 Operating Expenses \$ 1,175,598 \$ 1,175,598 121445

GRF 965404 Deputy Inspector \$ 475,000 \$ 350,000 121446

General for ARRA

TOTAL GRF General Revenue Fund \$ 1,650,598 \$ 1,525,598 121447

General Services Fund Group 121448

5FA0 965603 Deputy Inspector \$ 400,000 \$ 400,000 121449

General for ODOT

5FT0 965604 Deputy Inspector \$ 425,000 \$ 425,000 121450

General for BWC/OIC

5GI0 965605 Deputy Inspector \$ 25,000 \$ 0 121451

General for ARRA

TOTAL GSF General Services Fund \$ 850,000 \$ 825,000 121452

Group

TOTAL ALL BUDGET FUND GROUPS \$ 2,500,598 \$ 2,350,598 121453

Section 299.10. INS DEPARTMENT OF INSURANCE 121455

Federal Special Revenue Fund Group 121456

3EV0 820610 Health Insurance \$ 1,300,000 \$ 1,300,000 121457

Premium Review

3U50 820602	OSHIIP Operating Grant	\$	1,970,725	\$	1,970,725	121458
TOTAL FED Federal Special Revenue Fund Group						121459
5540 820601	Operating Expenses - OSHIIP	\$	180,000	\$	180,000	121462
5540 820606	Operating Expenses	\$	27,570,433	\$	24,910,367	121463
5550 820605	Examination	\$	8,184,065	\$	8,184,065	121464
TOTAL SSR State Special Revenue Fund Group						121465
TOTAL ALL BUDGET FUND GROUPS						121466

MARKET CONDUCT EXAMINATION 121468

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or rules administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 5540).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 121478

The Director of Budget and Management, at the request of the Superintendent of Insurance, may transfer funds from the Department of Insurance Operating Fund (Fund 5540), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 5550), established by section 3901.071 of the Revised Code, only for expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND				121487
Not later than the thirty-first day of July each fiscal year,				121488
the Director of Budget and Management shall transfer \$5,000,000				121489
from the Department of Insurance Operating Fund (Fund 5540) to the				121490
General Revenue Fund.				121491
Section 301.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES				121492
General Revenue Fund				121493
GRF 600321 Program Support	\$	31,320,964	\$	31,109,751 121494
GRF 600410 TANF State/Maintenance	\$	151,386,934	\$	151,386,934 121495
of Effort				
GRF 600413 Child Care	\$	84,732,730	\$	84,732,730 121496
State/Maintenance of				
Effort				
GRF 600416 Information Technology	\$	54,223,871	\$	54,184,700 121497
Projects				
GRF 600420 Child Support Programs	\$	6,498,667	\$	6,591,048 121498
GRF 600421 Family Assistance	\$	3,161,930	\$	3,161,930 121499
Programs				
GRF 600423 Families and Children	\$	6,384,514	\$	6,542,517 121500
Programs				
GRF 600502 Child Support - Local	\$	23,814,103	\$	23,814,103 121501
GRF 600511 Disability Financial	\$	22,000,000	\$	22,000,000 121502
Assistance				
GRF 600521 Family Assistance -	\$	41,132,751	\$	41,132,751 121503
Local				
GRF 600523 Family and Children	\$	54,105,323	\$	54,105,323 121504
Services				
GRF 600528 Adoption Services				121505
State	\$	28,623,389	\$	28,623,389 121506
Federal	\$	38,202,557	\$	38,202,557 121507
Adoption Services Total	\$	66,825,946	\$	66,825,946 121508

GRF 600533	Child, Family, and Adult Community & Protective Services	\$	13,500,000	\$	13,500,000	121509
GRF 600534	Adult Protective Services	\$	366,003	\$	366,003	121510
GRF 600535	Early Care and Education	\$	123,596,474	\$	123,596,474	121511
GRF 600540	Food Banks	\$	4,000,000	\$	4,000,000	121512
GRF 600541	Kinship Permanency Incentive Program	\$	3,500,000	\$	3,500,000	121513
GRF 655522	Medicaid Program Support - Local	\$	31,067,970	\$	31,067,970	121514
GRF 655523	Medicaid Program Support - Local Transportation	\$	30,680,495	\$	30,680,495	121515
TOTAL GRF	General Revenue Fund					121516
	State	\$	714,096,118	\$	714,096,118	121517
	Federal	\$	38,202,557	\$	38,202,557	121518
	GRF Total	\$	752,298,675	\$	752,298,675	121519
	General Services Fund Group					121520
4A80 600658	Public Assistance Activities	\$	34,000,000	\$	34,000,000	121521
5DM0 600633	Administration & Operating	\$	19,660,339	\$	19,660,339	121522
5HC0 600695	Unemployment Compensation Interest	\$	60,000,000	\$	60,000,000	121523
5HL0 600602	State and County Shared Services	\$	3,020,000	\$	3,020,000	121524
6130 600645	Training Activities	\$	100,000	\$	92,989	121525
TOTAL GSF	General Services Fund Group	\$	116,780,339	\$	116,773,328	121526
	Federal Special Revenue Fund Group					121528

3270	600606	Child Welfare	\$	29,769,866	\$	29,769,866	121529
3310	600615	Veterans Programs	\$	8,000,000	\$	8,000,000	121530
3310	600624	Employment Services Programs	\$	26,000,000	\$	26,000,000	121531
3310	600686	Workforce Programs	\$	6,260,000	\$	6,260,000	121532
3840	600610	Food Assistance Programs	\$	209,333,246	\$	180,381,394	121533
3850	600614	Refugee Services	\$	12,564,952	\$	12,564,952	121534
3950	600616	Federal Discretionary Grants	\$	2,259,264	\$	2,259,264	121535
3960	600620	Social Services Block Grant	\$	47,000,000	\$	47,000,000	121536
3970	600626	Child Support - Federal	\$	235,000,000	\$	235,000,000	121537
3980	600627	Adoption Program - Federal	\$	174,178,779	\$	174,178,779	121538
3A20	600641	Emergency Food Distribution	\$	5,000,000	\$	5,000,000	121539
3D30	600648	Children's Trust Fund Federal	\$	3,477,699	\$	3,477,699	121540
3F01	655624	Medicaid Program Support	\$	110,680,495	\$	110,680,495	121541
3H70	600617	Child Care Federal	\$	241,987,805	\$	222,212,089	121542
3N00	600628	Foster Care Program - Federal	\$	311,968,616	\$	311,968,616	121543
3S50	600622	Child Support Projects	\$	534,050	\$	534,050	121544
3V00	600688	Workforce Investment Act Programs	\$	136,000,000	\$	136,000,000	121545
3V40	600678	Federal Unemployment Programs	\$	182,814,212	\$	182,814,212	121546
3V40	600679	UC Review Commission - Federal	\$	6,185,788	\$	6,185,788	121547
3V60	600689	TANF Block Grant	\$	777,957,809	\$	790,304,845	121548

TOTAL FED Federal Special Revenue				121549
Fund Group	\$ 2,526,972,581	\$ 2,490,592,049		121550
State Special Revenue Fund Group				121551
1980 600647 Children's Trust Fund	\$ 5,873,848	\$ 5,873,848		121552
4A90 600607 Unemployment Compensation Administration Fund	\$ 9,006,000	\$ 9,006,000		121553
4E70 600604 Family and Children Services Collections	\$ 400,000	\$ 400,000		121554
4F10 600609 Family and Children Activities	\$ 683,549	\$ 683,549		121555
5DB0 600637 Military Injury Relief Subsidies	\$ 2,000,000	\$ 2,000,000		121556
5DP0 600634 Adoption Assistance Loan	\$ 500,000	\$ 500,000		121557
5ES0 600630 Food Bank Assistance	\$ 500,000	\$ 500,000		121558
5KU0 600611 Unemployment Compensation Support - Other Sources	\$ 2,000,000	\$ 2,000,000		121559
5U60 600663 Family and Children Support	\$ 4,000,000	\$ 4,000,000		121560
TOTAL SSR State Special Revenue				121561
Fund Group	\$ 24,963,397	\$ 24,963,397		121562
Agency Fund Group				121563
1920 600646 Child Support Intercept - Federal	\$ 129,250,000	\$ 129,250,000		121564
5830 600642 Child Support Intercept - State	\$ 14,000,000	\$ 14,000,000		121565
5B60 600601 Food Assistance Intercept	\$ 1,000,000	\$ 1,000,000		121566
TOTAL AGY Agency Fund Group	\$ 144,250,000	\$ 144,250,000		121567
Holding Account Redistribution Fund Group				121568

R012 600643	Refunds and Audit	\$	2,200,000	\$	2,200,000	121569
	Settlements					
R013 600644	Forgery Collections	\$	10,000	\$	10,000	121570
TOTAL 090 Holding Account		\$	2,210,000	\$	2,210,000	121571
Redistribution Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	3,567,474,992	\$	3,531,087,449	121572

Section 301.20. TRANSFER TO STATE AND COUNTY SHARED SERVICES 121574
FUND 121575

Within thirty days of the effective date of this act, or as 121576
soon as possible thereafter, the Director of Budget and Management 121577
shall transfer the cash balance in the County Technologies Fund 121578
(Fund 5N10) to the State and County Shared Services Fund (Fund 121579
5HL0). 121580

Section 301.30. AGENCY AND HOLDING ACCOUNT REDISTRIBUTION 121581
FUND GROUPS 121582

The Agency Fund Group and Holding Account Redistribution Fund 121583
Group shall be used to hold revenues until the appropriate fund is 121584
determined or until the revenues are directed to the appropriate 121585
governmental agency other than the Department of Job and Family 121586
Services. If receipts credited to the Support Intercept - Federal 121587
Fund (Fund 1920), the Support Intercept - State Fund (Fund 5830), 121588
the Food Stamp Offset Fund (Fund 5B60), the Refunds and Audit 121589
Settlements Fund (Fund R012), or the Forgery Collections Fund 121590
(Fund R013) exceed the amounts appropriated from the fund, the 121591
Director of Job and Family Services may request the Director of 121592
Budget and Management to authorize expenditures from the fund in 121593
excess of the amounts appropriated. Upon the approval of the 121594
Director of Budget and Management, the additional amounts are 121595
hereby appropriated. 121596

Section 301.40. COUNTY ADMINISTRATIVE FUNDS 121597

The foregoing appropriation item 600521, Family Assistance - Local, may be provided to county departments of job and family services to administer food assistance and disability assistance programs. 121598
121599
121600
121601

The foregoing appropriation item 655522, Medicaid Program Support - Local, may be provided to county departments of job and family services to administer the Medicaid program and the State Children's Health Insurance program. 121602
121603
121604
121605

At the request of the Director of Job and Family Services, the Director of Budget and Management may transfer appropriations between appropriation item 600521, Family Assistance - Local, and appropriation item 655522, Medicaid Program Support - Local, in order to ensure county administrative funds are expended from the proper appropriation item. 121606
121607
121608
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Section 301.50. FOOD STAMPS TRANSFER 121612

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Supplemental Nutrition Assistance Program Fund (Fund 3840), to the Food Assistance Fund (Fund 5ES0). 121613
121614
121615
121616

Section 301.60. NAME OF FOOD STAMP PROGRAM 121617

The Director of Job and Family Services is not required to amend rules regarding the Food Stamp Program to change the name of the program to the Supplemental Nutrition Assistance Program. The Director may refer to the program as the Food Stamp Program or the Food Assistance Program in rules and documents of the Department of Job and Family Services. 121618
121619
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Section 301.70. OHIO ASSOCIATION OF FOOD BANKS 121624

The foregoing appropriation item 600540, Food Banks, shall be used to provide funds to the Ohio Association of Food Banks to 121625
121626

purchase and distribute food products. 121627

Notwithstanding section 5101.46 of the Revised Code and any 121628
other provision in this bill, in addition to funds designated for 121629
the Ohio Association of Food Banks in this section, in fiscal year 121630
2014 and fiscal year 2015, the Director of Job and Family Services 121631
shall provide assistance from eligible funds to the Ohio 121632
Association of Food Banks in an amount up to or equal to the 121633
assistance provided in state fiscal year 2013 from all funds used 121634
by the Department, except the General Revenue Fund. 121635

Eligible nonfederal expenditures made by member food banks of 121636
the Association shall be counted by the Department of Job and 121637
Family Services toward the TANF maintenance of effort requirements 121638
of 42 U.S.C. 609(a)(7). The Director of Job and Family Services 121639
shall enter into an agreement with the Ohio Association of Food 121640
Banks, in accordance with sections 5101.80 and 5101.801 of the 121641
Revised Code, to carry out the requirements under this section. 121642

Section 301.80. PUBLIC ASSISTANCE ACTIVITIES/TANF MOE 121643

The foregoing appropriation item 600658, Public Assistance 121644
Activities, shall be used by the Department of Job and Family 121645
Services to meet the TANF maintenance of effort requirements of 42 121646
U.S.C. 609(a)(7). When the state is assured that it will meet the 121647
maintenance of effort requirement, the Department of Job and 121648
Family Services may use funds from appropriation item 600658, 121649
Public Assistance Activities, to support public assistance 121650
activities. 121651

Section 301.90. GOVERNOR'S OFFICE OF FAITH-BASED AND 121652
COMMUNITY INITIATIVES 121653

Of the foregoing appropriation item 600689, TANF Block Grant, 121654
up to \$6,540,000 in each fiscal year shall be used, in accordance 121655
with sections 5101.80 and 5101.801 of the Revised Code, to provide 121656

support to programs or organizations that provide services that 121657
align with the mission and goals of the Governor's Office of 121658
Faith-Based and Community Initiatives, as outlined in section 121659
107.12 of the Revised Code, and that further at least one of the 121660
four purposes of the TANF program, as specified in 42 U.S.C. 601. 121661

Section 301.100. INDEPENDENT LIVING INITIATIVE 121662

Of the foregoing appropriation item 600689, TANF Block Grant, 121663
up to \$2,000,000 in each fiscal year shall be used, in accordance 121664
with sections 5101.80 and 5101.801 of the Revised Code, to support 121665
the Independent Living Initiative, including life skills training 121666
and work supports for older children in foster care and those who 121667
have recently aged out of foster care. 121668

Section 301.110. KINSHIP PERMANENCY INCENTIVE PROGRAM 121669

Of the foregoing appropriation item 600689, TANF Block Grant, 121670
\$1,750,000 in each fiscal year shall be used to support the 121671
activities of the Kinship Permanency Incentive Program established 121672
in section 5101.802 of the Revised Code. 121673

Section 301.120. OHIO COMMISSION ON FATHERHOOD 121674

Of the foregoing appropriation item 600689, TANF Block Grant, 121675
\$1,000,000 in each fiscal year shall be provided to the Ohio 121676
Commission on Fatherhood. 121677

Section 301.130. DIFFERENTIAL RESPONSE 121678

In accordance with an independent evaluation of the Ohio 121679
Alternative Response Pilot Program that recommended statewide 121680
implementation, the Department of Job and Family Services shall 121681
plan the statewide expansion of the Ohio Alternative Response 121682
Pilot Program on a county by county basis, through a schedule 121683
determined by the Department. The program shall be known as the 121684

"differential response" approach as defined in section 2151.011 of 121685
the Revised Code. Notwithstanding provisions of Chapter 2151. of 121686
the Revised Code that refer to "differential response," 121687
"traditional response," and "alternative response," those 121688
provisions shall become effective on the scheduled date of 121689
expansion of the differential response approach to that county. 121690
Prior to statewide implementation, the Department may adopt rules 121691
in accordance with Chapter 119. of the Revised Code as necessary 121692
to carry out the purposes of this section. 121693

Section 301.140. FLEXIBLE FUNDING FOR FAMILIES AND CHILDREN 121694

In collaboration with the county family and children first 121695
council, a county department of job and family services or public 121696
children services agency that receives an allocation from the 121697
Department of Job and Family Services from the foregoing 121698
appropriation item 600523, Children and Families Services, or 121699
600533, Child, Family, and Adult Community & Protective Services, 121700
may transfer a portion of either or both allocations to a flexible 121701
funding pool as authorized by the section of this act titled 121702
"FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL." 121703

Section 301.150. CHILD, FAMILY, AND ADULT COMMUNITY AND 121704
PROTECTIVE SERVICES 121705

(A) The foregoing appropriation item 600533, Child, Family, 121706
and Adult Community & Protective Services, shall be distributed to 121707
each county department of job and family services using the 121708
formula the Department of Job and Family Services uses when 121709
distributing Title XX funds to county departments of job and 121710
family services under section 5101.46 of the Revised Code. County 121711
departments shall use the funds distributed to them under this 121712
section as follows, in accordance with the written plan of 121713
cooperation entered into under section 307.983 of the Revised 121714

Code:	121715
(1) To assist individuals achieve or maintain self-sufficiency, including by reducing or preventing dependency among individuals with family income not exceeding two hundred per cent of the federal poverty guidelines;	121716 121717 121718 121719
(2) Subject to division (B) of this section, to respond to reports of abuse, neglect, or exploitation of children and adults, including through the differential response approach program developed under Section 309.50.10 of this act;	121720 121721 121722 121723
(3) To provide outreach and referral services regarding home and community-based services to individuals at risk of placement in a group home or institution, regardless of the individuals' family income and without need for a written application;	121724 121725 121726 121727
(4) To provide outreach, referral, application assistance, and other services to assist individuals receive assistance, benefits, or services under Medicaid; Title IV-A programs, as defined in section 5101.80 of the Revised Code; the Supplemental Nutrition Assistance Program; and other public assistance programs.	121728 121729 121730 121731 121732 121733
(B) Protective services may be provided to a child or adult as part of a response, under division (A)(2) of this section, to a report of abuse, neglect, or exploitation without regard to a child or adult's family income and without need for a written application. The protective services may be provided if the case record documents circumstances of actual or potential abuse, neglect, or exploitation.	121734 121735 121736 121737 121738 121739 121740
Section 301.160. CHILDREN AND FAMILY SERVICES ACTIVITIES	121741
The foregoing appropriation item 600609, Children and Family Services Activities, shall be used to expend miscellaneous foundation funds and grants to support children and family	121742 121743 121744

services activities. 121745

Section 301.170. ADOPTION ASSISTANCE LOAN 121746

Of the foregoing appropriation item 600634, Adoption 121747
Assistance Loan, the Department of Job and Family Services may use 121748
up to ten per cent for administration of adoption assistance loans 121749
pursuant to section 3107.018 of the Revised Code. 121750

Section 301.180. FEDERAL UNEMPLOYMENT PROGRAMS 121751

All unexpended funds remaining at the end of fiscal year 2013 121752
that were appropriated and made available to the state under 121753
section 903(d) of the Social Security Act, as amended, in the 121754
foregoing appropriation item 600678, Federal Unemployment Programs 121755
(Fund 3V40), are hereby appropriated to the Department of Job and 121756
Family Services. Upon the request of the Director of Job and 121757
Family Services, the Director of Budget and Management may 121758
increase the appropriation for fiscal year 2014 by the amount 121759
remaining unspent from the fiscal year 2013 appropriation and may 121760
increase the appropriation for fiscal year 2015 by the amount 121761
remaining unspent from the fiscal year 2014 appropriation. The 121762
appropriation shall be used under the direction of the Department 121763
of Job and Family Services to pay for administrative activities 121764
for the Unemployment Insurance Program, employment services, and 121765
other allowable expenditures under section 903(d) of the Social 121766
Security Act, as amended. 121767

The amounts obligated pursuant to this section shall not 121768
exceed at any time the amount by which the aggregate of the 121769
amounts transferred to the account of the state under section 121770
903(d) of the Social Security Act, as amended, exceeds the 121771
aggregate of the amounts obligated for administration and paid out 121772
for benefits and required by law to be charged against the amounts 121773
transferred to the account of the state. 121774

Section 301.190. UNEMPLOYMENT COMPENSATION INTEREST 121775

The foregoing appropriation item 600695, Unemployment 121776
Compensation Interest, shall be used for payment of interest costs 121777
paid to the United States Secretary of the Treasury for the 121778
repayment of accrued interest related to federal unemployment 121779
account borrowing. 121780

Section 303.10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW 121781

General Revenue Fund 121782
GRF 029321 Operating Expenses \$ 455,858 \$ 456,376 121783
TOTAL GRF General Revenue Fund \$ 455,858 \$ 456,376 121784
TOTAL ALL BUDGET FUND GROUPS \$ 455,858 \$ 456,376 121785

OPERATING GUIDANCE 121786

The Chief Administrative Officer of the House of 121787
Representatives and the Clerk of the Senate shall determine, by 121788
mutual agreement, which of them shall act as fiscal agent for the 121789
Joint Committee on Agency Rule Review. Members of the Committee 121790
shall be paid in accordance with section 101.35 of the Revised 121791
Code. 121792

OPERATING EXPENSES 121793

On July 1, 2013, or as soon as possible thereafter, the 121794
Executive Director of the Joint Committee on Agency Rule Review 121795
may certify to the Director of Budget and Management the amount of 121796
the unexpended, unencumbered balance of the foregoing 121797
appropriation item 029321, Operating Expenses, at the end of 121798
fiscal year 2013 to be reappropriated to fiscal year 2014. The 121799
amount certified is hereby reappropriated to the same 121800
appropriation item for fiscal year 2014. 121801

On July 1, 2014, or as soon as possible thereafter, the 121802
Executive Director of the Joint Committee on Agency Rule Review 121803

may certify to the Director of Budget and Management the amount of 121804
the unexpended, unencumbered balance of the foregoing 121805
appropriation item 029321, Operating Expenses, at the end of 121806
fiscal year 2014 to be reappropriated to fiscal year 2015. The 121807
amount certified is hereby reappropriated to the same 121808
appropriation item for fiscal year 2015. 121809

Section 305.10. JCO JUDICIAL CONFERENCE OF OHIO 121810

General Revenue Fund 121811

GRF 018321	Operating Expenses	\$	824,900	\$	847,200	121812
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TOTAL GRF	General Revenue Fund	\$	824,900	\$	847,200	121813
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General Services Fund Group 121814

4030 018601	Ohio Jury	\$	385,000	\$	385,000	121815
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Instructions

TOTAL GSF	General Services Fund	\$	385,000	\$	385,000	121816
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Group

TOTAL ALL BUDGET FUND GROUPS		\$	1,209,900	\$	1,232,200	121817
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STATE COUNCIL OF UNIFORM STATE LAWS 121818

Notwithstanding section 105.26 of the Revised Code, of the 121819
foregoing appropriation item 018321, Operating Expenses, up to 121820
\$84,900 in fiscal year 2014 and up to \$88,300 in fiscal year 2015 121821
shall be used to pay the expenses of the State Council of Uniform 121822
State Laws, including membership dues to the National Conference 121823
of Commissioners on Uniform State Laws. 121824

OHIO JURY INSTRUCTIONS FUND 121825

The Ohio Jury Instructions Fund (Fund 4030) shall consist of 121826
grants, royalties, dues, conference fees, bequests, devises, and 121827
other gifts received for the purpose of supporting costs incurred 121828
by the Judicial Conference of Ohio in its activities as a part of 121829
the judicial system of the state as determined by the Judicial 121830
Conference Executive Committee. Fund 4030 shall be used by the 121831

Judicial Conference of Ohio to pay expenses incurred in its 121832
activities as a part of the judicial system of the state as 121833
determined by the Judicial Conference Executive Committee. All 121834
moneys accruing to Fund 4030 in excess of \$385,000 in fiscal year 121835
2014 and in excess of \$385,000 in fiscal year 2015 are hereby 121836
appropriated for the purposes authorized. 121837

No money in Fund 4030 shall be transferred to any other fund 121838
by the Director of Budget and Management or the Controlling Board. 121839

Section 307.10. JSC THE JUDICIARY/SUPREME COURT 121840

General Revenue Fund 121841

GRF 005321	Operating Expenses -	\$ 138,016,534	\$ 140,232,737	121842
	Judiciary/Supreme			
	Court			

GRF 005406	Law-Related Education	\$ 236,172	\$ 236,172	121843
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GRF 005409	Ohio Courts	\$ 3,350,000	\$ 3,350,000	121844
	Technology Initiative			

TOTAL GRF General Revenue Fund	\$ 141,602,706	\$ 143,818,909	121845
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General Services Fund Group 121846

6720 005601	Continuing Judicial	\$ 101,392	\$ 93,563	121847
	Education			

TOTAL GSF General Services Fund	\$ 101,392	\$ 93,563	121848
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Group

Federal Special Revenue Fund Group 121849

3J00 005603	Federal Grants	\$ 1,235,900	\$ 1,252,600	121850
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TOTAL FED Federal Special Revenue	\$ 1,235,900	\$ 1,252,600	121851
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Fund Group

State Special Revenue Fund Group 121852

4C80 005605	Attorney Services	\$ 3,923,101	\$ 3,915,721	121853
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5HT0 005617	Court Interpreter	\$ 23,000	\$ 23,000	121854
	Certification			

5JY0 005620	County Law Library	\$	258,000	\$	258,000	121855
	Resources Boards					
5T80 005609	Grants and Awards	\$	25,000	\$	25,000	121856
6A80 005606	Supreme Court	\$	1,283,751	\$	1,308,025	121857
	Admissions					
TOTAL SSR State Special Revenue		\$	5,512,852	\$	5,529,746	121858
Fund Group						
TOTAL ALL BUDGET FUND GROUPS		\$	148,452,850	\$	150,694,818	121859
OPERATING EXPENSES - JUDICIARY/SUPREME COURT						121860
Of the foregoing appropriation item 005321, Operating						121861
Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal						121862
year may be used to support the functions of the State Criminal						121863
Sentencing Council.						121864
LAW-RELATED EDUCATION						121865
The foregoing appropriation item 005406, Law-Related						121866
Education, shall be distributed directly to the Ohio Center for						121867
Law-Related Education for the purposes of providing continuing						121868
citizenship education activities to primary and secondary						121869
students, expanding delinquency prevention programs, increasing						121870
activities for at-risk youth, and accessing additional public and						121871
private money for new programs.						121872
OHIO COURTS TECHNOLOGY INITIATIVE						121873
The foregoing appropriation item 005409, Ohio Courts						121874
Technology Initiative, shall be used to fund an initiative by the						121875
Supreme Court to facilitate the exchange of information and						121876
warehousing of data by and between Ohio courts and other justice						121877
system partners through the creation of an Ohio Courts Network,						121878
the delivery of technology services to courts throughout the						121879
state, including the provision of hardware, software, and the						121880
development and implementation of educational and training						121881
programs for judges and court personnel, and operation of the						121882

Commission on Technology and the Courts by the Supreme Court for 121883
the promulgation of statewide rules, policies, and uniform 121884
standards, and to aid in the orderly adoption and comprehensive 121885
use of technology in Ohio courts. 121886

CONTINUING JUDICIAL EDUCATION 121887

The Continuing Judicial Education Fund (Fund 6720) shall 121888
consist of fees paid by judges and court personnel for attending 121889
continuing education courses and other gifts and grants received 121890
for the purpose of continuing judicial education. The foregoing 121891
appropriation item 005601, Continuing Judicial Education, shall be 121892
used to pay expenses for continuing education courses for judges 121893
and court personnel. If it is determined by the Administrative 121894
Director of the Supreme Court that additional appropriations are 121895
necessary, the amounts are hereby appropriated. 121896

No money in Fund 6720 shall be transferred to any other fund 121897
by the Director of Budget and Management or the Controlling Board. 121898
Interest earned on money in Fund 6720 shall be credited to the 121899
fund. 121900

FEDERAL GRANTS 121901

The Federal Grants Fund (Fund 3J00) shall consist of grants 121902
and other moneys awarded to the Supreme Court (The Judiciary) by 121903
the United States Government or other entities that receive the 121904
moneys directly from the United States Government and distribute 121905
those moneys to the Supreme Court (The Judiciary). The foregoing 121906
appropriation item 005603, Federal Grants, shall be used in a 121907
manner consistent with the purpose of the grant or award. If it is 121908
determined by the Administrative Director of the Supreme Court 121909
that additional appropriations are necessary, the amounts are 121910
hereby appropriated. 121911

No money in Fund 3J00 shall be transferred to any other fund 121912
by the Director of Budget and Management or the Controlling Board. 121913

However, interest earned on money in Fund 3J00 shall be credited 121914
or transferred to the General Revenue Fund. 121915

ATTORNEY SERVICES 121916

The Attorney Services Fund (Fund 4C80), formerly known as the 121917
Attorney Registration Fund, shall consist of money received by the 121918
Supreme Court (The Judiciary) pursuant to the Rules for the 121919
Government of the Bar of Ohio. In addition to funding other 121920
activities considered appropriate by the Supreme Court, the 121921
foregoing appropriation item 005605, Attorney Services, may be 121922
used to compensate employees and to fund appropriate activities of 121923
the following offices established by the Supreme Court: the Office 121924
of Disciplinary Counsel, the Board of Commissioners on Grievances 121925
and Discipline, the Clients' Security Fund, and the Attorney 121926
Services Division. If it is determined by the Administrative 121927
Director of the Supreme Court that additional appropriations are 121928
necessary, the amounts are hereby appropriated. 121929

No money in Fund 4C80 shall be transferred to any other fund 121930
by the Director of Budget and Management or the Controlling Board. 121931
Interest earned on money in Fund 4C80 shall be credited to the 121932
fund. 121933

COURT INTERPRETER CERTIFICATION 121934

The Court Interpreter Certification Fund (Fund 5HT0) shall 121935
consist of money received by the Supreme Court (The Judiciary) 121936
pursuant to Rules 80 through 87 of the Rules of Superintendence 121937
for the Courts of Ohio. The foregoing appropriation item 005617, 121938
Court Interpreter Certification, shall be used to provide 121939
training, to provide the written examination, and to pay language 121940
experts to rate, or grade, the oral examinations of those applying 121941
to become certified court interpreters. If it is determined by the 121942
Administrative Director that additional appropriations are 121943
necessary, the amounts are hereby appropriated. 121944

No money in Fund 5HT0 shall be transferred to any other fund 121945
by the Director of Budget and Management or the Controlling Board. 121946
Interest earned on money in Fund 5HT0 shall be credited to the 121947
fund. 121948

COUNTY LAW LIBRARY RESOURCES BOARD 121949

The Statewide Consortium of County Law Library Resources 121950
Boards Fund (Fund 5JY0) shall consist of moneys deposited pursuant 121951
to section 307.515 of the Revised Code into a county's law library 121952
resources fund and forwarded by that county's treasurer for 121953
deposit in the state treasury pursuant to division (E)(1) of 121954
section 3375.481 of the Revised Code. The foregoing appropriation 121955
item 005620, County Law Library Resources Board, shall be used for 121956
the operation of the Statewide Consortium of County Law Library 121957
Resources Boards. If it is determined by the Administrative 121958
Director of the Supreme Court that additional appropriations are 121959
necessary, the amounts are hereby appropriated. 121960

No money in Fund 5JY0 shall be transferred to any other fund 121961
by the Director of Budget and Management or the Controlling Board. 121962
Interest earned on money in Fund 5JY0 shall be credited to the 121963
fund. 121964

GRANTS AND AWARDS 121965

The Grants and Awards Fund (Fund 5T80) shall consist of 121966
grants and other money awarded to the Supreme Court (The 121967
Judiciary) by the State Justice Institute, the Division of 121968
Criminal Justice Services, or other entities. The foregoing 121969
appropriation item 005609, Grants and Awards, shall be used in a 121970
manner consistent with the purpose of the grant or award. If it is 121971
determined by the Administrative Director of the Supreme Court 121972
that additional appropriations are necessary, the amounts are 121973
hereby appropriated. 121974

No money in Fund 5T80 shall be transferred to any other fund 121975

by the Director of Budget and Management or the Controlling Board. 121976
 However, interest earned on money in Fund 5T80 shall be credited 121977
 or transferred to the General Revenue Fund. 121978

SUPREME COURT ADMISSIONS 121979

The foregoing appropriation item 005606, Supreme Court 121980
 Admissions, shall be used to compensate Supreme Court employees 121981
 who are primarily responsible for administering the attorney 121982
 admissions program under the Rules for the Government of the Bar 121983
 of Ohio, and to fund any other activities considered appropriate 121984
 by the court. Moneys shall be deposited into the Supreme Court 121985
 Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 121986
 Government of the Bar of Ohio. If it is determined by the 121987
 Administrative Director of the Supreme Court that additional 121988
 appropriations are necessary, the amounts are hereby appropriated. 121989

No money in Fund 6A80 shall be transferred to any other fund 121990
 by the Director of Budget and Management or the Controlling Board. 121991
 Interest earned on money in Fund 6A80 shall be credited to the 121992
 fund. 121993

Section 309.10. LEC LAKE ERIE COMMISSION 121994

Federal Special Revenue Fund Group 121995

3EP0 780603 Lake Erie Federal \$ 25,000 \$ 0 121996

Grants

TOTAL FED Federal Special Revenue \$ 25,000 \$ 0 121997

Fund Group

State Special Revenue Fund Group 121998

4C00 780601 Lake Erie Protection \$ 200,000 \$ 200,000 121999

Fund

5D80 780602 Lake Erie Resources \$ 298,942 \$ 339,637 122000

Fund

TOTAL SSR State Special Revenue 122001

Fund Group	\$	498,942	\$	539,637	122002
TOTAL ALL BUDGET FUND GROUPS	\$	523,942	\$	539,637	122003

CASH TRANSFERS TO THE LAKE ERIE RESOURCES FUND 122004

On July 1 of each fiscal year, or as soon as possible 122005
thereafter, the Director of Budget and Management may transfer 122006
cash from the funds specified below, up to the amounts specified 122007
below, to the Lake Erie Resources Fund (Fund 5D80). Fund 5D80 may 122008
accept contributions and transfers made to the fund. 122009

Fund	Fund Name	User	FY 2014	FY 2015	
5BC0	Environmental Protection	Environmental Protection Agency	\$23,500	\$53,500	122011
6690	Pesticide, Fertilizer and Lime	Department of Agriculture	\$23,500	\$53,500	122012
4700	General Operations	Department of Health	\$23,500	\$53,500	122013
1570	Central Support Indirect	Department of Natural Resources	\$23,500	\$53,500	122014

On July 1, 2013, or as soon as possible thereafter, the 122015
Director of Budget and Management may transfer \$23,500 cash from a 122016
fund used by the Development Services Agency, as specified by the 122017
Director of Development Services, to Fund 5D80. 122018

On July 1, 2014, or as soon as possible thereafter, the 122019
Director of Budget and Management may transfer \$53,500 cash from a 122020
fund used by the Development Services Agency, as specified by the 122021
Director of Development Services, to Fund 5D80. 122022

Section 311.10. JLE JOINT LEGISLATIVE ETHICS COMMITTEE 122023

General Revenue Fund					122024	
GRF 028321	Legislative Ethics Committee	\$	550,000	\$	550,000	122025
TOTAL GRF General Revenue Fund		\$	550,000	\$	550,000	122026

General Services Fund Group					122027
4G70 028601 Joint Legislative	\$	150,000	\$	150,000	122028
Ethics Committee					
TOTAL GSF General Services Fund	\$	150,000	\$	150,000	122029
Group					
TOTAL ALL BUDGET FUND GROUPS	\$	700,000	\$	700,000	122030
Section 313.10. LSC LEGISLATIVE SERVICE COMMISSION					122031
General Revenue Fund					122032
GRF 035321 Operating Expenses	\$	15,117,700	\$	15,117,700	122033
GRF 035402 Legislative Fellows	\$	1,022,120	\$	1,022,120	122034
GRF 035405 Correctional	\$	438,900	\$	438,900	122035
Institution Inspection					
Committee					
GRF 035407 Legislative Task Force	\$	400,000	\$	400,000	122036
on Redistricting					
GRF 035409 National Associations	\$	460,560	\$	460,560	122037
GRF 035410 Legislative	\$	3,861,250	\$	3,861,250	122038
Information Systems					
GRF 035411 Ohio Constitutional	\$	200,000	\$	200,000	122039
Modernization					
Commission					
TOTAL GRF General Revenue Fund	\$	21,500,530	\$	21,500,530	122040
General Services Fund Group					122041
4100 035601 Sale of Publications	\$	10,000	\$	10,000	122042
4F60 035603 Legislative Budget	\$	200,000	\$	200,000	122043
Services					
5EF0 035607 Legislative Agency	\$	30,000	\$	30,000	122044
Telephone Usage					
TOTAL GSF General Services					122045
Fund Group	\$	240,000	\$	240,000	122046
TOTAL ALL BUDGET FUND GROUPS	\$	21,740,530	\$	21,740,530	122047

OPERATING EXPENSES 122048

On July 1, 2013, or as soon as possible thereafter, the 122049
Director of the Legislative Service Commission may certify to the 122050
Director of Budget and Management the amount of the unexpended, 122051
unencumbered balance of the foregoing appropriation item 035321, 122052
Operating Expenses, at the end of fiscal year 2013 to be 122053
reappropriated to fiscal year 2014. The amount certified is hereby 122054
reappropriated to the same appropriation item for fiscal year 122055
2014. 122056

On July 1, 2014, or as soon as possible thereafter, the 122057
Director of the Legislative Service Commission may certify to the 122058
Director of Budget and Management the amount of the unexpended, 122059
unencumbered balance of the foregoing appropriation item 035321, 122060
Operating Expenses, at the end of fiscal year 2014 to be 122061
reappropriated to fiscal year 2015. The amount certified is hereby 122062
reappropriated to the same appropriation item for fiscal year 122063
2015. 122064

LEGISLATIVE TASK FORCE ON REDISTRICTING 122065

An amount equal to the unexpended, unencumbered portion of 122066
the foregoing appropriation item 035407, Legislative Task Force on 122067
Redistricting, at the end of fiscal year 2013 is hereby 122068
reappropriated to the Legislative Service Commission for the same 122069
purpose for fiscal year 2014. 122070

An amount equal to the unexpended, unencumbered portion of 122071
the foregoing appropriation item 035407, Legislative Task Force on 122072
Redistricting, at the end of fiscal year 2014 is hereby 122073
reappropriated to the Legislative Service Commission for the same 122074
purpose for fiscal year 2015. 122075

LEGISLATIVE INFORMATION SYSTEMS 122076

On July 1, 2013, or as soon as possible thereafter, the 122077
Director of the Legislative Service Commission may certify to the 122078

Director of Budget and Management the amount of the unexpended, 122079
unencumbered balance of the foregoing appropriation item 035410, 122080
Legislative Information Systems, at the end of fiscal year 2013 to 122081
be reappropriated to fiscal year 2014. The amount certified is 122082
hereby reappropriated to the same appropriation item for fiscal 122083
year 2014. 122084

On July 1, 2014, or as soon as possible thereafter, the 122085
Director of the Legislative Service Commission may certify to the 122086
Director of Budget and Management the amount of the unexpended, 122087
unencumbered balance of the foregoing appropriation item 035410, 122088
Legislative Information Systems, at the end of fiscal year 2014 to 122089
be reappropriated to fiscal year 2015. The amount certified is 122090
hereby reappropriated to the same appropriation item for fiscal 122091
year 2015. 122092

OHIO CONSTITUTIONAL MODERNIZATION COMMISSION 122093

The foregoing appropriation item 035411, Ohio Constitutional 122094
Modernization Commission, shall be used to support the operation 122095
and expenses of the Ohio Constitutional Modernization Commission 122096
under sections 103.61 to 103.67 of the Revised Code. 122097

Section 315.10. LIB STATE LIBRARY BOARD 122098

General Revenue Fund 122099

GRF	350321	Operating Expenses	\$	5,057,364	\$	5,057,364	122100
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GRF	350401	Ohioana Rental	\$	120,114	\$	120,114	122101
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Payments

GRF	350502	Regional Library	\$	582,469	\$	582,469	122102
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Systems

TOTAL GRF	General Revenue Fund	\$	5,759,947	\$	5,759,947	122103
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General Services Fund Group 122104

1390	350602	Intra-Agency Service	\$	8,000	\$	8,000	122105
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Charges

4590	350603	Library Service	\$	3,237,430	\$	3,526,368	122106
		Charges					
4S40	350604	Ohio Public Library	\$	5,689,788	\$	5,689,788	122107
		Information Network					
5GB0	350605	Library for the Blind	\$	1,274,194	\$	1,274,194	122108
TOTAL GSF General Services							122109
Fund Group			\$	10,209,412	\$	10,498,350	122110
Federal Special Revenue Fund Group							122111
3130	350601	LSTA Federal	\$	5,303,693	\$	5,120,439	122112
TOTAL FED Federal Special Revenue							122113
Fund Group			\$	5,303,693	\$	5,120,439	122114
TOTAL ALL BUDGET FUND GROUPS			\$	21,273,052	\$	21,378,736	122115
OHIOANA RENTAL PAYMENTS							122116
The foregoing appropriation item 350401, Ohioana Rental							122117
Payments, shall be used to pay the rental expenses of the Martha							122118
Kinney Cooper Ohioana Library Association under section 3375.61 of							122119
the Revised Code.							122120
REGIONAL LIBRARY SYSTEMS							122121
The foregoing appropriation item 350502, Regional Library							122122
Systems, shall be used to support regional library systems							122123
eligible for funding under sections 3375.83 and 3375.90 of the							122124
Revised Code.							122125
OHIO PUBLIC LIBRARY INFORMATION NETWORK							122126
(A) The foregoing appropriation item 350604, Ohio Public							122127
Library Information Network, shall be used for an information							122128
telecommunications network linking public libraries in the state							122129
and such others as may participate in the Ohio Public Library							122130
Information Network (OPLIN).							122131
The Ohio Public Library Information Network Board of Trustees							122132
created under section 3375.65 of the Revised Code may make							122133
decisions regarding use of the foregoing appropriation item							122134

350604, Ohio Public Library Information Network. 122135

(B) The OPLIN Board shall research and assist or advise local 122136
libraries with regard to emerging technologies and methods that 122137
may be effective means to control access to obscene and illegal 122138
materials. The OPLIN Director shall provide written reports upon 122139
request within ten days to the Governor, the Speaker and Minority 122140
Leader of the House of Representatives, and the President and 122141
Minority Leader of the Senate on any steps being taken by OPLIN 122142
and public libraries in the state to limit and control such 122143
improper usage as well as information on technological, legal, and 122144
law enforcement trends nationally and internationally affecting 122145
this area of public access and service. 122146

(C) The Ohio Public Library Information Network, INFOhio, and 122147
OhioLINK shall, to the extent feasible, coordinate and cooperate 122148
in their purchase or other acquisition of the use of electronic 122149
databases for their respective users and shall contribute funds in 122150
an equitable manner to such effort. 122151

LIBRARY FOR THE BLIND 122152

The foregoing appropriation item 350605, Library for the 122153
Blind, shall be used for the statewide Talking Book Program to 122154
assist the blind and disabled. 122155

TRANSFER TO OPLIN TECHNOLOGY FUND 122156

Notwithstanding sections 5747.03 and 5747.47 of the Revised 122157
Code and any other provision of law to the contrary, in accordance 122158
with a schedule established by the Director of Budget and 122159
Management, the Director of Budget and Management shall transfer 122160
\$5,689,788 cash in each fiscal year from the Public Library Fund 122161
(Fund 7065) to the OPLIN Technology Fund (Fund 4S40). 122162

TRANSFER TO LIBRARY FOR THE BLIND FUND 122163

Notwithstanding sections 5747.03 and 5747.47 of the Revised 122164

Code and any other provision of law to the contrary, in accordance 122165
with a schedule established by the Director of Budget and 122166
Management, the Director of Budget and Management shall transfer 122167
\$1,274,194 cash in each fiscal year from the Public Library Fund 122168
(Fund 7065) to the Library for the Blind Fund (Fund 5GB0). 122169

Section 317.10. LCO LIQUOR CONTROL COMMISSION 122170

State Special Revenue Fund Group 122171
5LP0 970601 Commission Operating \$ 784,376 \$ 796,368 122172
Expenses
TOTAL SSR State Special Revenue \$ 784,376 \$ 796,368 122173
Fund Group
TOTAL ALL BUDGET FUND GROUPS \$ 784,376 \$ 796,368 122174

Section 319.10. LOT STATE LOTTERY COMMISSION 122176

State Lottery Fund Group 122177
2310 950604 Charitable Gaming \$ 1,946,000 \$ 1,946,000 122178
Oversight
7044 950321 Operating Expenses \$ 49,778,677 \$ 51,173,293 122179
7044 950402 Advertising Contracts \$ 23,024,080 \$ 23,024,080 122180
7044 950403 Gaming Contracts \$ 63,405,851 \$ 59,356,988 122181
7044 950601 Direct Prize Payments \$ 116,281,000 \$ 114,779,000 122182
7044 950605 Problem Gambling \$ 2,000,000 \$ 3,000,000 122183
8710 950602 Annuity Prizes \$ 79,039,985 \$ 80,299,167 122184
TOTAL SLF State Lottery Fund 122185
Group \$ 335,475,593 \$ 333,578,528 122186
TOTAL ALL BUDGET FUND GROUPS \$ 335,475,593 \$ 333,578,528 122187

OPERATING EXPENSES 122188

Notwithstanding sections 127.14 and 131.35 of the Revised 122189
Code, the Controlling Board may, at the request of the State 122190
Lottery Commission, authorize expenditures from the State Lottery 122191
Fund in excess of the amounts appropriated, up to a maximum of 10 122192

per cent of anticipated total revenue accruing from the sale of 122193
lottery products. Upon the approval of the Controlling Board, the 122194
additional amounts are hereby appropriated. 122195

DIRECT PRIZE PAYMENTS 122196

Any amounts, in addition to the amounts appropriated in 122197
appropriation item 950601, Direct Prize Payments, that the 122198
Director of the State Lottery Commission determines to be 122199
necessary to fund prizes are hereby appropriated. 122200

ANNUITY PRIZES 122201

Upon request of the State Lottery Commission, the Director of 122202
Budget and Management may transfer cash from the State Lottery 122203
Fund (Fund 7044) to the Deferred Prizes Trust Fund (Fund 8710) in 122204
an amount sufficient to fund deferred prizes. The Treasurer of 122205
State, from time to time, shall credit the Deferred Prizes Trust 122206
Fund (Fund 8710) the pro rata share of interest earned by the 122207
Treasurer of State on invested balances. 122208

Any amounts, in addition to the amounts appropriated in 122209
appropriation item 950602, Annuity Prizes, that the Director of 122210
the State Lottery Commission determines to be necessary to fund 122211
deferred prizes and interest earnings are hereby appropriated. 122212

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 122213

Estimated transfers from the State Lottery Fund (Fund 7044) 122214
to the Lottery Profits Education Fund (Fund 7017) are to be 122215
\$841,000,000 in fiscal year 2014 and \$974,500,000 in fiscal year 122216
2015. The Director of Budget and Management shall transfer such 122217
amounts contingent upon the availability of resources. Transfers 122218
from the State Lottery Fund to the Lottery Profits Education Fund 122219
shall represent the estimated net income from operations for the 122220
Commission in fiscal year 2014 and fiscal year 2015. Transfers by 122221
the Director of Budget and Management to the Lottery Profits 122222
Education Fund shall be administered as the statutes direct. 122223

Section 321.10. MHC MANUFACTURED HOMES COMMISSION				122224
General Services Fund Group				122225
4K90 996609	Operating Expenses	\$ 459,134	\$ 459,134	122226
TOTAL GSF General Services Fund Group				122227
Fund Group				122228
State Special Revenue Fund Group				122229
5MC0 996610	Manufactured Homes Regulation	\$ 747,825	\$ 747,825	122230
TOTAL SSR State Special Revenue Fund Group				122231
Fund Group				122232
TOTAL ALL BUDGET FUND GROUPS				122232
 Section 323.10. MCD DEPARTMENT OF MEDICAID				122234
General Revenue Fund				122235
GRF 651425	Medicaid Program Support - State	\$ 149,482,299	\$ 156,064,636	122236
GRF 651525	Medicaid/Health Care Services			122237
	State	\$ 4,666,455,094	\$ 4,788,132,649	122238
	Federal	\$ 9,423,311,513	\$10,990,002,414	122239
	Medicaid/Health Care Services Total	\$14,089,766,607	\$15,778,135,063	122240
GRF 651526	Medicare Part D	\$ 308,749,142	\$ 324,920,518	122241
TOTAL GRF General Revenue Fund				122242
	State	\$ 5,124,686,535	\$ 5,269,117,803	122243
	Federal	\$ 9,423,311,513	\$10,990,002,414	122244
	GRF Total	\$14,547,998,048	\$16,259,120,217	122245
General Services Fund Group				122246
5DL0 651639	Medicaid Services - Recoveries	\$ 462,900,000	\$ 514,700,000	122247
5FX0 561638	Medicaid Services -	\$ 6,000,000	\$ 6,000,000	122248

		Payment Withholding		
TOTAL GSF	General Services Fund	\$ 468,900,000	\$ 520,700,000	122249
Group				
Federal Special Revenue Fund Group				122250
3ER0 651603	Medicaid Health Information Technology	\$ 123,074,778	\$ 123,089,606	122251
3F00 651623	Medicaid Services - Federal	\$ 2,977,109,943	\$ 3,214,589,109	122252
3F00 651624	Medicaid Program Support - Federal	\$ 408,996,401	\$ 409,323,399	122253
3FA0 651680	Health Care Grants - Federal	\$ 20,000,000	\$ 20,000,000	122254
3G50 651655	Medicaid Interagency Pass-Through	\$ 1,712,881,658	\$ 1,895,403,348	122255
TOTAL FED	Federal Special Revenue Fund Group	\$ 5,242,062,780	\$ 5,662,405,462	122256
State Special Revenue Fund Group				122257
4E30 651605	Resident Protection Fund	\$ 2,878,319	\$ 2,878,319	122258
5AJ0 651631	Money Follows the Person	\$ 5,555,000	\$ 4,517,500	122259
5GF0 651656	Medicaid Services - Hospitals/UPL	\$ 531,273,601	\$ 531,273,601	122260
5KC0 651682	Health Care Grants - State	\$ 10,000,000	\$ 10,000,000	122261
5R20 651608	Medicaid Services - Long Term Care	\$ 402,000,000	\$ 402,000,000	122262
5U30 651654	Medicaid Program Support	\$ 36,205,843	\$ 35,403,126	122263
6510 651649	Medicaid Services - HCAP	\$ 215,527,947	\$ 215,314,482	122264

TOTAL SSR State Special Revenue	\$ 1,203,440,710	\$ 1,201,387,028	122265
Fund Group			
Holding Account Redistribution Fund Group			122266
R055 651644 Refunds and	\$ 1,000,000	\$ 1,000,000	122267
Reconciliations			
TOTAL 090 Holding Account	\$ 1,000,000	\$ 1,000,000	122268
Redistribution Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$21,463,401,538	\$23,644,612,707	122269

Section 323.10.10. CREATION OF THE DEPARTMENT OF MEDICAID 122271

(A) As used in this section, "medical assistance program" 122272
means all of the following: 122273

(1) The Medicaid program established by Title XIX of the 122274
"Social Security Act," 42 U.S.C. 1396 et seq. 122275

(2) The Children's Health Insurance Program authorized by 122276
Title XXI of the "Social Security Act," 42 U.S.C. 1397aa et seq. 122277

(3) The Refugee Medical Assistance program authorized by the 122278
"Immigration and Nationality Act," section 412(e), 42 U.S.C. 122279
1522(e). 122280

(B) On July 1, 2013, all of the following apply: 122281

(1) The Department of Medicaid is created. 122282

(2) The Department of Medicaid is to be administered by the 122283
Medicaid Director who is to be appointed by the Governor with the 122284
advice and consent of the Senate. 122285

(3) The Medicaid Director is to hold the Director's office 122286
during the term of the appointing Governor and is subject to 122287
removal at the pleasure of the Governor. 122288

(4) The Medicaid Director is the executive head of the 122289
Department of Medicaid and all duties conferred on the Department 122290
by law or order of the Director are under the Director's control 122291

and shall be performed in accordance with rules the Director 122292
adopts. 122293

(5) The Medicaid Director may appoint such employees as are 122294
necessary for the efficient operation of the Department of 122295
Medicaid and may prescribe the title and duties of the employees. 122296

(6) The Office of Medical Assistance shall cease to exist. 122297

(7) Each reference to the Department or Director of Public 122298
Welfare, Department or Director of Human Services, Department or 122299
Director of Job and Family Services, Office of Medical Assistance, 122300
or Medical Assistance Director in any statute, rule, contract, 122301
grant, or other document is deemed to refer to the Department of 122302
Medicaid or Medicaid Director, as the case may be, to the extent 122303
the reference is about a duty or authority of the Department of 122304
Medicaid or Medicaid Director regarding a medical assistance 122305
program. 122306

(8) Employees of the Office of Medical Assistance are hereby 122307
transferred to the Department of Medicaid. The vehicles and 122308
equipment assigned to the Office's employees are transferred to 122309
the Department. 122310

(9) The assets, liabilities, other equipment not provided 122311
for, and records, irrespective of form or medium, of the Office of 122312
Medical Assistance are transferred to the Department of Medicaid. 122313
The Department is the successor to, assumes the obligations of, 122314
and otherwise constitutes the continuation of, the Office. 122315

(10) Business commenced but not completed on July 1, 2013, by 122316
the Medical Assistance Director, the Office of Medical Assistance, 122317
Director of Job and Family Services, or Department of Job and 122318
Family Services regarding a medical assistance program shall be 122319
completed by the Medicaid Director or Department of Medicaid in 122320
the same manner, and with the same effect, as if completed by the 122321
Medical Assistance Director, Office of Medical Assistance, 122322

Director of Job and Family Services, or Department of Job and 122323
Family Services. No validation, cure, right, privilege, remedy, 122324
obligation, or liability is lost or impaired by reason of the 122325
transfer required by this section but shall be administered by the 122326
Medicaid Director or Department of Medicaid. 122327

(D) The rules, orders, and determinations pertaining to the 122328
Office of Medical Assistance and Department of Job and Family 122329
Services regarding medical assistance programs continue in effect 122330
as rules, orders, and determinations of the Department of Medicaid 122331
until modified or rescinded by the Department of Medicaid. 122332

(E) No judicial or administrative action or proceeding 122333
pending on July 1, 2013, is affected by the transfer of functions 122334
from the Medical Assistance Director, Office of Medical 122335
Assistance, Director of Job and Family Services, or Department of 122336
Job and Family Services to the Medicaid Director or Department of 122337
Medicaid and shall be prosecuted or defended in the name of the 122338
Medicaid Director or Department of Medicaid. On application to the 122339
court or other tribunal, the Medicaid Director or Department of 122340
Medicaid shall be substituted as a party in such actions and 122341
proceedings. 122342

(F) When the Department of Medicaid created in section 121.02 122343
of the Revised Code comes into effect, it is a continuation of the 122344
Department of Medicaid created in this section. 122345

(G) A portion of the foregoing appropriation items 651425, 122346
Medicaid Program Support - State, 651525, Medicaid/Health Care 122347
Services, 651526, Medicare Part D, 651639, Medicaid Services - 122348
Recoveries, 651638, Medicaid Services - Payment Withholding, 122349
651603, Medicaid Health Information Technology, 651623, Medicaid 122350
Services - Federal, 651624, Medicaid Program Support - Federal, 122351
651680 Health Care Grants - Federal, 651655, Medicaid Interagency 122352
Pass-Through, 651605, Resident Protection Fund, 651631, Money 122353
Follows the Person, 651656, Medicaid Services - Hospitals/UPL, 122354

651682, Health Care Grants - State, 651608, Medicaid Services - 122355
Long Term Care, 651654, Medicaid Program Support, 651649, Medicaid 122356
Services - HCAP, 651644, Refunds and Reconciliations, and 651612, 122357
Managed Care Performance Payments, may be used to pay for Medicaid 122358
services and costs associated with the administration of the 122359
Medicaid program. 122360

Section 323.10.20. TRANSFER OF ENCUMBRANCES AND RECEIVABLES 122361

On July 1, 2013, or as soon as possible thereafter, the 122362
Medicaid Director shall certify to the Director of Budget and 122363
Management all medical assistance-related encumbrances held by the 122364
Department of Job and Family Services, and specify which of those 122365
encumbrances are requested to be transferred to the Department of 122366
Medicaid. The Director of Budget and Management may cancel any 122367
existing encumbrances, as certified by the Medicaid Director, and 122368
reestablish them in the Department of Medicaid. The reestablished 122369
encumbrance amounts are hereby appropriated. Any business 122370
commenced, but not completed, with regard to the encumbrances 122371
certified shall be completed by the Department of Medicaid in the 122372
same manner and with the same effect as if it were completed by 122373
the Department of Job and Family Services. 122374

On July 1, 2013, or as soon as possible thereafter, the 122375
Medicaid Director shall certify to the Director of Budget and 122376
Management all medical assistance-related receivables held by the 122377
Department of Job and Family Services, and specify which of those 122378
receivables are requested to be transferred to the Department of 122379
Medicaid. The Director of Budget and Management may cancel any 122380
existing receivables as certified by the Medicaid Director and 122381
reestablish them in the Department of Medicaid. 122382

A portion of the foregoing appropriation items 651425, 122383
Medicaid Program Support - State, 651525, Medicaid/Health Care 122384
Services, 651639, Medicaid Services - Recoveries, 651638, Medicaid 122385

Services-Payment Withholding, 651624, Medicaid Program Support - 122386
Federal, 651680, Health Care Grants - Federal, 651655, Medicaid 122387
Interagency Pass-Through, 651605, Resident Protection Fund, 122388
651631, Money Follows the Person, 651656, Medicaid Services - 122389
Hospitals/UPL, 651682, Health Care Grants - State, 651608, 122390
Medicaid Services - Long Term Care, 651654, Medicaid Program 122391
Support, and 651649, Medicaid Services - HCAP, may be used to pay 122392
for medical assistance services and costs associated with the 122393
administration of the Medicaid program. 122394

Section 323.10.30. TEMPORARY AUTHORITY REGARDING EMPLOYEES 122395

(A) As used in this section, "medical assistance program" has 122396
the same meaning as in the section of this act titled "CREATION OF 122397
THE DEPARTMENT OF MEDICAID." 122398

(B) During the period beginning July 1, 2013, and ending June 122399
30, 2015, all of the following apply: 122400

(1) The Medicaid Director has the authority to establish, 122401
change, and abolish positions for the Department of Medicaid, and 122402
to assign, reassign, classify, reclassify, transfer, reduce, 122403
promote, or demote all employees of the Department of Medicaid who 122404
are not subject to Chapter 4117. of the Revised Code. 122405

(2) As part of the transfer of medical assistance programs to 122406
the Department of Medicaid, the Director of Job and Family 122407
Services has the authority to establish, change, and abolish 122408
positions for the Department of Job and Family Services, and to 122409
assign, reassign, classify, reclassify, transfer, reduce, promote, 122410
or demote all employees of the Department of Job and Family 122411
Services who are not subject to Chapter 4117. of the Revised Code. 122412

(C) The authority granted under division (B) of this section 122413
includes assigning or reassigning an exempt employee, as defined 122414
in section 124.152 of the Revised Code, to a bargaining unit 122415

classification if the Medicaid Director or Director of Job and Family Services determines that the bargaining unit classification is the proper classification for that employee. The actions of the Medicaid Director or Director of Job and Family Services shall be consistent with the requirements of 5 C.F.R. 900.603 for those employees subject to such requirements. If an employee in the E-1 pay range is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification during the period specified in this section, the Medicaid Director or Director of Job and Family Services, or in the case of a transfer outside the Department of Medicaid or Department of Job and Family Services, the Director of Administrative Services, shall assign the employee to the appropriate classification and place the employee in Step X. The employee shall not receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

(D) Actions taken by the Medicaid Director, Director of Job and Family Services, and Director of Administrative Services pursuant to this section are not subject to appeal to the State Personnel Board of Review.

(E) A portion of the foregoing appropriation items 651425, Medicaid Program Support - State, 651603, Medicaid Health Information Technology, 651624, Medicaid Program Support - Federal, 651680, Health Care Grants - Federal, 651655, Medicaid Interagency Pass-Through, 651605, Resident Protection Fund, 651631, Money Follows the Person, 651682, Health Care Grants - State, and 651654, Medicaid Program Support, may be used to pay for costs associated with the administration of the Medicaid program, including the assignment, reassignment, classification, reclassification, transfer, reduction, promotion, or demotion of employees authorized by this section.

Section 323.10.40. STAFF TRAINING REGARDING TRANSFERS 122448

As used in this section, "medical assistance program" has the 122449
same meaning as in the section of this act titled "CREATION OF THE 122450
DEPARTMENT OF MEDICAID." 122451

The Medicaid Director and Director of Job and Family Services 122452
may jointly or separately enter into one or more contracts with 122453
public or private entities for staff training and development to 122454
facilitate the transfer of the staff and duties regarding medical 122455
assistance programs to the Department of Medicaid. Division (B) of 122456
section 127.16 of the Revised Code does not apply to contracts 122457
entered into under this section. 122458

A portion of the foregoing appropriation items 651425, 122459
Medicaid Program Support - State, 651624, Medicaid Program Support 122460
- Federal, 651680, Health Care Grants - Federal, 651605, Resident 122461
Protection Fund, 651631, Money Follows the Person, and 651654, 122462
Medicaid Program Support, may be used to pay for costs associated 122463
with the administration of the Medicaid program, including staff 122464
training authorized under this section. 122465

Section 323.10.50. CREATION OF THE DEPARTMENT OF MEDICAID NOT 122466
A COLLECTIVE BARGAINING SUBJECT 122467

As used in this section, "medical assistance program" has the 122468
same meaning as in the section of this act titled "CREATION OF THE 122469
DEPARTMENT OF MEDICAID." 122470

Notwithstanding sections 4117.08 and 4117.10 of the Revised 122471
Code, this act's creation of the Department of Medicaid and 122472
reassignment of the functions and duties of the Office of Medical 122473
Assistance regarding medical assistance programs are not 122474
appropriate subjects for collective bargaining under Chapter 4117. 122475
of the Revised Code. 122476

A portion of the foregoing appropriation items 651425, 122477

Medicaid Program Support - State, 651624, Medicaid Program Support 122478
- Federal, 651680, Health Care Grants - Federal, 651655, Medicaid 122479
Interagency Pass-Through, 651605, Resident Protection Fund, 122480
651631, Money Follows the Person, 651682, Health Care Grants - 122481
State, and 651654, Medicaid Program Support, may be used to pay 122482
for costs associated with the administration of the Medicaid 122483
program, including the reassignment of functions and duties 122484
related to the transition of the Office of Medical Assistance into 122485
the Department of Medicaid. 122486

Section 323.10.60. NEW AND AMENDED GRANT AGREEMENTS 122487

(A) As used in this section: 122488

(1) "Grant agreement" has the same meaning as in section 122489
5101.21 of the Revised Code. 122490

(2) "Medical assistance program" has the same meaning as in 122491
the section of this act titled "CREATION OF THE DEPARTMENT OF 122492
MEDICAID." 122493

(B) The Director of Job and Family Services and boards of 122494
county commissioners may enter into negotiations to amend an 122495
existing partnership agreement or to enter into a new grant 122496
agreement regarding the transfer of medical assistance programs to 122497
the Department of Medicaid. Any such amended or new grant 122498
agreement shall be drafted in the name of the Department of Job 122499
and Family Services. The amended or new partnership agreement may 122500
be executed before July 1, 2013, if the amendment or agreement 122501
does not become effective sooner than that date. 122502

(C) A portion of the foregoing appropriation items 651525, 122503
Health Care/Medicaid Services, 651603, Medicaid Health Information 122504
Technology, 651623, Medicaid Services - Federal, 651624, Medicaid 122505
Program Support - Federal, 651680, Health Care Grants - Federal, 122506
and 651682, Health Care Grants - State, may be used to pay for 122507

Medicaid services and costs associated with the administration of 122508
the Medicaid program. 122509

Section 323.10.70. LSC TO RENUMBER ADMINISTRATIVE RULES 122510

On and after July 1, 2013, if necessary to ensure the 122511
integrity of the numbering of the Administrative Code, the 122512
Director of the Legislative Service Commission shall renumber the 122513
rules of the Office of Medical Assistance within the Department of 122514
Job and Family Services to reflect its transfer to the Department 122515
of Medicaid. 122516

Of the foregoing appropriation item 651655, Medicaid 122517
Interagency Pass-Through, portions may be used to pay for Medicaid 122518
services and costs associated with the administration of the 122519
Medicaid program. 122520

Section 323.20. MEDICAID/HEALTH CARE SERVICES 122521

The foregoing appropriation item 651525, Medicaid/Health Care 122522
Services, shall not be limited by section 131.33 of the Revised 122523
Code. 122524

Section 323.30. QUALITY INCENTIVE PROGRAM TO REDUCE AVOIDABLE 122525
ADMISSIONS 122526

(A) The Department of Medicaid may implement, for fiscal year 122527
2014 and fiscal year 2015, a quality incentive program to reduce 122528
the number of times that the following persons are admitted to 122529
hospitals and nursing facilities or utilize emergency department 122530
services when the admissions or utilizations are avoidable: 122531

(1) Medicaid recipients enrolled in a home and 122532
community-based services Medicaid waiver component administered by 122533
the Office; 122534

(2) Medicaid recipients receiving nursing services available 122535

under the home health services benefit pursuant to 42 C.F.R. 122536
440.70(b)(1); 122537

(3) Medicaid recipients receiving home health aide services 122538
available under the home health services benefit pursuant to 42 122539
C.F.R. 440.70(b)(2); 122540

(4) Medicaid recipients receiving private duty nursing 122541
services as defined in 42 C.F.R. 440.80. 122542

(B) If the quality incentive program is implemented, the 122543
Department shall include in the program methods by which the 122544
Department will determine the program's actual savings to the 122545
Medicaid program and shall distribute not more than fifty per cent 122546
of the savings to participating Medicaid providers. 122547

Section 323.40. CHILDREN'S HOSPITALS QUALITY OUTCOMES PROGRAM 122548
122549

(A) As used in this section, "children's hospital" means a 122550
hospital, as defined in section 3727.01 of the Revised Code, that 122551
is located in this state, primarily serves patients eighteen years 122552
of age and younger, is subject to the Medicaid prospective payment 122553
system for hospitals established in rules adopted under section 122554
5164.02 of the Revised Code, and is excluded from Medicare 122555
prospective payments in accordance with 42 C.F.R. 412.23(d). 122556

(B) The Medicaid Director may implement, during fiscal year 122557
2014 and fiscal year 2015, a children's hospitals quality outcomes 122558
program that encourages children's hospitals to develop the 122559
following: 122560

(1) Infrastructures that are needed to care for patients in 122561
the least restrictive setting and promote the care of patients and 122562
their families; 122563

(2) Programs designed to improve birth outcomes and 122564
measurably reduce neonatal intensive care admissions; 122565

(3) Patient-centered methods to measurably reduce utilization of emergency department services for primary care needs and nonemergency health conditions;

(4) Other quality-focused reforms the Director identifies.

(C) Up to \$6,000,000 state share plus the corresponding federal share in each fiscal year shall be used to support payments made to children's hospitals for developing programs that achieve the outcomes specified under division (B) of this section and any other measures the Medicaid Director deems appropriate.

Section 323.50. UNIFIED LONG TERM CARE

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to provide the preadmission screening and resident review (PASRR), which includes screening, assessments, and determinations made under sections 5119.061 (renumbered section 5119.40 of the Revised Code in this act), 5123.021, and 5165.04 of the Revised Code.

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to assess and provide long-term care consultations under section 173.42 of the Revised Code to clients regardless of Medicaid eligibility.

The foregoing appropriation item 651425, Medicaid Program Support - State, may be used to provide nonwaiver funded PASSPORT and assisted living services to persons who the state department has determined to be eligible to participate in the nonwaiver funded PASSPORT and assisted living programs, who applied for but have not yet been determined to be financially eligible to participate in the Medicaid waiver component of the PASSPORT Home Care Program or the Assisted Living Program by a county department of job and family services, and to persons who are not eligible for Medicaid but were enrolled in the PASSPORT Program prior to

July 1, 1990. 122596

The foregoing appropriation item 651425, Medicaid Program 122597
Support - State, shall be used to provide the required state match 122598
for federal Medicaid funds supporting the Medicaid waiver-funded 122599
PASSPORT Home Care Program, the Choices Program, the Assisted 122600
Living Program, and the PACE Program. 122601

The foregoing appropriation item 651425, Medicaid Program 122602
Support - State, shall be used to provide the federal matching 122603
share of program costs determined by the Office of Medical 122604
Assistance to be eligible for Medicaid reimbursement for the 122605
Medicaid waiver-funded PASSPORT Home Care Program, the Choices 122606
Program, the Assisted Living Program, and the PACE Program. 122607

Section 323.60. MANAGED CARE PERFORMANCE PAYMENT PROGRAM 122608

At the beginning of each quarter, or as soon as possible 122609
thereafter, the Medicaid Director shall certify to the Director of 122610
Budget and Management the amount withheld in accordance with 122611
section 5162.62 of the Revised Code for purposes of the Managed 122612
Care Performance Payment Program. Upon receiving certification, 122613
the Director of Budget and Management shall transfer cash in the 122614
amount certified from the General Revenue Fund to the Managed Care 122615
Performance Payment Fund. The transferred cash is hereby 122616
appropriated. Appropriation item 651525, Medicaid/Health Care 122617
Services, is hereby reduced by the amount of the transfer. 122618

In addition to any other purpose authorized by law, the 122619
Department of Medicaid may use money in the Managed Care 122620
Performance Payment Fund for the following purposes for fiscal 122621
year 2014 and fiscal year 2015: 122622

(A) To meet obligations specified in provider agreements with 122623
Medicaid managed care organizations; 122624

(B) To pay for Medicaid services provided by a Medicaid 122625

managed care organization; 122626

(C) To reimburse a Medicaid managed care organization that 122627
has paid a fine for failure to meet performance standards or other 122628
requirements specified in provider agreements or rules adopted 122629
under section 5167.02 of the Revised Code if the organization 122630
comes into compliance with the standards or requirements. 122631

Section 323.70. MEDICAID MANAGED CARE EXEMPTIONS 122632

(A) As used in this section, "individual with disabilities" 122633
means any individual receiving services through the program for 122634
medically handicapped children established under section 3701.023 122635
of the Revised Code who has one or more of the following 122636
conditions: 122637

(1) Cystic fibrosis; 122638

(2) Hemophilia; 122639

(3) Cancer. 122640

(B) Notwithstanding section 5167.03 of the Revised Code, the 122641
Department of Medicaid shall not include in the care management 122642
system established under that section any individual with 122643
disabilities who was not receiving services through the care 122644
management system immediately before June 30, 2011, until the 122645
first day of the thirteenth month that occurs after the date that 122646
the Office first designates any individual who receives Medicaid 122647
on the basis of being aged, blind, or disabled who is under 122648
twenty-one years of age as an individual who is permitted or 122649
required to participate in the care management system. 122650

**Section 323.80. PRIOR AUTHORIZATION FOR COMMUNITY MENTAL 122651
HEALTH SERVICES** 122652

(A) As used in this section, "community mental health 122653
services" means mental health services included in the state 122654

Medicaid plan pursuant to section 5164.15 of the Revised Code. 122655

(B) For fiscal year 2014 and fiscal year 2015, a Medicaid 122656
recipient who is under twenty-one years of age automatically 122657
satisfies all requirements for any prior authorization process for 122658
community mental health services provided under a component of the 122659
Medicaid program administered by the Department of Mental Health 122660
and Addiction Services pursuant to an interagency agreement 122661
authorized by section 5162.35 of the Revised Code if any of the 122662
following apply to the recipient: 122663

(1) The recipient is in the temporary custody or permanent 122664
custody of a public children services agency or private child 122665
placing agency or is in a planned permanent living arrangement. 122666

(2) The recipient has been placed in protective supervision 122667
by a juvenile court. 122668

(3) The recipient has been committed to the Department of 122669
Youth Services. 122670

(4) The recipient is an alleged or adjudicated delinquent or 122671
unruly child receiving services under the Felony Delinquent Care 122672
and Custody Program operated under section 5139.43 of the Revised 122673
Code. 122674

Section 323.90. JOINT LEGISLATIVE COMMITTEE FOR UNIFIED 122675
LONG-TERM SERVICES AND SUPPORTS 122676

(A) The Joint Legislative Committee for Unified Long-Term 122677
Services and Supports created under section 309.30.73 of Am. Sub. 122678
H.B. 153 of the 129th General Assembly, as subsequently amended, 122679
shall continue to exist during fiscal year 2014 and fiscal year 122680
2015. The Committee shall consist of the following members: 122681

(1) Two members of the House of Representatives from the 122682
majority party, appointed by the Speaker of the House of 122683
Representatives; 122684

(2) One member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;	122685 122686 122687
(3) Two members of the Senate from the majority party, appointed by the President of the Senate;	122688 122689
(4) One member of the Senate from the minority party, appointed by the President of the Senate.	122690 122691
(B) The Speaker of the House of Representatives shall designate one of the members of the Committee appointed under division (A)(1) of this section to serve as co-chairperson of the Committee. The President of the Senate shall designate one of the members of the Committee appointed under division (A)(3) of this section to serve as the other co-chairperson of the Committee. The Committee shall meet at the call of the co-chairpersons. The co-chairpersons may request assistance for the Committee from the Legislative Service Commission.	122692 122693 122694 122695 122696 122697 122698 122699 122700
(C) The Committee may examine the following issues:	122701
(1) The implementation of the dual eligible integrated care demonstration project authorized by section 5164.91 of the Revised Code;	122702 122703 122704
(2) The implementation of a unified long-term services and support Medicaid waiver component under section 5166.14 of the Revised Code;	122705 122706 122707
(3) Providing consumers choices regarding a continuum of services that meet their health-care needs, promote autonomy and independence, and improve quality of life;	122708 122709 122710
(4) Ensuring that long-term care services and supports are delivered in a cost-effective and quality manner;	122711 122712
(5) Subjecting county homes, county nursing homes, and district homes operated pursuant to Chapter 5155. of the Revised	122713 122714

Code to the franchise permit fee under sections 5168.40 to 5168.56 122715
of the Revised Code; 122716

(6) Other issues of interest to the committee. 122717

(D) The co-chairpersons of the Committee shall provide for 122718
the Medicaid Director to testify before the Committee at least 122719
quarterly regarding the issues that the Committee examines. 122720

Section 323.100. HOSPITAL INPATIENT AND OUTPATIENT 122721
SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE 122722
HOSPITAL INCENTIVE PAYMENT PROGRAM 122723

(A) As used in this section: 122724

(1) "Hospital" has the same meaning as in section 5168.20 of 122725
the Revised Code. 122726

(2) "Hospital Assessment Fund" means the fund created under 122727
section 5168.25 of the Revised Code. 122728

(3) "Medicaid managed care organization" has the same meaning 122729
as in section 5167.01 of the Revised Code. 122730

(B) The Department of Medicaid shall do both of the 122731
following: 122732

(1) Continue the Hospital Inpatient and Outpatient 122733
Supplemental Upper Payment Limit Program that was established 122734
pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th 122735
General Assembly, with any modifications necessary to implement 122736
the program as described under division (D) of this section; 122737

(2) Continue the Medicaid Managed Care Hospital Incentive 122738
Payment Program, as described under division (E) of this section. 122739

(C) The Department shall use amounts deposited into the 122740
Hospital Assessment Fund in fiscal year 2014 and fiscal year 2015 122741
for the following purposes in each fiscal year: 122742

(1) To pay for costs associated with both of the following: 122743

(a) The Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program;	122744
	122745
(b) The Medicaid Managed Care Hospital Incentive Payment Program.	122746
	122747
(2) To reduce spending in appropriation item 651525, Medicaid/Health Care Services.	122748
	122749
(D)(1) Under the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The Department shall make the payments through amounts available for the Program pursuant to division (C) of this section and any federal financial participation available for the Program.	122750
	122751
	122752
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	122755
	122756
(2) The Department shall take all actions necessary to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5168.21 of the Revised Code is an impermissible healthcare-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w).	122757
	122758
	122759
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	122761
(E)(1) The purpose of the Medicaid Managed Care Hospital Incentive Payment Program is to increase access to hospital services for Medicaid recipients who are enrolled in Medicaid managed care organizations.	122762
	122763
	122764
	122765
Under the Program, subject to division (E)(2) of this section, funds shall be provided to Medicaid managed care organizations, which shall use the funds to increase payments to hospitals for providing services to Medicaid recipients who are enrolled in the organizations. The Department shall provide the funds through amounts available for the Program pursuant to division (C) of this section and any federal financial participation available for the Program.	122766
	122767
	122768
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	122773
(2)(a) The Department shall not provide funds to Medicaid	122774

managed care organizations under the Program unless an actuary 122775
selected by the Department certifies that the Program would not 122776
violate the actuarial soundness of the capitation rates paid to 122777
Medicaid managed care organizations. 122778

(b) The Department shall not implement the Program in a 122779
manner that causes a hospital to receive less money from the 122780
Hospital Assessment Fund than the hospital would have received if 122781
the Program were not implemented. 122782

(c) The Department shall not implement the Program in a 122783
manner that causes a Medicaid managed care organization to receive 122784
a lower capitation payment rate solely because funds are made 122785
available to the organization under the Program. 122786

(d) The Department shall take all necessary actions to cease 122787
implementation of the Program if the United States Secretary 122788
determines that the assessment imposed under section 5168.21 of 122789
the Revised Code is an impermissible health care-related tax under 122790
the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w). 122791

(F) The Director of Budget and Management may authorize 122792
additional expenditures from appropriation item 651623, Medicaid 122793
Services - Federal, appropriation item 651525, Medicaid/Health 122794
Care Services, and appropriation item 651656, Medicaid Services - 122795
Hospital/UPL, in order to implement the programs authorized by 122796
this section. Any amounts authorized are hereby appropriated. 122797

(G) The Medicaid Director shall adopt rules as necessary to 122798
implement this section. The rules shall provide for the applicable 122799
assessment percentage that is used for the purpose of section 122800
5168.21 of the Revised Code to be an amount that raises, from the 122801
assessments imposed on hospitals under that section, an amount the 122802
Director determines is appropriate to fund the purposes specified 122803
in division (C) of this section. 122804

Section 323.110. ADMINISTRATIVE ISSUES RELATED TO TERMINATION	122805
OF MEDICAID WAIVER PROGRAMS	122806
(A) As used in this section, "MCD or ODA Medicaid waiver component" means the following:	122807
	122808
(1) The Medicaid waiver component of the PASSPORT program created under section 173.52 of the Revised Code;	122809
	122810
(2) The Choices program created under section 173.53 of the Revised Code;	122811
	122812
(3) The Medicaid waiver component of the Assisted Living program created under section 173.54 of the Revised Code.	122813
	122814
(4) The Ohio Home Care Waiver program as defined in section 5166.01 of the Revised Code;	122815
	122816
(5) The Ohio Transitions II Aging Carve-Out program as defined in section 5166.01 of the Revised Code;	122817
	122818
(B) If an MCD or ODA Medicaid waiver component is terminated under section 173.52, 173.53, 173.54, 5166.12, or 5166.13 of the Revised Code, all of the following apply:	122819
	122820
	122821
(1) All applicable statutes, and all applicable rules, standards, guidelines, or orders issued by the Medicaid Director or Department of Medicaid or Director or Department of Aging before the component is terminated, shall remain in full force and effect on and after that date, but solely for purposes of concluding the component's operations, including fulfilling the Departments' legal obligations for claims arising from the component relating to eligibility determinations, covered medical assistance provided to eligible persons, and recovering erroneous overpayments.	122822
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	122828
	122829
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	122831
(2) Notwithstanding the termination of the component, the right of subrogation for the cost of medical assistance given under section 5160.37 of the Revised Code to the Department of	122832
	122833
	122834

Medicaid and an assignment of the right to medical assistance 122835
given under section 5160.38 of the Revised Code to the Department 122836
continue to apply with respect to the component and remain in 122837
force to the full extent provided under those sections. 122838

(3) The Department of Medicaid and Department of Aging may 122839
use appropriated funds to satisfy any claims or contingent claims 122840
for medical assistance provided under the component before the 122841
component's termination. 122842

(4) Neither the Department of Medicaid nor the Department of 122843
Aging has liability under the component to reimburse any provider 122844
or other person for claims for medical assistance rendered under 122845
the component after it is terminated. 122846

(C) The Medicaid Director and Director of Aging may adopt 122847
rules in accordance with Chapter 119. of the Revised Code to 122848
implement this section. 122849

Section 323.120. EXPANSION OF PACE PROGRAM 122850

(A) As used in this section, "PACE Program" means the Program 122851
of All-Inclusive Care for the Elderly. 122852

(B) To effectively administer and manage growth within the 122853
PACE Program, the Director of Aging, in consultation with the 122854
Medicaid Director, may expand the PACE Program to regions of the 122855
state that are not being served by the PACE Program if all of the 122856
following apply: 122857

(1) Funding is available for the expansion. 122858

(2) The Director of Aging and Medicaid Director mutually 122859
determine that the PACE Program is a cost-effective alternative to 122860
nursing home care. 122861

(3) The United States Centers for Medicare and Medicaid 122862
Services agrees to share with the state any savings to the 122863
Medicare program resulting from an expansion of the PACE Program. 122864

(C) If the PACE Program is expanded, the Director of Aging 122865
may not decrease the number of individuals in Cuyahoga and 122866
Hamilton counties and parts of Butler, Clermont, and Warren 122867
counties who are participants in the PACE Program below the number 122868
of individuals in those counties and parts of counties who were 122869
participants in the PACE Program on July 1, 2011. 122870

Section 323.130. DISPENSING FEE FOR NONCOMPOUNDED DRUGS 122871

The Medicaid dispensing fee for each noncompounded drug 122872
covered by the Medicaid program shall be \$1.80 for the period 122873
beginning July 1, 2013, and ending on the effective date of a rule 122874
changing the amount of the fee that the Medicaid Director adopts 122875
under section 5164.02 of the Revised Code. 122876

Section 323.140. MONEY FOLLOWS THE PERSON ENHANCED 122877
REIMBURSEMENT FUND 122878

The federal payments made to the state under subsection (e) 122879
of section 6071 of the "Deficit Reduction Act of 2005," Pub. L. 122880
No. 109-171, as amended, shall be deposited into the Money Follows 122881
the Person Enhanced Reimbursement Fund. The Department of Medicaid 122882
shall continue to use money deposited into the fund for system 122883
reform activities related to the Money Follows the Person 122884
demonstration project. 122885

Section 323.150. MEDICARE PART D 122886

The foregoing appropriation item 651526, Medicare Part D, may 122887
be used by the Department of Medicaid for the implementation and 122888
operation of the Medicare Part D requirements contained in the 122889
"Medicare Prescription Drug, Improvement, and Modernization Act of 122890
2003," Pub. L. No. 108-173, as amended. Upon the request of the 122891
Department of Medicaid, the Director of Budget and Management may 122892
transfer the state share of appropriations between appropriation 122893

item 651525, Medicaid/Health Care Services, or appropriation item 122894
651526, Medicare Part D. If the state share of appropriation item 122895
651525, Medicaid/Health Care Services, is adjusted, the Director 122896
of Budget and Management shall adjust the federal share 122897
accordingly. The Department of Medicaid shall provide notification 122898
to the Controlling Board of any transfers at the next scheduled 122899
Controlling Board meeting. 122900

Section 323.160. REBALANCING LONG-TERM CARE 122901

(A) As used in this section: 122902

"Balancing Incentive Payments Program" means the program 122903
established under section 10202 of the Patient Protection and 122904
Affordable Care Act. 122905

"Long-term services and supports" has the same meaning as in 122906
section 10202(f)(1) of the Patient Protection and Affordable Care 122907
Act. 122908

"Non-institutionally-based long-term services and supports" 122909
has the same meaning as in section 10202(f)(1)(B) of the Patient 122910
Protection and Affordable Care Act. 122911

"Patient Protection and Affordable Care Act" means Public Law 122912
111-148. 122913

(B) The Departments of Aging, Developmental Disabilities, and 122914
Medicaid shall continue efforts to achieve a sustainable and 122915
balanced delivery system for long-term services and supports. In 122916
so doing, the Departments shall strive to realize the following 122917
goals by June 30, 2015: 122918

(1) Having at least fifty per cent of Medicaid recipients who 122919
are sixty years of age or older and need long-term services and 122920
supports utilize non-institutionally-based long-term services and 122921
supports; 122922

(2) Having at least sixty per cent of Medicaid recipients who 122923

are less than sixty years of age and have cognitive or physical 122924
disabilities for which long-term services and supports are needed 122925
utilize non-institutionally-based long-term services and supports. 122926

(C) If the Department of Medicaid determines that 122927
participating in the Balancing Incentive Payments Program will 122928
assist in achieving the goals specified in division (B) of this 122929
section, the Department may apply to the United States Secretary 122930
of Health and Human Services to participate in the program. 122931

(D)(1) If the United States Secretary approves the 122932
application to participate in the Balancing Incentive Payments 122933
Program, both of the following apply: 122934

(a) At the request of the Medicaid Director, the Director of 122935
Budget and Management may authorize additional expenditures of 122936
\$10,000,000 from appropriation item 651425, Medicaid Program 122937
Support - State, and \$10,000,000 from appropriation item 651624, 122938
Medicaid Program Support - Federal, in each fiscal year to 122939
administer the Balancing Incentive Payments Program. Any amounts 122940
authorized are hereby appropriated. 122941

(b) Any enhanced federal financial participation funds 122942
received by the state for participating in the Balancing Incentive 122943
Payments Program shall be deposited into the General Revenue Fund. 122944
Appropriations in appropriation item 651525, Medicaid/Health Care 122945
Services, shall be increased by the amount deposited. Such amounts 122946
are hereby appropriated. 122947

(2) The Department of Medicaid shall use the enhanced federal 122948
financial participation in accordance with section 10202(c)(4) of 122949
the Patient Protection and Affordable Care Act. 122950

Section 323.170. OHIO ACCESS SUCCESS PROJECT 122951

Of the foregoing appropriation item, 651525, Medicaid/Health 122952
Care Services, up to \$450,000 in each fiscal year may be used to 122953

provide one-time transitional benefits under the Ohio Access Success Project that the Medicaid Director may establish under section 5166.35 of the Revised Code. 122954
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Section 323.180. PROVIDER FRANCHISE FEE OFFSETS 122957

(A) At least quarterly, the Medicaid Director shall certify to the Director of Budget and Management the amount of offsets withheld under section 3721.541 of the Revised Code from payments made from the General Revenue Fund. 122958
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(B) The Director of Budget and Management may transfer cash from the General Revenue Fund to the Nursing Home Franchise Permit Fee Fund (Fund 5R20), in accordance with section 5168.54 of the Revised Code. 122962
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122964
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(C) Amounts transferred pursuant to this section are hereby appropriated. 122966
122967

Section 323.190. HOSPITAL CARE ASSURANCE MATCH 122968

The foregoing appropriation item 651623, Medicaid Services - Federal, shall be used by the Department of Medicaid solely for distributing funds to hospitals under section 5168.09 of the Revised Code. 122969
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Section 323.200. HEALTH CARE SERVICES ADMINISTRATION FUND 122973

Of the amount received by the Department of Medicaid during fiscal year 2014 and fiscal year 2015 from the first installment of assessments paid under section 5168.06 of the Revised Code and intergovernmental transfers made under section 5168.07 of the Revised Code, the Medicaid Director shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U30). 122974
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Section 323.210. TRANSFERS OF OFFSETS TO THE HEALTH CARE 122981

SERVICES ADMINISTRATION FUND	122982
(A) As used in this section:	122983
"Hospital offset" means an offset from a hospital's Medicaid payment authorized by section 5168.991 of the Revised Code.	122984 122985
"Vendor offset" means a reduction of a Medicaid payment to a Medicaid provider to correct a previous, incorrect Medicaid payment.	122986 122987 122988
(B) During fiscal year 2014 and fiscal year 2015, at intervals selected by the Medicaid Director, the Director shall certify to the Director of Budget and Management the amount of hospital offsets and vendor offsets for the period covered by the certification and the particular funds that would have been used to make Medicaid payments to providers if not for the offsets. Each certification shall specify the amount that would have been taken from each of the funds if not for the hospital offsets and vendor offsets.	122989 122990 122991 122992 122993 122994 122995 122996 122997
(C) On receipt of a certification under division (B) of this section, the Director of Budget and Management shall transfer cash from the funds identified in the certification to the Health Care Services Administration Fund (Fund 5U30). The amount transferred from a fund shall equal the amount that would have been taken from the fund if not for the hospital offsets and vendor offsets as specified in the certification. The transferred cash is hereby appropriated.	122998 122999 123000 123001 123002 123003 123004 123005
Section 323.220. MEDICAID INTERAGENCY PASS-THROUGH	123006
The Medicaid Director may request the Director of Budget and Management to increase appropriation item 651655, Medicaid Interagency Pass-Through. Upon the approval of the Director of Budget and Management, the additional amounts are hereby appropriated.	123007 123008 123009 123010 123011

Section 323.230. MEDICAID PAYMENTS FOR NONINSTITUTIONAL	123012
SERVICES PROVIDED TO DUAL ELIGIBLE INDIVIDUALS	123013
(A) As used in this section:	123014
"Dual eligible individual" has the same meaning as in the	123015
"Social Security Act," section 1915(h)(2)(B), 42 U.S.C.	123016
1396n(h)(2)(B).	123017
"Medicare Part B" means the Supplementary Medical Insurance	123018
Program for the Aged and Disabled component of the Medicare	123019
program established by Part B of Title XVIII of the "Social	123020
Security Act," 42 U.S.C. 1395j et seq.	123021
"Noninstitutional services" means any services other than	123022
hospital services, nursing facility services, and intermediate	123023
care facilities for individuals with intellectual disabilities	123024
services.	123025
(B) Notwithstanding any conflicting state statute, a Medicaid	123026
payment for noninstitutional services, excluding physician	123027
services and including freestanding dialysis center services,	123028
provided during the period beginning January 1, 2014, and ending	123029
July 1, 2015, to a Medicaid recipient who is a dual eligible	123030
individual enrolled for benefits under Medicare Part B shall equal	123031
the lesser of the following:	123032
(1) The sum of the Medicare Part B deductible, coinsurance,	123033
and copayment for the services that are applicable to the	123034
individual;	123035
(2) The greater of the following:	123036
(a) The maximum allowable Medicaid payment for the services	123037
when the services are provided to other Medicaid recipients, less	123038
the total Medicaid payment (if any) most recently paid on the	123039
Medicaid recipient's behalf for such services;	123040
(b) Zero.	123041

Section 323.233. MEDICAID PAYMENTS FOR HOME HEALTH SERVICES 123042
AND PRIVATE DUTY NURSING 123043

(A) As used in this section, "responsible adult" means the 123044
spouse of a Medicaid recipient or, in the case of a Medicaid 123045
recipient who is a minor, the minor's parent, foster caregiver, 123046
stepparent, guardian, legal custodian, or any other person who 123047
stands in loco parentis for the minor. 123048

(B) Except as provided in division (C) of this section, for 123049
fiscal year 2014 and fiscal year 2015, Medicaid payments shall not 123050
be made for any of the following services that are provided to a 123051
Medicaid recipient by an individual who is a responsible adult for 123052
that recipient: 123053

(1) Nursing services available under the home health services 123054
benefit pursuant to 42 C.F.R. 440.70(b)(1); 123055

(2) Home health aide services available under the home health 123056
services benefit pursuant to 42 C.F.R. 440.70(b)(2); 123057

(3) Private duty nursing services, as defined in 42 C.F.R. 123058
440.80. 123059

(C) For fiscal year 2014 and fiscal year 2015, the Medicaid 123060
Director shall establish the conditions under which Medicaid 123061
payments may be made for any of the services described in division 123062
(B) of this section that are provided to a Medicaid recipient by 123063
an individual who is a responsible adult for that recipient. 123064

(D) The Director shall adopt rules in accordance with Chapter 123065
119. of the Revised Code necessary to implement this section. The 123066
Director shall consult provider representatives, consumer 123067
representatives, and other stakeholders in developing the rules, 123068
which may include the following: 123069

(1) Qualification and training requirements necessary for 123070
responsible adults to receive Medicaid payments under division (C) 123071

of this section;	123072
(2) Oversight requirements necessary for responsible adults to receive Medicaid payments under division (C) of this section;	123073 123074
(3) Procedures designed to protect against fraud, waste, and abuse that may occur as a result of payments made under division (C) of this section;	123075 123076 123077
(4) Any other procedures, standards, or requirements the Director considers appropriate.	123078 123079
Section 323.236. PURCHASING STRATEGIES FOR WHEELCHAIRS	123080
For fiscal year 2015, the Medicaid Director shall implement strategies for purchasing wheelchairs for Medicaid recipients residing in nursing facilities. In implementing the purchasing strategies, the Director shall seek to achieve a more efficient allocation of resources and price and quality competition among wheelchair providers. The Director shall consider one or more of the following when determining the purchasing strategies to implement:	123081 123082 123083 123084 123085 123086 123087 123088
(A) Establishing selective contracting or competitive bidding;	123089 123090
(B) Establishing a manufacturer's rebate program;	123091
(C) Another purchasing strategy that saves the Medicaid program an amount equivalent to the savings that would be realized from the purchasing strategies specified in division (A) or (B), or both, of this section.	123092 123093 123094 123095
Section 323.240. RESCISSION OF RULE REGARDING RATES FOR PHYSICIAN GROUPS ACTING AS OUTPATIENT HOSPITAL CLINICS	123096 123097
The Medicaid Director shall rescind rule 5101:3-1-60.1 of the Administrative Code. The rescission shall not take effect before January 1, 2014.	123098 123099 123100

Section 323.250. REDUCED RATE FOR REPEAT RADIOLOGICAL SERVICES	123101 123102
(A) The Medicaid Director shall reduce the Medicaid payment rate for radiological services to which both of the following apply:	123103 123104 123105
(1) They are provided in a physician's office or an independent diagnostic testing facility;	123106 123107
(2) They are provided more than once by the same provider for the same Medicaid recipient during the same treatment session.	123108 123109
(B) The Director shall adopt rules under section 5164.02 of the Revised Code to implement the rate reduction required by this section. The rules shall not take effect before January 1, 2014.	123110 123111 123112
Section 323.260. VARYING MEDICAID PAYMENT RATES FOR PHYSICIAN SERVICES DEPENDING ON LOCATION OF SERVICE	123113 123114
(A) The Medicaid Director shall do both of the following:	123115
(1) Identify physician services for which Medicaid payment rates should vary depending on where the services are provided;	123116 123117
(2) Adopt rules under section 5164.02 of the Revised Code to establish the varying Medicaid payment rates.	123118 123119
(B) The rules required by division (A)(2) of this section shall not take effect before January 1, 2014.	123120 123121
Section 323.270. MEDICAID PAYMENT METHODOLOGIES ALIGNED WITH MEDICARE PAYMENT METHODOLOGIES	123122 123123
(A) The Medicaid Director shall do both of the following:	123124
(1) Identify Medicaid services for which the Medicaid payment methodologies should be aligned, to the extent the Director considers appropriate, with Medicare payment methodologies for the	123125 123126 123127

services;	123128
(2) Adopt rules under section 5164.02 of the Revised Code to so align the payment methodologies for the services.	123129 123130
(B) The rules required by division (A)(2) of this section shall not take effect before January 1, 2014.	123131 123132
Section 323.280. ALTERNATIVE PURCHASING MODEL FOR NURSING FACILITY SERVICES	123133 123134
As used in this section, "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.	123135 123136
The Medicaid Director may establish, as a Medicaid waiver component, an alternative purchasing model for nursing facility services provided, during the period beginning July 1, 2013, and ending July 1, 2015, to Medicaid recipients with specialized health care needs, including recipients dependent on ventilators and recipients who have severe traumatic brain injury. If established, the alternative purchasing model shall recognize a connection between enhanced Medicaid payment rates and improved health outcomes capable of being measured. The total per Medicaid day payment rate for nursing facility services provided under the alternative purchasing model may differ from the rate that would otherwise be paid pursuant to Chapter 5165. of the Revised Code.	123137 123138 123139 123140 123141 123142 123143 123144 123145 123146 123147 123148
Section 323.290. REVIEW OF LONG-TERM SERVICES TO IMPROVE EFFICIENCY AND INDIVIDUAL CARE	123149 123150
(A) The Department of Medicaid may review the following services covered by the Medicaid program to identify opportunities to improve the efficiency of, and individual care provided by, long-term care services and supports:	123151 123152 123153 123154
(1) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);	123155 123156

(2) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);	123157 123158
(3) Private duty nursing services as defined in 42 C.F.R. 440.80.	123159 123160
(B) The Department, in its review authorized by division (A) of this section, may consider establishing the following:	123161 123162
(1) New methods for authorizing and coordinating long-term care services and supports, including such services and supports covered by the Medicaid state plan, using case managers or care coordinators;	123163 123164 123165 123166
(2) Competency and training requirements for the case managers or care coordinators;	123167 123168
(3) Other mechanisms for improving efficiency and individual care in the delivery of long-term care services and supports.	123169 123170
Section 323.300. PERFORMANCE PAYMENTS FOR MEDICAID MANAGED CARE	123171 123172
(A) As used in this section:	123173
(1) "Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315, 42 U.S.C. 1396n(h)(2)(B).	123174 123175 123176
(2) "Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5164.91 of the Revised Code.	123177 123178 123179
(3) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.	123180 123181
(4) "Participant" means an individual participating in the dual eligible integrated care demonstration project.	123182 123183
(B) For fiscal year 2014 and fiscal year 2015, the Department of Medicaid shall provide performance payments as provided under	123184 123185

this section to Medicaid managed care organizations providing care 123186
under the Dual Eligible Integrated Care Demonstration Project. 123187

(C) If the Department implements the Dual Eligible Integrated 123188
Care Demonstration Project, and if participants receive care 123189
through Medicaid managed care organizations under the project, the 123190
Department shall, in consultation with the United States Centers 123191
for Medicare and Medicaid Services, do both of the following: 123192

(1) Develop quality measures designed specifically to 123193
determine the effectiveness of the health care and other services 123194
provided to participants by Medicaid managed care organizations; 123195

(2) Determine an amount to be withheld from the Medicaid 123196
premium payments paid to Medicaid managed care organizations for 123197
participants. 123198

(D)(1) For the purposes of division (C)(2) of this section, 123199
the Department shall establish an amount that is to be withheld 123200
each time a premium payment is made to a Medicaid managed care 123201
organization for a participant. The amount shall be established as 123202
a percentage of each premium payment. The percentage shall be the 123203
same for all Medicaid managed care organizations providing care to 123204
participants. 123205

(2) Each Medicaid managed care organization shall agree to 123206
the withholding as a condition of receiving or maintaining its 123207
Medicaid provider agreement with the Department. 123208

(3) When the amount is established and each time the amount 123209
is modified thereafter, the Department shall certify the amount to 123210
the Director of Budget and Management and begin withholding the 123211
amount from each premium the Department pays to a Medicaid managed 123212
care organization for a participant. 123213

(E) The Director of Budget and Management shall transfer the 123214
amounts certified in accordance with division (D) of this section 123215
into the Managed Care Performance Payment Fund created under 123216

section 5162.62 of the Revised Code. The amounts transferred may 123217
be used to make performance payments to Medicaid managed care 123218
organizations providing care to participants in accordance with 123219
rules that may be adopted by the Medicaid Director under Chapter 123220
119. of the Revised Code. 123221

(F) A Medicaid managed care organization subject to this 123222
section is not subject to section 5167.30 of the Revised Code for 123223
premium payments attributed to participants during fiscal year 123224
2014 and fiscal year 2015. 123225

Section 323.310. INTEGRATED CARE DELIVERY SYSTEM PERFORMANCE 123226
PAYMENT PROGRAM 123227

At the beginning of each quarter, or as soon as possible 123228
thereafter, the Medicaid Director may certify to the Director of 123229
Budget and Management the amount withheld in accordance with the 123230
section in this act titled "PERFORMANCE PAYMENTS FOR MEDICAID 123231
MANAGED CARE." On receipt of certification, the Director of Budget 123232
and Management shall transfer cash in the amount certified from 123233
the General Revenue Fund to the Managed Care Performance Payment 123234
Fund (Fund 5KW0). The transferred cash is hereby appropriated. 123235
Appropriation item 651525, Medicaid/Health Care Services, is 123236
hereby reduced by the amount of the transfer. 123237

Section 323.320. VENDOR COLLECTION OF PATIENT LIABILITY 123238

(A) As used in this section: 123239

"Medicaid waiver component" has the same meaning as in 123240
section 5166.01 of the Revised Code. 123241

"Patient liability" means the amount that 42 C.F.R. 435.735 123242
requires be reduced from a Medicaid payment for home and 123243
community-based services available under a Medicaid waiver 123244
component. 123245

(B) The Medicaid Director may contract with a person or government entity to collect patient liabilities for fiscal year 2014 and fiscal year 2015. The Director may adopt rules under section 5166.02 of the Revised Code as necessary to implement this section.

Section 323.330. STATE PLAN HOME AND COMMUNITY-BASED SERVICES

(A) As used in this section:

"Federal poverty line" means the official poverty line defined by the United States Office of Management and Budget based on the most recent data available from the United States Bureau of the Census and revised by the United States Secretary of Health and Human Services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

"State plan home and community-based services" means home and community-based services that may be included in the Medicaid state plan pursuant to the "Social Security Act," section 1915(i), 42 U.S.C. 1396n(i).

(B) During fiscal year 2014 and fiscal year 2015, the Medicaid program may cover state plan home and community-based services for Medicaid recipients of any age who have behavioral health issues and countable incomes not exceeding one hundred fifty per cent of the federal poverty line. A Medicaid recipient is not required to undergo a level of care determination to be eligible for the state plan home and community-based services.

The Medicaid Director may adopt rules under section 5164.02 of the Revised Code as necessary to implement this section.

Section 323.340. INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21

(A) As used in this section:

"Inpatient psychiatric hospital services for individuals under age 21" has the same meaning as in the "Social Security Act," section 1905(h), 42 U.S.C. 1396d(h). 123275
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"Psychiatric residential treatment facility" has the same meaning as in 42 C.F.R. 483.352. 123278
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(B) During fiscal year 2014 and fiscal year 2015, the Medicaid program may cover inpatient psychiatric hospital services for individuals under age 21 that are provided by psychiatric residential treatment facilities to Medicaid recipients to whom both of the following apply: 123280
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(1) They are in the custody of the Department of Youth Services. 123285
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(2) They have been identified as meeting a clinical criterion of serious emotional disturbance specified pursuant to division (C) of this section. 123287
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(C) The Department of Youth Services, in collaboration with the Department of Medicaid and Department of Mental Health and Addiction Services, shall specify the clinical criterion of serious emotional disturbance to be used for the purpose of division (B)(2) of this section. 123290
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Section 323.350. MCD COLLABORATION WITH DVS 123295

The Department of Medicaid may collaborate with the Department of Veterans Services to determine ways to improve the coordination of the services that the Departments make available to veterans in a manner that enhances veterans' receipt of the services. The Departments may implement, during fiscal year 2014 and fiscal year 2015, initiatives that they determine during the collaboration will maximize the efficiency of the services and ensure that veterans' needs are met. 123296
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Section 323.360. IMPROVED BIRTH OUTCOMES INITIATIVES 123304

(A) The Medicaid Director may develop and implement, during 123305
fiscal year 2014 and fiscal year 2015, initiatives designed to 123306
improve birth outcomes for Medicaid recipients, including 123307
improvements designed to do the following: 123308

(1) Reduce the number of preterm births; 123309

(2) Reduce Medicaid costs; 123310

(3) Improve the quality of Medicaid services. 123311

(B) In developing the initiatives, the Director may consult 123312
with experts in practice improvement, Medicaid managed care 123313
organizations, hospitals, and other types of Medicaid providers. 123314
The Director, Medicaid managed care organizations, and other types 123315
of Medicaid providers involved in the initiatives shall make 123316
information about the initiatives available on their web sites. 123317

Section 323.370. ABOLISHMENT OF THE PRESCRIPTION DRUG REBATES 123318
FUND 123319

On July 1, 2013, or as soon as possible thereafter, the 123320
Director of Budget and Management shall transfer the cash balance 123321
in the Prescription Drug Rebates Fund (Fund 5P50) to the Health 123322
Care/Medicaid Support and Recoveries Fund (Fund 5DL0). Upon 123323
completion of the transfer, Fund 5P50 is abolished. The Director 123324
shall cancel any existing encumbrances against appropriation item 123325
600692, Health Care/Medicaid Support - Drug Rebates, and 123326
reestablish them against appropriation item 651639, Medicaid 123327
Services - Recoveries. The re-established encumbrance amounts are 123328
hereby appropriated. 123329

All money that would have been deposited into the 123330
Prescription Drug Rebates Fund shall be deposited into the Health 123331
Care/Medicaid Support and Recoveries Fund during fiscal year 2014 123332

and fiscal year 2015. 123333

Section 323.380. ABOLISHMENT OF THE HEALTHCARE COMPLIANCE 123334
FUND 123335

On July 1, 2013, or as soon as possible thereafter, the 123336
Medicaid Director shall certify to the Director of Budget and 123337
Management, the cash balance related to managed care obligations 123338
in the Healthcare Compliance Fund (Fund 4Z10). The Director of 123339
Budget and Management shall transfer the amount certified from 123340
Fund 4Z10 to the Managed Care Performance Payment Fund (Fund 123341
5KW0). The Director shall cancel any existing encumbrances related 123342
to managed care obligations against appropriation item 600625, 123343
Healthcare Compliance, and re-establish them against appropriation 123344
item 651612, Managed Care Performance Payment. The re-established 123345
encumbrance amounts are hereby appropriated. 123346

After the cash relating to managed care obligations has been 123347
transferred, the Director of Budget and Management shall transfer 123348
the remaining cash balance in the Healthcare Compliance Fund (Fund 123349
4Z10) to the Health Care Services Administration Fund (Fund 5U30). 123350
Upon completion of the transfer, Fund 4Z10 is abolished. The 123351
Director shall cancel any remaining encumbrances against 123352
appropriation item 600625, Healthcare Compliance, and re-establish 123353
them against appropriation item 651654, Medicaid Program Support. 123354
The re-established encumbrance amounts are hereby appropriated. 123355

All money that would have been deposited into the Health Care 123356
Compliance Fund pursuant to division (B)(2) of former section 123357
5111.946 of the Revised Code shall be deposited into the Health 123358
Care Services Administration Fund during fiscal year 2014 and 123359
fiscal year 2015. 123360

Section 323.390. ABOLISHMENT OF THE ODJFS ADMINISTRATION AND 123361
OVERSIGHT FUND 123362

On July 1, 2013, or as soon as possible thereafter, the 123363
Director of Budget and Management shall transfer the cash balance 123364
in the ODJFS Administration and Oversight Fund (Fund 5S30) to the 123365
Health Care Services Administration Fund (Fund 5U30). Upon 123366
completion of the transfer, Fund 5S30 is abolished. The Director 123367
shall cancel any existing encumbrances against appropriation item 123368
600629, Healthcare Program and DDD Support, and re-establish them 123369
against appropriation item 651654, Medicaid Program Support. The 123370
re-established encumbrance amounts are hereby appropriated. 123371

Section 323.400. REFUNDS AND RECONCILIATION FUND 123372

The Refunds and Reconciliation Fund (Fund R055) shall be used 123373
to hold refund and reconciliation revenues until the appropriate 123374
fund is determined or until the revenues are directed to the 123375
appropriate governmental agency other than the Department of 123376
Medicaid. If receipts credited to the Refunds and Reconciliation 123377
Fund exceed the amounts appropriated from the fund, the Medicaid 123378
Director may request the Director of Budget and Management to 123379
authorize expenditures from the fund in excess of the amounts 123380
appropriated. Upon approval of the Director of Budget and 123381
Management, the additional amounts are hereby appropriated. 123382

Section 323.460. NO LOSS OF MEDICAID ELIGIBILITY BEFORE 123383
JANUARY 1, 2014 123384

Notwithstanding the amendments by this act to sections 123385
5101.18, 5111.01 (as renumbered as section 5162.03), and 5111.011 123386
(as renumbered as section 5163.02) and the repeal by this act of 123387
sections 5111.014, 5111.015, 5111.0110, 5111.0111, 5111.0113, 123388
5111.0115, 5111.0120, 5111.0121, 5111.0122, 5111.0123, 5111.0124, 123389
5111.0125, 5111.70, 5111.701, 5111.702, 5111.703, 5111.704, 123390
5111.705, 5111.706, 5111.707, 5111.708, 5111.709, and 5111.7011 of 123391
the Revised Code, no individual eligible for Medicaid pursuant to 123392

those sections shall lose Medicaid eligibility before January 1, 123393
2014, because of the amendments to, or repeal of, those sections. 123394
This section does not preclude an individual from losing Medicaid 123395
eligibility before January 1, 2014, if the individual would cease 123396
to be Medicaid eligible before that date for reasons unrelated to 123397
the amendments to, or repeal of, those sections. Unrelated reasons 123398
include acquiring income or assets exceeding eligibility limits 123399
and failure to comply with eligibility requirements. 123400

Section 323.470. ALTERATIONS TO AND ELIMINATION OF OPTIONAL 123401
MEDICAID ELIGIBILITY GROUPS 123402

The Medicaid Director may initiate, before January 1, 2014, 123403
the rule-making process to alter the eligibility requirements for, 123404
or to eliminate, one or more Medicaid optional eligibility groups 123405
or subgroups pursuant to section 5163.06 of the Revised Code. 123406
However, none of the rules may go into effect before that date. 123407

Section 323.480. UPDATING AUTHORIZING STATUTE CITATIONS 123408

As used in this section, "authorizing statute" means a 123409
Revised Code section or provision of a Revised Code section that 123410
is cited in the Ohio Administrative Code as the statute that 123411
authorizes the adoption of a rule. 123412

The Medicaid Director is not required to amend any rule for 123413
the sole purpose of updating the citation in the Ohio 123414
Administrative Code to the rule's authorizing statute to reflect 123415
that this act renumbers the authorizing statute or relocates it to 123416
another Revised Code section. Such citations shall be updated as 123417
the Director amends the rules for other purposes. 123418

Section 325.10. MED STATE MEDICAL BOARD 123419

General Services Fund Group 123420

5C60 883609 Operating Expenses \$ 9,172,062 \$ 9,172,062 123421

TOTAL GSF General Services				123422
Fund Group	\$	9,172,062	\$ 9,172,062	123423
TOTAL ALL BUDGET FUND GROUPS	\$	9,172,062	\$ 9,172,062	123424
Section 327.10. MHA DEPARTMENT OF MENTAL HEALTH AND ADDICTION				123426
SERVICES				123427
General Revenue Fund				123428
GRF 333321 Central	\$	13,495,337	\$ 13,486,290	123429
Administration				
GRF 333402 Resident Trainees	\$	450,000	\$ 450,000	123430
GRF 333415 Lease-Rental Payments	\$	15,843,300	\$ 16,076,700	123431
GRF 333416 Research Program	\$	321,998	\$ 321,998	123432
Evaluation				
GRF 334412 Hospital Services	\$	190,514,437	\$ 190,514,437	123433
GRF 334506 Court Costs	\$	784,210	\$ 784,210	123434
GRF 335405 Family & Children	\$	1,386,000	\$ 1,386,000	123435
First				
GRF 335406 Prevention and	\$	868,659	\$ 868,659	123436
Wellness				
GRF 335421 Continuum of Care	\$	76,399,100	\$ 76,399,100	123437
Services				
GRF 335422 Criminal Justice	\$	4,917,898	\$ 4,917,898	123438
Services				
GRF 335504 Community Innovations	\$	1,500,000	\$ 1,500,000	123439
GRF 335506 Residential State	\$	7,502,875	\$ 7,502,875	123440
Supplement				
GRF 652507 Medicaid Support	\$	1,727,553	\$ 1,736,600	123441
TOTAL GRF General Revenue Fund	\$	315,711,367	\$ 315,944,767	123442
General Services Fund Group				123443
1490 333609 Central Office	\$	1,343,190	\$ 1,343,190	123444
Operating				
5T90 333641 Problem Gambling	\$	60,000	\$ 60,000	123445

		Services -					
		Administration					
1490	334609	Hospital - Operating	\$	28,190,000	\$	28,190,000	123446
		Expenses					
1500	334620	Special Education	\$	150,000	\$	150,000	123447
4P90	335604	Community Mental	\$	250,000	\$	250,000	123448
		Health Projects					
5T90	335641	Problem Gambling	\$	275,000	\$	275,000	123449
		Services					
1510	336601	Office of Support	\$	115,000,000	\$	115,000,000	123450
		Services					
TOTAL	GSF	General Services Fund	\$	145,268,190	\$	145,268,190	123451
		Group					
		Federal Special Revenue Fund Group					123452
3240	333605	Medicaid/Medicare -	\$	154,500	\$	154,500	123453
		Refunds					
3A60	333608	Federal Miscellaneous	\$	140,000	\$	140,000	123454
		- Administration					
3A70	333612	Social Services Block	\$	50,000	\$	50,000	123455
		Grant -					
		Administration					
3A80	333613	Federal Grants -	\$	4,717,000	\$	4,717,000	123456
		Administration					
3A90	333614	Mental Health Block	\$	748,470	\$	748,470	123457
		Grant -					
		Administration					
3G40	333618	Substance Abuse Block	\$	3,307,789	\$	3,307,789	123458
		Grant- Administration					
3H80	333606	Demonstration Grants	\$	3,237,574	\$	3,237,574	123459
		- Administration					
3N80	333639	Administrative	\$	300,000	\$	300,000	123460
		Reimbursement					
3240	334605	Medicaid/Medicare -	\$	28,200,000	\$	28,200,000	123461

		Hospitals					
3A60	334608	Federal Miscellaneous	\$	200,000	\$	200,000	123462
		- Hospitals					
3A80	334613	Federal Letter of	\$	200,000	\$	200,000	123463
		Credit					
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000	123464
3A70	335612	Social Services Block	\$	8,400,000	\$	8,400,000	123465
		Grant					
3A80	335613	Federal Grant -	\$	2,500,000	\$	2,500,000	123466
		Community Mental					
		Health Board Subsidy					
3A90	335614	Mental Health Block	\$	14,200,000	\$	14,200,000	123467
		Grant					
3FR0	335638	Race to the Top -	\$	1,164,000	\$	1,164,000	123468
		Early Learning					
		Challenge Grant					
3G40	335618	Substance Abuse Block	\$	62,542,003	\$	62,557,967	123469
		Grant					
3H80	335606	Demonstration Grants	\$	5,428,006	\$	5,428,006	123470
3B10	652635	Community Medicaid	\$	5,000,000	\$	0	123471
		Legacy Costs					
3B10	652636	Community Medicaid	\$	7,000,000	\$	7,000,000	123472
		Legacy Support					
3J80	652609	Medicaid Legacy Costs	\$	3,000,000	\$	0	123473
		Support					
TOTAL FED		Federal Special Revenue	\$	152,659,342	\$	144,675,306	123474
		Fund Group					
		State Special Revenue Fund Group					123475
2320	333621	Family and Children	\$	400,000	\$	400,000	123476
		First Administration					
4750	333623	Statewide Treatment	\$	5,490,667	\$	5,490,667	123477
		and Prevention -					
		Administration					

4850	333632	Mental Health	\$	134,233	\$	134,233	123478
		Operating - Refunds					
5JL0	333629	Problem Gambling and	\$	1,361,592	\$	1,361,592	123479
		Casino Addictions -					
		Administration					
5V20	333611	Non-Federal	\$	100,000	\$	100,000	123480
		Miscellaneous					
6890	333640	Education and	\$	150,000	\$	150,000	123481
		Conferences					
4850	334632	Mental Health	\$	2,477,500	\$	2,477,500	123482
		Operating - Hospitals					
4750	335623	Statewide Treatment	\$	10,059,333	\$	10,059,333	123483
		and Prevention					
5AU0	335615	Behavioral Health Care	\$	6,690,000	\$	6,690,000	123484
5JL0	335629	Problem Gambling and	\$	4,084,772		4,084,772	123485
		Casino Addictions					
6320	335616	Community Capital	\$	350,000	\$	350,000	123486
		Replacement					
TOTAL SSR	State Special Revenue		\$	31,298,097	\$	31,298,097	123487
	Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	644,936,996	\$	637,186,360	123488

Section 327.20. TRANSITION RELATING TO CONSOLIDATION OF DEPARTMENTS 123490
123491

Notwithstanding Chapters 340., 3793., 5119., and 5122. of the Revised Code, and any other provision of law to the contrary, on July 1, 2013, there is hereby created the Department of Mental Health and Addiction Services, which shall be administered by the Director of Mental Health and Addiction Services. The Director of Mental Health and Addiction Services shall be appointed by the Governor, with the advice and consent of the Senate, and shall hold office during the term of the appointing Governor, and is subject to removal at the pleasure of the Governor. The Director

of Mental Health and Addiction Services is the executive head of 123501
the Department of Mental Health and Addiction Services. The 123502
Department of Alcohol and Drug Addiction Services and the 123503
Department of Mental Health shall be consolidated into the single 123504
Department of Mental Health and Addiction Services. All of the 123505
authority, functions, and assets and liabilities of the Department 123506
of Mental Health and the Department of Alcohol and Drug Addiction 123507
Services are transferred to the Department of Mental Health and 123508
Addiction Services. The Department of Mental Health and Addiction 123509
Services is thereupon and thereafter successor to, assumes the 123510
obligations of, and otherwise constitutes the continuation of the 123511
Department of Alcohol and Drug Addiction Services and the 123512
Department of Mental Health. The Director of Mental Health and 123513
Addiction Services assumes all of the duties, authorities, and 123514
responsibilities of the Director of Alcohol and Drug Addiction 123515
Services and the Director of Mental Health. Any action, license, 123516
or certification that was undertaken or issued by the Director of 123517
Alcohol and Drug Addiction Services or the Director of Mental 123518
Health that is current and valid on the effective date of the 123519
consolidation is deemed to be an action, license, or certification 123520
undertaken or issued by the Department of Mental Health and 123521
Addiction Services under the statute creating that Department. 123522

Any business commenced but not completed by July 1, 2013, by 123523
the Department of Mental Health or the Department of Alcohol and 123524
Drug Addiction Services shall be completed by the Department of 123525
Mental Health and Addiction Services. The business shall be 123526
completed in the same manner, and with the same effect, as if 123527
completed by the Department of Mental Health or by the Department 123528
of Alcohol and Drug Addiction Services prior to July 1, 2013. 123529

No validation, cure, right, privilege, remedy, obligation, or 123530
liability is lost or impaired by reason of this act's transfer of 123531
responsibility from the Department of Mental Health and the 123532

Department of Alcohol and Drug Addiction Services to the 123533
Department of Mental Health and Addiction Services. Each such 123534
validation, cure, right, remedy, obligation, or liability shall be 123535
administered by the Department of Mental Health and Addiction 123536
Services pursuant to the statute creating that department. 123537

All rules, orders, and determinations made or undertaken 123538
pursuant to the authority and responsibilities of the Department 123539
of Mental Health and the Department of Alcohol and Drug Addiction 123540
Services prior to July 1, 2013, shall continue in effect as rules, 123541
orders, and determinations of the Department of Mental Health and 123542
Addiction Services until modified or rescinded by the Department 123543
of Mental Health and Addiction Services. If necessary to ensure 123544
the integrity of the numbering system of the Administrative Code, 123545
the Director of the Legislative Service Commission shall renumber 123546
the rules to reflect the transfer of authority and responsibility 123547
to the Department of Mental Health and Addiction Services. 123548

Any action or proceeding that is related to the functions or 123549
duties of the Department of Mental Health or the Department of 123550
Alcohol and Drug Addiction Services pending on July 1, 2013, is 123551
not affected by the transfer of responsibility to the Department 123552
of Mental Health and Addiction Services and shall be prosecuted or 123553
defended in the name of the Department of Mental Health and 123554
Addiction Services. In all such actions and proceedings, the 123555
Department of Mental Health and Addiction Services, on application 123556
to the court, shall be substituted as a party. 123557

It is the intention of the Department of Mental Health and 123558
Addiction Services that community subsidies allocated or 123559
distributed by the department will be used to fund mental health 123560
and addiction services in largely the same proportion that such 123561
services were funded when allocated or distributed as separate 123562
funding streams through the separate Department of Mental Health 123563
or Department of Alcohol and Drug Addiction Services. 123564

All employees of the Department of Mental Health and the Department of Alcohol and Drug Addiction Services shall be employees of the Department of Mental Health and Addiction Services and shall serve in the positions previously held within their respective agencies unless the Department of Mental Health and Addiction Services determines otherwise. The merger of Department of Mental Health and Department of Alcohol and Drug Addiction Services shall not be deemed a transfer of employees pursuant to division (D)(3)(b) of section 124.11 of the Revised Code. Any unclassified employee of the Department of Mental Health and Addiction Services who held a right to resume a position within the classified service of his or her previous respective agency of the Department of Mental Health or the Department of Alcohol and Drug Addiction Services shall retain such a right subject to section 5119.18 of the Revised Code as amended.

On July 1, 2013, or as soon as possible thereafter, notwithstanding any provision of law to the contrary, and if requested by the Department of Mental Health and Addiction Services, the Director of Budget and Management shall make budget changes made necessary by the consolidation, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, and the consolidation of funds, as authorized by this section. The Director of Budget and Management may make any transfer of cash balances between funds.

On July 1, 2013, or as soon as possible thereafter, the Director of Mental Health and Addiction Services shall certify to the Director of Budget and Management all encumbrances held by the Department of Mental Health and the Department of Alcohol and Drug Addiction Services, and specify which of those encumbrances are requested to be transferred to the Department of Mental Health and Addiction Services. The Director of Budget and Management may cancel any existing encumbrances as certified by the Director of

Mental Health and Addiction Services and re-establish them in the 123597
new agency. The re-established encumbrance amounts are hereby 123598
appropriated. Any business commenced but not completed with regard 123599
to the encumbrances certified shall be completed by the Department 123600
of Mental Health and Addiction Services in the same manner and 123601
with the same effect as if it were completed by the Department of 123602
Mental Health or the Department of Alcohol and Drug Addiction 123603
Services. 123604

Not later than 30 days after the transfer and consolidation 123605
of the operations and related management functions of the 123606
Department of Mental Health and the Department of Alcohol and Drug 123607
Addiction Services to the Department of Mental Health and 123608
Addiction Services, an authorized officer of the former Department 123609
of Mental Health and the former Department of Alcohol and Drug 123610
Addiction Services shall certify to the Director of Mental Health 123611
and Addiction Services the unexpended balance and location of any 123612
funds and accounts designated for building and facility operation 123613
and management functions, and the custody of such funds and 123614
accounts shall be transferred to the Department of Mental Health 123615
and Addiction Services. 123616

Effective July 1, 2013, the Director of Budget and Management 123617
shall cancel any existing encumbrances against appropriation item 123618
038616, Problem Gambling Services, and re-establish them against 123619
appropriation items 333641, Problem Gambling Services - 123620
Administration, and 335641, Problem Gambling Services. The 123621
re-established encumbrance amounts are hereby appropriated. Any 123622
business commenced but not completed under appropriation item 123623
038616 by July 1, 2013, shall be completed under appropriation 123624
items 333641 and 335641 in the same manner and with the same 123625
effect as if it were completed with regard to appropriation item 123626
038616. 123627

Effective July 1, 2013, the Director of Budget and Management 123628

shall cancel any existing encumbrances against appropriation item 123629
038614, Substance Abuse Block Grant, and re-establish them against 123630
appropriation items 333618, Substance Abuse Block Grant - 123631
Administration, and 335618, Substance Abuse Block Grant. The 123632
re-established encumbrance amounts are hereby appropriated. Any 123633
business commenced but not completed under appropriation item 123634
038614 by July 1, 2013, shall be completed under appropriation 123635
items 333618 and 335618 in the same manner and with the same 123636
effect as if it were completed with regard to appropriation item 123637
038614. 123638

Effective July 1, 2013, the Director of Budget and Management 123639
shall cancel any existing encumbrances against appropriation item 123640
038609, Demonstration Grants, and re-establish them against 123641
appropriation items 333606, Demonstration Grants - Administration, 123642
and 335606, Demonstration Grants. The re-established encumbrance 123643
amounts are hereby appropriated. Any business commenced but not 123644
completed under appropriation item 038609 by July 1, 2013, shall 123645
be completed under appropriation items 333606 and 335606 in the 123646
same manner and with the same effect as if it were completed with 123647
regard to appropriation item 038609. 123648

Effective July 1, 2013, the Director of Budget and Management 123649
shall cancel any existing encumbrances against appropriation item 123650
038621, Statewide Treatment and Prevention, and re-establish them 123651
against appropriation items 333623, Statewide Treatment and 123652
Prevention - Administration, and 335623, Statewide Treatment and 123653
Prevention. The re-established encumbrance amounts are hereby 123654
appropriated. Any business commenced but not completed under 123655
appropriation item 038621 by July 1, 2013, shall be completed 123656
under appropriation items 333623 and 335623 in the same manner and 123657
with the same effect as if it were completed with regard to 123658
appropriation item 038621. 123659

Effective July 1, 2013, the Director of Budget and Management 123660

shall cancel any existing encumbrances against appropriation item 123661
038629, Problem Gambling and Casino Addictions, and re-establish 123662
them against appropriation items 333629, Problem Gambling and 123663
Casino Addictions - Administration, and 335629, Problem Gambling 123664
and Casino Addictions. The re-established encumbrance amounts are 123665
hereby appropriated. Any business commenced but not completed 123666
under appropriation item 038629 by July 1, 2013, shall be 123667
completed under appropriation items 333629 and 335629 in the same 123668
manner and with the same effect as if it were completed with 123669
regard to appropriation item 038629. 123670

Effective July 1, 2013, the Director of Budget and Management 123671
shall cancel any existing encumbrances against appropriation item 123672
038611, Administrative Reimbursement, and re-establish them 123673
against appropriation item 333639, Administrative Reimbursement. 123674
The re-established encumbrance amounts are hereby appropriated. 123675
Any business commenced but not completed under appropriation item 123676
038611 by July 1, 2013, shall be completed under appropriation 123677
item 333639 in the same manner and with the same effect as if it 123678
were completed with regard to appropriation item 038611. 123679

Effective July 1, 2013, the Director of Budget and Management 123680
shall cancel any existing encumbrances against appropriation item 123681
335635, Community Medicaid Expansion, and re-establish them 123682
against appropriation item 652635, Community Medicaid Legacy 123683
Costs. The re-established encumbrance amounts are hereby 123684
appropriated. Any business commenced but not completed under 123685
appropriation item 335635 by July 1, 2013, shall be completed 123686
under appropriation item 652635 in the same manner and with the 123687
same effect as if it were completed with regard to appropriation 123688
item 335635. 123689

Effective July 1, 2013, the Director of Budget and Management 123690
shall cancel any existing encumbrances against appropriation item 123691
333635, Community Medicaid Expansion, and re-establish them 123692

against appropriation item 652636, Community Medicaid Legacy Support. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 333635 by July 1, 2013, shall be completed under appropriation item 652636 in the same manner and with the same effect as if it were completed with regard to appropriation item 333635.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038610, Medicaid, and re-establish them against appropriation item 652609, Medicaid Legacy Costs Support. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038610 by July 1, 2013, shall be completed under appropriation item 652609 in the same manner and with the same effect as if it were completed with regard to appropriation item 038610.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038604, Education and Conferences, and re-establish them against appropriation item 333640, Education and Conferences. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 038604 by July 1, 2013, shall be completed under appropriation item 333640 in the same manner and with the same effect as if it were completed with regard to appropriation item 038604.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 038401, Treatment Services, and re-establish them against appropriation items 335421, Continuum of Care Services, 335422, Criminal Justice Services, and 335406, Prevention and Wellness. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item

038401 by July 1, 2013, shall be completed under appropriation 123725
items 335421, 335422, and 335406 in the same manner and with the 123726
same effect as if it were completed with regard to appropriation 123727
item 038401. 123728

Effective July 1, 2013, the Director of Budget and Management 123729
shall cancel any existing encumbrances against appropriation item 123730
335419, Community Medication Subsidy, and re-establish them 123731
against appropriation item 335421, Continuum of Care Services. The 123732
re-established encumbrance amounts are hereby appropriated. Any 123733
business commenced but not completed under appropriation item 123734
335419 by July 1, 2013, shall be completed under appropriation 123735
item 335421 in the same manner and with the same effect as if it 123736
were completed with regard to appropriation item 335419. 123737

Effective July 1, 2013, the Director of Budget and Management 123738
shall cancel any existing encumbrances against appropriation item 123739
335505, Local Mental Health Systems of Care, and re-establish them 123740
against appropriation item 335421, Continuum of Care Services. The 123741
re-established encumbrance amounts are hereby appropriated. Any 123742
business commenced but not completed under appropriation item 123743
335505 by July 1, 2013, shall be completed under appropriation 123744
item 335421 in the same manner and with the same effect as if it 123745
were completed with regard to appropriation item 335505. 123746

Effective July 1, 2013, the Director of Budget and Management 123747
shall cancel any existing encumbrances against appropriation item 123748
332401, Forensic Services, and re-establish them against 123749
appropriation item 335422, Criminal Justice Services. The 123750
re-established encumbrance amounts are hereby appropriated. Any 123751
business commenced but not completed under appropriation item 123752
332401 by July 1, 2013, shall be completed under appropriation 123753
item 335422 in the same manner and with the same effect as if it 123754
were completed with regard to appropriation item 332401. 123755

Effective July 1, 2013, the Director of Budget and Management 123756

shall cancel any existing encumbrances against appropriation item 123757
333403, Pre-Admission Screening Expenses, and re-establish them 123758
against appropriation item 652507, Medicaid Support. The 123759
re-established encumbrance amounts are hereby appropriated. Any 123760
business commenced but not completed under appropriation item 123761
333403 by July 1, 2013, shall be completed under appropriation 123762
item 652507 in the same manner and with the same effect as if it 123763
were completed with regard to appropriation item 333403. 123764

Effective July 1, 2013, the Director of Budget and Management 123765
shall cancel any existing encumbrances against appropriation item 123766
038900, Indigent Drivers Alcohol Treatment, and re-establish them 123767
against appropriation item 335900, Indigent Drivers Alcohol 123768
Treatment. The re-established encumbrance amounts are hereby 123769
appropriated. Any business commenced but not completed under 123770
appropriation item 038900 by July 1, 2013, shall be completed 123771
under appropriation item 335900 in the same manner and with the 123772
same effect as if it were completed with regard to appropriation 123773
item 038900. 123774

Effective July 1, 2013, the Director of Budget and Management 123775
shall cancel any existing encumbrances against appropriation item 123776
038404, Prevention Services, and re-establish them against 123777
appropriation item 335406, Prevention and Wellness. The 123778
re-established encumbrance amounts are hereby appropriated. Any 123779
business commenced but not completed under appropriation item 123780
038404 by July 1, 2013, shall be completed under appropriation 123781
item 335406 in the same manner and with the same effect as if it 123782
were completed with regard to appropriation item 038404. 123783

Section 327.20.10. Effective July 1, 2013, the Director of 123784
Mental Health and Addiction Services, with respect to all mental 123785
health and addiction facilities, programs, and services 123786
established and operated or provided under Chapter 340. of the 123787

Revised Code shall do all of the following: 123788

(A) To the extent the Director determines necessary, and 123789
after consultation with the boards of alcohol, drug addiction, and 123790
mental health services, develop and operate, or contract for the 123791
operation of, a community behavioral health information system or 123792
systems, and shall specify the information that must be provided 123793
by boards of alcohol, drug addiction, and mental health services 123794
for inclusion in the system or systems, which may include 123795
information on services provided in whole or in part under 123796
contract with a board, financial information regarding 123797
expenditures of federal, state, or local funds by boards, and 123798
information about persons served under contract with a board. 123799

(B)(1) Receive and review each board's community plan, 123800
budget, and statement of services to be made available, and 123801
approve or disapprove the plan, budget, and statement of services 123802
to be made available, and approve or disapprove the plan, budget, 123803
or statement of service in whole or in part. 123804

(2) The Department may withhold all or part of the funds 123805
allocated to a board if it disapproves all or part of a plan, 123806
budget, or statement of service. 123807

(3) Prior to a final decision to disapprove a plan, budget, 123808
or statement of services, or to withhold funds from a board, a 123809
representative of the Director shall meet with the board to 123810
discuss the reasons for the action and any corrective action that 123811
should be taken to make the plan, budget, or statement of services 123812
acceptable, and give the board a reasonable time in which to 123813
revise the plan, budget, or statement of services. 123814

(C) Establish procedures for the review of plans, budgets, 123815
and statements of services, and a timetable for submission and 123816
review. Boards of alcohol, drug addiction, and mental health 123817
services shall submit to the Department of Mental Health and 123818

Addiction Services the information, plans, budgets, and statements 123819
of services described above in accordance with the guidance or 123820
directives of the Department or Director. After notifying and 123821
consulting with relevant constituents, the Department of Mental 123822
Health and Addiction Services shall establish a methodology for 123823
allocating to boards of alcohol, drug addiction, and mental health 123824
services the funds appropriated by the General Assembly to the 123825
Department for the purpose of local mental health and addiction 123826
services continuums of care. Subject to existing provisions of law 123827
that permit the Director to withhold funds from alcohol, drug 123828
addiction, and mental health services for failure to comply with 123829
applicable sections of law, or for discriminating in making 123830
services available, and subject to a board's submission and 123831
approval of the required plan, budget, and statement of services 123832
described above, the Department shall allocate the funds to the 123833
boards in a manner consistent with the methodology and state and 123834
federal laws, rules, and regulations. 123835

Portions of appropriation items 333609, Central Office 123836
Operating, 333606, Demonstration Grants - Administration, 333612, 123837
Social Services Block Grant - Administration, 333613, Federal 123838
Grants - Administration, 333614, Mental Health Block Grant - 123839
Administration, 333618, Substance Abuse Block Grant - 123840
Administration, 333623, Statewide Treatment and Prevention - 123841
Administration, 333629, Problem Gambling and Casino Addictions - 123842
Administration, 333608, Federal Miscellaneous - Administration, 123843
333641, Problem Gambling Services - Administration, 335406, 123844
Prevention and Wellness, 335421, Continuum of Care Services, 123845
335422, Criminal Justice Services, 335604, Community Mental Health 123846
Projects, 335606, Demonstration Grants, 335612, Social Services 123847
Block Grant, 335613, Federal Grant - Community Mental Health 123848
Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral 123849
Health Care, 335618, Substance Abuse Block Grant, 335623, 123850
Statewide Treatment and Prevention, 335629, Problem Gambling and 123851

Casino Addictions, 335638, Race to the Top - Early Learning 123852
Challenge Grant, and 335900, Indigent Drivers Alcohol Treatment, 123853
may be used to pay for the Department and board functions 123854
enumerated above. 123855

Section 327.20.20. (A) Effective July 1, 2013, all records 123856
and reports, other than court journal entries or court docket 123857
entries, identifying a person and pertaining to the person's 123858
mental health condition, assessment, provision of care or 123859
treatment, or payment for assessment, care, or treatment that are 123860
maintained in connection with any services certified by the 123861
Department of Mental Health and Addiction Services, or any 123862
hospitals or facilities licensed or operated by the Department, 123863
shall be kept confidential and shall not be disclosed by any 123864
person, with the following exceptions: 123865

(1) If the person identified, or the person's legal guardian, 123866
if any, or if the person is a minor, the person's parent or legal 123867
guardian, consents. 123868

(2) When disclosure is provided for in Chapters 340., 5119., 123869
or 5122., or in Title 47 of the Revised Code. 123870

(3) Hospitals, boards of alcohol, drug addiction, and mental 123871
health services, licensed facilities, and community mental health 123872
services providers may release necessary medical information to 123873
insurers and other third-party payers, including government 123874
entities responsible for processing and authorizing payment, to 123875
obtain payment for goods and services furnished to the person. 123876

(4) Pursuant to a court order signed by a judge; 123877

(5) A person shall be granted access to the person's own 123878
psychiatric and medical records unless access specifically is 123879
restricted in a person's treatment plan for clear treatment 123880
reasons. 123881

(6) The Department of Mental Health and Addiction Services 123882
may exchange psychiatric records and other pertinent information 123883
with community mental health services providers and boards of 123884
alcohol, drug addiction, and mental health services relating to 123885
the person's care or services. Records and information that may be 123886
exchanged pursuant to this division shall be limited to medication 123887
history, physical health status and history, financial status, 123888
summary of course of treatment in the hospital, summary of 123889
treatment needs, and a discharge summary, if any. 123890

(7) The Department of Mental Health and Addiction Services, 123891
hospitals, and community providers operated by the Department, 123892
hospitals licensed by the Department under section 5119.20 123893
(5119.33) of the Revised Code and community mental health services 123894
providers may exchange psychiatric records and other pertinent 123895
information with payers and other providers of treatment and 123896
health services if the purpose of the exchange is to facilitate 123897
continuity of care for the person or for the emergency treatment 123898
of the person. 123899

(8) The Department of Mental Health and Addiction Services 123900
and community mental health services providers may exchange 123901
psychiatric records and other pertinent information with boards of 123902
alcohol, drug addiction, and mental health services for purposes 123903
of any board function set forth in Chapter 340. of the Revised 123904
Code. Boards of alcohol, drug addiction, and mental health 123905
services shall not access or use any personal information from the 123906
Department or providers except as required or permitted by this 123907
section, or Chapters 340. and 5122. of the Revised Code for 123908
purposes related to payment, care coordination, health care 123909
operations, program and service evaluation, reporting activities, 123910
research, system administration, oversight, or other authorized 123911
purposes. 123912

(9) A person's family member who is involved in the 123913

provision, planning, and monitoring of services to the person may receive medication information, a summary of the person's diagnosis and prognosis, and a list of the services and personnel available to assist the person and the person's family, if the person's treatment provider determines that the disclosure would be in the best interests of the person. No such disclosure shall be made unless the person is notified first and receives the information and does not object to the disclosure.

(10) Community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(11) Information may be disclosed to the executor or the administrator of an estate of a deceased person when the information is necessary to administer the estate.

(12) Information may be disclosed to staff members of the appropriate board or to staff members designated by the Director of Mental Health and Addiction Services for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any person.

(13) Records pertaining to the person's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the person was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under

Chapter 5122. of the Revised Code. 123946

(14) The Department of Mental Health and Addiction Services 123947
may exchange psychiatric hospitalization records, other mental 123948
health treatment records, and other pertinent information with the 123949
Department of Rehabilitation and Correction and with the 123950
Department of Youth Services to ensure continuity of care for 123951
inmates and offenders who are receiving mental health services in 123952
an institution of the Department of Rehabilitation and Correction 123953
or the Department of Youth Services and may exchange psychiatric 123954
hospitalization records, other mental health treatment records, 123955
and other pertinent information with boards of alcohol, drug 123956
addiction, and mental health services and community mental health 123957
services providers to ensure continuity of care for inmates or 123958
offenders who are receiving mental health services in an 123959
institution and are scheduled for release within six months. The 123960
release of records under this division is limited to records 123961
regarding an inmate's or offender's medication history, physical 123962
health status and history, summary of course of treatment, summary 123963
of treatment needs, and a discharge summary, if any. 123964

(15) A community mental health services provider that ceases 123965
to operate may transfer to either a community mental health 123966
services provider that assumes its caseload or to the board of 123967
alcohol, drug addiction, and mental health services of the service 123968
district in which the person resided at the time services were 123969
most recently provided any treatment records that have not been 123970
transferred elsewhere at the person's request. 123971

(B) Before records are disclosed pursuant to divisions 123972
(A)(3), (6), or (10) of this section, the custodian of the records 123973
shall attempt to obtain the consent of the person in question for 123974
the disclosure. 123975

(C) No person shall reveal the content of a medical record of 123976
a person except as authorized by the law. 123977

(D) Portions of appropriation items 333321, Central	123978
Administration, 333416, Research Program Evaluation, 333605,	123979
Medicaid/Medicare - Refunds, 333606, Demonstration Grants -	123980
Administration, 333608, Federal Miscellaneous - Administration,	123981
333609, Central Office Opening, 333611, Non-Federal Miscellaneous,	123982
333612, Social Services Block Grant - Administration, 333613,	123983
Federal Grants - Administration, 333614, Mental Health Block Grant	123984
- Administration, 333618, Substance Abuse Block Grant -	123985
Administration, 333621, Family and Children First Administration,	123986
333623, Statewide Treatment and Prevention - Administration,	123987
333629, Problem Gambling and Casino Addictions - Administration,	123988
333632, Mental Health Operating - Refunds, 333608, Federal	123989
Miscellaneous - Administration, 333640, Education and Conferences,	123990
333641, Problem Gambling Services - Administration, 333639,	123991
Administrative Reimbursement, 334605, Medicaid/Medicare -	123992
Hospitals, 334608, Federal Miscellaneous - Hospitals, 334609,	123993
Hospital - Operating Expenses, 334613, Federal Letter of Credit,	123994
334620, Special Education, 334632, Mental Health Operating -	123995
Hospitals, 335405, Family and Children First, 335406, Prevention	123996
and Wellness, 335421, Continuum of Care Services, 335422, Criminal	123997
Justice Services, 335604, Community Mental Health Projects,	123998
335506, Residential State Supplement, 335608, Federal	123999
Miscellaneous, 335606, Demonstration Grants, 335612, Social	124000
Services Block Grant, 335613, Federal Grant - Community Mental	124001
Health Subsidy, 335614, Mental Health Block Grant, 335615,	124002
Behavioral Health Care, 335618, Substance Abuse Block Grant,	124003
335623, Statewide Treatment and Prevention, 335629, Problem	124004
Gambling and Casino Addictions, 335638, Race to the Top - Early	124005
Learning Challenge Grant, 335900, Indigent Drivers Alcohol	124006
Treatment, 336601, Office of Support Services, 652609, Medicaid	124007
Legacy Costs Support, 652635, Community Medicaid Legacy Costs, and	124008
652636, Community Medicaid Legacy Support, may be used to pay for	124009
the Department and community mental health system functions that	124010

operate under the confidentiality provisions enumerated above. 124011

Section 327.20.30. Effective July 1, 2013, the Director of 124012
Mental Health and Addiction Services may adopt rules pursuant to 124013
Chapter 119. of the Revised Code governing licensure and operation 124014
of residential facilities, that include procedures for conducting 124015
criminal records checks for operators, employees, and volunteers 124016
who have direct access to facility residents. 124017

Portions of appropriation items 334506, Court Costs, 335406, 124018
Prevention and Wellness, 335421, Continuum of Care Services, 124019
335614, Mental Health Block Grant, 335506, Residential State 124020
Supplement, 335615, Behavioral Health Care, 335618, Substance 124021
Abuse Block Grant, 335623, Statewide Treatment and Prevention, and 124022
335900, Indigent Drivers Alcohol Treatment, may be used to pay for 124023
these regulated activities. 124024

Section 327.20.40. Effective July 1, 2013, to the extent 124025
funds are available and on application of boards of alcohol, drug 124026
addiction, and mental health services, the Director of Mental 124027
Health and Addiction Services may approve state reimbursement of, 124028
or state grants for, community construction programs, including 124029
residential housing for severely mentally disabled persons and 124030
persons with substance use disorders. The Director may also 124031
approve an application for reimbursement or a grant for such 124032
programs submitted by other governmental entities or by private, 124033
nonprofit organizations after the board of alcohol, drug 124034
addiction, and mental health services has reviewed and approved 124035
the application and the application is consistent with the plan, 124036
budget, and statement of services submitted and approved by the 124037
Department. The Director shall adopt rules in accordance with 124038
Chapter 119. of the Revised Code that specify procedures for 124039
applying for state reimbursement and for state grants for 124040
community construction programs, including residential housing for 124041

severely mentally disabled persons and persons with substance use disorders. 124042
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Portions of appropriation item 335616, Community Capital Replacement, may be used to pay for the Department functions enumerated above. 124044
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Section 327.20.50. Effective July 1, 2013, the Department of Mental Health and Addiction Services shall collect information about services delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such purposes. No alcohol, drug addiction, or mental health program, agency, or services provider shall fail to supply statistics or other information within its knowledge and with respect to its programs or services upon the request of the department. 124047
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Portions of appropriation items 333321, Central Administration, 333609 Central Office Operating, 333606, Demonstration Grants - Administration, 333612, Social Services Block Grant - Administration, 333613, Federal Grants - Administration, 333614, Mental Health Block Grant - Administration, 333618, Substance Abuse Block Grant - Administration, 333623, Statewide Treatment and Prevention - Administration, 333629, Problem Gambling and Casino Addictions - Administration, 333608, Federal Miscellaneous - Administration, 333641, Problem Gambling Services - Administration, 335406, Prevention and Wellness, 335421, Continuum of Care Services, 335422, Criminal Justice Services, 335604, Community Mental Health Projects, 335606, Demonstration Grants, 335612, Social Services Block Grant, 335613, Federal Grant - Community Mental Health Subsidy, 335614, Mental Health Block Grant, 335615, Behavioral Health Care, 335618, Substance Abuse Block Grant, 335623, Statewide Treatment and Prevention, 335629, Problem Gambling and 124056
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Casino Addictions, 335638, Race to the Top - Early Learning 124073
Challenge Grant, and 335900, Indigent Drivers Alcohol Treatment, 124074
652609, Medicaid Legacy Costs Support, and 652636, Community 124075
Medicaid Legacy Support, may be used to pay for the Department 124076
information collection and reporting functions enumerated above. 124077

Section 327.20.60. The Department of Mental Health and 124078
Addiction Services shall administer specified Medicaid services as 124079
delegated by the State's single agency responsible for the 124080
Medicaid program. Effective July 1, 2013, the Department shall use 124081
appropriation item 652507, Medicaid Support, to fund the 124082
Medicaid-related services and supports performed by the 124083
Department. 124084

Section 327.30. RESIDENT TRAINEES 124085

The foregoing appropriation item 333402, Resident Trainees, 124086
shall be used to fund training agreements entered into by the 124087
Director of Mental Health and Addiction Services for the 124088
development of curricula and the provision of training programs to 124089
support public mental health services. 124090

Section 327.40. LEASE-RENTAL PAYMENTS 124091

The foregoing appropriation item 333415, Lease-Rental 124092
Payments, shall be used to meet all payments at the times they are 124093
required to be made during the period from July 1, 2013, through 124094
June 30, 2015, by the Department of Mental Health and Addiction 124095
Services under leases and agreements made under section 154.20 of 124096
the Revised Code. These appropriations are the source of funds 124097
pledged for bond service charges on obligations issued pursuant to 124098
Chapter 154. of the Revised Code. 124099

Section 327.50. HOSPITAL SERVICES 124100

The foregoing appropriation item 334412, Hospital Services, 124101
shall be used for the operation of the State Regional Psychiatric 124102
Hospitals, including, but not limited to, all aspects involving 124103
civil and forensic commitment, treatment, and discharge as 124104
determined by the Director of Mental Health and Addiction 124105
Services. A portion of this appropriation may be used by the 124106
Department of Mental Health and Addiction Services to create, 124107
purchase, or contract for the custody, supervision, control, and 124108
treatment of persons committed to the Department of Mental Health 124109
and Addiction Services in other clinically appropriate 124110
environments, consistent with public safety. 124111

Section 327.60. CONTINUUM OF CARE SERVICES 124112

The foregoing appropriation item 335421, Continuum of Care 124113
Services, shall be used as follows: 124114

(A) A portion of this appropriation may be allocated to 124115
community alcohol, drug addiction, and mental health services 124116
boards in accordance with a distribution methodology determined by 124117
the Director of Mental Health and Addiction Services: 124118

(1) For the boards to purchase mental health and addiction 124119
services permitted under Chapter 340. of the Revised Code; 124120

(2) To provide subsidized support for psychotropic medication 124121
needs of indigent citizens in the community to reduce unnecessary 124122
hospitalization due to lack of medication; and 124123

(3) To provide subsidized support for medication assisted 124124
treatment costs. 124125

(B) A portion of this appropriation may be distributed to 124126
community alcohol, drug addiction, and mental health services 124127
boards, community addiction and/or mental health services 124128
providers, courts, or other governmental entities to provide 124129
specific grants in support of mental health and addiction services 124130

initiatives. 124131

Section 327.70. CRIMINAL JUSTICE SERVICES 124132

The foregoing appropriation item 335422, Criminal Justice 124133
Services, shall be used to provide forensic psychiatric 124134
evaluations to courts of common pleas and to conduct evaluations 124135
of patients of forensic status in facilities operated or 124136
designated by the Department of Mental Health and Addiction 124137
Services prior to conditional release to the community. A portion 124138
of this appropriation may be allocated through community alcohol, 124139
drug addiction, and mental health services boards to community 124140
addiction and/or mental health services providers in accordance 124141
with a distribution methodology as determined by the Director of 124142
Mental Health and Addiction Services. 124143

Appropriation item 335422, Criminal Justice Services, may 124144
also be used to: 124145

(A) Provide forensic monitoring and tracking of individuals 124146
on conditional release; 124147

(B) Provide forensic training; 124148

(C) Support projects that assist courts and law enforcement 124149
to identify and develop appropriate alternative services to 124150
incarceration for nonviolent mentally ill offenders; 124151

(D) Provide specialized re-entry services to offenders 124152
leaving prisons and jails; 124153

(E) Provide specific grants in support of addiction services 124154
alternatives to incarceration; 124155

(F) Support specialty dockets; and 124156

(G) Support therapeutic communities. 124157

Section 327.80. COMMUNITY INNOVATIONS 124158

The foregoing appropriation item 335504, Community Innovations, may be used by the Department of Mental Health and Addiction Services to make targeted investments in programs, projects, or systems operated by or under the authority of other state agencies, governmental entities, or private not-for-profit agencies that impact, or are impacted by, the operations and functions of the Department, with the goal of achieving a net reduction in expenditure of state general revenue funds and/or improved outcomes for Ohio citizens without a net increase in state general revenue fund spending.

The Director shall identify and evaluate programs, projects, or systems proposed or operated, in whole or in part, outside of the authority of the Department, where targeted investment of these funds in the program, project, or system is expected to decrease demand for the Department or other resources funded with state general revenue funds, and/or to measurably improve outcomes for Ohio citizens with mental illness or with alcohol, drug, or gambling addictions. The Director shall have discretion to transfer money from the appropriation item to other state agencies, governmental entities, or private not-for-profit agencies in amounts, and subject to conditions, that the Director determines most likely to achieve state savings and/or improved outcomes. Distribution of moneys from this appropriation item shall not be subject to sections 9.23 to 9.239 or Chapter 125. of the Revised Code.

The Department shall enter into an agreement with each recipient of community innovation funds, identifying: allowable expenditure of the funds; other commitment of funds or other resources to the program, project, or system; expected state savings and/or improved outcomes and proposed mechanisms for measurement of such savings or outcomes; and required reporting regarding expenditure of funds and savings or outcomes achieved.

The foregoing appropriation item 335504, Community Innovations, may also be used by the Department to make payments to the Opportunities for Ohioans with Disabilities Agency for vocational rehabilitation services to individuals receiving mental health or addiction services paid for with public dollars.

Section 327.90. COMMUNITY OPERATING/PLANNING

Appropriation item 335609, Community Operating/Planning, may be used by the Department of Mental Health and Addiction Services to make payments to the Opportunities for Ohioans with Disabilities Agency for vocational rehabilitation services to individuals receiving mental health or addiction services paid for with public dollars.

In addition, appropriation item 335609, Community Operating/Planning, may be used by the Department to make incentive payments to operators of residential facilities that are licensed by the Department of Mental Health and Addiction Services and provide accommodations and personal care services for one or two unrelated adults or accommodations, supervision, and personal care services for three to sixteen unrelated adults. The incentive payments shall be granted based upon operators demonstrating linkage between their facilities' residents and community resources, based on the residents' needs including, but not limited to, aged, mental health, and physical health issues. The financial incentive shall be used to support community living for individuals with a disability or who are aged, and to assist with costs arising from facility operations.

Appropriation item 335609, Community Operating/Planning, may also be used by the Department to support non-Medicaid program costs for individuals moving into community settings.

Section 327.100. RESIDENTIAL STATE SUPPLEMENT

(A) As used in this section: 124221

(1) "Residential facility" means a facility licensed by the Department of Mental Health and Addiction Services under section 5119.34 of the Revised Code. 124222
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(2) "Residential care facility" means a facility licensed by the Director of Health under Chapter 3721. of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code. 124225
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(B) The foregoing appropriation item 335506, Residential State Supplement, may be used by the Department of Mental Health and Addiction Services to provide training for residential facilities providing accommodations, supervision, and personal care services to three to sixteen unrelated adults with mental illness, to transfer cash to the Nursing Home Franchise Permit Fee Fund (Fund 5R20) used by the Department of Job and Family Services, and to make benefit payments to residential state supplement recipients. 124229
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(C) Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment, and for determining the amount per month the eligible resident will receive, shall be as follows: 124238
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(1) \$927 for a residential care facility; 124242

(2) \$927 for a residential facility that provides accommodations, supervision, and personal care services for six to sixteen unrelated adults as described in section 5119.34 of the Revised Code; 124243
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(3) \$824 for a residential facility that provides accommodations, supervision, and personal care services for one or two unrelated adults as described in division (A)(9)(b)(ii) of section 5119.34 of the Revised Code; 124247
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(4) \$824 for a residential facility providing accommodations, supervision, and personal care services to three to five unrelated adults, as described in section 5119.34 of the Revised Code;

(5) \$824 for a residential facility that provides accommodations, supervision, and personal care services for one or two unrelated persons with mental illness or persons with severe mental disabilities who are referred by or are receiving mental health services from a community mental health services provider or a hospital, as described in division (A)(9)(b)(i) of section 5119.34 of the Revised Code;

(6) \$618 for community mental health housing services, as described in division (D)(1)(c) of section 5119.41 of the Revised Code.

The Department of Mental Health and Addiction Services shall reflect these amounts in any applicable rules the Department adopts under section 5119.41 of the Revised Code.

(D) The Department of Mental Health and Addiction Services shall, with the input of stakeholders and impacted state agencies, conduct a review of the state and federal rules and statutes governing the Residential State Supplement Program and report on potential improvements to be made in governing the program not later than January 1, 2014.

Section 327.110. FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL

A county family and children first council may establish and operate a flexible funding pool in order to assure access to needed services by families, children, and older adults in need of protective services. The operation of the flexible funding pools shall be subject to the following restrictions:

(A) The county council shall establish and operate the

flexible funding pool in accordance with formal guidance issued by 124281
the Family and Children First Cabinet Council; 124282

(B) The county council shall produce an annual report on its 124283
use of the pooled funds. The annual report shall conform to a 124284
format prescribed in the formal guidance issued by the Family and 124285
Children First Cabinet Council; 124286

(C) Unless otherwise restricted, funds transferred to the 124287
flexible funding pool may include state general revenues allocated 124288
to local entities to support the provision of services to families 124289
and children; 124290

(D) The amounts transferred to the flexible funding pool 124291
shall be limited to amounts that can be redirected without 124292
impairing the achievement of the objectives for which the initial 124293
allocation is designated; and 124294

(E) Each amount transferred to the flexible funding pool from 124295
a specific allocation shall be approved for transfer by the 124296
director of the local agency that was the original recipient of 124297
the allocation. 124298

Section 329.10. MIH COMMISSION ON MINORITY HEALTH 124299

General Revenue Fund 124300

GRF 149321	Operating Expenses	\$	581,490	\$	591,615	124301
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GRF 149501	Minority Health	\$	889,100	\$	878,975	124302
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Grants

GRF 149502	Lupus Program	\$	110,047	\$	110,047	124303
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TOTAL GRF	General Revenue Fund	\$	1,580,637	\$	1,580,637	124304
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Federal Special Revenue Fund Group 124305

3J90 149602	Federal Grants	\$	140,000	\$	140,000	124306
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TOTAL FED	Federal Special Revenue					124307
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Fund Group		\$	140,000	\$	140,000	124308
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State Special Revenue Fund Group 124309

4C20 149601	Minority Health	\$	25,000	\$	25,000	124310
	Conference					
TOTAL SSR State Special Revenue						124311
Fund Group		\$	25,000	\$	25,000	124312
TOTAL ALL BUDGET FUND GROUPS						124313
Section 331.10. CRB MOTOR VEHICLE REPAIR BOARD						124315
General Services Fund Group						124316
4K90 865601	Operating Expenses	\$	487,592	\$	484,292	124317
TOTAL GSF General Services						124318
Fund Group		\$	487,592	\$	484,292	124319
TOTAL ALL BUDGET FUND GROUPS						124320
Section 333.10. DNR DEPARTMENT OF NATURAL RESOURCES						124322
General Revenue Fund						124323
GRF 725401	Wildlife-GRF Central	\$	1,800,000	\$	1,800,000	124324
	Support					
GRF 725413	Lease Rental Payments	\$	21,622,900	\$	23,943,400	124325
GRF 725456	Canal Lands	\$	135,000	\$	135,000	124326
GRF 725502	Soil and Water	\$	2,900,000	\$	2,900,000	124327
	Districts					
GRF 725505	Healthy Lake Erie Fund	\$	350,000	\$	200,000	124328
GRF 725507	Coal and Mine Safety	\$	2,500,000	\$	2,500,000	124329
	Program					
GRF 725508	Oil and Gas Program	\$	7,200,000	\$	7,350,000	124330
GRF 725903	Natural Resources	\$	24,325,400	\$	25,443,000	124331
	General Obligation					
	Debt Service					
GRF 727321	Division of Forestry	\$	4,392,002	\$	4,392,001	124332
GRF 728321	Division of Geological	\$	800,000	\$	800,000	124333
	Survey					
GRF 729321	Office of Information	\$	177,405	\$	177,405	124334

		Technology					
GRF	730321	Division of Parks and Recreation	\$	30,000,000	\$	30,000,000	124335
GRF	736321	Division of Engineering	\$	2,279,115	\$	2,324,736	124336
GRF	737321	Division of Soil and Water Resources	\$	4,782,704	\$	4,782,652	124337
GRF	738321	Division of Real Estate and Land Management	\$	715,963	\$	670,342	124338
GRF	741321	Division of Natural Areas and Preserves	\$	1,200,000	\$	1,200,000	124339
TOTAL GRF		General Revenue Fund	\$	105,180,489	\$	108,618,536	124340
		General Services Fund Group					124341
1550	725601	Departmental Projects	\$	2,109,968	\$	1,839,204	124342
1570	725651	Central Support Indirect	\$	4,609,154	\$	4,671,566	124343
2040	725687	Information Services	\$	5,179,097	\$	5,288,168	124344
2050	725696	Human Resource Direct Service	\$	2,474,345	\$	2,526,662	124345
2070	725690	Real Estate Services	\$	50,000	\$	50,000	124346
2230	725665	Law Enforcement Administration	\$	2,126,432	\$	2,126,432	124347
2270	725406	Parks Projects Personnel	\$	436,500	\$	436,500	124348
4300	725671	Canal Lands	\$	883,879	\$	883,879	124349
4S90	725622	NatureWorks Personnel	\$	404,657	\$	412,570	124350
4X80	725662	Water Resources Council	\$	138,005	\$	138,005	124351
5100	725631	Maintenance - State-owned Residences	\$	303,611	\$	303,611	124352
5160	725620	Water Management	\$	2,559,292	\$	2,559,292	124353

6350	725664	Fountain Square Facilities Management	\$	3,329,935	\$	3,346,259	124354
6970	725670	Submerged Lands	\$	852,982	\$	869,145	124355
TOTAL GSF General Services							124356
Fund Group			\$	25,457,857	\$	25,451,293	124357
Federal Special Revenue Fund Group							124358
3320	725669	Federal Mine Safety Grant	\$	265,000	\$	265,000	124359
3B30	725640	Federal Forest Pass-Thru	\$	500,000	\$	500,000	124360
3B40	725641	Federal Flood Pass-Thru	\$	500,000	\$	500,000	124361
3B50	725645	Federal Abandoned Mine Lands	\$	11,851,759	\$	11,851,759	124362
3B60	725653	Federal Land and Water Conservation Grants	\$	950,000	\$	950,000	124363
3B70	725654	Reclamation - Regulatory	\$	3,200,000	\$	3,200,000	124364
3P10	725632	Geological Survey - Federal	\$	933,448	\$	557,146	124365
3P20	725642	Oil and Gas - Federal	\$	234,509	\$	234,509	124366
3P30	725650	Coastal Management - Federal	\$	2,790,633	\$	2,790,633	124367
3P40	725660	Federal - Soil and Water Resources	\$	969,190	\$	1,006,874	124368
3R50	725673	Acid Mine Drainage Abatement/Treatment	\$	4,342,280	\$	4,342,280	124369
3Z50	725657	Federal Recreation and Trails	\$	1,850,000	\$	1,850,000	124370
TOTAL FED Federal Special Revenue							124371
Fund Group			\$	28,386,819	\$	28,048,201	124372
State Special Revenue Fund Group							124373

4J20	725628	Injection Well Review	\$	128,466	\$	128,466	124374
4M70	725686	Wildfire Suppression	\$	100,000	\$	100,000	124375
4U60	725668	Scenic Rivers Protection	\$	100,000	\$	100,000	124376
5090	725602	State Forest	\$	6,873,330	\$	6,880,158	124377
5110	725646	Ohio Geological Mapping	\$	1,220,690	\$	1,993,519	124378
5120	725605	State Parks Operations	\$	29,654,880	\$	29,671,044	124379
5140	725606	Lake Erie Shoreline	\$	1,559,583	\$	1,559,583	124380
5180	725643	Oil and Gas Permit Fees	\$	12,812,311	\$	13,140,201	124381
5180	725677	Oil and Gas Well Plugging	\$	1,500,000	\$	1,500,000	124382
5210	725627	Off-Road Vehicle Trails	\$	143,490	\$	143,490	124383
5220	725656	Natural Areas and Preserves	\$	546,639	\$	546,639	124384
5260	725610	Strip Mining Administration Fee	\$	1,800,000	\$	1,800,000	124385
5270	725637	Surface Mining Administration	\$	1,941,532	\$	1,941,532	124386
5290	725639	Unreclaimed Land Fund	\$	1,804,180	\$	1,804,180	124387
5310	725648	Reclamation Forfeiture	\$	500,000	\$	500,000	124388
5B30	725674	Mining Regulation	\$	28,135	\$	28,135	124389
5BV0	725683	Soil and Water Districts	\$	8,250,000	\$	8,250,000	124390
5EJ0	725608	Forestry Law Enforcement	\$	1,000	\$	1,000	124391
5EK0	725611	Natural Areas & Preserves Law Enforcement	\$	1,000	\$	1,000	124392
5EL0	725612	Wildlife Law Enforcement	\$	12,000	\$	12,000	124393

5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000	124394
5EN0	725614	Watercraft Law Enforcement	\$	2,500	\$	2,500	124395
5HK0	725625	Ohio Nature Preserves	\$	1,000	\$	1,000	124396
5MF0	725635	Ohio Geology License Plate	\$	7,500	\$	7,500	124397
5MW0	725604	Natural Resources Special Purposes	\$	6,000,000	\$	6,000,000	124398
6150	725661	Dam Safety	\$	943,517	\$	943,517	124399
TOTAL SSR State Special Revenue							124400
Fund Group			\$	75,965,753	\$	77,089,464	124401
Clean Ohio Conservation Fund Group							124402
7061	725405	Clean Ohio Operating	\$	300,775	\$	300,775	124403
TOTAL CLF Clean Ohio Conservation							124404
Fund Group							
Wildlife Fund Group							124405
5P20	725634	Wildlife Boater Angler Administration	\$	3,000,000	\$	3,000,000	124406
7015	740401	Division of Wildlife Conservation	\$	56,466,564	\$	57,075,976	124407
8150	725636	Cooperative Management Projects	\$	120,449	\$	120,449	124408
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885	124409
8170	725655	Wildlife Conservation Checkoff Fund	\$	2,000,000	\$	2,000,000	124410
8180	725629	Cooperative Fisheries Research	\$	1,500,000	\$	1,500,000	124411
8190	725685	Ohio River Management	\$	203,584	\$	203,584	124412
81B0	725688	Wildlife Habitat Fund	\$	1,200,000	\$	1,200,000	124413
TOTAL WLF Wildlife Fund Group							124414
Waterways Safety Fund Group							124415
7086	725414	Waterways Improvement	\$	5,693,671	\$	5,693,671	124416

7086	725418	Buoy Placement	\$	52,182	\$	52,182	124417
7086	725501	Waterway Safety	\$	120,000	\$	120,000	124418
		Grants					
7086	725506	Watercraft Marine	\$	576,153	\$	576,153	124419
		Patrol					
7086	725513	Watercraft	\$	366,643	\$	366,643	124420
		Educational Grants					
7086	739401	Division of	\$	19,467,370	\$	19,297,370	124421
		Watercraft					
TOTAL WSF Waterways Safety Fund							124422
Group							\$ 26,276,019 \$ 26,106,019 124423
Accrued Leave Liability Fund Group							124424
4M80	725675	FOP Contract	\$	20,219	\$	20,219	124425
TOTAL ALF Accrued Leave							124426
Liability Fund Group							\$ 20,219 \$ 20,219 124427
Holding Account Redistribution Fund Group							124428
R017	725659	Performance Cash Bond	\$	496,263	\$	496,263	124429
		Refunds					
R043	725624	Forestry	\$	2,100,000	\$	2,100,000	124430
TOTAL 090 Holding Account							124431
Redistribution Fund Group							\$ 2,596,263 \$ 2,596,263 124432
TOTAL ALL BUDGET FUND GROUPS							\$ 329,641,676 \$ 334,297,664 124433

Section 333.20. CENTRAL SUPPORT INDIRECT 124435

With the exception of the Division of Wildlife, whose direct 124436
and indirect central support charges shall be paid out of the 124437
General Revenue Fund from the foregoing appropriation item 725401, 124438
Wildlife-GRF Central Support, the Department of Natural Resources, 124439
with approval of the Director of Budget and Management, shall 124440
utilize a methodology for determining each division's payments 124441
into the Central Support Indirect Fund (Fund 1570). The 124442
methodology used shall contain the characteristics of 124443

administrative ease and uniform application in compliance with 124444
federal grant requirements. It may include direct cost charges for 124445
specific services provided. Payments to Fund 1570 shall be made 124446
using an intrastate transfer voucher. 124447

Section 333.30. LEASE RENTAL PAYMENTS 124448

The foregoing appropriation item 725413, Lease Rental 124449
Payments, shall be used to meet all payments at the times they are 124450
required to be made during the period from July 1, 2013, through 124451
June 30, 2015, by the Department of Natural Resources pursuant to 124452
leases and agreements made under section 154.22 of the Revised 124453
Code. These appropriations are the source of funds pledged for 124454
bond service charges on related obligations issued under Chapter 124455
154. of the Revised Code. 124456

CANAL LANDS 124457

The foregoing appropriation item 725456, Canal Lands, shall 124458
be used to provide operating expenses for the State Canal Lands 124459
Program. 124460

HEALTHY LAKE ERIE FUND 124461

Of the foregoing appropriation item 725505, Healthy Lake Erie 124462
Fund, up to \$350,000 in fiscal year 2014 and up to \$200,000 in 124463
fiscal year 2015 shall be used by the Director of Natural 124464
Resources, in consultation with the Director of Agriculture and 124465
the Director of Environmental Protection, to implement 124466
nonstatutory recommendations of the Agriculture Nutrients and 124467
Water Quality Working Group. The Director shall give priority to 124468
recommendations that encourage farmers to adopt agricultural 124469
production guidelines commonly known as 4R nutrient stewardship 124470
practices. Funds may also be used for enhanced soil testing in the 124471
Western Lake Erie Basin, monitoring the quality of Lake Erie and 124472
its tributaries, and conducting research and establishing pilot 124473

projects that have the goal of reducing algae blooms in Lake Erie.	124474
COAL AND MINE SAFETY PROGRAM	124475
The foregoing appropriation item 725507, Coal and Mine Safety Program, shall be used for the administration of the Mine Safety Program and the Coal Regulation Program.	124476 124477 124478
OIL AND GAS PROGRAM	124479
The foregoing appropriation item 725508, Oil and Gas Program, shall be used for the Oil and Gas Program.	124480 124481
NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE	124482
The foregoing appropriation item 725903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2013, through June 30, 2015, on obligations issued under sections 151.01 and 151.05 of the Revised Code.	124483 124484 124485 124486 124487
Section 333.40. WELL LOG FILING FEES	124488
The Chief of the Division of Soil and Water Resources shall deposit fees forwarded to the Division pursuant to section 1521.05 of the Revised Code into the Departmental Services - Intrastate Fund (Fund 1550) for the purposes described in that section.	124489 124490 124491 124492
Section 333.50. HUMAN RESOURCES DIRECT SERVICE	124493
The foregoing appropriation item 725696, Human Resources Direct Service, shall be used to cover the cost of support, coordination, and oversight of the Department of Natural Resources' human resources functions. The Human Resources Chargeback Fund (Fund 2050) shall consist of cash transferred to it via intrastate transfer voucher from other funds as determined by the Director of Natural Resources and the Director of Budget and Management.	124494 124495 124496 124497 124498 124499 124500 124501

Section 333.60. LAW ENFORCEMENT ADMINISTRATION 124502

The foregoing appropriation item 725665, Law Enforcement 124503
Administration, shall be used to cover the cost of support, 124504
coordination, and oversight of the Department of Natural 124505
Resources' law enforcement functions. The Law Enforcement 124506
Administration Fund (Fund 2230) shall consist of cash transferred 124507
to it via intrastate transfer voucher from other funds as 124508
determined by the Director of Natural Resources and the Director 124509
of Budget and Management. 124510

Section 333.70. FOUNTAIN SQUARE AND ODNR GROUNDS AT THE OHIO 124511
EXPO CENTER 124512

The foregoing appropriation item 725664, Fountain Square 124513
Facilities Management, shall be used for payment of repairs, 124514
renovation, utilities, property management, and building 124515
maintenance expenses for the Fountain Square complex and the 124516
Department of Natural Resources grounds at the Ohio Expo Center. 124517
Cash transferred by intrastate transfer vouchers from various 124518
department funds and rental income received by the Department of 124519
Natural Resources shall be deposited into the Fountain Square 124520
Facilities Management Fund (Fund 6350). 124521

Section 333.80. SOIL AND WATER DISTRICTS 124522

In addition to state payments to soil and water conservation 124523
districts authorized by section 1515.10 of the Revised Code, the 124524
Department of Natural Resources may use appropriation item 725683, 124525
Soil and Water Districts, to pay any soil and water conservation 124526
district an annual amount not to exceed \$40,000, upon receipt of a 124527
request and justification from the district and approval by the 124528
Ohio Soil and Water Conservation Commission. The county auditor 124529
shall credit the payments to the special fund established under 124530
section 1515.10 of the Revised Code for the local soil and water 124531

conservation district. Moneys received by each district shall be 124532
expended for the purposes of the district. 124533

OIL AND GAS WELL PLUGGING 124534

The foregoing appropriation item 725677, Oil and Gas Well 124535
Plugging, shall be used exclusively for the purposes of plugging 124536
wells and to properly restore the land surface of idle and orphan 124537
oil and gas wells pursuant to section 1509.071 of the Revised 124538
Code. No funds from the appropriation item shall be used for 124539
salaries, maintenance, equipment, or other administrative 124540
purposes, except for those costs directly attributed to the 124541
plugging of an idle or orphan well. This appropriation item shall 124542
not be used to transfer cash to any other fund or appropriation 124543
item. 124544

Section 333.90. CLEAN OHIO OPERATING EXPENSES 124545

The foregoing appropriation item 725405, Clean Ohio 124546
Operating, shall be used by the Department of Natural Resources in 124547
administering Clean Ohio Trail Fund (Fund 7061) projects pursuant 124548
to section 1519.05 of the Revised Code. 124549

Section 333.100. WATERCRAFT MARINE PATROL 124550

Of the foregoing appropriation item 739401, Division of 124551
Watercraft, up to \$200,000 in each fiscal year shall be expended 124552
for the purchase of equipment for marine patrols qualifying for 124553
funding from the Department of Natural Resources pursuant to 124554
section 1547.67 of the Revised Code. Proposals for equipment shall 124555
accompany the submission of documentation for receipt of a marine 124556
patrol subsidy pursuant to section 1547.67 of the Revised Code and 124557
shall be loaned to eligible marine patrols pursuant to a 124558
cooperative agreement between the Department of Natural Resources 124559
and the eligible marine patrol. 124560

Section 333.110. PARKS CAPITAL EXPENSES FUND 124561

The Director of Natural Resources shall submit to the 124562
Director of Budget and Management the estimated design, 124563
engineering, and planning costs of capital-related work to be done 124564
by Department of Natural Resources staff for parks projects within 124565
the Ohio Parks and Recreation Improvement Fund (Fund 7035). If the 124566
Director of Budget and Management approves the estimated costs, 124567
the Director may release appropriations from appropriation item 124568
C725E6, Project Planning, Fund 7035, for those purposes. Upon 124569
release of the appropriations, the Department of Natural Resources 124570
shall pay for these expenses from the Parks Capital Expenses Fund 124571
(Fund 2270). Expenses paid from Fund 2270 shall be reimbursed by 124572
Fund 7035 using an intrastate transfer voucher. 124573

NATUREWORKS CAPITAL EXPENSES FUND 124574

The Department of Natural Resources shall periodically 124575
prepare and submit to the Director of Budget and Management the 124576
estimated design, planning, and engineering costs of 124577
capital-related work to be done by Department of Natural Resources 124578
staff for each capital improvement project within the Ohio Parks 124579
and Natural Resources Fund (Fund 7031). If the Director of Budget 124580
and Management approves the estimated costs, the Director may 124581
release appropriations from appropriation item C725E5, Project 124582
Planning, in Fund 7031, for those purposes. Upon release of the 124583
appropriations, the Department of Natural Resources shall pay for 124584
these expenses from the Capital Expenses Fund (Fund 4S90). 124585
Expenses paid from Fund 4S90 shall be reimbursed by Fund 7031 by 124586
using an intrastate transfer voucher. 124587

Section 333.120. ELIMINATION OF DORMANT FUNDS 124588

The following funds are hereby abolished and the fund names 124589
and fund numbers shall be stricken from the list of funds falling 124590

within the jurisdiction of the Department of Natural Resources:	124591	
Fund Number	Fund Name	124592
1580	Reprint and Replacement - Intrastate	124593
1610	Parks and Recreation Depreciation Reserve	124594
1620	Civilian Conservation Corps Earned Revenues	124595
2060	General Services	124596
5080	Natural Resources Publications and Promotions	124597
5190	Burr Oak Water Plant	124598
5250	Reclamation Forfeiture	124599
5300	Surface Mining Reclamation	124600
8800	Cooperative Boat Harbor Project	124601
4B80	Forestry Development	124602
5F90	Flood Reimbursement	124603
81A0	Wildlife Education	124604
R029	Reclamation Fee	124605
R030	Surface Mining Reclamation Fee	124606
R040	Wildlife Refunds	124607
3280	Federal Special Revenue	124608
3P00	Natural Areas and Preserves - Federal	124609
5K10	Urban Forestry Grant	124610
5150	Conservancy District Organization	124611
6300	Wild Animal	124612
3CH0	Mined Land Set Aside	124613
TRANSFER OF ELIMINATED DORMANT FUNDS		124614
The Watercraft Revolving Loan Fund (Fund 5AW0) is hereby		124615
abolished. Any balance remaining in the fund as of July 1, 2013,		124616
shall be transferred into the Waterways Safety Fund (Fund 7086)		124617
and appropriated to appropriation item 739401, Division of		124618
Watercraft.		124619
The Division of Forestry Law Enforcement Fund (Fund 5EJ0) and		124620
the Division of Natural Areas and Preserves Law Enforcement Fund		124621
(Fund 5EK0) are hereby abolished. Any balance remaining in these		124622

funds as of July 1, 2013, shall be transferred into the Park Law Enforcement Fund (Fund 5EM0) and appropriated to appropriation item 725613, Park Law Enforcement.

Section 335.10. NUR STATE BOARD OF NURSING				124626
General Services Fund Group				124627
4K90	884609	Operating Expenses	\$ 7,181,743 \$ 7,273,978	124628
5AC0	884602	Nurse Education Grant Program	\$ 1,373,506 \$ 1,373,506	124629
5P80	884601	Nursing Special Issues	\$ 2,000 \$ 2,000	124630
TOTAL GSF General Services Fund Group				124631
				\$ 8,557,249 \$ 8,649,484 124632
TOTAL ALL BUDGET FUND GROUPS				\$ 8,557,249 \$ 8,649,484 124633

Section 337.10. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD				124635
General Services Fund Group				124636
4K90	890609	Operating Expenses	\$ 866,169 \$ 925,897	124638
TOTAL GSF General Services Fund Group				\$ 866,169 \$ 925,897 124639
TOTAL ALL BUDGET FUND GROUPS				\$ 866,169 \$ 925,897 124640

Section 339.10. OLA OHIOANA LIBRARY ASSOCIATION				124642
General Revenue Fund				124643
GRF	355501	Library Subsidy	\$ 135,000 \$ 140,000	124644
TOTAL GRF General Revenue Fund				\$ 135,000 \$ 140,000 124645
TOTAL ALL BUDGET FUND GROUPS				\$ 135,000 \$ 140,000 124646

Section 340.10. OOD OPPORTUNITIES FOR OHIOANS WITH DISABILITIES AGENCY				124648
General Revenue Fund				124649
				124650

GRF	415402	Independent Living Council	\$	252,000	\$	252,000	124651
GRF	415406	Assistive Technology	\$	26,618	\$	26,618	124652
GRF	415431	Office for People with Brain Injury	\$	126,567	\$	126,567	124653
GRF	415506	Services for People with Disabilities	\$	15,277,885	\$	15,277,885	124654
GRF	415508	Services for the Deaf	\$	28,000	\$	28,000	124655
GRF	415510	Telephone and Radio Reading Services	\$	245,000	\$	245,000	124656
TOTAL GRF	General Revenue Fund		\$	15,956,070	\$	15,956,070	124657
General Services Fund Group							124658
4670	415609	Business Enterprise Operating Expenses	\$	962,538	\$	965,481	124659
TOTAL GSF	General Services Fund Group		\$	962,538	\$	965,481	124661
Federal Special Revenue Fund Group							124662
3170	415620	Disability Determination	\$	83,332,186	\$	84,641,911	124663
3790	415616	Federal - Vocational Rehabilitation	\$	117,431,895	\$	113,610,728	124664
3L10	415601	Social Security Personal Care Assistance	\$	2,748,451	\$	2,752,396	124665
3L10	415605	Social Security Community Centers for the Deaf	\$	772,000	\$	772,000	124666
3L10	415608	Social Security Special Programs/Assistance	\$	445,258	\$	498,269	124667
3L40	415612	Federal Independent Living Centers or	\$	638,431	\$	638,431	124668

		Services				
3L40	415615	Federal - Supported	\$	916,727	\$	916,727 124669
		Employment				
3L40	415617	Independent	\$	1,548,658	\$	1,348,658 124670
		Living/Vocational				
		Rehabilitation				
		Programs				
TOTAL FED		Federal Special				124671
Revenue Fund Group			\$	207,833,606	\$	205,179,120 124672
State Special Revenue Fund Group						124673
4680	415618	Third Party Funding	\$	11,000,000	\$	11,000,000 124674
4L10	415619	Services for	\$	3,502,168	\$	3,502,168 124675
		Rehabilitation				
4W50	415606	Program Management	\$	12,369,751	\$	12,594,758 124676
		Expenses				
TOTAL SSR		State Special				124677
Revenue Fund Group			\$	26,871,919	\$	27,096,926 124678
TOTAL ALL BUDGET FUND GROUPS			\$	251,624,133	\$	249,197,597 124679

For purposes of the appropriations established in Section 124680
 340.10 of this act, the Opportunities for Ohioans with 124681
 Disabilities Agency shall have the same meaning as the 124682
 Rehabilitation Services Commission. 124683

INDEPENDENT LIVING COUNCIL 124684

The foregoing appropriation item 415402, Independent Living 124685
 Council, shall be used to fund the operations of the State 124686
 Independent Living Council and to support state independent living 124687
 centers and independent living services under Title VII of the 124688
 Independent Living Services and Centers for Independent Living of 124689
 the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 124690
 U.S.C. 796d. 124691

Of the foregoing appropriation item 415402, Independent 124692
 Living Council, \$67,662 in each fiscal year shall be used as state 124693

matching funds for vocational rehabilitation innovation and expansion activities.	124694 124695
ASSISTIVE TECHNOLOGY	124696
The total amount of the foregoing appropriation item 415406, Assistive Technology, shall be provided to Assistive Technology of Ohio to provide grants and assistive technology services for people with disabilities in the State of Ohio.	124697 124698 124699 124700
OFFICE FOR PEOPLE WITH BRAIN INJURY	124701
The foregoing appropriation item 415431, Office for People with Brain Injury, shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.	124702 124703 124704 124705 124706
Of the foregoing appropriation item 415431, Office for People with Brain Injury, \$44,067 in each fiscal year shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.	124707 124708 124709 124710
VOCATIONAL REHABILITATION SERVICES	124711
The foregoing appropriation item 415506, Services for People with Disabilities, shall be used as state matching funds to provide vocational rehabilitation services to eligible consumers.	124712 124713 124714
SERVICES FOR THE DEAF	124715
The foregoing appropriation item 415508, Services for the Deaf, shall be used to provide grants to community centers for the deaf.	124716 124717 124718
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	124719
The foregoing appropriation item 415617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs.	124720 124721 124722

SOCIAL SECURITY REIMBURSEMENT FUNDS	124723
Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be expended from the Social Security Reimbursement Fund (Fund 3L10), to the extent funds are available, as follows:	124724 124725 124726 124727 124728 124729
(A) Appropriation item 415601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;	124730 124731 124732
(B) Appropriation item 415605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments; and	124733 124734 124735 124736
(C) Appropriation item 415608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item shall also be used to pay a portion of indirect costs of the Personal Care Assistance Program and the Independent Living Programs as mandated by federal OMB Circular A-87.	124737 124738 124739 124740 124741 124742 124743 124744
PROGRAM MANAGEMENT EXPENSES	124745
The foregoing appropriation item 415606, Program Management Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.	124746 124747 124748 124749 124750
ETECH OHIO COMMISSION APPROPRIATION LINE ITEM TRANSFER	124751
Effective July 1, 2013, the Director of Budget and Management	124752

shall cancel any existing encumbrances against appropriation item 124753
935410, Content Development, Acquisition, and Distribution, and 124754
re-establish them, as determined to be appropriate by the Director 124755
of Budget and Management, against appropriation item 415510, 124756
Telephone and Radio Reading Services. The re-established 124757
encumbrance amounts are hereby appropriated. Any business 124758
commenced but not completed under appropriation item 935410, 124759
Content Development, Acquisition, and Distribution, by July 1, 124760
2013, shall be completed, as determined to be appropriate by the 124761
Director of Budget and Management, under appropriation item 124762
415510, Telephone and Radio Reading Services, in the same manner 124763
and with the same effect as if it were completed with regard to 124764
appropriation item 935410, Content Development, Acquisition, and 124765
Distribution. 124766

Section 341.10. ODB OHIO OPTICAL DISPENSERS BOARD 124767

General Services Fund Group 124768
4K90 894609 Operating Expenses \$ 366,000 \$ 365,000 124769
TOTAL GSF General Services 124770
Fund Group \$ 366,000 \$ 365,000 124771
TOTAL ALL BUDGET FUND GROUPS \$ 366,000 \$ 365,000 124772

Section 343.10. OPT STATE BOARD OF OPTOMETRY 124774

General Services Fund Group 124775
4K90 885609 Operating Expenses \$ 347,278 \$ 347,278 124776
TOTAL GSF General Services 124777
Fund Group \$ 347,278 \$ 347,278 124778
TOTAL ALL BUDGET FUND GROUPS \$ 347,278 \$ 347,278 124779

Section 345.10. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, 124781
AND PEDORTHICS 124782
General Services Fund Group 124783

4K90 973609	Operating Expenses	\$	135,677	\$	140,846	124784
TOTAL GSF General Services						124785
Fund Group		\$	135,677	\$	140,846	124786
TOTAL ALL BUDGET FUND GROUPS						124787

Section 347.10. UST PETROLEUM UNDERGROUND STORAGE TANK 124788

RELEASE COMPENSATION BOARD						124789
State Special Revenue Fund Group						124790
6910 810632	PUSTRCB Staff	\$	1,233,249	\$	1,252,202	124791
TOTAL SSR State Special Revenue						124792
Fund Group		\$	1,233,249	\$	1,252,202	124793
TOTAL ALL BUDGET FUND GROUPS						124794

Section 349.10. PRX STATE BOARD OF PHARMACY 124796

General Services Fund Group						124797
4A50 887605	Drug Law Enforcement	\$	150,000	\$	150,000	124798
4K90 887609	Operating Expenses	\$	6,701,285	\$	6,701,285	124799
TOTAL GSF General Services Fund						124800
Group						
Federal Special Revenue Fund Group						124801
3BC0 887604	Dangerous Drugs	\$	390,869	\$	0	124802
Database						
3CT0 887606	2008	\$	224,691	\$	112,346	124803
Developing/Enhancing						
PMP						
3DV0 887607	Enhancing Ohio's PMP	\$	2,000	\$	2,000	124804
3EY0 887603	Administration of	\$	66,335	\$	0	124805
PMIX Hub						
TOTAL FED Federal Special Revenue						124806
Fund Group						
TOTAL ALL BUDGET FUND GROUPS						124807

Section 351.10. PSY STATE BOARD OF PSYCHOLOGY 124809

General Services Fund Group					124810
4K90 882609 Operating Expenses	\$	548,000	\$	571,000	124811
TOTAL GSF General Services					124812
Fund Group	\$	548,000	\$	571,000	124813
TOTAL ALL BUDGET FUND GROUPS	\$	548,000	\$	571,000	124814
 Section 353.10. PUB OHIO PUBLIC DEFENDER COMMISSION					124816
General Revenue Fund					124817
GRF 019401 State Legal Defense	\$	3,020,855	\$	3,020,855	124818
Services					
GRF 019403 Multi-County: State	\$	1,237,318	\$	1,250,824	124819
Share					
GRF 019404 Trumbull County -	\$	354,743	\$	359,631	124820
State Share					
GRF 019405 Training Account	\$	50,000	\$	50,000	124821
GRF 019501 County Reimbursement	\$	9,768,050	\$	9,885,175	124822
TOTAL GRF General Revenue Fund	\$	14,430,966	\$	14,566,485	124823
General Services Fund Group					124824
4070 019604 County Representation	\$	351,149	\$	354,248	124825
4080 019605 Client Payments	\$	725,144	\$	722,931	124826
5CX0 019617 Civil Case Filing Fee	\$	532,136	\$	528,476	124827
TOTAL GSF General Services					124828
Fund Group	\$	1,608,429	\$	1,605,655	124829
Federal Special Revenue Fund Group					124830
3FX0 019621 Wrongful Conviction	\$	103,950	\$	103,950	124831
Program					
3S80 019608 Federal	\$	204,706	\$	202,942	124832
Representation					
TOTAL FED Federal Special Revenue					124833
Fund Group	\$	308,656	\$	306,892	124834
State Special Revenue Fund Group					124835

4C70	019601	Multi-County: County Share	\$	2,297,876	\$	2,322,959	124836
4X70	019610	Trumbull County - County Share	\$	658,809	\$	667,887	124837
5740	019606	Civil Legal Aid	\$	20,000,000	\$	20,000,000	124838
5DY0	019618	Indigent Defense Support - County Share	\$	40,320,991	\$	41,191,285	124839
5DY0	019619	Indigent Defense Support Fund - State Office	\$	5,186,329	\$	5,612,719	124840
TOTAL SSR State Special Revenue							124841
Fund Group			\$	68,464,005	\$	69,794,850	124842
TOTAL ALL BUDGET FUND GROUPS							124843
INDIGENT DEFENSE OFFICE							124844
The foregoing appropriation items 019404, Trumbull County - State Share, and 019610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.							124845 124846 124847
MULTI-COUNTY OFFICE							124848
The foregoing appropriation items 019403, Multi-County: State Share, and 019601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.							124849 124850 124851 124852
TRAINING ACCOUNT							124853
The foregoing appropriation item 019405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.							124854 124855 124856 124857 124858 124859
FEDERAL REPRESENTATION							124860

The foregoing appropriation item 019608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

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Section 355.10. DPS DEPARTMENT OF PUBLIC SAFETY

124866

General Revenue Fund

124867

GRF 767420 Investigative Unit - \$ 10,500,000 \$ 10,500,000 124868

Operating

TOTAL GRF General Revenue Fund \$ 10,500,000 \$ 10,500,000 124869

TOTAL ALL BUDGET FUND GROUPS \$ 10,500,000 \$ 10,500,000 124870

Section 357.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO

124872

General Services Fund Group

124873

5BP0 870623 Wireless 9-1-1 \$ 18,035,000 \$ 0 124874

Administration

5F60 870622 Utility and Railroad \$ 30,619,708 \$ 30,619,708 124875

Regulation

5F60 870624 NARUC/NRRI Subsidy \$ 85,000 \$ 85,000 124876

5Q50 870626 Telecommunications \$ 5,000,000 \$ 5,000,000 124877

Relay Service

TOTAL GSF General Services Fund Group 124878

\$ 53,739,708 \$ 35,704,708 124879

Federal Special Revenue Fund Group

124880

3330 870601 Gas Pipeline Safety \$ 597,959 \$ 597,959 124881

3500 870608 Motor Carrier Safety \$ 7,351,660 \$ 7,351,660 124882

3EA0 870630 Energy Assurance \$ 192,001 \$ 0 124883

Planning

3ED0 870631 State Regulators \$ 115,912 \$ 0 124884

Assistance

3V30 870604 Commercial Vehicle \$ 100,000 \$ 100,000 124885

		Information				
		Systems/Networks				
		TOTAL FED Federal Special Revenue				124886
		Fund Group	\$	8,357,532	\$ 8,049,619	124887
		State Special Revenue Fund Group				124888
		4A30 870614 Grade Crossing	\$	1,347,357	\$ 1,347,357	124889
		Protection				
		Devices-State				
		4L80 870617 Pipeline Safety-State	\$	331,992	\$ 331,992	124890
		5610 870606 Power Siting Board	\$	581,618	\$ 581,618	124891
		5LT0 870640 Intrastate	\$	180,000	\$ 180,000	124892
		Registration				
		5LT0 870641 Unified Carrier	\$	420,000	\$ 420,000	124893
		Registration				
		5LT0 870642 Hazardous Materials	\$	743,346	\$ 753,346	124894
		Registration				
		5LT0 870643 Nonhazardous Materials	\$	277,496	\$ 277,496	124895
		Civil Forfeiture				
		5LT0 870644 Hazardous Materials	\$	898,800	\$ 898,800	124896
		Civil Forfeiture				
		5LT0 870645 Motor Carrier	\$	4,768,453	\$ 4,709,592	124897
		Enforcement				
		TOTAL SSR State Special Revenue				124898
		Fund Group	\$	9,549,062	\$ 9,500,201	124899
		TOTAL ALL BUDGET FUND GROUPS	\$	71,646,302	\$ 53,254,528	124900
		Section 359.10. PWC PUBLIC WORKS COMMISSION				124902
		General Revenue Fund				124903
		GRF 150904 Conservation General	\$	33,376,600	\$ 34,447,700	124904
		Obligation Debt				
		Service				
		GRF 150907 State Capital	\$	227,810,300	\$ 228,948,900	124905

Improvements General				
Obligation Debt				
Service				
TOTAL GRF General Revenue Fund	\$	261,186,900	\$	263,396,600
				124906
Clean Ohio Conservation Fund Group				124907
7056 150403 Clean Ohio Operating	\$	288,980	\$	288,980
				124908
Expenses				
TOTAL 056 Clean Ohio Conservation	\$	288,980	\$	288,980
Fund Group				124909
TOTAL ALL BUDGET FUND GROUPS	\$	261,475,880	\$	263,685,580
				124910
CONSERVATION GENERAL OBLIGATION DEBT SERVICE				124911
The foregoing appropriation item 150904, Conservation General				124912
Obligation Debt Service, shall be used to pay all debt service and				124913
related financing costs during the period from July 1, 2013,				124914
through June 30, 2015, at the times they are required to be made				124915
for obligations issued under sections 151.01 and 151.09 of the				124916
Revised Code.				124917
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE				124918
The foregoing appropriation item 150907, State Capital				124919
Improvements General Obligation Debt Service, shall be used to pay				124920
all debt service and related financing costs during the period				124921
from July 1, 2013, through June 30, 2015, at the times they are				124922
required to be made for obligations issued under sections 151.01				124923
and 151.08 of the Revised Code.				124924
CLEAN OHIO OPERATING EXPENSES				124925
The foregoing appropriation item 150403, Clean Ohio Operating				124926
Expenses, shall be used by the Ohio Public Works Commission in				124927
administering Clean Ohio Conservation Fund (Fund 7056) projects				124928
pursuant to sections 164.20 to 164.27 of the Revised Code.				124929
Section 361.10. RAC STATE RACING COMMISSION				124930

State Special Revenue Fund Group					124931
5620 875601	Thoroughbred Race Fund	\$	1,696,456	\$	1,696,456 124932
5630 875602	Standardbred Development Fund	\$	1,697,452	\$	1,697,452 124933
5640 875603	Quarter Horse Development Fund	\$	1,000	\$	1,000 124934
5650 875604	Racing Commission Operating	\$	2,934,178	\$	2,934,178 124935
5C40 875607	Simulcast Horse Racing Purse	\$	12,000,000	\$	12,000,000 124936
5JK0 875610	Racing Commission Fund	\$	10,000,000	\$	10,000,000 124937
TOTAL SSR State Special Revenue Fund Group		\$	28,329,086	\$	28,329,086 124938 124939
Holding Account Redistribution Fund Group					124940
R021 875605	Bond Reimbursements	\$	100,000	\$	100,000 124941
TOTAL 090 Holding Account Redistribution Fund Group		\$	100,000	\$	100,000 124942 124943
TOTAL ALL BUDGET FUND GROUPS		\$	28,429,086	\$	28,429,086 124944
Section 363.10. BOR BOARD OF REGENTS					124946
General Revenue Fund					124947
GRF 235321	Operating Expenses	\$	2,850,357	\$	2,850,357 124948
GRF 235401	Lease Rental Payments	\$	5,805,300	\$	0 124949
GRF 235406	Articulation and Transfer	\$	2,000,000	\$	2,000,000 124950
GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000 124951
GRF 235409	HEI Information System	\$	1,505,683	\$	1,505,683 124952
GRF 235414	State Grants and	\$	830,180	\$	830,180 124953

	Scholarship					
	Administration					
GRF 235417	eStudent Services	\$	2,532,688	\$	2,532,688	124954
GRF 235428	Appalachian New	\$	737,366	\$	737,366	124955
	Economy Partnership					
GRF 235433	Economic Growth	\$	521,153	\$	521,153	124956
	Challenge					
GRF 235438	Choose Ohio First	\$	16,665,114	\$	16,665,114	124957
	Scholarship					
GRF 235443	Adult Basic and	\$	7,302,416	\$	7,302,416	124958
	Literacy Education -					
	State					
GRF 235444	Post-Secondary Adult	\$	15,317,547	\$	15,317,547	124959
	Career-Technical					
	Education					
GRF 235474	Area Health Education	\$	900,000	\$	900,000	124960
	Centers Program					
	Support					
GRF 235478	Statehouse News Bureau	\$	215,561	\$	215,561	124961
GRF 235479	Ohio Government	\$	1,002,089	\$	1,002,089	124962
	Telecommunications					
	Services					
GRF 235480	General Technology	\$	1,254,193	\$	1,254,193	124963
	Operations					
GRF 235481	Technology Operations	\$	2,033,410	\$	2,033,410	124964
GRF 235482	Content Development,	\$	2,362,094	\$	2,362,094	124965
	Acquisition, and					
	Distribution					
GRF 235483	Technology Integration	\$	2,465,726	\$	2,465,726	124966
	and Professional					
	Development					
GRF 235484	Information Technology	\$	563,458	\$	563,458	124967
GRF 235501	State Share of	\$	1,784,225,497	\$	1,818,225,497	124968

	Instruction				
GRF 235502	Student Support	\$	632,974	\$	632,974 124969
	Services				
GRF 235504	War Orphans	\$	5,500,000	\$	5,500,000 124970
	Scholarships				
GRF 235507	OhioLINK	\$	6,211,012	\$	6,211,012 124971
GRF 235508	Air Force Institute of	\$	1,740,803	\$	1,740,803 124972
	Technology				
GRF 235510	Ohio Supercomputer	\$	3,747,418	\$	3,747,418 124973
	Center				
GRF 235511	Cooperative Extension	\$	22,220,910	\$	22,220,910 124974
	Service				
GRF 235514	Central State	\$	11,063,468	\$	11,063,468 124975
	Supplement				
GRF 235515	Case Western Reserve	\$	2,146,253	\$	2,146,253 124976
	University School of				
	Medicine				
GRF 235519	Family Practice	\$	3,166,185	\$	3,166,185 124977
GRF 235520	Shawnee State	\$	2,326,097	\$	2,326,097 124978
	Supplement				
GRF 235524	Police and Fire	\$	107,814	\$	107,814 124979
	Protection				
GRF 235525	Geriatric Medicine	\$	522,151	\$	522,151 124980
GRF 235526	Primary Care	\$	1,500,000	\$	1,500,000 124981
	Residencies				
GRF 235535	Ohio Agricultural	\$	33,100,000	\$	33,100,000 124982
	Research and				
	Development Center				
GRF 235536	The Ohio State	\$	9,668,941	\$	9,668,941 124983
	University Clinical				
	Teaching				
GRF 235537	University of	\$	7,952,573	\$	7,952,573 124984
	Cincinnati Clinical				

	Teaching					
GRF 235538	University of Toledo	\$	6,198,600	\$	6,198,600	124985
	Clinical Teaching					
GRF 235539	Wright State	\$	3,011,400	\$	3,011,400	124986
	University Clinical					
	Teaching					
GRF 235540	Ohio University	\$	2,911,212	\$	2,911,212	124987
	Clinical Teaching					
GRF 235541	Northeast Ohio Medical	\$	2,994,178	\$	2,994,178	124988
	University Clinical					
	Teaching					
GRF 235552	Capital Component	\$	13,628,639	\$	10,280,387	124989
GRF 235555	Library Depositories	\$	1,440,342	\$	1,440,342	124990
GRF 235556	Ohio Academic	\$	3,172,519	\$	3,172,519	124991
	Resources Network					
GRF 235558	Long-term Care	\$	195,300	\$	195,300	124992
	Research					
GRF 235563	Ohio College	\$	87,968,684	\$	87,968,684	124993
	Opportunity Grant					
GRF 235572	The Ohio State	\$	766,533	\$	766,533	124994
	University Clinic					
	Support					
GRF 235599	National Guard	\$	16,711,514	\$	17,384,511	124995
	Scholarship Program					
GRF 235909	Higher Education	\$	221,168,700	\$	248,822,000	124996
	General Obligation					
	Debt Service					
TOTAL GRF	General Revenue Fund	\$	2,322,959,052	\$	2,376,131,797	124997
	General Services Fund Group					124998
2200 235614	Program Approval and	\$	903,595	\$	903,595	124999
	Reauthorization					
4560 235603	Sales and Services	\$	199,250	\$	199,250	125000
4F30 235679	Affiliate Services	\$	50,000	\$	50,000	125001

4T20	235680	Government	\$	25,000	\$	25,000	125002
		Television/Telecommunications					
		Operating					
5JC0	235649	Co-op Internship	\$	8,000,000	\$	2,000,000	125003
		Program					
TOTAL GSF		General Services					125004
Fund Group			\$	9,177,845	\$	3,177,845	125005
Federal Special Revenue		Fund Group					125006
3120	235612	Carl D. Perkins	\$	1,350,000	\$	1,350,000	125007
		Grant/Plan					
		Administration					
3120	235617	Improving Teacher	\$	3,200,000	\$	3,200,000	125008
		Quality Grant					
3120	235641	Adult Basic and	\$	14,835,671	\$	14,835,671	125009
		Literacy Education -					
		Federal					
3120	235672	H-1B Tech Skills	\$	1,100,000	\$	1,100,000	125010
		Training					
3BW0	235630	Indirect Cost	\$	50,000	\$	50,000	125011
		Recovery - Federal					
3H20	235608	Human Services	\$	1,000,000	\$	1,000,000	125012
		Project					
TOTAL FED		Federal Special Revenue					125013
Fund Group			\$	21,535,671	\$	21,535,671	125014
State Special Revenue		Fund Group					125015
4E80	235602	Higher Educational	\$	29,100	\$	29,100	125016
		Facility Commission					
		Administration					
4X10	235674	Telecommunity and	\$	49,150	\$	49,150	125017
		Distance Learning					
5D40	235675	Conferences/Special	\$	1,884,095	\$	1,884,095	125018
		Purposes					

5FK0	235676	Media Services	\$	491,373	\$	491,373	125019
5FR0	235643	Making Opportunity Affordable	\$	230,000	\$	230,000	125020
5P30	235663	Variable Savings Plan	\$	8,066,920	\$	8,104,370	125021
6450	235664	Guaranteed Savings Plan	\$	1,290,718	\$	1,303,129	125022
6820	235606	Nursing Loan Program	\$	891,320	\$	891,320	125023
TOTAL SSR State Special Revenue							125024
Fund Group			\$	12,932,676	\$	12,982,537	125025
Third Frontier Research & Development Fund Group							125026
7011	235634	Research Incentive Third Frontier Fund	\$	8,000,000	\$	8,000,000	125027
TOTAL 011 Third Frontier Research & Development Fund Group							125028
TOTAL ALL BUDGET FUND GROUPS			\$	2,374,605,244	\$	2,421,827,850	125029

Section 363.20. LEASE RENTAL PAYMENTS 125031

The foregoing appropriation item 235401, Lease Rental 125032
 Payments, shall be used to meet all payments at the times they are 125033
 required to be made during the period from July 1, 2013, through 125034
 June 30, 2015, by the Chancellor of the Board of Regents under 125035
 leases and agreements made under section 154.21 of the Revised 125036
 Code. These appropriations are the source of funds pledged for 125037
 bond service charges on related obligations issued under Chapter 125038
 154. of the Revised Code. 125039

Section 363.30. ARTICULATION AND TRANSFER 125040

The foregoing appropriation item 235406, Articulation and 125041
 Transfer, shall be used by the Chancellor of the Board of Regents 125042
 to maintain and expand the work of the Articulation and Transfer 125043
 Council to develop a system of transfer policies to ensure that 125044
 students at state institutions of higher education can transfer 125045

and have coursework apply to their majors and degrees at any other 125046
state institution of higher education without unnecessary 125047
duplication or institutional barriers under sections 3333.16, 125048
3333.161, and 3333.162 of the Revised Code. 125049

Section 363.40. MIDWEST HIGHER EDUCATION COMPACT 125050

The foregoing appropriation item 235408, Midwest Higher 125051
Education Compact, shall be distributed by the Chancellor of the 125052
Board of Regents under section 3333.40 of the Revised Code. 125053

Section 363.50. HEI INFORMATION SYSTEM 125054

The foregoing appropriation item 235409, HEI Information 125055
System, shall be used by the Chancellor of the Board of Regents to 125056
support the development and implementation of information 125057
technology solutions designed to improve the performance and 125058
services of the Chancellor of the Board of Regents and the 125059
University System of Ohio. Information technology solutions shall 125060
be provided by the Ohio Academic Research Network (OARnet). 125061

Section 363.60. STATE GRANTS AND SCHOLARSHIP ADMINISTRATION 125062

The foregoing appropriation item 235414, State Grants and 125063
Scholarship Administration, shall be used by the Chancellor of the 125064
Board of Regents to administer the following student financial aid 125065
programs: Ohio College Opportunity Grant, Ohio War Orphans' 125066
Scholarship, Nurse Education Assistance Loan Program, Ohio Safety 125067
Officers College Memorial Fund, and any other student financial 125068
aid programs created by the General Assembly. The appropriation 125069
item also shall be used to support all state financial aid audits 125070
and student financial aid programs created by Congress, and to 125071
provide fiscal services for the Ohio National Guard Scholarship 125072
Program. 125073

Section 363.70. ESTUDENT SERVICES 125074

The foregoing appropriation item 235417, eStudent Services, 125075
shall be used by the Chancellor of the Board of Regents to support 125076
the continued implementation of eStudent Services, a consortium 125077
organized under division (T) of section 3333.04 of the Revised 125078
Code to expand access to dual enrollment opportunities for high 125079
school students, as well as adult and higher education 125080
opportunities through technology. The funds shall be used by 125081
eStudent Services to develop and promote learning and assessment 125082
through the use of technology, to test and provide advice on 125083
emerging learning-directed technologies, to support the distance 125084
learning clearinghouse and platform created under section 3333.82 125085
of the Revised Code, and to facilitate cost-effectiveness through 125086
shared educational technology investments. 125087

Section 363.80. APPALACHIAN NEW ECONOMY PARTNERSHIP 125088

The foregoing appropriation item 235428, Appalachian New 125089
Economy Partnership, shall be distributed to Ohio University to 125090
continue a multi-campus and multi-agency coordinated effort to 125091
link Appalachia to the new economy. Ohio University shall use 125092
these funds to provide leadership in the development and 125093
implementation of initiatives in the areas of entrepreneurship, 125094
management, education, and technology. 125095

Section 363.90. ECONOMIC GROWTH CHALLENGE 125096

The foregoing appropriation item 235433, Economic Growth 125097
Challenge, shall be used for administrative expenses of the 125098
Research Incentive Program and other economic advancement 125099
initiatives undertaken by the Chancellor of the Board of Regents. 125100

The Chancellor of the Board of Regents shall use any 125101
appropriation transfer to the foregoing appropriation item 235433, 125102

Economic Growth Challenge, to enhance the basic research and 125103
commercialization capabilities of public colleges and universities 125104
and accredited Ohio institutions of higher education holding 125105
certificates of authorization issued under section 1713.02 of the 125106
Revised Code, in order to strengthen academic research and 125107
commercialization for pursuing Ohio's economic development goals. 125108

Section 363.100. CHOOSE OHIO FIRST SCHOLARSHIP 125109

The foregoing appropriation item 235438, Choose Ohio First 125110
Scholarship, shall be used to operate the program prescribed in 125111
sections 3333.60 to 3333.70 of the Revised Code. 125112

Section 363.110. ADULT BASIC AND LITERACY EDUCATION 125113

The foregoing appropriation item 235443, Adult Basic and 125114
Literacy Education - State, shall be used to support the adult 125115
basic and literacy education instructional grant program and state 125116
leadership program. The supported programs shall satisfy the state 125117
match and maintenance of effort requirements for the 125118
state-administered grant program. 125119

Section 363.120. POST-SECONDARY ADULT CAREER-TECHNICAL 125120
EDUCATION 125121

The foregoing appropriation item 235444, Post-Secondary Adult 125122
Career-Technical Education, shall be used by the Chancellor of the 125123
Board of Regents, in consultation with the Superintendent of 125124
Public Instruction and the Governor's Office of Workforce 125125
Transformation, to support post-secondary adult career-technical 125126
education. The Chancellor of the Board of Regents, the 125127
Superintendent of Public Instruction, and the Governor's Office of 125128
Workforce Transformation, or their designees, shall hold a series 125129
of consultations with the Post-Secondary Adult Career-Technical 125130
Education Centers during fiscal year 2014 to develop an 125131

appropriate funding formula to distribute these funds based on 125132
student outcomes, beginning in fiscal year 2015. 125133

Section 363.130. AREA HEALTH EDUCATION CENTERS 125134

The foregoing appropriation item 235474, Area Health 125135
Education Centers Program Support, shall be used by the Chancellor 125136
of the Board of Regents to support the medical school regional 125137
area health education centers' educational programs for the 125138
continued support of medical and other health professions 125139
education and for support of the Area Health Education Center 125140
Program. 125141

Section 363.140. STATEHOUSE NEWS BUREAU 125142

The foregoing appropriation item 235478, Statehouse News 125143
Bureau, shall be used solely to support the operations of the Ohio 125144
Statehouse News Bureau. 125145

Section 363.150. OHIO GOVERNMENT TELECOMMUNICATIONS SERVICES 125146

The foregoing appropriation item 235479, Ohio Government 125147
Telecommunications Services, shall be used solely to support the 125148
operations of Ohio Government Telecommunications Services which 125149
include providing multimedia support to the state government and 125150
its affiliated organizations and broadcasting the activities of 125151
the legislative, judicial, and executive branches of state 125152
government, among its other functions. 125153

Section 363.160. TECHNOLOGY OPERATIONS 125154

The foregoing appropriation item 235481, Technology 125155
Operations, shall be used by the Chancellor of the Board of 125156
Regents to pay Ohio's network infrastructure expenses, which 125157
includes the television and radio transmission infrastructure and 125158
infrastructure that shall link all public K-12 classrooms to each 125159

other and to the Internet, and provide access to voice, video, 125160
other communication services, and data educational resources for 125161
students and teachers. The foregoing appropriation item 235481, 125162
Technology Operations, may also be used to cover student costs for 125163
taking advanced placement courses and courses that the Chancellor 125164
of the Board of Regents has determined to be eligible for 125165
postsecondary credit through the Ohio Learns Gateway. To the 125166
extent that funds remain available for this purpose, students who 125167
are enrolled in public and chartered nonpublic schools, and 125168
students who are instructed at home pursuant to section 3321.04 of 125169
the Revised Code, who are taking advanced placement or 125170
postsecondary courses through the Ohio Learns Gateway shall be 125171
eligible to receive a fee waiver to cover the cost of 125172
participating in one course. The fee waivers shall be distributed 125173
until the funds appropriated to support the waivers have been 125174
exhausted. 125175

Section 363.170. CONTENT DEVELOPMENT, ACQUISITION, AND 125176
DISTRIBUTION 125177

The foregoing appropriation item 235482, Content Development, 125178
Acquisition, and Distribution, shall be used for the development, 125179
acquisition, and distribution of information resources by public 125180
media and radio reading services and for educational use in the 125181
classroom and online. 125182

Of the foregoing appropriation item 235482, Content 125183
Development, Acquisition, and Distribution, up to \$596,193 in each 125184
fiscal year shall be allocated equally among the Ohio educational 125185
television stations and used with the advice and approval of the 125186
Chancellor of the Board of Regents. Funds shall be used for the 125187
production of interactive instructional programming series with 125188
priority given to resources aligned with state academic content 125189
standards in consultation with the Ohio Department of Education. 125190

The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in former section 3317.0213 of the Revised Code as that section existed prior to June 30, 2005.

Of the foregoing appropriation item 235482, Content Development, Acquisition, and Distribution, up to \$1,584,965 in each fiscal year shall be distributed by the Chancellor of the Board of Regents to Ohio's qualified public educational television stations and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by the Chancellor of the Board of Regents in consultation with Ohio's qualified public educational television stations and educational radio stations.

Of the foregoing appropriation item 235482, Content Development, Acquisition, and Distribution, up to \$180,936 in each fiscal year shall be distributed by the Chancellor of the Board of Regents to Ohio's qualified radio reading services to support their operations. The funds shall be distributed pursuant to an allocation formula used by the Ohio Educational Telecommunications Network Commission unless a substitute formula is developed by the Chancellor of the Board of Regents in consultation with Ohio's qualified radio reading services.

Section 363.180. TECHNOLOGY INTEGRATION AND PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 235483, Technology Integration and Professional Development, shall be used by the Ohio Department of Education and the Chancellor of the Board of Regents for the provision of staff development, hardware, software, telecommunications services, and information resources

to support educational uses of technology in the classroom and at 125222
a distance and for professional development for teachers, 125223
administrators, and technology staff on the use of educational 125224
technology in qualifying public schools, including the State 125225
School for the Blind, the School for the Deaf, and the Department 125226
of Youth Services. 125227

Section 363.190. STATE SHARE OF INSTRUCTION FORMULAS 125228

The Chancellor of the Board of Regents shall establish 125229
procedures to allocate the foregoing appropriation item 235501, 125230
State Share of Instruction, based on the formulas detailed in this 125231
section that utilize the enrollment, course completion, degree 125232
attainment, and student achievement factors reported annually by 125233
each state institution of higher education participating in the 125234
Higher Education Information (HEI) system. 125235

(A) FULL-TIME EQUIVALENT (FTE) ENROLLMENTS AND COMPLETIONS 125236

(1) As soon as possible during each fiscal year of the 125237
biennium ending June 30, 2015, in accordance with instructions of 125238
the Board of Regents, each state institution of higher education 125239
shall report its actual data, consistent with the definitions in 125240
the Higher Education Information (HEI) system's enrollment files, 125241
to the Chancellor of the Board of Regents. 125242

(2) In defining the number of full-time equivalent students 125243
for state subsidy instructional cost purposes, the Chancellor of 125244
the Board of Regents shall exclude all undergraduate students who 125245
are not residents of Ohio, except those charged in-state fees in 125246
accordance with reciprocity agreements made under section 3333.17 125247
of the Revised Code or employer contracts entered into under 125248
section 3333.32 of the Revised Code. 125249

(3) In calculating the core subsidy entitlements for 125250
university branch and main campuses, the Chancellor of the Board 125251

of Regents shall use the following count of FTE students: 125252

(a) The subsidy eligible enrollments by model shall equal 125253
only those FTE students who successfully complete the course as 125254
defined and reported through the Higher Education Information 125255
(HEI) system course enrollment file; 125256

(b) For those undergraduate FTE students with successful 125257
course completions, identified in division (A)(3)(a) of this 125258
section, that had an expected family contribution less than 2190 125259
or were determined to have been in need of remedial education 125260
shall be defined as at-risk students and shall have their eligible 125261
completions weighted by the following: 125262

(i) Campus-specific course completion indexes, where the 125263
indexes are calculated based upon the number of at-risk students 125264
enrolled during the 2010-2012 academic years; and 125265

(ii) A statewide average at-risk course completion weight 125266
determined for each subsidy model. The statewide average at-risk 125267
course completion weight shall be determined by calculating the 125268
difference between the percentage of traditional students who 125269
complete a course and the percentage of at-risk students who 125270
complete the same course. 125271

(4) In calculating the core subsidy entitlements for Medical 125272
II models only, students repeating terms may be no more than five 125273
per cent of current year enrollment. 125274

(5) In calculating the core subsidy entitlements for students 125275
enrolled in state-supported law schools, subsidy eligible FTE 125276
completions shall be limited to students identified as residents 125277
of Ohio. 125278

(B) TOTAL COSTS PER FULL-TIME EQUIVALENT STUDENT 125279

For purposes of calculating state share of instruction 125280
allocations, the total instructional costs per full-time 125281

equivalent student shall be:			125282
Model	Fiscal	Fiscal	125283
	Year 2014	Year 2015	
ARTS AND HUMANITIES 1	\$7,803	\$7,940	125284
ARTS AND HUMANITIES 2	\$10,828	\$11,018	125285
ARTS AND HUMANITIES 3	\$13,988	\$14,234	125286
ARTS AND HUMANITIES 4	\$20,242	\$20,598	125287
ARTS AND HUMANITIES 5	\$33,969	\$34,567	125288
ARTS AND HUMANITIES 6	\$38,280	\$38,954	125289
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	\$7,109	\$7,235	125290
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	\$8,106	\$8,249	125291
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	\$10,640	\$10,827	125292
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	\$12,647	\$12,869	125293
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	\$19,657	\$20,003	125294
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	\$22,006	\$22,393	125295
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	\$30,558	\$31,096	125296
MEDICAL 1	\$53,424	\$54,365	125297
MEDICAL 2	\$45,873	\$46,681	125298
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$7,190	\$7,317	125299
MEDICINE 1			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$10,091	\$10,268	125300
MEDICINE 2			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$11,928	\$12,138	125301
MEDICINE 3			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$15,186	\$15,454	125302
MEDICINE 4			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$20,043	\$20,396	125303
MEDICINE 5			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$21,633	\$22,013	125304
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$26,471	\$26,937	125305
MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$36,766	\$37,413	125306

MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	\$52,170	\$53,088	125307
MEDICINE 9			
Doctoral I and Doctoral II models shall be allocated in			125308
accordance with division (D)(2) of this section.			125309
(C) SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS, MEDICAL,			125310
AND GRADUATE WEIGHTS			125311
For the purpose of implementing the recommendations of the			125312
2006 State Share of Instruction Consultation and the Higher			125313
Education Funding Study Council that priority be given to			125314
maintaining state support for science, technology, engineering,			125315
mathematics, medicine, and graduate programs, the costs in			125316
division (B) of this section shall be weighted by the amounts			125317
provided below:			125318
Model	Fiscal	Fiscal	125319
	Year 2014	Year 2015	
ARTS AND HUMANITIES 1	1.0000	1.0000	125320
ARTS AND HUMANITIES 2	1.0000	1.0000	125321
ARTS AND HUMANITIES 3	1.0000	1.0000	125322
ARTS AND HUMANITIES 4	1.0000	1.0000	125323
ARTS AND HUMANITIES 5	1.0425	1.0425	125324
ARTS AND HUMANITIES 6	1.0425	1.0425	125325
BUSINESS, EDUCATION & SOCIAL SCIENCES 1	1.0000	1.0000	125326
BUSINESS, EDUCATION & SOCIAL SCIENCES 2	1.0000	1.0000	125327
BUSINESS, EDUCATION & SOCIAL SCIENCES 3	1.0000	1.0000	125328
BUSINESS, EDUCATION & SOCIAL SCIENCES 4	1.0000	1.0000	125329
BUSINESS, EDUCATION & SOCIAL SCIENCES 5	1.0425	1.0425	125330
BUSINESS, EDUCATION & SOCIAL SCIENCES 6	1.0425	1.0425	125331
BUSINESS, EDUCATION & SOCIAL SCIENCES 7	1.0425	1.0425	125332
MEDICAL 1	1.6456	1.6456	125333
MEDICAL 2	1.7462	1.7462	125334
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.0000	1.0000	125335

MEDICINE 1			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.0017	1.0017	125336
MEDICINE 2			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.6150	1.6150	125337
MEDICINE 3			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.6920	1.6920	125338
MEDICINE 4			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.4222	1.4222	125339
MEDICINE 5			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.8798	1.8798	125340
MEDICINE 6			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.4380	1.4380	125341
MEDICINE 7			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.5675	1.5675	125342
MEDICINE 8			
SCIENCE, TECHNOLOGY, ENGINEERING, MATHEMATICS,	1.1361	1.1361	125343
MEDICINE 9			
(D) CALCULATION OF STATE SHARE OF INSTRUCTION FORMULA			125344
ENTITLEMENTS AND ADJUSTMENTS			125345
(1) Of the foregoing appropriation item 235501, State Share			125346
of Instruction, 25 per cent of the fiscal year 2014 appropriation			125347
for state-supported community colleges, state community colleges,			125348
and technical colleges shall be allocated to colleges in			125349
proportion to their share of college student success factors as			125350
adopted by the Chancellor of the Board of Regents in formal			125351
communication to the Controlling Board on August 30, 2010.			125352
(2) Of the foregoing appropriation item 235501, State Share			125353
of Instruction, 25 per cent of the fiscal year 2014 appropriation			125354
for state-supported community colleges, state community colleges,			125355
and technical colleges shall be reserved for course completion			125356
FTEs as aggregated by the subsidy models defined in division (B)			125357
of this section.			125358

The course completion funding shall be allocated to colleges 125359
in proportion to each campuses' share of the total sector's course 125360
completions, weighted by the instructional cost of the subsidy 125361
models. 125362

To calculate the subsidy entitlements for course completions 125363
at community colleges, state community colleges, and technical 125364
colleges, the Chancellor of the Board of Regents shall use the 125365
following calculations: 125366

(a) In calculating each campus's count of FTE course 125367
completions, the Chancellor of the Board of Regents shall use the 125368
three-year average course completions for the three-year period 125369
ending in the prior year. 125370

(b) The model costs as used in the calculation shall be 125371
augmented by the model weights for science, technology, 125372
engineering, mathematics, and medicine models as established in 125373
division (C) of this section. 125374

(3) Of the foregoing appropriation item 235501, State Share 125375
of Instruction, up to 11.78 per cent of the appropriation for 125376
universities, as established in division (A)(2) of the section of 125377
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 125378
2014 and 2015," in each fiscal year shall be reserved for support 125379
of doctoral programs to implement the funding recommendations made 125380
by representatives of the universities. The amount so reserved 125381
shall be referred to as the doctoral set-aside. 125382

The doctoral set-aside shall be allocated to universities as 125383
follows: 125384

(a) 50 per cent of the doctoral set-aside in fiscal year 2014 125385
and 40 per cent of the doctoral set-aside in fiscal year 2015 125386
shall be allocated to universities in proportion to their share of 125387
the statewide total of each state institution's three-year average 125388
Doctoral I equivalent FTEs as calculated on an institutional basis 125389

using historical FTEs for the period fiscal year 1994 through 125390
fiscal year 1998 with annualized FTEs for fiscal years 1994 125391
through 1997 and all-term FTEs for fiscal year 1998 as adjusted to 125392
reflect the effects of doctoral review and subsequent changes in 125393
Doctoral I equivalent enrollments. For the purposes of this 125394
calculation, Doctoral I equivalent FTEs shall equal the sum of 125395
Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. 125396

(b) 25 per cent of the doctoral set-aside in fiscal year 2014 125397
and 30 per cent of the doctoral set-aside in fiscal year 2015 125398
shall be allocated to universities in proportion to each campus's 125399
share of the total statewide doctoral degrees, weighted by the 125400
cost of the doctoral discipline. In calculating each campus's 125401
doctoral degrees the Chancellor of the Board of Regents shall use 125402
the three-year average doctoral degrees awarded for the three-year 125403
period ending in the prior year. 125404

(c) 12.5 per cent of the doctoral set-aside in fiscal year 125405
2014 and 15 per cent of the doctoral set-aside in fiscal year 2015 125406
shall be allocated to universities in proportion to their share of 125407
research grant activity, using a data collection method that is 125408
reviewed and approved by the presidents of Ohio's doctoral degree 125409
granting universities. In the event that the data collection 125410
method is not available, funding for this component shall be 125411
allocated to universities in proportion to their share of research 125412
grant activity published by the National Science Foundation. Grant 125413
awards from the Department of Health and Human Services shall be 125414
weighted at 50 per cent. 125415

(d) 12.5 per cent of the doctoral set-aside in fiscal year 125416
2014 and 15 per cent of the doctoral set-aside in fiscal year 2015 125417
shall be allocated to universities based on other quality measures 125418
that contribute to the advancement of quality doctoral programs. 125419
These other quality measures shall be identified by the Chancellor 125420
in consultation with universities. If for any reason metrics for 125421

distributing the quality component of the doctoral set-aside are 125422
not identified prior to the fiscal year allocation process, this 125423
portion of the doctoral set-aside funds shall be allocated to 125424
universities based on division (D)(3)(a) of this section. 125425

(4) Of the foregoing appropriation item 235501, State Share 125426
of Instruction, 6.41 per cent of the appropriation for 125427
universities, as established in division (A)(2) of the section of 125428
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 125429
2014 AND 2015," in each fiscal year shall be reserved for support 125430
of Medical II FTEs. The amount so reserved shall be referred to as 125431
the medical II set-aside. 125432

The medical II set-aside shall be allocated to universities 125433
in proportion to their share of the statewide total of each state 125434
institution's three-year average Medical II FTEs as calculated in 125435
division (A) of this section, weighted by model cost. 125436

(5) Of the foregoing appropriation item 235501, State Share 125437
of Instruction, 1.48 per cent of the appropriation for 125438
universities, as established in division (A)(2) of the section of 125439
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 125440
2014 AND 2015," in each fiscal year shall be reserved for support 125441
of Medical I FTEs. The amount so reserved shall be referred to as 125442
the medical I set-aside. 125443

The medical I set-aside shall be allocated to universities in 125444
proportion to their share of the statewide total of each state 125445
institution's three-year average Medical I FTEs as calculated in 125446
division (A) of this section. 125447

(6) Of the foregoing appropriation item 235501, State Share 125448
of Instruction, 50 per cent of the appropriation in each fiscal 125449
year for universities, net any earmarked funding for university 125450
regional campuses as detailed in division (B)(1) of the section of 125451
this act entitled "STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 125452

2014 AND 2015," shall be reserved for support of associate, 125453
baccalaureate, master's, and professional level degree attainment. 125454

The degree attainment funding shall be allocated to 125455
universities in proportion to each campus's share of the total 125456
statewide degrees granted, weighted by the cost of the degree 125457
programs. The degree cost calculations shall include the model 125458
cost weights for the science, technology, engineering, 125459
mathematics, and medicine models as established in division (C) of 125460
this section. 125461

In calculating the subsidy entitlements for degree attainment 125462
at university main and regional campuses, the Chancellor of the 125463
Board of Regents shall use the following count of degrees and 125464
degree costs: 125465

(a) The subsidy eligible undergraduate degrees shall be 125466
defined as follows: 125467

(i) The subsidy eligible degrees conferred to students 125468
identified as residents of the state of Ohio in any term of their 125469
studies, as reported through the Higher Education Information 125470
(HEI) system student enrollment file, shall be weighted by a 125471
factor of 1. 125472

(ii) The subsidy eligible degrees conferred to students 125473
identified as out-of-state residents during all terms of their 125474
studies, as reported through the Higher Education Information 125475
(HEI) system student enrollment file, which remain in the state of 125476
Ohio at least one year after graduation shall be weighted by a 125477
factor of 50 per cent. For fiscal year 2014, subsidy eligible 125478
degrees conferred to all out-of-state students shall be weighted 125479
by a factor of 25 per cent. 125480

(b) In fiscal year 2014, for those associate degrees awarded 125481
by a state-supported university, the subsidy eligible degrees 125482
granted are defined as only those earned by students attending a 125483

university that received funding under GRF appropriation item 125484
235418, Access Challenge, in fiscal year 2009. In fiscal year 125485
2015, subsidy eligible associate degrees are defined as those 125486
earned by students attending any state-supported university main 125487
or regional campus. 125488

(c) In calculating each campus's count of degrees, the 125489
Chancellor of the Board of Regents shall use the three-year 125490
average associate, baccalaureate, master's, and professional 125491
degrees awarded for the three-year period ending in the prior 125492
year. In fiscal year 2014, university regional campuses are not 125493
eligible for degree completion funding. In fiscal year 2015, all 125494
university campuses are eligible for degree completion funding. 125495

(d) Eligible associate degrees defined in division (D)(6)(b) 125496
of this section and all bachelor's degrees earned by a student 125497
that either had an expected family contribution less than 2190, 125498
was determined to have been in need of remedial education, is 125499
Native American, African American, or Hispanic, or is at least age 125500
26 at the time of graduation, shall be defined as degrees earned 125501
by an at-risk student and shall be weighted by the following: 125502

(i) A campus-specific at-risk index, where the index is 125503
calculated based on the proportion of at-risk students enrolled 125504
during a four-year cohort beginning in fiscal year 2001, 2002, 125505
2003, or 2004; and 125506

(ii) A statewide average at-risk degree completion weight 125507
determined by calculating the difference between the percentage of 125508
non-at-risk students who earned a degree and the percentage of 125509
at-risk students who earned a degree in eight years or less. 125510

(7) State share of instruction base formula earnings shall be 125511
determined as follows: 125512

(a) The instructional costs shall be determined by 125513
multiplying the amounts listed above in divisions (B) and (C) of 125514

this section by the average subsidy-eligible FTEs for the 125515
three-year period ending in the prior year for all models except 125516
Doctoral I and Doctoral II. 125517

(b) The Chancellor of the Board of Regents shall compute a 125518
uniform state share of instructional costs for each sector. 125519

(i) For the state-supported community colleges, state 125520
community colleges, and technical colleges, in fiscal year 2014 125521
the Chancellor of the Board of Regents shall compute the uniform 125522
state share of instructional costs for enrollment by dividing the 125523
sector level appropriation total as determined by the Chancellor 125524
in division (A)(1) of the section of this act entitled "STATE 125525
SHARE OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 125526
pursuant to divisions (B) and (C) of that section, less the 125527
student college success allocation as described in division (D)(1) 125528
of this section and less the course completion allocation as 125529
detailed in division (D)(2) of this section, by the sum of all 125530
eligible campuses' instructional costs as calculated in division 125531
(D)(7)(b) of this section. 125532

(ii) For the state-supported university regional campuses, in 125533
fiscal year 2014 the Chancellor of the Board of Regents shall 125534
compute the uniform state share of instructional costs by dividing 125535
the sector level appropriation, as determined by the Chancellor in 125536
division (A)(2) of the section of this act entitled "STATE SHARE 125537
OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 125538
pursuant to division (B) of that section by the sum of all 125539
campuses' instructional costs as calculated in division (D)(7)(b) 125540
of this section. 125541

(iii) For the state-supported university main campuses, in 125542
fiscal year 2014 the Chancellor of the Board of Regents shall 125543
compute the uniform state share of instructional costs by dividing 125544
the sector level appropriation, as determined by the Chancellor in 125545
division (A)(3) of the section of this act entitled "STATE SHARE 125546

OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 125547
pursuant to division (B) of that section, less the degree 125548
attainment funding as calculated in divisions (D)(3) to (6) of 125549
this section, less the doctoral set-aside, less the medical I 125550
set-aside, and less the medical II set-aside, by the sum of all 125551
campuses' instructional costs as calculated in division (D)(7)(b) 125552
of this section. 125553

(iv) For the state university regional and main campuses, in 125554
fiscal year 2015 the Chancellor of the Board of Regents shall 125555
compute the uniform state share of instructional costs by dividing 125556
the university appropriation, as determined by the Chancellor in 125557
division (A)(3) of the section of this act entitled "STATE SHARE 125558
OF INSTRUCTION FOR FISCAL YEARS 2014 AND 2015," and adjusted 125559
pursuant to division (B) of that section, less the degree 125560
attainment funding as calculated in divisions (D)(3) to (6) of 125561
this section, less the doctoral set-aside, less the medical I 125562
set-aside, and less the medical II set-aside, by the sum of all 125563
campuses' instructional costs as calculated in division (D)(7)(b) 125564
of this section. 125565

(c) The formula entitlement shall be determined by 125566
multiplying the uniform state share of instructional costs 125567
calculated in division (D)(7)(c) of this section by the 125568
instructional cost determined in division (D)(7)(b) of this 125569
section. 125570

(8) In addition to the student success allocation, doctoral 125571
set-aside, medical I set-aside, medical II set-aside, and the 125572
degree attainment allocation determined in divisions (D)(1) to (6) 125573
of this section and the formula entitlement determined in division 125574
(D)(7) of this section, an allocation based on facility-based 125575
plant operations and maintenance (POM) subsidy shall be made. For 125576
each eligible university main campus, the amount of the POM 125577
allocation in each fiscal year shall be distributed based on what 125578

each campus received in the fiscal year 2009 POM allocation. 125579

Any POM allocations required by this division shall be funded 125580
by proportionately reducing formula entitlement earnings, 125581
including the POM allocations, for all campuses in that sector. 125582

(9) STABILITY IN STATE SHARE OF INSTRUCTION FUNDING FOR 125583
COMMUNITY, STATE COMMUNITY, AND TECHNICAL COLLEGES 125584

In addition to and after the adjustments noted above, in 125585
fiscal year 2014, no community college, state community college, 125586
or technical college shall receive a state share of instruction 125587
allocation that is less than 97 per cent of the prior year's state 125588
share of instruction earnings. Funds shall be made available to 125589
support this allocation by proportionately reducing formula 125590
entitlement earnings from those campuses, within the community, 125591
state community, and technical college sector, that are not 125592
receiving stability funding. 125593

(10) CAPITAL COMPONENT DEDUCTION 125594

After all other adjustments have been made, state share of 125595
instruction earnings shall be reduced for each campus by the 125596
amount, if any, by which debt service charged in Am. H.B. 748 of 125597
the 121st General Assembly, Am. Sub. H.B. 850 of the 122nd General 125598
Assembly, Am. Sub. H.B. 640 of the 123rd General Assembly, H.B. 125599
675 of the 124th General Assembly, Am. Sub. H.B. 16 of the 126th 125600
General Assembly, Am. Sub. H.B. 699 of the 126th General Assembly, 125601
Am. Sub. H.B. 496 of the 127th General Assembly, and Am. Sub. H.B. 125602
562 of the 127th General Assembly for that campus exceeds that 125603
campus's capital component earnings. The sum of the amounts 125604
deducted shall be transferred to appropriation item 235552, 125605
Capital Component, in each fiscal year. 125606

(E) EXCEPTIONAL CIRCUMSTANCES 125607

Adjustments may be made to the state share of instruction 125608
payments and other subsidies distributed by the Chancellor of the 125609

Board of Regents to state colleges and universities for 125610
exceptional circumstances. No adjustments for exceptional 125611
circumstances may be made without the recommendation of the 125612
Chancellor and the approval of the Controlling Board. 125613

(F) APPROPRIATION REDUCTIONS TO THE STATE SHARE OF 125614
INSTRUCTION 125615

The standard provisions of the state share of instruction 125616
calculation as described in the preceding sections of temporary 125617
law shall apply to any reductions made to appropriation item 125618
235501, State Share of Instruction, before the Chancellor of the 125619
Board of Regents has formally approved the final allocation of the 125620
state share of instruction funds for any fiscal year. 125621

Any reductions made to appropriation item 235501, State Share 125622
of Instruction, after the Chancellor of the Board of Regents has 125623
formally approved the final allocation of the state share of 125624
instruction funds for any fiscal year, shall be uniformly applied 125625
to each campus in proportion to its share of the final allocation. 125626

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION 125627

The state share of instruction payments to the institutions 125628
shall be in substantially equal monthly amounts during the fiscal 125629
year, unless otherwise determined by the Director of Budget and 125630
Management pursuant to section 126.09 of the Revised Code. 125631
Payments during the first six months of the fiscal year shall be 125632
based upon the state share of instruction appropriation estimates 125633
made for the various institutions of higher education according to 125634
the Chancellor of the Board of Regents enrollment, completion, and 125635
performance estimates. Payments during the last six months of the 125636
fiscal year shall be distributed after approval of the Controlling 125637
Board upon the request of the Chancellor. 125638

(H) STUDIES TO DETERMINE IMPROVEMENTS TO THE FISCAL YEAR 2015 125639
STATE SHARE OF INSTRUCTION FORMULAS 125640

(1) STUDY ON IDENTIFYING "AT-RISK" STUDENTS FOR COMMUNITY COLLEGES 125641
125642

Community college presidents, or their designees, in 125643
consultation with the Chancellor of the Board of Regents, shall 125644
study the most appropriate formula weights for students who come 125645
from "at-risk" populations and recommend how they may be used to 125646
determine allocations of appropriations to community colleges from 125647
appropriation item 235501, State Share of Instruction, in fiscal 125648
year 2015. The study shall identify the socio-economic, 125649
demographic, academic, personal, and other factors that identify a 125650
student as being "at-risk" of academic failure, and recommend how 125651
these factors may be used to determine allocations of the State 125652
Share of Instruction for community colleges in fiscal year 2015. 125653
The study shall be completed by December 31, 2013. Notwithstanding 125654
any provision of law to the contrary, community college 125655
presidents, or their designees, in consultation with the 125656
Chancellor of the Board of Regents, shall use the results of the 125657
study to recommend changes in the determination of the 125658
distribution of the community college allocations beginning in 125659
fiscal year 2015 and shall report any such formula change 125660
recommendations to the Governor, the General Assembly, and the 125661
Office of Budget and Management not later than February 15, 2014. 125662

(2) STUDY ON THE USE OF SUCCESS POINTS AND COMPLETION MEASURES FOR COMMUNITY COLLEGES 125663
125664

Community college presidents, or their designees, in 125665
consultation with the Chancellor of the Board of Regents, shall 125666
study the most appropriate formula weights for the "success 125667
points" and completion performance measures used in the allocation 125668
of appropriations to community colleges from appropriation item 125669
235501, State Share of Instruction, in fiscal year 2015. The study 125670
shall research the most appropriate success points and completion 125671
measures that occur during the academic career of community 125672

college students and recommend revisions to the current State 125673
Share of Instruction model to fund achievement of the success 125674
points beginning in fiscal year 2015. In addition, community 125675
college presidents, or their designees, in consultation with the 125676
Chancellor of the Board of Regents, shall determine how the 125677
community college's fiscal year 2015 share of State Share of 125678
Instruction funding shall be distributed among its success points, 125679
completion measures and course completion funding, or other 125680
performance and access measures. The study shall be completed by 125681
December 31, 2013. Notwithstanding any provision of law to the 125682
contrary, community college presidents, or their designees, in 125683
consultation with the Chancellor of the Board of Regents, shall 125684
use the results of the study to recommend changes in the 125685
determination of the distribution of the community college 125686
allocations beginning in fiscal year 2015 and shall report any 125687
such formula change recommendations to the Governor, the General 125688
Assembly, and the Office of Budget and Management not later than 125689
February 15, 2014. 125690

(3) STUDY ON THE USE OF STUDENT LEVEL "AT-RISK" WEIGHTS AND 125691
PROPORTIONAL DEGREE COUNTS FOR THE UNIVERSITIES DEGREE COMPLETION 125692
COMPONENT 125693

University presidents, or their designees, in consultation 125694
with the Chancellor of the Board of Regents, shall study the most 125695
appropriate formula weights for students who come from "at-risk" 125696
populations and recommend how they may be used to determine 125697
allocations of appropriations to universities from appropriation 125698
item 235501, State Share of Instruction, in fiscal year 2015. In 125699
addition to studying the "at-risk" student weights, university 125700
presidents, or their designees, in consultation with the 125701
Chancellor of the Board of Regents, shall recommend a methodology 125702
for merging the current main campus and regional campus funding 125703
formulas and distributing degree subsidies in cases where a 125704

student attended more than one institution of higher education. 125705
The study shall be completed by December 31, 2013. Notwithstanding 125706
any provision of law to the contrary, university presidents, or 125707
their designees, in consultation with the Chancellor of the Board 125708
of Regents, shall use the results of the study to recommend 125709
changes in the determination of the distribution of the university 125710
allocations beginning in fiscal year 2015 and shall report any 125711
such formula change recommendations to the Governor, the General 125712
Assembly and the Office of Budget and Management not later than 125713
February 15, 2014. 125714

Section 363.200. STATE SHARE OF INSTRUCTION FOR FISCAL YEARS 125715
2014 AND 2015 125716

(A) The foregoing appropriation item 235501, State Share of 125717
Instruction, shall be distributed according to the section of this 125718
act entitled "STATE SHARE OF INSTRUCTION FORMULAS." 125719

(1) Of the foregoing appropriation item 235501, State Share 125720
of Instruction, \$411,257,477 in fiscal year 2014 and \$419,101,428 125721
in fiscal year 2015 shall be distributed to state-supported 125722
community colleges, state community colleges, and technical 125723
colleges. 125724

(2) Of the foregoing appropriation item 235501, State Share 125725
of Instruction, \$1,372,968,020 in fiscal year 2014 and 125726
\$1,399,124,069 in fiscal year 2015 shall be distributed to 125727
state-supported university main and regional campuses. 125728

(B) Of the amounts earmarked in division (A)(2) of this 125729
section: 125730

(1) \$116,181,104 in fiscal year 2014 shall be distributed to 125731
state university regional campuses. 125732

(2) \$3,923,764 in each fiscal year shall be distributed to 125733
university main campuses based on each campus's share of the 125734

appropriation item 235418, Access Challenge, in fiscal year 2009. 125735

(C) The POM adjustment in division (D)(7) of the section of 125736
this act entitled "STATE SHARE OF INSTRUCTION FORMULAS" and the 125737
Access Challenge earmark in division (B) of this section shall 125738
expire on June 30, 2015. 125739

(D) The state share of instruction payments to the 125740
institutions shall be in substantially equal monthly amounts 125741
during the fiscal year, unless otherwise determined by the 125742
Director of Budget and Management pursuant to section 126.09 of 125743
the Revised Code. Payments during the last six months of the 125744
fiscal year shall be distributed after approval of the Controlling 125745
Board upon the request of the Chancellor of the Board of Regents. 125746

Section 363.210. TRANSFER OF INSTRUCTIONAL SUBSIDIES BETWEEN 125747
UNIVERSITIES 125748

Notwithstanding any provision of law to the contrary, in 125749
consultation with the Chancellor of the Board of Regents, a 125750
state-supported university may request to transfer its fiscal year 125751
2014 state share of instruction subsidy allocations of the 125752
foregoing appropriation item 235501, State Share of Instruction, 125753
between a university main campus and any university branch campus 125754
for which the university main campus is affiliated to best 125755
accomplish institutional goals and objectives. At the request of 125756
the Chancellor of the Board of Regents, the Director of Budget and 125757
Management may transfer the requested amounts of state share of 125758
instruction appropriation allocations between affiliated 125759
university branch campuses and university main campuses. 125760

Section 363.220. RESTRICTION ON FEE INCREASES 125761

The boards of trustees of state institutions of higher 125762
education shall restrain increases in in-state undergraduate 125763
instructional and general fees. Each state university and the 125764

Northeast Ohio Medical University shall not increase its in-state undergraduate instructional and general fees by more than 2.0 per cent or \$188, whichever is higher, over what the institution charged for the preceding academic year.

Each university regional campus shall not increase its in-state undergraduate instructional and general fees by more than 2.0 per cent or \$114, whichever is higher, over what the institution charged for the preceding academic year.

Each community college, state community college, and technical college shall not increase its in-state undergraduate instructional and general fees by more than \$100 over what the institution charged for the preceding academic year.

These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this section with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Chancellor of the Board of Regents to the Controlling Board. These limitations may also be modified by the Chancellor of the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Chancellor of the Board of Regents.

Section 363.230. HIGHER EDUCATION - BOARD OF TRUSTEES

(A) Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Chancellor of the Board of Regents.

(B) In providing instructional and other services to 125795
students, boards of trustees of state institutions of higher 125796
education shall supplement state subsidies with income from 125797
charges to students. Except as otherwise provided in this act, 125798
each board shall establish the fees to be charged to all students, 125799
including an instructional fee for educational and associated 125800
operational support of the institution and a general fee for 125801
noninstructional services, including locally financed student 125802
services facilities used for the benefit of enrolled students. The 125803
instructional fee and the general fee shall encompass all charges 125804
for services assessed uniformly to all enrolled students. Each 125805
board may also establish special purpose fees, service charges, 125806
and fines as required; such special purpose fees and service 125807
charges shall be for services or benefits furnished individual 125808
students or specific categories of students and shall not be 125809
applied uniformly to all enrolled students. A tuition surcharge 125810
shall be paid by all students who are not residents of Ohio. 125811

The board of trustees of a state institution of higher 125812
education shall not authorize a waiver or nonpayment of 125813
instructional fees or general fees for any particular student or 125814
any class of students other than waivers specifically authorized 125815
by law or approved by the Chancellor. This prohibition is not 125816
intended to limit the authority of boards of trustees to provide 125817
for payments to students for services rendered the institution, 125818
nor to prohibit the budgeting of income for staff benefits or for 125819
student assistance in the form of payment of such instructional 125820
and general fees. 125821

Each state institution of higher education in its statement 125822
of charges to students shall separately identify the instructional 125823
fee, the general fee, the tuition charge, and the tuition 125824
surcharge. Fee charges to students for instruction shall not be 125825
considered to be a price of service but shall be considered to be 125826

an integral part of the state government financing program in 125827
support of higher educational opportunity for students. 125828

(C) The boards of trustees of state institutions of higher 125829
education shall ensure that faculty members devote a proper and 125830
judicious part of their work week to the actual instruction of 125831
students. Total class credit hours of production per academic term 125832
per full-time faculty member is expected to meet the standards set 125833
forth in the budget data submitted by the Chancellor of the Board 125834
of Regents. 125835

(D) The authority of government vested by law in the boards 125836
of trustees of state institutions of higher education shall in 125837
fact be exercised by those boards. Boards of trustees may consult 125838
extensively with appropriate student and faculty groups. 125839
Administrative decisions about the utilization of available 125840
resources, about organizational structure, about disciplinary 125841
procedure, about the operation and staffing of all auxiliary 125842
facilities, and about administrative personnel shall be the 125843
exclusive prerogative of boards of trustees. Any delegation of 125844
authority by a board of trustees in other areas of responsibility 125845
shall be accompanied by appropriate standards of guidance 125846
concerning expected objectives in the exercise of such delegated 125847
authority and shall be accompanied by periodic review of the 125848
exercise of this delegated authority to the end that the public 125849
interest, in contrast to any institutional or special interest, 125850
shall be served. 125851

Section 363.240. STUDENT SUPPORT SERVICES 125852

The foregoing appropriation item 235502, Student Support 125853
Services, shall be distributed by the Chancellor of the Board of 125854
Regents to Ohio's state colleges and universities that incur 125855
disproportionate costs in the provision of support services to 125856
disabled students. 125857

Section 363.250. WAR ORPHANS SCHOLARSHIPS 125858

The foregoing appropriation item 235504, War Orphans 125859
Scholarships, shall be used to reimburse state institutions of 125860
higher education for waivers of instructional fees and general 125861
fees provided by them, to provide grants to institutions that have 125862
received a certificate of authorization from the Chancellor of the 125863
Board of Regents under Chapter 1713. of the Revised Code, in 125864
accordance with the provisions of section 5910.04 of the Revised 125865
Code, and to fund additional scholarship benefits provided by 125866
section 5910.032 of the Revised Code. 125867

Section 363.260. OHIOLINK 125868

The foregoing appropriation item 235507, OhioLINK, shall be 125869
used by the Chancellor of the Board of Regents to support 125870
OhioLINK, a consortium organized under division (T) of section 125871
3333.04 of the Revised Code to serve as the state's electronic 125872
library information and retrieval system, which provides access 125873
statewide to an extensive set of electronic databases and 125874
resources, the library holdings of Ohio's public and participating 125875
private nonprofit colleges and universities, and the State Library 125876
of Ohio. 125877

Section 363.270. AIR FORCE INSTITUTE OF TECHNOLOGY 125878

The foregoing appropriation item 235508, Air Force Institute 125879
of Technology, shall be used to: (A) strengthen the research and 125880
educational linkages between the Wright Patterson Air Force Base 125881
and institutions of higher education in Ohio; and (B) support the 125882
Dayton Area Graduate Studies Institute, an engineering graduate 125883
consortium of Wright State University, the University of Dayton, 125884
and the Air Force Institute of Technology, with the participation 125885
of the University of Cincinnati and The Ohio State University. 125886

Section 363.280. OHIO SUPERCOMPUTER CENTER 125887

The foregoing appropriation item 235510, Ohio Supercomputer 125888
Center, shall be used by the Chancellor of the Board of Regents to 125889
support the operation of the Ohio Supercomputer Center, a 125890
consortium organized under division (T) of section 3333.04 of the 125891
Revised Code, located at The Ohio State University. The Ohio 125892
Supercomputer Center is a statewide resource available to Ohio 125893
research universities both public and private. It is also intended 125894
that the center be made accessible to private industry as 125895
appropriate. 125896

Funds shall be used, in part, to support the Ohio 125897
Supercomputer Center's Computational Science Initiative, which 125898
includes its industrial outreach program, Blue Collar Computing, 125899
and its School of Computational Science. These collaborations 125900
between the Ohio Supercomputer Center and Ohio's colleges and 125901
universities shall be aimed at making Ohio a leader in using 125902
computer modeling to promote economic development. 125903

Section 363.290. COOPERATIVE EXTENSION SERVICE 125904

The foregoing appropriation item 235511, Cooperative 125905
Extension Service, shall be disbursed through the Chancellor of 125906
the Board of Regents to The Ohio State University in monthly 125907
payments, unless otherwise determined by the Director of Budget 125908
and Management under section 126.09 of the Revised Code. 125909

Section 363.300. CENTRAL STATE SUPPLEMENT 125910

The foregoing appropriation item 235514, Central State 125911
Supplement, shall be disbursed by the Chancellor of the Board of 125912
Regents to Central State University in accordance with the plan 125913
developed by the Chancellor and submitted to the Governor and the 125914
General Assembly as directed by Am. Sub. H.B. 153 of the 129th 125915

General Assembly. Funds shall be used in a manner consistent with 125916
the goals of increasing enrollment, improving course completion, 125917
and increasing the number of degrees conferred. 125918

The Chancellor shall monitor the implementation of the plan 125919
and the use of funds. Central State University shall provide any 125920
information requested by the Chancellor related to the 125921
implementation of the plan. If the Chancellor determines that 125922
Central State University's use of supplemental funds is not in 125923
accordance with the plan or if the plan is not having the desired 125924
effect, the Chancellor may notify Central State University that 125925
the plan is suspended. Upon receiving such notice, Central State 125926
University shall avoid all unnecessary expenditures under the 125927
plan. The Chancellor shall notify the Controlling Board of the 125928
suspension of the plan and within sixty days prepare a new plan 125929
for the use of any remaining funds. 125930

Section 363.310. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 125931
MEDICINE 125932

The foregoing appropriation item 235515, Case Western Reserve 125933
University School of Medicine, shall be disbursed to Case Western 125934
Reserve University through the Chancellor of the Board of Regents 125935
in accordance with agreements entered into under section 3333.10 125936
of the Revised Code, provided that the state support per full-time 125937
medical student shall not exceed that provided to full-time 125938
medical students at state universities. 125939

Section 363.320. FAMILY PRACTICE 125940

The Chancellor of the Ohio Board of Regents shall develop 125941
plans consistent with existing criteria and guidelines as may be 125942
required for the distribution of appropriation item 235519, Family 125943
Practice. 125944

Section 363.330. SHAWNEE STATE SUPPLEMENT 125945

The foregoing appropriation item 235520, Shawnee State Supplement, shall be disbursed by the Chancellor of the Board of Regents to Shawnee State University in accordance with the plan developed by the Chancellor and submitted to the Governor and the General Assembly as directed by Am. Sub. H.B. 153 of the 129th General Assembly. Funds shall be used in a manner consistent with the goals of improving course completion, increasing the number of degrees conferred, and furthering the university's mission of service to the Appalachian region. 125946
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The Chancellor shall monitor the implementation of the plan and the use of funds. Shawnee State University shall provide any information requested by the Chancellor related to the implementation of the plan. If the Chancellor determines that Shawnee State University's use of supplemental funds is not in accordance with the plan or if the plan is not having the desired effect, the Chancellor may notify Shawnee State University that the plan is suspended. Upon receiving such notice, Shawnee State University shall avoid all unnecessary expenditures under the plan. The Chancellor shall notify the Controlling Board of the suspension of the plan and within sixty days prepare a new plan for the use of any remaining funds. 125955
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Section 363.340. POLICE AND FIRE PROTECTION 125967

The foregoing appropriation item 235524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. 125968
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Section 363.350. GERIATRIC MEDICINE 125975

The Chancellor of the Board of Regents shall develop plans 125976
consistent with existing criteria and guidelines as may be 125977
required for the distribution of appropriation item 235525, 125978
Geriatric Medicine. 125979

Section 363.360. PRIMARY CARE RESIDENCIES 125980

The Chancellor of the Board of Regents shall develop plans 125981
consistent with existing criteria and guidelines as may be 125982
required for the distribution of appropriation item 235526, 125983
Primary Care Residencies. 125984

The foregoing appropriation item 235526, Primary Care 125985
Residencies, shall be distributed in each fiscal year of the 125986
biennium, based on whether or not the institution has submitted 125987
and gained approval for a plan. If the institution does not have 125988
an approved plan, it shall receive five per cent less funding per 125989
student than it would have received from its annual allocation. 125990
The remaining funding shall be distributed among those 125991
institutions that meet or exceed their targets. 125992

Section 363.370. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 125993
CENTER 125994

The foregoing appropriation item 235535, Ohio Agricultural 125995
Research and Development Center, shall be disbursed through the 125996
Chancellor of the Board of Regents to The Ohio State University in 125997
monthly payments, unless otherwise determined by the Director of 125998
Budget and Management under section 126.09 of the Revised Code. 125999
The Ohio Agricultural Research and Development Center shall not be 126000
required to remit payment to The Ohio State University during the 126001
biennium ending June 30, 2015, for cost reallocation assessments. 126002
The cost reallocation assessments include, but are not limited to, 126003

any assessment on state appropriations to the Center. 126004

The Ohio Agricultural Research and Development Center, an 126005
entity of the College of Food, Agricultural, and Environmental 126006
Sciences of The Ohio State University, shall further its mission 126007
of enhancing Ohio's economic development and job creation by 126008
continuing to internally allocate on a competitive basis 126009
appropriated funding of programs based on demonstrated 126010
performance. Academic units, faculty, and faculty-driven programs 126011
shall be evaluated and rewarded consistent with agreed-upon 126012
performance expectations as called for in the College's 126013
Expectations and Criteria for Performance Assessment. 126014

Section 363.380. STATE UNIVERSITY CLINICAL TEACHING 126015

The foregoing appropriation items 235536, The Ohio State 126016
University Clinical Teaching; 235537, University of Cincinnati 126017
Clinical Teaching; 235538, University of Toledo Clinical Teaching; 126018
235539, Wright State University Clinical Teaching; 235540, Ohio 126019
University Clinical Teaching; and 235541, Northeast Ohio Medical 126020
University Clinical Teaching, shall be distributed through the 126021
Chancellor of the Board of Regents. 126022

Section 363.390. CAPITAL COMPONENT 126023

The foregoing appropriation item 235552, Capital Component, 126024
shall be used by the Chancellor of the Board of Regents to provide 126025
funding for prior commitments made pursuant to the state's former 126026
capital funding policy for state colleges and universities that 126027
was originally established in Am. H.B. 748 of the 121st General 126028
Assembly. Appropriations from this item shall be distributed to 126029
all campuses for which the estimated campus debt service 126030
attributable to qualifying capital projects was less than the 126031
campus's formula-determined capital component allocation. Campus 126032
allocations shall be determined by subtracting the estimated 126033

campus debt service attributable to qualifying capital projects 126034
from the campus's formula-determined capital component allocation. 126035
Moneys distributed from this appropriation item shall be 126036
restricted to capital-related purposes. 126037

Any campus for which the estimated campus debt service 126038
attributable to qualifying capital projects is greater than the 126039
campus's formula-determined capital component allocation shall 126040
have the difference subtracted from its State Share of Instruction 126041
allocation in each fiscal year. Appropriation equal to the sum of 126042
all such amounts except that of the Ohio Agricultural Research and 126043
Development Center shall be transferred from appropriation item 126044
235501, State Share of Instruction, to appropriation item 235552, 126045
Capital Component. Appropriation equal to any estimated Ohio 126046
Agricultural Research and Development Center debt service 126047
attributable to qualifying capital projects that is greater than 126048
the Center's formula-determined capital component allocation shall 126049
be transferred from appropriation item 235535, Ohio Agricultural 126050
Research and Development Center, to appropriation item 235552, 126051
Capital Component. 126052

Section 363.400. LIBRARY DEPOSITORIES 126053

The foregoing appropriation item, 235555, Library 126054
Depositories, shall be distributed to the state's five regional 126055
depository libraries for the cost-effective storage of and access 126056
to lesser-used materials in university library collections. The 126057
depositories shall be administrated by the Chancellor of the Board 126058
of Regents, or by OhioLINK at the discretion of the Chancellor. 126059

Section 363.410. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 126060

The foregoing appropriation item 235556, Ohio Academic 126061
Resources Network, shall be used by the Chancellor of the Board of 126062
Regents to support the operations of the Ohio Academic Resources 126063

Network, a consortium organized under division (T) of section 126064
3333.04 of the Revised Code, which shall include support for 126065
Ohio's colleges and universities in maintaining and enhancing 126066
network connections, using new network technologies to improve 126067
research, education, and economic development programs, and 126068
sharing information technology services. To the extent network 126069
capacity is available, OARnet shall support allocating bandwidth 126070
to eligible programs directly supporting Ohio's economic 126071
development. 126072

Section 363.420. LONG-TERM CARE RESEARCH 126073

The foregoing appropriation item 235558, Long-term Care 126074
Research, shall be disbursed to Miami University for long-term 126075
care research. 126076

Section 363.430. OHIO COLLEGE OPPORTUNITY GRANT 126077

(A) Except as provided in division (C) of this section: 126078

Of the foregoing appropriation item 235563, Ohio College 126079
Opportunity Grant, \$41,000,000 in each fiscal year shall be used 126080
by the Chancellor of the Board of Regents to award need-based 126081
financial aid to students enrolled in eligible four-year public 126082
institutions of higher education, excluding early college high 126083
school and post-secondary enrollment option participants. 126084

Of the foregoing appropriation item 235563, Ohio College 126085
Opportunity Grant, \$41,000,000 in each fiscal year shall be used 126086
by the Chancellor of the Board of Regents to award need-based 126087
financial aid to students enrolled in eligible private nonprofit 126088
institutions of higher education, excluding early college high 126089
school and post-secondary enrollment option participants. 126090

The remainder of the foregoing appropriation item 235563, 126091
Ohio College Opportunity Grant, shall be used by the Chancellor of 126092
the Board of Regents to award needs-based financial aid to 126093

students enrolled in eligible private for-profit career colleges and schools. 126094
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(B)(1) As used in this section: 126096

(a) "Eligible institution" means any institution described in divisions (B)(2)(a) to (c) of section 3333.122 of the Revised Code. 126097
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(b) The three "sectors" of institutions of higher education consist of the following: 126100
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(i) State colleges and universities, community colleges, state community colleges, university branches, and technical colleges; 126102
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(ii) Eligible private nonprofit institutions of higher education; 126105
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(iii) Eligible private for-profit career colleges and schools. 126107
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(2) If the Chancellor determines that the amounts appropriated for support of the Ohio College Opportunity Grant program are inadequate to provide grants to all eligible students as calculated under division (D) of section 3333.122 of the Revised Code, the Chancellor may create a distribution formula for fiscal year 2014 and fiscal year 2015 based on the formula used in fiscal year 2013, or may follow methods established in division (C)(1)(a) or (b) of section 3333.122 of the Revised Code. The Chancellor shall notify the Controlling Board of the distribution method. Any formula calculated under this division shall be complete and established to coincide with the start of the 2013-2014 academic year. 126109
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(C) Prior to determining the amount of funds available to award under this section and section 3333.122 of the Revised Code, the Chancellor shall use the foregoing appropriation item 235563, 126121
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126123

Ohio College Opportunity Grant, to pay for renewals or partial 126124
renewals of scholarships students receive under the Ohio Academic 126125
Scholarship Program under sections 3333.21 and 3333.22 of the 126126
Revised Code. In paying for scholarships under this division, the 126127
Chancellor shall deduct funds from the allocations made under 126128
division (A) of this section. Deductions shall be proportionate to 126129
the amounts allocated to each sector from the total amounts 126130
appropriated for each sector under the foregoing appropriation 126131
item 235563, Ohio College Opportunity Grant. 126132

In each fiscal year, the Chancellor shall not distribute or 126133
obligate or commit to be distributed an amount greater than what 126134
is appropriated under the foregoing appropriation item 235563, 126135
Ohio College Opportunity Grant. 126136

(D) The Chancellor shall establish, and post on the Ohio 126137
Board of Regents' web site, award tables based on any formulas 126138
created under division (B) of this section. The Chancellor shall 126139
notify students and institutions of any reductions in awards under 126140
this section. 126141

On or before August 31, 2013, the Chancellor of the Board of 126142
Regents shall submit award tables to the Controlling Board for the 126143
2013-2014 academic year and allocations of Ohio College 126144
Opportunity Grant awards not already specified in section 3333.122 126145
of the Revised Code. 126146

(E) Notwithstanding section 3333.122 of the Revised Code, no 126147
student shall be eligible to receive an Ohio College Opportunity 126148
Grant for more than ten semesters, fifteen quarters, or the 126149
equivalent of five academic years, less the number of semesters or 126150
quarters in which the student received an Ohio Instructional 126151
Grant. 126152

Section 363.440. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 126153

The foregoing appropriation item 235572, The Ohio State University Clinic Support, shall be distributed through the Chancellor of the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

Section 363.450. NATIONAL GUARD SCHOLARSHIP PROGRAM 126158

The Chancellor of the Board of Regents shall disburse funds from appropriation item 235599, National Guard Scholarship Program. During each fiscal year, the Chancellor of the Board of Regents, within ten days of cancellation, may certify to the Director of Budget and Management the amount of canceled prior-year encumbrances in appropriation item 235599, National Guard Scholarship Program. Upon receipt of the certification, the Director of Budget and Management may transfer cash in an amount up to the amount certified from the General Revenue Fund to the National Guard Scholarship Reserve Fund (Fund 5BM0). The Chancellor of the Board of Regents shall seek Controlling Board approval to authorize additional expenditures for appropriation item 235623, National Guard Scholarship Reserve Fund. Upon approval of the Controlling Board, the additional amounts are hereby appropriated. The Chancellor of the Board of Regents shall disburse funds from appropriation item 235623, National Guard Scholarship Reserve Fund.

Section 363.460. PLEDGE OF FEES 126176

Any new pledge of fees, or new agreement for adjustment of fees, made in the biennium ending June 30, 2015, to secure bonds or notes of a state institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Chancellor of the Board of Regents, unless approved in a previous biennium.

Section 363.470. HIGHER EDUCATION GENERAL OBLIGATION DEBT 126184
SERVICE 126185

The foregoing appropriation item 235909, Higher Education 126186
General Obligation Debt Service, shall be used to pay all debt 126187
service and related financing costs at the times they are required 126188
to be made during the period from July 1, 2013, through June 30, 126189
2015, for obligations issued under sections 151.01 and 151.04 of 126190
the Revised Code. 126191

Section 363.480. SALES AND SERVICES 126192

The Chancellor of the Board of Regents is authorized to 126193
charge and accept payment for the provision of goods and services. 126194
Such charges shall be reasonably related to the cost of producing 126195
the goods and services. Except as otherwise provided by law, no 126196
charges may be levied for goods or services that are produced as 126197
part of the routine responsibilities or duties of the Chancellor. 126198
All revenues received by the Chancellor of the Board of Regents 126199
shall be deposited into Fund 4560, and may be used by the 126200
Chancellor of the Board of Regents to pay for the costs of 126201
producing the goods and services. 126202

Section 363.490. HIGHER EDUCATIONAL FACILITY COMMISSION 126203
ADMINISTRATION 126204

The foregoing appropriation item 235602, Higher Educational 126205
Facility Commission Administration, shall be used by the 126206
Chancellor of the Board of Regents for operating expenses related 126207
to the Chancellor of the Board of Regents' support of the 126208
activities of the Ohio Higher Educational Facility Commission. 126209
Upon the request of the Chancellor, the Director of Budget and 126210
Management may transfer up to \$29,100 cash in each fiscal year 126211
from the HEFC Operating Expenses Fund (Fund 4610) to the HEFC 126212
Administration Fund (Fund 4E80). 126213

Section 363.500. NURSING LOAN PROGRAM 126214

The foregoing appropriation item 235606, Nursing Loan 126215
Program, shall be used to administer the nurse education 126216
assistance program. Up to \$50,000 in each fiscal year may be used 126217
for operating expenses associated with the program. Any additional 126218
funds needed for the administration of the program are subject to 126219
Controlling Board approval. 126220

Section 363.510. TELECOMMUNITY AND DISTANCE LEARNING 126221

Of the foregoing appropriation item 235674, Telecommunity and 126222
Distance Learning, up to \$25,000 in each fiscal year shall be 126223
distributed by the Chancellor of the Board of Regents on a grant 126224
basis to eligible school districts to establish "distance 126225
learning" through interactive video technologies in the school 126226
district. Per agreements with eight Ohio local telephone 126227
companies, ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe 126228
Telephone Company, Cincinnati Bell Telephone Company, Orwell 126229
Telephone Company, Sprint North Central Telephone, VERIZON, and 126230
Western Reserve Telephone Company, school districts are eligible 126231
for funds if they are within one of the listed telephone company 126232
service areas. Funds to administer the program shall be expended 126233
by the Chancellor of the Board of Regents up to the amount 126234
specified in the agreements with the listed telephone companies. 126235

Within thirty days after the effective date of this section, 126236
the Director of Budget and Management shall transfer to Fund 4X10 126237
in the State Special Revenue Fund Group any investment earnings 126238
from moneys paid by any telephone company as part of any 126239
settlement agreement between the listed companies and the Public 126240
Utilities Commission in fiscal years 1996 and beyond. 126241

Of the foregoing appropriation item 235674, Telecommunity and 126242
Distance Learning, up to \$24,150 in each fiscal year shall be 126243

distributed by the Chancellor of the Board of Regents on a grant 126244
basis to eligible school districts to establish "distance 126245
learning" in the school district. Per an agreement with Ameritech, 126246
school districts are eligible for funds if they are within an 126247
Ameritech service area. Funds to administer the program shall be 126248
expended by the Chancellor of the Board of Regents up to the 126249
amount specified in the agreement with Ameritech. 126250

Within thirty days after the effective date of this section, 126251
the Director of Budget and Management shall transfer to Fund 4X10 126252
in the State Special Revenue Fund Group any investment earnings 126253
from moneys paid by any telephone company as part of a settlement 126254
agreement between the company and the Public Utilities Commission 126255
in fiscal year 1995. 126256

Section 363.520. VETERANS PREFERENCES 126257

The Chancellor of the Board of Regents shall work with the 126258
Department of Veterans Services to develop specific veterans 126259
preference guidelines for higher education institutions. These 126260
guidelines shall ensure that the institutions' hiring practices 126261
are in accordance with the intent of Ohio's veterans preference 126262
laws. 126263

Section 363.530. STATE NEED-BASED FINANCIAL AID 126264
RECONCILIATION 126265

By the first day of August in each fiscal year, or as soon as 126266
possible thereafter, the Chancellor of the Board of Regents shall 126267
certify to the Director of Budget and Management the amount 126268
necessary to pay any outstanding prior year obligations to higher 126269
education institutions for the state's need-based financial aid 126270
programs. The amounts certified are hereby appropriated to 126271
appropriation item 235618, State Need-based Financial Aid 126272
Reconciliation, from revenues received in the State Need-based 126273

Financial Aid Reconciliation Fund (Fund 5Y50). 126274

Section 363.540. (A) As used in this section: 126275

(1) "Board of trustees" includes the managing authority of a 126276
university branch district. 126277

(2) "State institution of higher education" has the same 126278
meaning as in section 3345.011 of the Revised Code. 126279

(B) The board of trustees of any state institution of higher 126280
education, notwithstanding any rule of the institution to the 126281
contrary, may adopt a policy providing for mandatory furloughs of 126282
employees, including faculty, to achieve spending reductions 126283
necessitated by institutional budget deficits. 126284

Section 363.550. EFFICIENCY ADVISORY COMMITTEE 126285

The Chancellor of the Board of Regents shall establish an 126286
efficiency advisory committee for the purpose of generating 126287
optimal efficiency plans for campuses, identifying shared services 126288
opportunities, and sharing best practices. The efficiency advisory 126289
committee shall also attempt to reduce the cost of textbooks and 126290
other education resource materials. The committee shall meet at 126291
the call of the Chancellor or the Chancellor's designee, but at 126292
least quarterly. Each state institution of higher education shall 126293
designate an employee to serve as its efficiency officer 126294
responsible for the evaluation and improvement of operational 126295
efficiencies on campus. Each efficiency officer shall serve on the 126296
efficiency advisory committee. 126297

By December 31 of each year, the Efficiency Advisory 126298
Committee shall provide a report to the Office of Budget and 126299
Management, the Governor, and the General Assembly compiling the 126300
operational efficiency plans for all institutions of higher 126301
education and benchmarking efficiency gains realized over the 126302
preceding year and progress in implementing the prior year's 126303

efficiency plan. The report shall also be made available to the public on the Ohio Board of Regents web site.

Section 363.570. (A) FUND ABOLITION

On July 1, 2013, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance in the eTech Ohio Telecommunity Education Fund (Fund 4W90) to the Distance Learning Fund (Fund 4X10). Upon completion of the transfer, the eTech Ohio Telecommunity Education Fund (Fund 4W90) is hereby abolished.

(B) ETECH OHIO COMMISSION ABOLISHMENT AND APPROPRIATION LINE ITEM TRANSFER

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935401, Statehouse News Bureau, and re-establish them against appropriation item 235478, Statehouse News Bureau. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935401, Statehouse News Bureau, by July 1, 2013, shall be completed under appropriation item 235478, Statehouse News Bureau, in the same manner and with the same effect as if it were completed with regard to appropriation item 935401, Statehouse News Bureau.

Effective July 1, 2013, the Director of Budget and Management shall cancel any existing encumbrances against appropriation item 935402, Ohio Government Telecommunications Services, and re-establish them against appropriation item 235479, Ohio Government Telecommunications Services. The re-established encumbrance amounts are hereby appropriated. Any business commenced but not completed under appropriation item 935402, Ohio Government Telecommunications Services, by July 1, 2013, shall be completed under appropriation item 235479, Ohio Government

Telecommunications Services, in the same manner and with the same 126335
effect as if it were completed with regard to appropriation item 126336
935402, Ohio Government Telecommunications Services. 126337

Effective July 1, 2013, the Director of Budget and Management 126338
shall cancel any existing encumbrances against appropriation item 126339
935408, General Operations, and re-establish them, as determined 126340
to be appropriate by the Director of Budget and Management, 126341
against appropriation item 235480, General Technology Operations. 126342
The re-established encumbrance amounts are hereby appropriated. 126343
Any business commenced but not completed under appropriation item 126344
935408, General Operations, by July 1, 2013, shall be completed, 126345
as determined to be appropriate by the Director of Budget and 126346
Management, under appropriation item 235480, General Technology 126347
Operations, in the same manner and with the same effect as if it 126348
were completed with regard to appropriation item 935408, General 126349
Operations. 126350

Effective July 1, 2013, the Director of Budget and Management 126351
shall cancel any existing encumbrances against appropriation item 126352
935409, Technology Operations, and re-establish them against 126353
appropriation item 235481, Technology Operations. The 126354
re-established encumbrance amounts are hereby appropriated. Any 126355
business commenced but not completed under appropriation item 126356
935409, Technology Operations, by July 1, 2013, shall be completed 126357
under appropriation item 235481, Technology Operations, in the 126358
same manner and with the same effect as if it were completed with 126359
regard to appropriation item 935409, Technology Operations. 126360

Effective July 1, 2013, the Director of Budget and Management 126361
shall cancel any existing encumbrances against appropriation item 126362
935410, Content Development, Acquisition, and Distribution, and 126363
re-establish them, as determined to be appropriate by the Director 126364
of Budget and Management, against appropriation item 235482, 126365
Content Development, Acquisition, and Distribution. The 126366

re-established encumbrance amounts are hereby appropriated. Any 126367
business commenced but not completed under appropriation item 126368
935410, Content Development, Acquisition, and Distribution, by 126369
July 1, 2013, shall be completed, as determined to be appropriate 126370
by the Director of Budget and Management, under appropriation item 126371
235482, Content Development, Acquisition, and Distribution, in the 126372
same manner and with the same effect as if it were completed with 126373
regard to appropriation item 935410, Content Development, 126374
Acquisition, and Distribution. 126375

Effective July 1, 2013, the Director of Budget and Management 126376
shall cancel any existing encumbrances against appropriation item 126377
935411, Technology Integration and Professional Development, and 126378
re-establish them, as determined to be appropriate by the Director 126379
of Budget and Management, against appropriation item 235483, 126380
Technology Integration and Professional Development. The 126381
re-established encumbrance amounts are hereby appropriated. Any 126382
business commenced but not completed under appropriation item 126383
935411, Technology Integration and Professional Development, by 126384
July 1, 2013, shall be completed, as determined to be appropriate 126385
by the Director of Budget and Management, under appropriation item 126386
235483, Technology Integration and Professional Development, in 126387
the same manner and with the same effect as if it were completed 126388
with regard to appropriation item 935411, Technology Integration 126389
and Professional Development. 126390

Effective July 1, 2013, the Director of Budget and Management 126391
shall cancel any existing encumbrances against appropriation item 126392
935412, Information Technology, and re-establish them against 126393
appropriation item 235484, Information Technology. The 126394
re-established encumbrance amounts are hereby appropriated. Any 126395
business commenced but not completed under appropriation item 126396
935412, Information Technology, by July 1, 2013, shall be 126397
completed under appropriation item 235484, Information Technology, 126398

in the same manner and with the same effect as if it were 126399
completed with regard to appropriation item 935412, Information 126400
Technology. 126401

Effective July 1, 2013, the Director of Budget and Management 126402
shall cancel any existing encumbrances against appropriation item 126403
935603, Affiliate Services, and re-establish them against 126404
appropriation item 235679, Affiliate Services. The re-established 126405
encumbrance amounts are hereby appropriated. Any business 126406
commenced but not completed under appropriation item 935603, 126407
Affiliate Services, by July 1, 2013, shall be completed under 126408
appropriation item 235679, Affiliate Services, in the same manner 126409
and with the same effect as if it were completed with regard to 126410
appropriation item 935603, Affiliate Services. 126411

Effective July 1, 2013, the Director of Budget and Management 126412
shall cancel any existing encumbrances against appropriation item 126413
935605, Government Television/Telecommunications Operating, and 126414
re-establish them against appropriation item 235680, Government 126415
Television/Telecommunications Operating. The re-established 126416
encumbrance amounts are hereby appropriated. Any business 126417
commenced but not completed under appropriation item 935605, 126418
Government Television/Telecommunications Operating, by July 1, 126419
2013, shall be completed under appropriation item 235680, 126420
Government Television/Telecommunications Operating, in the same 126421
manner and with the same effect as if it were completed with 126422
regard to appropriation item 935605, Government 126423
Television/Telecommunications Operating. 126424

Effective July 1, 2013, the Director of Budget and Management 126425
shall cancel any existing encumbrances against appropriation item 126426
935608, Media Services, and re-establish them against 126427
appropriation item 235676, Media Services. The re-established 126428
encumbrance amounts are hereby appropriated. Any business 126429
commenced but not completed under appropriation item 935608, Media 126430

Services, by July 1, 2013, shall be completed under appropriation 126431
item 235676, Media Services, in the same manner and with the same 126432
effect as if it were completed with regard to appropriation item 126433
935608, Media Services. 126434

Effective July 1, 2013, the Director of Budget and Management 126435
shall cancel any existing encumbrances against appropriation item 126436
935640, Conference/Special Purposes, and re-establish them against 126437
appropriation item 235675, Conference/Special Purposes. The 126438
re-established encumbrance amounts are hereby appropriated. Any 126439
business commenced but not completed under appropriation item 126440
935640, Conference/Special Purposes, by July 1, 2013, shall be 126441
completed under appropriation item 235675, Conference/Special 126442
Purposes, in the same manner and with the same effect as if it 126443
were completed with regard to appropriation item 935640, 126444
Conference/Special Purposes. 126445

Effective July 1, 2013, the Director of Budget and Management 126446
shall cancel any existing encumbrances against appropriation item 126447
935630, Telecommunity, and cancel any existing encumbrances 126448
against appropriation item 935634, Distance Learning, and 126449
re-establish them against appropriation item 235674, Telecommunity 126450
and Distance Learning. The re-established encumbrance amounts are 126451
hereby appropriated. Any business commenced but not completed 126452
under appropriation items 935630, Telecommunity, and 935634, 126453
Distance Learning, by July 1, 2013, shall be completed under 126454
appropriation item 235674, Telecommunity and Distance Learning, in 126455
the same manner and with the same effect as if it were completed 126456
with regard to appropriation items 935630, Telecommunity, and 126457
935634, Distance Learning. 126458

On July 1, 2013, or as soon as possible thereafter, the 126459
Director of Budget and Management shall cancel any existing 126460
capital appropriations and capital encumbrances of the former 126461
eTech Ohio Commission in the Higher Education Improvement Fund 126462

(Fund 7034), and re-establish them with the Chancellor of the Board of Regents in the Higher Education Improvement Fund (Fund 7034). The re-established amounts are hereby appropriated.

Effective July 1, 2013, notwithstanding any provision of the law to the contrary, the Director of Budget and Management may make budget changes made necessary by the transfer of the former eTech Ohio Commission to the Chancellor of the Board of Regents, if any, including administrative organization, program transfers, the creation of new funds, the transfer of state funds, the consolidation of funds, and the transfer of capital appropriations, as authorized by this section. The Director of Budget and Management may, if necessary, establish prior year encumbrances or parts of prior year encumbrances of the former eTech Ohio Commission with the Chancellor of the Board of Regents in the appropriate fund and appropriation item for the same purpose and for payment to the same vendor in fiscal year 2014 or fiscal year 2015. The established encumbrances plus any additional amounts determined to be necessary for the Chancellor of the Board of Regents to perform the operations and related management functions of the former eTech Ohio Commission are hereby appropriated.

(C) OHIO BROADCASTING AND PUBLIC RADIO ADVISORY BOARD

There is hereby created the Ohio Broadcasting and Public Radio Advisory Board within the office of the Chancellor of the Board of Regents. All centralized broadcasting services, public television services, and public radio services currently provided by the eTech Ohio Commission North Star facility are hereby transferred to the Chancellor of the Board of Regents. The Chancellor of the Board of Regents shall select an Ohio Broadcasting and Public Radio Advisory Board comprised of four members who will advise the Chancellor on the direction and expenditure of funds. The Chancellor shall also appoint an

Executive Director of the Ohio Broadcasting and Public Radio 126495
Advisory Board, who shall oversee the daily operations and staff 126496
of the North Star facility. 126497

(D) CONFERENCE OPERATION OFFICE 126498

Beginning in fiscal year 2014, the annual eTech Ohio 126499
Conference will be overseen by a Conference Operation Office 126500
comprised of employees of the Chancellor of the Board of Regents 126501
and Department of Education, including former employees of the 126502
eTech Ohio Commission transferred to the Chancellor of the Board 126503
of Regents and the Department of Education. The Office shall be 126504
responsible for conferences that focus on professional development 126505
in the education field, educational technology, distance learning, 126506
and other education topics pertinent to the State of Ohio. 126507

(E) ETECH ABOLISHMENT 126508

On and after July 1, 2013, the eTech Ohio Commission is 126509
hereby abolished and its duties, personnel, assets, and 126510
liabilities are transferred as provided in divisions (F) and (G) 126511
of this section. 126512

(F) TRANSFER OF RESPONSIBILITIES 126513

(1) On July 1, 2013, responsibility for administration of the 126514
state's educational telecommunications activities under sections 126515
3333.89, 3333.91, and 3333.92 and new section 3333.90 of the 126516
Revised Code and teacher professional development for implementing 126517
educational technology under section 3319.235 of the Revised Code 126518
are transferred from the former eTech Ohio Commission to the 126519
Chancellor of the Ohio Board of Regents. The Chancellor is 126520
thereupon and thereafter successor to, assumes the obligations of, 126521
and otherwise constitutes the continuation of the eTech Ohio 126522
Commission relating to the functions, assets, records, and 126523
obligations of the state regarding those matters. 126524

All other functions of the former eTech Ohio Commission are 126525

discontinued. 126526

(2) Any business commenced but not completed by the former 126527
eTech Ohio Commission shall be completed by the Chancellor in the 126528
same manner, and with the same effect, as if completed by the 126529
eTech Ohio Commission. No validation, cure, right, privilege, 126530
remedy, obligation, or liability is lost or impaired by reason of 126531
the transfer, and shall be recognized, administered, performed, or 126532
enforced by the Chancellor. 126533

(3) All of the rules of the former eTech Ohio Commission 126534
continue in effect as rules of the Chancellor, until amended or 126535
rescinded by the Chancellor. 126536

(4) No judicial or administrative action or proceeding in 126537
which the former eTech Ohio Commission is a party, that is pending 126538
on the effective date of this section, is affected by the 126539
transfer. Such action or proceeding shall be prosecuted or 126540
defended in the name of the Chancellor. On application to the 126541
court or other tribunal, the Chancellor of the Ohio Board of 126542
Regents shall be substituted for the eTech Ohio Commission as a 126543
party to such action or proceeding. 126544

(5) Subject to the lay-off provisions of sections 124.321 to 126545
124.328, section 3301.41, and division (C) of new section 3333.90 126546
of the Revised Code, all employees of the former eTech Ohio 126547
Commission continue with the Chancellor or with the Department of 126548
Education and retain their positions and all benefits accruing 126549
thereto. The Chancellor, the Superintendent of Public Instruction, 126550
and the Director of the Office of Budget and Management shall 126551
jointly determine which employees continue with the Chancellor and 126552
which continue with the Department. 126553

(6) All books, records, documents, files, transcripts, 126554
equipment, furniture, supplies, and other materials assigned to or 126555
in the possession of the former eTech Ohio Commission shall be 126556

transferred to the Chancellor. 126557

(G) TRANSFER OF CAPITAL DUTIES 126558

As of July 1, 2013, the Chancellor of the Board of Regents 126559
shall succeed to and have and perform all fiduciary duties and 126560
responsibilities previously held by the Director of eTech Ohio for 126561
all outstanding capital appropriations designated for use by eTech 126562
Ohio. 126563

(H) EDUCATIONAL TELECOMMUNICATIONS RESPONSIBILITIES 126564

(1) Beginning July 1, 2013, the Chancellor of the Ohio Board 126565
of Regents shall do all of the following regarding the management 126566
and oversight of the state's educational telecommunications 126567
activities: 126568

(a) Own or operate transmission facilities and 126569
interconnection facilities, or contract for transmission 126570
facilities and interconnection facilities, for an educational 126571
television, radio, or radio reading service network; 126572

(b) Establish standards for interconnection facilities used 126573
by the Chancellor in the transmission of educational television, 126574
radio, or radio reading service programming; 126575

(c) Enter into agreements with noncommercial educational 126576
television or radio broadcasting stations or radio reading 126577
services for the operation of the interconnection; 126578

(d) Enter into agreements with noncommercial educational 126579
television or radio broadcasting stations or radio reading 126580
services for the production and use of educational television, 126581
radio, or radio reading service programs to be transmitted by the 126582
educational telecommunications network; 126583

(e) Act as consultant with educational television and 126584
educational radio stations and radio reading services toward 126585
coordination within the state of the distribution of federal funds 126586

that may become available for equipment for educational 126587
broadcasting or radio reading services; 126588

(f) Make payments to noncommercial Ohio educational 126589
television or radio broadcasting stations or radio reading 126590
services to sustain the operation of such stations or services; 126591

(g) Execute contracts and other agreements necessary and 126592
desirable to carry out the purposes of this section. 126593

(2) Sections 9.331 to 9.335 and Chapters 123., 124., 125., 126594
and 153. of the Revised Code do not apply to contracts, programs, 126595
projects, or activities of the Chancellor carried out under 126596
division (H)(1) of this section. 126597

(3) All employees of the former eTech Ohio Commission who 126598
transferred to the office of the Chancellor, as a result of the 126599
transfer to the Chancellor of the state's educational 126600
telecommunications activities by this section, and who when 126601
employed by that Commission or a predecessor agency were included 126602
in a bargaining unit established under Chapter 4117. of the 126603
Revised Code, shall continue to be included in that bargaining 126604
unit, are public employees as defined in section 4117.01 of the 126605
Revised Code, and may collectively bargain with the Chancellor in 126606
accordance with that chapter. Otherwise, any employee hired by the 126607
Chancellor on or after the effective date of this section, either 126608
to fill vacancies or to fill new positions related to the 126609
Chancellor's duties under this section, shall be exempt from 126610
Chapter 4117. of the Revised Code and shall not be public 126611
employees as defined in section 4117.01 of the Revised Code. 126612

Section 365.10. DRC DEPARTMENT OF REHABILITATION AND 126613
CORRECTION 126614

General Revenue Fund 126615

GRF 501321 Institutional \$ 883,768,015 \$ 873,724,802 126616

		Operations				
GRF	501403	Prisoner Compensation	\$	6,000,000	\$	6,000,000 126617
GRF	501405	Halfway House	\$	45,049,356	\$	46,024,108 126618
GRF	501406	Lease Rental Payments	\$	104,099,500	\$	99,534,800 126619
GRF	501407	Community	\$	34,187,858	\$	34,314,390 126620
		Nonresidential				
		Programs				
GRF	501408	Community Misdemeanor	\$	12,856,800	\$	12,856,800 126621
		Programs				
GRF	501501	Community Residential	\$	63,345,972	\$	66,150,781 126622
		Programs - CBCF				
GRF	503321	Parole and Community	\$	64,480,938	\$	65,029,680 126623
		Operations				
GRF	504321	Administrative	\$	20,659,664	\$	20,907,476 126624
		Operations				
GRF	505321	Institution Medical	\$	234,289,774	\$	236,139,452 126625
		Services				
GRF	506321	Institution Education	\$	19,102,051	\$	19,112,418 126626
		Services				
TOTAL GRF		General Revenue Fund	\$	1,487,839,928	\$	1,479,794,707 126627
		General Services Fund Group				126628
1480	501602	Institutional	\$	3,139,577	\$	3,139,577 126629
		Services				
2000	501607	Ohio Penal Industries	\$	41,393,226	\$	40,609,872 126630
4830	501605	Property Receipts	\$	582,086	\$	582,086 126631
4B00	501601	Sewer Treatment	\$	2,023,671	\$	2,067,214 126632
		Services				
4D40	501603	Prisoner Programs	\$	17,499,255	\$	17,499,255 126633
4L40	501604	Transitional Control	\$	1,113,120	\$	1,113,120 126634
4S50	501608	Education Services	\$	4,114,782	\$	4,114,782 126635
5710	501606	Training Academy	\$	125,000	\$	125,000 126636
		Receipts				
5930	501618	Laboratory Services	\$	3,750,000	\$	0 126637

5AF0 501609	State and Non-Federal Awards	\$	1,440,000	\$	1,440,000	126638
5H80 501617	Offender Financial Responsibility	\$	2,000,000	\$	2,000,000	126639
5L60 501611	Information Technology Services	\$	250,000	\$	250,000	126640
TOTAL GSF	General Services Fund Group	\$	77,430,717	\$	72,940,906	126641
Federal Special Revenue Fund Group						126642
3230 501619	Federal Grants	\$	7,132,943	\$	7,132,943	126643
TOTAL FED	Federal Special Revenue Fund Group	\$	7,132,943	\$	7,132,943	126645
TOTAL ALL BUDGET FUND GROUPS		\$	1,572,403,588	\$	1,559,868,556	126646
TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL SENTENCING REFORMS						126647
For the purposes of implementing criminal sentencing reforms, and notwithstanding any other provision of law to the contrary, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, may transfer up to \$14,000,000 in appropriations, in each of fiscal years 2014 and 2015, from appropriation item 501321, Institutional Operations, to any combination of appropriation items 501405, Halfway House; 501407, Community Residential Programs; 501408, Community Misdemeanor Programs; and 501501, Community Residential Programs - CBCF.						126648
LEASE RENTAL PAYMENTS						126649
The foregoing appropriation item 501406, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2013, through June 30, 2015, by the Department of Rehabilitation and Correction under the primary leases and agreements for those buildings made under Chapters 152. and 154. of the Revised Code. These						126650
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appropriations are the source of funds pledged for bond service 126666
charges on related obligations issued under Chapters 152. and 154. 126667
of the Revised Code. 126668

OSU MEDICAL CHARGES 126669

Notwithstanding section 341.192 of the Revised Code, at the 126670
request of the Department of Rehabilitation and Correction, The 126671
Ohio State University Medical Center, including the Arthur G. 126672
James Cancer Hospital and Richard J. Solove Research Institute and 126673
the Richard M. Ross Heart Hospital, shall provide necessary care 126674
to persons who are confined in state adult correctional 126675
facilities. The provision of necessary care shall be billed to the 126676
Department at a rate not to exceed the authorized reimbursement 126677
rate for the same service established by the Department of 126678
Medicaid under the Medicaid Program. 126679

CORRECTIVE CASH TRANSFER 126680

At the request of the Director of Rehabilitation and 126681
Correction, the Director of Budget and Management may transfer an 126682
amount not to exceed \$2,391 in cash that was mistakenly deposited 126683
in the Federal Grants Fund (Fund 3230) to the General Revenue 126684
Fund. 126685

Section 369.10. RCB RESPIRATORY CARE BOARD 126686

General Services Fund Group 126687
4K90 872609 Operating Expenses \$ 547,576 \$ 542,246 126688
TOTAL GSF General Services 126689
Fund Group \$ 547,576 \$ 542,246 126690
TOTAL ALL BUDGET FUND GROUPS \$ 547,576 \$ 542,246 126691

Section 371.10. RDF REVENUE DISTRIBUTION FUNDS 126693

Special State Revenue Fund Group 126694
5JG0 110633 Gross Casino Revenue \$ 158,005,325 \$ 168,977,942 126695

County Fund			
TOTAL SSR State Special Revenue	\$	158,005,325	\$ 168,977,942 126696
Fund Group			
Volunteer Firefighters' Dependents Fund			126697
7085 800985 Volunteer Firemen's	\$	300,000	\$ 300,000 126698
Dependents Fund			
TOTAL 085 Volunteer Firefighters'			126699
Dependents Fund	\$	300,000	\$ 300,000 126700
Agency Fund Group			
4P80 001698 Cash Management	\$	3,100,000	\$ 3,100,000 126702
Improvement Fund			
5JH0 110634 Gross Casino Revenue	\$	105,336,883	\$ 112,651,961 126703
County Student Fund			
5JJ0 110636 Gross Casino Revenue	\$	15,490,718	\$ 16,566,465 126704
Host City Fund			
6080 001699 Investment Earnings	\$	30,000,000	\$ 30,000,000 126705
7062 110962 Resort Area Excise	\$	1,000,000	\$ 1,000,000 126706
Tax			
7063 110963 Permissive Tax	\$	2,066,331,400	\$ 2,151,135,100 126707
Distribution			
7067 110967 School District	\$	346,669,300	\$ 365,277,800 126708
Income Tax			
7099 762902 Permissive Tax	\$	184,000,000	\$ 184,000,000 126709
Distribution - Auto Registration			
TOTAL AGY Agency Fund Group	\$	2,751,928,301	\$ 2,863,731,326 126710
Holding Account Redistribution			
R045 110617 International Fuel	\$	40,000,000	\$ 40,000,000 126712
Tax Distribution			
TOTAL 090 Holding Account	\$	40,000,000	\$ 40,000,000 126713
Redistribution Fund			
Revenue Distribution Fund Group			
			126714

7049	335900	Indigent Drivers Alcohol Treatment	\$ 2,250,000	\$ 2,250,000	126715
7050	762900	International Registration Plan Distribution	\$ 30,000,000	\$ 30,000,000	126716
7051	762901	Auto Registration Distribution	\$ 360,000,000	\$ 360,000,000	126717
7054	110954	Local Government Property Tax Replacement - Utility	\$ 5,649,000	\$ 5,649,000	126718
7060	110960	Gasoline Excise Tax Fund	\$ 395,000,000	\$ 395,000,000	126719
7065	110965	Public Library Fund	\$ 359,300,000	\$ 369,000,000	126720
7066	800966	Undivided Liquor Permits	\$ 14,100,000	\$ 14,100,000	126721
7068	110968	State and Local Government Highway Distribution	\$ 196,000,000	\$ 196,000,000	126722
7069	110969	Local Government Fund	\$ 363,600,000	\$ 376,400,000	126723
7081	110981	Local Government Property Tax Replacement-Business	\$ 146,500,000	\$ 107,900,000	126724
7082	110982	Horse Racing Tax	\$ 100,000	\$ 100,000	126725
7083	700900	Ohio Fairs Fund	\$ 1,400,000	\$ 1,400,000	126726
TOTAL RDF Revenue Distribution					126727
Fund Group			\$ 1,873,899,000	\$ 1,857,799,000	126728
TOTAL ALL BUDGET FUND GROUPS			\$ 4,824,132,626	\$ 4,930,808,268	126729

ADDITIONAL APPROPRIATIONS

126730

Appropriation items in this section shall be used for the 126731
purpose of administering and distributing the designated revenue 126732
distribution funds according to the Revised Code. If it is 126733
determined that additional appropriations are necessary for this 126734
purpose, such amounts are hereby appropriated. 126735

GENERAL REVENUE FUND TRANSFERS 126736

Notwithstanding any provision of law to the contrary, in 126737
fiscal year 2014 and fiscal year 2015, the Director of Budget and 126738
Management may transfer from the General Revenue Fund to the Local 126739
Government Tangible Property Tax Replacement Fund (Fund 7081) in 126740
the Revenue Distribution Fund Group, those amounts necessary to 126741
reimburse local taxing units under section 5751.22 of the Revised 126742
Code. Also, in fiscal year 2014 and fiscal year 2015, the Director 126743
of Budget and Management may make temporary transfers from the 126744
General Revenue Fund to ensure sufficient balances in the Local 126745
Government Tangible Property Tax Replacement Fund (Fund 7081) and 126746
to replenish the General Revenue Fund for such transfers. 126747

AUTO REGISTRATION DISTRIBUTION FUND 126748

Notwithstanding the amendment to section 4501.03 of the 126749
Revised Code and the enactment of section 4501.031 of the Revised 126750
Code, any license tax assessed under Chapter 4503. or Chapter 126751
4504. of the Revised Code, and derived from registrations 126752
processed on business days prior to July 1, 2013, shall be 126753
deposited to the state treasury to the credit of the auto 126754
registration distribution fund created by section 4501.03 of the 126755
Revised Code, even if such deposit does not occur until on or 126756
after July 1, 2013. All license tax assessed on registrations 126757
under Chapter 4503. or Chapter 4504., of the Revised Code prior to 126758
July 1, 2013 shall be deposited and distributed in accordance with 126759
sections 4501.03, 4501.04, 4501.041, 4501.042, and 4501.043 of the 126760
Revised Code as they existed prior to the amendments under this 126761
act. 126762

Section 373.10. SAN BOARD OF SANITARIAN REGISTRATION 126763

General Services Fund Group 126764
4K90 893609 Operating Expenses \$ 137,850 \$ 129,850 126765

TOTAL GSF General Services				126766
Fund Group	\$	137,850	\$ 129,850	126767
TOTAL ALL BUDGET FUND GROUPS	\$	137,850	\$ 129,850	126768

Section 375.10. OSB OHIO STATE SCHOOL FOR THE BLIND 126770

General Revenue Fund				126771
GRF 226321 Operations	\$	7,278,579	\$ 7,278,579	126772
TOTAL GRF General Revenue Fund	\$	7,278,579	\$ 7,278,579	126773

General Services Fund Group				126774
4H80 226602 Education Reform	\$	27,000	\$ 27,000	126775
Grants				

TOTAL GSF General Services				126776
Fund Group	\$	27,000	\$ 27,000	126777

Federal Special Revenue Fund Group				126778
3100 226626 Coordinating Unit	\$	2,527,104	\$ 2,527,104	126779
3DT0 226621 Ohio Transition	\$	650,000	\$ 650,000	126780

Collaborative				
3P50 226643 Medicaid Professional	\$	50,000	\$ 50,000	126781
Services				
Reimbursement				

TOTAL FED Federal Special				126782
Revenue Fund Group	\$	3,227,104	\$ 3,227,104	126783

State Special Revenue Fund Group				126784
4M50 226601 Work Study and	\$	461,521	\$ 461,521	126785
Technology Investment				

TOTAL SSR State Special Revenue				126786
Fund Group	\$	461,521	\$ 461,521	126787
TOTAL ALL BUDGET FUND GROUPS	\$	10,994,204	\$ 10,994,204	126788

Section 377.10. OSD OHIO SCHOOL FOR THE DEAF 126790

General Revenue Fund				126791
GRF 221321 Operations	\$	8,727,657	\$ 8,727,657	126792

TOTAL GRF General Revenue Fund	\$	8,727,657	\$	8,727,657	126793
General Services Fund Group					126794
4M10 221602 Education Reform	\$	35,000	\$	35,000	126795
Grants					
TOTAL GSF General Services					126796
Fund Group	\$	35,000	\$	35,000	126797
Federal Special Revenue Fund Group					126798
3110 221625 Coordinating Unit	\$	2,153,245	\$	2,153,245	126799
3R00 221684 Medicaid Professional	\$	35,000	\$	35,000	126800
Services					
Reimbursement					
TOTAL FED Federal Special					126801
Revenue Fund Group	\$	2,188,245	\$	2,188,245	126802
State Special Revenue Fund Group					126803
4M00 221601 Educational Program	\$	95,000	\$	95,000	126804
Expenses					
5H60 221609 Even Start Fees and	\$	35,000	\$	35,000	126805
Gifts					
TOTAL SSR State Special Revenue					126806
Fund Group	\$	130,000	\$	130,000	126807
TOTAL ALL BUDGET FUND GROUPS	\$	11,080,902	\$	11,080,902	126808
Section 381.10. SOS SECRETARY OF STATE					126810
General Revenue Fund					126811
GRF 050321 Operating Expenses	\$	2,144,030	\$	2,144,030	126812
GRF 050407 Pollworkers Training	\$	234,196	\$	234,196	126813
TOTAL GRF General Revenue Fund	\$	2,378,226	\$	2,378,226	126814
General Services Fund Group					126815
4120 050609 Notary Commission	\$	475,000	\$	475,000	126816
4130 050601 Information Systems	\$	49,000	\$	49,000	126817
4S80 050610 Board of Voting	\$	7,200	\$	7,200	126818

	Machine Examiners				
5FG0 050620	BOE Reimbursement and Education	\$	80,000	\$	80,000 126819
TOTAL General Services Fund Group		\$	611,200	\$	611,200 126820
Federal Special Revenue Fund Group					126821
3AH0 050614	Election Reform/Health and Human Services	\$	300,000	\$	300,000 126822
3AS0 050616	Help America Vote Act (HAVA)	\$	1,710,000	\$	1,710,000 126823
TOTAL FED Federal Special Revenue Fund Group		\$	2,010,000	\$	2,010,000 126825
State Special Revenue Fund Group					126826
5990 050603	Business Services Operating Expenses	\$	14,385,400	\$	14,385,400 126827
TOTAL SSR State Special Revenue Fund Group		\$	14,385,400	\$	14,385,400 126829
Holding Account Redistribution Fund Group					126830
R001 050605	Uniform Commercial Code Refunds	\$	30,000	\$	30,000 126831
R002 050606	Corporate/Business Filing Refunds	\$	85,000	\$	85,000 126832
TOTAL 090 Holding Account Redistribution Fund Group		\$	115,000	\$	115,000 126834
TOTAL ALL BUDGET FUND GROUPS		\$	19,499,826	\$	19,499,826 126835
	POLLWORKER TRAINING				126836
	The foregoing appropriation item 050407, Pollworkers Training, shall be used to reimburse county boards of elections for pollworker training pursuant to section 3501.27 of the Revised Code. At the end of fiscal year 2014, an amount equal to the unexpended, unencumbered portion of appropriation item 050407, Pollworkers Training, is hereby reappropriated in fiscal year 2015				126837 126838 126839 126840 126841 126842

for the same purpose. 126843

BOARD OF VOTING MACHINE EXAMINERS 126844

The foregoing appropriation item 050610, Board of Voting 126845
Machine Examiners, shall be used to pay for the services and 126846
expenses of the members of the Board of Voting Machine Examiners, 126847
and for other expenses that are authorized to be paid from the 126848
Board of Voting Machine Examiners Fund, which is created in 126849
section 3506.05 of the Revised Code. Moneys not used shall be 126850
returned to the person or entity submitting equipment for 126851
examination. If it is determined that additional appropriations 126852
are necessary, such amounts are hereby appropriated. 126853

HAVA FUNDS 126854

An amount equal to the unexpended, unencumbered portion of 126855
appropriation item 050614, Election Reform/Health and Human 126856
Services, at the end of fiscal year 2014 is reappropriated for the 126857
same purpose in fiscal year 2015. 126858

An amount equal to the unexpended, unencumbered portion of 126859
appropriation item 050616, Help America Vote Act (HAVA), at the 126860
end of fiscal year 2014 is reappropriated for the same purpose in 126861
fiscal year 2015. 126862

The Director of Budget and Management shall credit the 126863
ongoing interest earnings from the Election Reform/Health and 126864
Human Services Fund (Fund 3AH0) and the Help America Vote Act 126865
(HAVA) (Fund 3AS0) to the respective funds and distribute these 126866
earnings in accordance with the terms of the grant under which the 126867
money is received. 126868

MISCELLANEOUS FEDERAL GRANTS 126869

On July 1, 2013, or as soon as possible thereafter, the 126870
Director of Budget and Management shall transfer from the General 126871
Revenue Fund (GRF) all investment earnings and amounts equal to 126872

the interest earnings that were attributable to the Miscellaneous 126873
Federal Grants Fund (Fund 3FM0) in each quarter of fiscal year 126874
2013. The Director of Budget and Management shall credit the 126875
ongoing interest earnings from Fund 3FM0 to that fund and 126876
distribute these earnings in accordance with the terms of the 126877
grant under which the money was received. 126878

HOLDING ACCOUNT REDISTRIBUTION GROUP 126879

The foregoing appropriation items 050605, Uniform Commercial 126880
Code Refunds, and 050606, Corporate/Business Filing Refunds, shall 126881
be used to hold revenues until they are directed to the 126882
appropriate accounts or until they are refunded. If it is 126883
determined that additional appropriations are necessary, such 126884
amounts are hereby appropriated. 126885

Section 383.10. SEN THE OHIO SENATE 126886

General Revenue Fund 126887

GRF 020321 Operating Expenses \$ 11,947,822 \$ 11,947,822 126888

TOTAL GRF General Revenue Fund \$ 11,947,822 \$ 11,947,822 126889

General Services Fund Group 126890

1020 020602 Senate Reimbursement \$ 852,001 \$ 852,001 126891

4090 020601 Miscellaneous Sales \$ 34,497 \$ 34,497 126892

TOTAL GSF General Services 126893

Fund Group \$ 886,498 \$ 886,498 126894

TOTAL ALL BUDGET FUND GROUPS \$ 12,834,320 \$ 12,834,320 126895

OPERATING EXPENSES 126896

On July 1, 2013, or as soon as possible thereafter, the Clerk 126897
of the Senate may certify to the Director of Budget and Management 126898
the amount of the unexpended, unencumbered balance of the 126899
foregoing appropriation item 020321, Operating Expenses, at the 126900
end of fiscal year 2013 to be reappropriated to fiscal year 2014. 126901
The amount certified is hereby reappropriated to the same 126902

appropriation item for fiscal year 2014. 126903

On July 1, 2014, or as soon as possible thereafter, the Clerk 126904
of the Senate may certify to the Director of Budget and Management 126905
the amount of the unexpended, unencumbered balance of the 126906
foregoing appropriation item 020321, Operating Expenses, at the 126907
end of fiscal year 2014 to be reappropriated to fiscal year 2015. 126908
The amount certified is hereby reappropriated to the same 126909
appropriation item for fiscal year 2015. 126910

Section 385.10. CSV COMMISSION ON SERVICE AND VOLUNTEERISM 126911

General Revenue Fund 126912

GRF 866321	CSV Operations	\$	286,661	\$	294,072	126913
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TOTAL GRF	General Revenue Fund	\$	286,661	\$	294,072	126914
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General Services Fund 126915

5GN0 866605	Serve Ohio Support	\$	30,000	\$	30,000	126916
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TOTAL GSF	General Services Fund	\$	30,000	\$	30,000	126917
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Federal Special Revenue Fund Group 126918

3R70 866617	AmeriCorps Programs	\$	7,447,000	\$	7,447,000	126919
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TOTAL FED	Federal Special Revenue					126920
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Fund Group		\$	7,447,000	\$	7,447,000	126921
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TOTAL ALL BUDGET FUND GROUPS		\$	7,763,661	\$	7,771,072	126922
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Section 387.10. CSF COMMISSIONERS OF THE SINKING FUND 126924

Debt Service Fund Group 126925

7070 155905	Third Frontier	\$	66,511,600	\$	83,783,000	126926
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Research and
Development Bond
Retirement Fund

7072 155902	Highway Capital	\$	132,647,900	\$	127,171,800	126927
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Improvement Bond
Retirement Fund

7073	155903	Natural Resources Bond	\$	24,325,400	\$	25,443,000	126928
		Retirement Fund					
7074	155904	Conservation Projects	\$	33,376,600	\$	34,447,700	126929
		Bond Retirement Fund					
7076	155906	Coal Research and	\$	2,858,900	\$	4,327,200	126930
		Development Bond					
		Retirement Fund					
7077	155907	State Capital	\$	227,810,300	\$	228,948,900	126931
		Improvement Bond					
		Retirement Fund					
7078	155908	Common Schools Bond	\$	351,806,100	\$	377,364,700	126932
		Retirement Fund					
7079	155909	Higher Education Bond	\$	221,168,700	\$	248,822,000	126933
		Retirement Fund					
7080	155901	Persian Gulf,	\$	7,542,600	\$	9,914,800	126934
		Afghanistan, and Iraq					
		Conflicts Bond					
		Retirement Fund					
7090	155912	Job Ready Site	\$	15,498,400	\$	19,124,500	126935
		Development Bond					
		Retirement Fund					
TOTAL	DSF	Debt Service Fund Group	\$	1,083,546,500	\$	1,159,347,600	126936
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,083,546,500	\$	1,159,347,600	126937
		ADDITIONAL APPROPRIATIONS					126938
		Appropriation items in this section are for the purpose of					126939
		paying debt service and financing costs on bonds or notes of the					126940
		state issued under the Ohio Constitution and acts of the General					126941
		Assembly. If it is determined that additional amounts are					126942
		necessary for this purpose, such amounts are hereby appropriated.					126943
		Section 389.10. SOA SOUTHERN OHIO AGRICULTURAL AND COMMUNITY					126944
		DEVELOPMENT FOUNDATION					126945

Tobacco Master Settlement Agreement Fund Group				126946
5M90 945601 Operating Expenses	\$	426,800	\$ 426,800	126947
TOTAL TMF Tobacco Master Settlement Agreement Fund Group	\$	426,800	\$ 426,800	126948
TOTAL ALL BUDGET FUND GROUPS	\$	426,800	\$ 426,800	126949

Section 391.10. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY 126951
126952

General Services Fund Group				126953
4K90 886609 Operating Expenses	\$	472,260	\$ 508,660	126954
TOTAL GSF General Services Fund Group	\$	472,260	\$ 508,660	126956
TOTAL ALL BUDGET FUND GROUPS	\$	427,260	\$ 508,660	126957

Section 393.10. BTA BOARD OF TAX APPEALS 126959

General Revenue Fund				126960
GRF 116321 Operating Expenses	\$	1,700,000	\$ 1,700,000	126961
TOTAL GRF General Revenue Fund	\$	1,700,000	\$ 1,700,000	126962
TOTAL ALL BUDGET FUND GROUPS	\$	1,700,000	\$ 1,700,000	126963

Section 395.10. TAX DEPARTMENT OF TAXATION 126965

General Revenue Fund				126966
GRF 110321 Operating Expenses	\$	71,068,330	\$ 67,968,332	126967
GRF 110404 Tobacco Settlement Enforcement	\$	178,200	\$ 178,200	126968
GRF 110901 Property Tax Allocation - Taxation	\$	666,640,000	\$ 693,305,600	126969
TOTAL GRF General Revenue Fund	\$	737,886,530	\$ 761,452,132	126970
General Services Fund Group				126971
2280 110628 Revenue Enhancement	\$	15,500,000	\$ 17,500,000	126972
4330 110602 Tape File Account	\$	175,000	\$ 175,000	126973
5BP0 110639 Wireless 9-1-1	\$	290,000	\$ 290,000	126974

		Administration					
5CZ0	110631	Vendor's License	\$	250,000	\$	250,000	126975
		Application					
5MN0	110638	STARS Development and	\$	5,000,000	\$	3,000,000	126976
		Implementation					
5N50	110605	Municipal Income Tax	\$	150,000	\$	150,000	126977
		Administration					
5N60	110618	Kilowatt Hour Tax	\$	100,000	\$	100,000	126978
		Administration					
5V80	110623	Property Tax	\$	11,978,310	\$	11,978,310	126979
		Administration					
5W70	110627	Exempt Facility	\$	49,500	\$	49,500	126980
		Administration					
TOTAL	GSF	General Services					126981
Fund Group			\$	33,492,810	\$	33,492,810	126982
State Special Revenue Fund Group							126983
4350	110607	Local Tax	\$	20,000,000	\$	20,700,000	126984
		Administration					
4360	110608	Motor Vehicle Audit	\$	1,459,609	\$	1,459,609	126985
4370	110606	Income Tax	\$	38,800	\$	38,800	126986
		Contribution					
4380	110609	School District Income	\$	5,802,044	\$	5,802,044	126987
		Tax					
4C60	110616	International	\$	682,415	\$	682,415	126988
		Registration Plan					
4R60	110610	Tire Tax	\$	244,193	\$	244,193	126989
		Administration					
5V70	110622	Motor Fuel Tax	\$	5,035,374	\$	5,035,374	126990
		Administration					
6390	110614	Cigarette Tax	\$	1,750,000	\$	1,750,000	126991
		Enforcement					
6420	110613	Ohio Political Party	\$	500,000	\$	500,000	126992
		Distributions					

6880 110615	Local Excise Tax	\$	775,015	\$	775,015	126993
	Administration					
TOTAL SSR	State Special Revenue					126994
Fund Group		\$	36,287,450	\$	36,987,450	126995
Agency Fund Group						126996
4250 110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000	126997
7095 110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000	126998
TOTAL AGY	Agency Fund Group	\$	1,567,800,000	\$	1,567,800,000	126999
Holding Account	Redistribution Fund Group					127000
R010 110611	Tax Distributions	\$	50,000	\$	50,000	127001
R011 110612	Miscellaneous Income	\$	50,000	\$	50,000	127002
	Tax Receipts					
TOTAL 090	Holding Account					127003
Redistribution Fund Group		\$	100,000	\$	100,000	127004
TOTAL ALL BUDGET FUND GROUPS		\$	2,375,566,790	\$	2,399,832,392	127005
	HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK					127006
	The foregoing appropriation item 110901, Property Tax					127007
	Allocation - Taxation, is hereby appropriated to pay for the					127008
	state's costs incurred due to the Homestead Exemption, the					127009
	Manufactured Home Property Tax Rollback, and the Property Tax					127010
	Rollback. The Tax Commissioner shall distribute these funds					127011
	directly to the appropriate local taxing districts, except for					127012
	school districts, notwithstanding the provisions in sections					127013
	321.24 and 323.156 of the Revised Code, which provide for payment					127014
	of the Homestead Exemption, the Manufactured Home Property Tax					127015
	Rollback, and Property Tax Rollback by the Tax Commissioner to the					127016
	appropriate county treasurer and the subsequent redistribution of					127017
	these funds to the appropriate local taxing districts by the					127018
	county auditor.					127019
	Upon receipt of these amounts, each local taxing district					127020
	shall distribute the amount among the proper funds as if it had					127021
	been paid as real property taxes. Payments for the costs of					127022

administration shall continue to be paid to the county treasurer 127023
and county auditor as provided for in sections 319.54, 321.26, and 127024
323.156 of the Revised Code. 127025

Any sums, in addition to the amounts specifically 127026
appropriated in appropriation item 110901, Property Tax Allocation 127027
- Taxation, for the Homestead Exemption, the Manufactured Home 127028
Property Tax Rollback, and the Property Tax Rollback payments, 127029
which are determined to be necessary for these purposes, are 127030
hereby appropriated. 127031

MUNICIPAL INCOME TAX 127032

The foregoing appropriation item 110995, Municipal Income 127033
Tax, shall be used to make payments to municipal corporations 127034
under section 5745.05 of the Revised Code. If it is determined 127035
that additional appropriations are necessary to make such 127036
payments, such amounts are hereby appropriated. 127037

TAX REFUNDS 127038

The foregoing appropriation item 110635, Tax Refunds, shall 127039
be used to pay refunds under section 5703.052 of the Revised Code. 127040
If it is determined that additional appropriations are necessary 127041
for this purpose, such amounts are hereby appropriated. 127042

INTERNATIONAL REGISTRATION PLAN AUDIT 127043

The foregoing appropriation item 110616, International 127044
Registration Plan, shall be used under section 5703.12 of the 127045
Revised Code for audits of persons with vehicles registered under 127046
the International Registration Plan. 127047

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT 127048

Of the foregoing appropriation item 110607, Local Tax 127049
Administration, the Tax Commissioner may disburse funds, if 127050
available, for the purposes of paying travel expenses incurred by 127051
members of Ohio's delegation to the Streamlined Sales Tax Project, 127052

as appointed under section 5740.02 of the Revised Code. Any travel 127053
expense reimbursement paid for by the Department of Taxation shall 127054
be done in accordance with applicable state laws and guidelines. 127055

TOBACCO SETTLEMENT ENFORCEMENT 127056

The foregoing appropriation item 110404, Tobacco Settlement 127057
Enforcement, shall be used by the Tax Commissioner to pay costs 127058
incurred in the enforcement of divisions (F) and (G) of section 127059
5743.03 of the Revised Code. 127060

STARS DEVELOPMENT AND IMPLEMENTATION FUND 127061

The foregoing appropriation item 110638, STARS Development 127062
and Implementation Fund, shall be used to pay costs incurred in 127063
the development and implementation of the department's State Tax 127064
Accounting and Revenue System. The Director of Budget and 127065
Management, under a plan submitted by the Tax Commissioner, or as 127066
otherwise determined by the Director of Budget and Management, 127067
shall set a schedule to transfer cash from the Tax Reform System 127068
Implementation Fund, Local Tax Administration Fund, School 127069
District Income Tax Fund, Discovery Project Fund, and the Motor 127070
Fuel Tax Administration Fund to the credit of the STARS 127071
Development and Implementation Fund (Fund 5MN0). The transfers of 127072
cash shall not exceed \$8,000,000 in the biennium. 127073

Section 397.10. DOT DEPARTMENT OF TRANSPORTATION 127074

General Revenue Fund 127075

GRF	775451	Public Transportation	\$	7,300,000	\$	7,300,000	127076
		- State					

GRF	776465	Ohio Rail Development	\$	2,000,000	\$	2,000,000	127077
		Commission					

GRF	777471	Airport Improvements	\$	750,000	\$	750,000	127078
		- State					

TOTAL GRF	General Revenue Fund	\$	10,050,000	\$	10,050,000	127079
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TOTAL ALL BUDGET FUND GROUPS		\$	10,050,000	\$	10,050,000	127080
Section 399.10. TOS TREASURER OF STATE						127082
General Revenue Fund						127083
GRF 090321	Operating Expenses	\$	7,743,553	\$	7,743,553	127084
GRF 090401	Office of the Sinking Fund	\$	502,304	\$	502,304	127085
GRF 090402	Continuing Education	\$	377,702	\$	377,702	127086
GRF 090524	Police and Fire Disability Pension Fund	\$	6,000	\$	6,000	127087
GRF 090534	Police and Fire Ad Hoc Cost of Living	\$	70,000	\$	70,000	127088
GRF 090554	Police and Fire Survivor Benefits	\$	507,000	\$	507,000	127089
GRF 090575	Police and Fire Death Benefits	\$	20,000,000	\$	20,000,000	127090
TOTAL GRF General Revenue Fund		\$	29,206,559	\$	29,206,559	127091
General Services Fund Group						127092
4E90 090603	Securities Lending Income	\$	4,765,000	\$	4,765,000	127093
5770 090605	Investment Pool Reimbursement	\$	550,000	\$	550,000	127094
5C50 090602	County Treasurer Education	\$	170,057	\$	170,057	127095
6050 090609	Treasurer of State Administrative Fund	\$	135,000	\$	135,000	127096
TOTAL GSF General Services Fund Group		\$	5,620,057	\$	5,620,057	127097 127098
Agency Fund Group						127099
4250 090635	Tax Refunds	\$	6,000,000	\$	6,000,000	127100
TOTAL Agency Fund Group		\$	6,000,000	\$	6,000,000	127101

Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this appropriation item but not disbursed.

TAX REFUNDS

The foregoing appropriation item 090635, Tax Refunds, shall be used to pay refunds under section 5703.052 of the Revised Code. If the Director of Budget and Management determines that additional amounts are necessary for this purpose, such amounts are hereby appropriated.

Section 401.10. VTO VETERANS' ORGANIZATIONS

General Revenue Fund

VAP AMERICAN EX-PRISONERS OF WAR

GRF 743501 State Support \$ 28,910 \$ 28,910

VAN ARMY AND NAVY UNION, USA, INC.

GRF 746501 State Support \$ 63,539 \$ 63,539

VKW KOREAN WAR VETERANS

GRF 747501 State Support \$ 57,118 \$ 57,118

VJW JEWISH WAR VETERANS

GRF 748501 State Support \$ 34,321 \$ 34,321

VCW CATHOLIC WAR VETERANS

GRF 749501 State Support \$ 66,978 \$ 66,978

VPH MILITARY ORDER OF THE PURPLE HEART

GRF 750501 State Support \$ 65,116 \$ 65,116

VVV VIETNAM VETERANS OF AMERICA

GRF 751501 State Support \$ 214,776 \$ 214,776

VAL AMERICAN LEGION OF OHIO

GRF 752501 State Support \$ 349,189 \$ 349,189

VII AMVETS

GRF 753501 State Support \$ 332,547 \$ 332,547

		VAV DISABLED AMERICAN VETERANS				127165
GRF	754501	State Support	\$	249,836	\$	249,836
						127166
		VMC MARINE CORPS LEAGUE				127167
GRF	756501	State Support	\$	133,947	\$	133,947
						127168
		V37 37TH DIVISION VETERANS' ASSOCIATION				127169
GRF	757501	State Support	\$	6,868	\$	6,868
						127170
		VFW VETERANS OF FOREIGN WARS				127171
GRF	758501	State Support	\$	284,841	\$	284,841
						127172
TOTAL GRF		General Revenue Fund	\$	1,887,986	\$	1,887,986
						127173
TOTAL ALL BUDGET FUND GROUPS			\$	1,887,986	\$	1,887,986
						127174
		RELEASE OF FUNDS				127175
		The Director of Budget and Management may release the				127176
		foregoing appropriation items 743501, 746501, 747501, 748501,				127177
		749501, 750501, 751501, 752501, 753501, 754501, 756501, 757501,				127178
		and 758501, State Support.				127179
		Section 403.10. DVS DEPARTMENT OF VETERANS SERVICES				127180
		General Revenue Fund				127181
GRF	900321	Veterans' Homes	\$	27,369,946	\$	27,369,946
						127182
GRF	900402	Hall of Fame	\$	107,075	\$	107,075
						127183
GRF	900408	Department of	\$	2,001,823	\$	2,001,823
		Veterans Services				127184
GRF	900901	Persian Gulf,	\$	7,542,600	\$	9,914,800
		Afghanistan, and Iraq				127185
		Compensation Debt				
		Service				
TOTAL GRF		General Revenue Fund	\$	37,021,444	\$	39,393,644
						127186
		General Services Fund Group				127187
4840	900603	Veterans' Homes	\$	1,596,894	\$	1,596,894
		Services				127188
TOTAL GSF		General Services Fund	\$	1,596,894	\$	1,596,894
		Group				127189

Federal Special Revenue Fund Group					127190	
3680 900614	Veterans Training	\$	684,017	\$	697,682	127191
3740 900606	Troops to Teachers	\$	111,822	\$	111,879	127192
3BX0 900609	Medicare Services	\$	2,250,000	\$	2,250,000	127193
3L20 900601	Veterans' Homes	\$	24,887,790	\$	25,634,423	127194
	Operations - Federal					
TOTAL FED Federal Special Revenue						127195
Fund Group		\$	27,933,629	\$	28,693,984	127196
State Special Revenue Fund Group						127197
4E20 900602	Veterans' Homes	\$	10,614,652	\$	10,837,435	127198
	Operating					
6040 900604	Veterans' Homes	\$	403,663	\$	459,359	127199
	Improvement					
TOTAL SSR State Special Revenue						127200
Fund Group		\$	11,018,315	\$	11,296,794	127201
Persian Gulf, Afghanistan, and Iraq Compensation Fund Group						127202
7041 900615	Veteran Bonus Program	\$	738,703	\$	629,709	127203
	- Administration					
7041 900641	Persian Gulf,	\$	14,500,000	\$	9,400,000	127204
	Afghanistan, and Iraq					
	Compensation					
TOTAL 041 Persian Gulf,						127205
Afghanistan, and Iraq						127206
Compensation Fund Group		\$	15,238,703	\$	10,029,709	127207
TOTAL ALL BUDGET FUND GROUPS		\$	92,808,985	\$	91,011,025	127208
	PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL					127209
	OBLIGATION DEBT SERVICE					127210
	The foregoing appropriation item 900901, Persian Gulf,					127211
	Afghanistan and Iraq Compensation Debt Service, shall be used to					127212
	pay all debt service and related financing costs during the period					127213
	from July 1, 2013, through June 30, 2015, on obligations issued					127214
	for Persian Gulf, Afghanistan and Iraq Conflicts Compensation					127215

purposes under sections 151.01 and 151.12 of the Revised Code. 127216

Section 405.10. DVM STATE VETERINARY MEDICAL BOARD 127217

General Services Fund Group 127218

4K90 888609 Operating Expenses \$ 337,432 \$ 331,695 127219

5BU0 888602 Veterinary Student \$ 30,000 \$ 30,000 127220

Loan Program

TOTAL GSF General Services 127221

Fund Group \$ 367,432 \$ 361,695 127222

TOTAL ALL BUDGET FUND GROUPS \$ 367,432 \$ 361,695 127223

Section 407.10. DYS DEPARTMENT OF YOUTH SERVICES 127225

General Revenue Fund 127226

GRF 470401 RECLAIM Ohio \$ 166,362,228 \$ 166,362,228 127227

GRF 470412 Lease Rental Payments \$ 26,044,800 \$ 27,819,700 127228

GRF 470510 Youth Services \$ 16,702,728 \$ 16,702,728 127229

GRF 472321 Parole Operations \$ 10,583,118 \$ 10,583,118 127230

GRF 477321 Administrative \$ 11,355,389 \$ 11,355,389 127231

Operations

TOTAL GRF General Revenue Fund \$ 231,048,263 \$ 232,823,163 127232

General Services Fund Group 127233

1750 470613 Education \$ 3,950,000 \$ 3,600,000 127234

Reimbursement

4790 470609 Employee Food Service \$ 125,000 \$ 125,000 127235

4A20 470602 Child Support \$ 250,000 \$ 250,000 127236

4G60 470605 General Operational \$ 115,000 \$ 115,000 127237

Funds

5BN0 470629 E-Rate Program \$ 525,000 \$ 525,000 127238

TOTAL GSF General Services 127239

Fund Group \$ 4,965,000 \$ 4,615,000 127240

Federal Special Revenue Fund Group 127241

3210 470601 Education \$ 1,480,740 \$ 1,203,272 127242

appropriation item 470401, RECLAIM Ohio, that is allocated to 127265
juvenile correctional facilities in each fiscal year to expand 127266
Targeted RECLAIM, the Behavioral Health Juvenile Justice 127267
Initiative, and other evidence-based community programs. 127268

LEASE RENTAL PAYMENTS 127269

The foregoing appropriation item 470412, Lease Rental 127270
Payments, shall be used to meet all payments at the times they are 127271
required to be made for the period from July 1, 2013, through June 127272
30, 2015, by the Department of Youth Services under the leases and 127273
agreements for facilities made under Chapters 152. and 154. of the 127274
Revised Code. This appropriation is the source of funds pledged 127275
for bond service charges on related obligations issued under 127276
Chapters 152. and 154. of the Revised Code. 127277

EDUCATION REIMBURSEMENT 127278

The foregoing appropriation item 470613, Education 127279
Reimbursement, shall be used to fund the operating expenses of 127280
providing educational services to youth supervised by the 127281
Department of Youth Services. Operating expenses include, but are 127282
not limited to, teachers' salaries, maintenance costs, and 127283
educational equipment. This appropriation item may be used for 127284
capital expenses related to the education program. 127285

EMPLOYEE FOOD SERVICE AND EQUIPMENT 127286

Notwithstanding section 125.14 of the Revised Code, the 127287
foregoing appropriation item 470609, Employee Food Service, may be 127288
used to purchase any food operational items with funds received 127289
into the fund from reimbursements for state surplus property. 127290

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES 127291

In collaboration with the county family and children first 127292
council, the juvenile court of that county that receives 127293
allocations from one or both of the foregoing appropriation items 127294

470401, RECLAIM Ohio, and 470510, Youth Services, may transfer 127295
portions of those allocations to a flexible funding pool as 127296
authorized by the section of Am. Sub. H.B. 153 of the 129th 127297
General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE 127298
FUNDING POOL." 127299

Section 501.10. SCREENING TOOL FOR HIGH-RISK YOUTH TEAM 127300
EVALUATION 127301

The Office of Health Transformation shall convene a team 127302
comprised of the Department of Youth Services, the Department of 127303
Medicaid, the Department of Job and Family Services, the 127304
Department of Health, and the Department of Mental Health and 127305
Addiction Services. The team shall evaluate the feasibility of 127306
implementing a trauma screening tool for high-risk youth and 127307
create a report with the following information: (A) the 127308
recommended trauma screening tool to be used to evaluate high-risk 127309
youth; (B) training in the administration of the recommended tool; 127310
(C) screening protocols; (D) the persons to whom the recommended 127311
tool should apply; and (E) the implications for treatment. The 127312
report shall be completed by December 1, 2013, and shall be 127313
distributed to the Governor. The Department of Youth Services may 127314
receive funds for piloting the recommended tool in detention 127315
centers. 127316

Section 503.10. PERSONAL SERVICE EXPENSES 127317

Unless otherwise prohibited by law, any appropriation from 127318
which personal service expenses are paid shall bear the employer's 127319
share of public employees' retirement, workers' compensation, 127320
disabled workers' relief, and insurance programs; and the costs of 127321
centralized financial services, centralized payroll processing, 127322
and related reports and services; centralized human resources 127323
services, including affirmative action and equal employment 127324

opportunity programs; the Office of Collective Bargaining; the 127325
Employee Assistance Program; centralized information technology 127326
management services; administering the enterprise resource 127327
planning system; and administering the state employee merit system 127328
as required by section 124.07 of the Revised Code. These costs 127329
shall be determined in conformity with the appropriate sections of 127330
law and paid in accordance with procedures specified by the Office 127331
of Budget and Management. Expenditures from appropriation item 127332
070601, Public Audit Expense - Intra-State, may be exempted from 127333
the requirements of this section. 127334

Section 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 127335
AGAINST THE STATE 127336

Except as otherwise provided in this section, an 127337
appropriation in this act or any other act may be used for the 127338
purpose of satisfying judgments, settlements, or administrative 127339
awards ordered or approved by the Court of Claims or by any other 127340
court of competent jurisdiction in connection with civil actions 127341
against the state. This authorization does not apply to 127342
appropriations to be applied to or used for payment of guarantees 127343
by or on behalf of the state, or for payments under lease 127344
agreements relating to, or debt service on, bonds, notes, or other 127345
obligations of the state. Notwithstanding any other statute to the 127346
contrary, this authorization includes appropriations from funds 127347
into which proceeds of direct obligations of the state are 127348
deposited only to the extent that the judgment, settlement, or 127349
administrative award is for, or represents, capital costs for 127350
which the appropriation may otherwise be used and is consistent 127351
with the purpose for which any related obligations were issued or 127352
entered into. Nothing contained in this section is intended to 127353
subject the state to suit in any forum in which it is not 127354
otherwise subject to suit, and is not intended to waive or 127355
compromise any defense or right available to the state in any suit 127356

against it. 127357

Section 503.30. CAPITAL PROJECT SETTLEMENTS 127358

This section specifies an additional and supplemental 127359
procedure to provide for payments of judgments and settlements if 127360
the Director of Budget and Management determines, pursuant to 127361
division (C)(4) of section 2743.19 of the Revised Code, that 127362
sufficient unencumbered moneys do not exist in the fund to support 127363
a particular appropriation to pay the amount of a final judgment 127364
rendered against the state or a state agency, including the 127365
settlement of a claim approved by a court, in an action upon and 127366
arising out of a contractual obligation for the construction or 127367
improvement of a capital facility if the costs under the contract 127368
were payable in whole or in part from a state capital projects 127369
appropriation. In such a case, the Director may either proceed 127370
pursuant to division (C)(4) of section 2743.19 of the Revised Code 127371
or apply to the Controlling Board to increase an appropriation or 127372
create an appropriation out of any unencumbered moneys in the 127373
state treasury to the credit of the capital projects fund from 127374
which the initial state appropriation was made. The amount of an 127375
increase in appropriation or new appropriation approved by the 127376
Controlling Board is hereby appropriated from the applicable 127377
capital projects fund and made available for the payment of the 127378
judgment or settlement. 127379

If the Director does not make the application authorized by 127380
this section or the Controlling Board disapproves the application, 127381
and the Director does not make application under division (C)(4) 127382
of section 2743.19 of the Revised Code, the Director shall for the 127383
purpose of making that payment make a request to the General 127384
Assembly as provided for in division (C)(5) of that section. 127385

Section 503.40. RE-ISSUANCE OF VOIDED WARRANTS 127386

In order to provide funds for the reissuance of voided warrants under section 126.37 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 126.37 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

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Section 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

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(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is hereby reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

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(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

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(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

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(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

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(4) For an encumbrance for any other expense, for such period 127417
as the Director approves, provided such period does not exceed two 127418
years. 127419

(B) Any operating appropriations for which unexpended 127420
balances are reappropriated beyond a five-month period from the 127421
end of the fiscal year by division (A)(2) of this section shall be 127422
reported to the Controlling Board by the Director of Budget and 127423
Management by the thirty-first day of December of each year. The 127424
report on each such item shall include the item, the cost of the 127425
item, and the name of the vendor. The report shall be updated on a 127426
quarterly basis for encumbrances remaining open. 127427

(C) Upon the expiration of the reappropriation period set out 127428
in division (A) of this section, a reappropriation made by this 127429
section lapses, and the Director of Budget and Management shall 127430
cancel the encumbrance of the unexpended reappropriation not later 127431
than the end of the weekend following the expiration of the 127432
reappropriation period. 127433

(D) Notwithstanding division (C) of this section, with the 127434
approval of the Director of Budget and Management, an unexpended 127435
balance of an encumbrance that was reappropriated on the first day 127436
of July by this section for a period specified in division (A)(3) 127437
or (4) of this section and that remains encumbered at the close of 127438
the fiscal biennium is hereby reappropriated on the first day of 127439
July of the following fiscal biennium from the fund from which it 127440
was originally appropriated or reappropriated for the applicable 127441
period specified in division (A)(3) or (4) of this section and 127442
shall remain available only for the purpose of discharging the 127443
encumbrance. 127444

(E) The Director of Budget and Management may correct 127445
accounting errors committed by the staff of the Office of Budget 127446
and Management, such as reestablishing encumbrances or 127447
appropriations cancelled in error, during the cancellation of 127448

operating encumbrances in November and of nonoperating 127449
encumbrances in December. 127450

(F) The Director of Budget and Management may at any time 127451
correct accounting errors committed by the staff of a state agency 127452
or state institution of higher education, as defined in section 127453
3345.011 of the Revised Code, such as reestablishing prior year 127454
nonoperating encumbrances canceled or modified in error. The 127455
reestablished encumbrance amounts are hereby appropriated. 127456

(G) If the Controlling Board approved a purchase, that 127457
approval remains in effect so long as the appropriation used to 127458
make that purchase remains encumbered. 127459

Section 503.60. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 127460
RE-ESTABLISHMENT OF ENCUMBRANCES 127461

Any cash transferred by the Director of Budget and Management 127462
under section 126.15 of the Revised Code is hereby appropriated. 127463
Any amounts necessary to re-establish appropriations or 127464
encumbrances under section 126.15 of the Revised Code are hereby 127465
appropriated. 127466

Section 503.70. INCOME TAX DISTRIBUTION TO COUNTIES 127467

There are hereby appropriated out of any moneys in the state 127468
treasury to the credit of the General Revenue Fund, which are not 127469
otherwise appropriated, funds sufficient to make any payment 127470
required by division (B)(2) of section 5747.03 of the Revised 127471
Code. 127472

Section 503.80. EXPENDITURES AND APPROPRIATION INCREASES 127473
APPROVED BY THE CONTROLLING BOARD 127474

Any money that the Controlling Board approves for expenditure 127475
or any increase in appropriation that the Controlling Board 127476
approves under sections 127.14, 131.35, and 131.39 of the Revised 127477

Code or any other provision of law is hereby appropriated for the 127478
period ending June 30, 2015. 127479

**Section 503.90. FUNDS RECEIVED FOR USE OF GOVERNOR'S 127480
RESIDENCE 127481**

If the Governor's Residence Fund (Fund 4H20) receives payment 127482
for use of the residence pursuant to section 107.40 of the Revised 127483
Code, the amounts so received are hereby appropriated to 127484
appropriation item 100604, Governor's Residence Gift. 127485

Section 506.10. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 127486

Unless the agency and nuclear electric utility mutually agree 127487
to a higher amount by contract, the maximum amounts that may be 127488
assessed against nuclear electric utilities under division (B)(2) 127489
of section 4937.05 of the Revised Code and deposited into the 127490
specified funds are as follows: 127491

<u>Fund</u>	<u>User</u>	<u>FY 2014</u>	<u>FY 2015</u>	
Utility Radiological Safety Fund (Fund 4E40)	Department of Agriculture	\$ 130,000	\$ 130,000	127492 127493
Radiation Emergency Response Fund (Fund 6100)	Department of Health	\$ 1,049,954	\$ 1,086,098	127494
ER Radiological Safety Fund (Fund 6440)	Environmental Protection Agency	\$ 284,266	\$ 290,674	127495
Emergency Response Plan Fund (Fund 6570)	Department of Public Safety	\$ 1,415,945	\$ 1,415,945	127496

**Section 512.10. TRANSFERS TO THE GENERAL REVENUE FUND OF 127497
INTEREST EARNED 127498**

Notwithstanding any provision of law to the contrary, the 127499
Director of Budget and Management, through June 30, 2015, may 127500

transfer interest earned by any state fund to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Ohio Constitution, federal tax law, or the "Cash Management Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501 et seq., as amended.

Section 512.20. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management may transfer up to \$60,000,000 in each fiscal year in cash from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund in order to ensure that available General Revenue Fund receipts and balances are sufficient to support General Revenue Fund appropriations in each fiscal year.

Section 512.30. FISCAL YEAR 2013 GENERAL REVENUE FUND ENDING BALANCE

Notwithstanding divisions (B) and (C) of section 131.44 of the Revised Code, the Director of Budget and Management shall determine the surplus General Revenue Fund revenue that existed on June 30, 2013, in excess of the amount required under division (A)(3) of section 131.44 of the Revised Code, and transfer from the General Revenue Fund, to the extent of the amount so determined, the following:

(A) To the Disaster Services Fund (Fund 5E20), a cash amount of up to \$15,000,000;

(B) To the Controlling Board Emergency Purposes Fund (Fund 5KM0), a cash amount of up to \$20,000,000;

(C) To the Natural Resources Special Purposes Fund (Fund 5MW0), which is hereby created in the state treasury, a cash amount of up to \$12,000,000;

(D) To the Unemployment Compensation Interest Contingency Fund (Fund 5HC0), a cash amount of up to \$120,000,000 for payment to the United States Secretary of the Treasury of accrued interest costs related to federal unemployment account borrowing.

Section 512.40. ACCESS SUCCESS II PROGRAM

To the extent cash is available, the Director of Budget and Management may transfer cash from the Money Follows the Person Enhanced Reimbursement Fund (Fund 5AJ0), used by the Department of Medicaid, to the Sale of Goods and Services Fund (Fund 1490), used by the Department of Mental Health and Addiction Services. The transferred cash is hereby appropriated.

The Department of Mental Health and Addiction Services shall use the transferred funds to administer the Access Success II Program to help non-Medicaid patients in any hospital established, controlled, or supervised by the Department under Chapter 5119. of the Revised Code to transition from inpatient status to a community setting.

Section 512.50. Not later than the first day of September

2013, the Director of Mental Health and the Director of Alcohol and Drug Addiction Services shall certify to the Director of Budget and Management the amount of all of the unexpended, unencumbered balances of general revenue fund appropriations made to the Department of Mental Health and to the Department of Alcohol and Drug Addiction Services for FY 2012, excluding funds appropriated for rental payments to the Ohio Public Facilities Commission. On receipt of the certification, the Director of Budget and Management shall transfer cash to the Department of Mental Health and Addiction Services Trust Fund created in section 5119.46 of the Revised Code (renumbered section 5119.60 of the Revised Code in this act) in an amount up to, but not exceeding,

the total amounts certified by the Director of Mental Health and 127561
the Director of Alcohol and Drug Addiction Services. 127562

Section 512.60. There is hereby created in the state 127563
treasury, the Permissive Tax Supplement Fund (Fund 5NB0). Not 127564
later than November 30, 2013, the Tax Commissioner shall certify 127565
to the Director of Budget and Management, an estimate of the 127566
amounts necessary during fiscal year 2014 to make supplemental 127567
permissive tax distributions to counties and transit authorities 127568
as prescribed in division (B) of section 5739.21 of the Revised 127569
Code. Following this certification, the Director of Budget and 127570
Management shall then transfer the certified amount from the 127571
General Revenue Fund to the Permissive Tax Supplement Fund. In the 127572
event that additional moneys beyond those initially certified are 127573
required for this purpose in fiscal year 2014, the Tax 127574
Commissioner may from time to time update the certification and 127575
the Director of Budget and Management shall transfer those amounts 127576
from the General Revenue Fund. 127577

Not later than July 15, 2014, the Tax Commissioner shall 127578
certify to the Director of Budget and Management, an estimate of 127579
the amounts necessary during fiscal year 2015 to make supplemental 127580
permissive tax distributions to counties and transit authorities 127581
as prescribed in division (B) of section 5739.21 of the Revised 127582
Code. Following this certification, the Director of Budget and 127583
Management shall then transfer the certified amount from the 127584
General Revenue Fund to the Permissive Tax Supplement Fund. In the 127585
event that additional moneys beyond those initially certified are 127586
required for this purpose in fiscal year 2015, the Tax 127587
Commissioner may from time to time update the certification and 127588
the Director of Budget and Management shall transfer those 127589
additional amounts from the General Revenue Fund to the Permissive 127590
Tax Supplement Fund. 127591

Not later than December 15, 2013, and on or before the
fifteenth day of each month through June 15, 2015, the Tax
Commissioner shall certify to the Director of Budget and
Management, the amounts calculated as necessary to make
supplemental permissive tax distributions for that month pursuant
to division (B) of section 5739.21 of the Revised Code. The
Director of Budget and Management shall then transfer the amount
certified from the Permissive Tax Supplemental Distribution Fund
to the Permissive Tax Distribution Fund (Fund 7063).

If on June 20, 2015, or any date thereafter, any balance
exists in the Permissive Tax Supplement Fund, the Director of
Budget and Management may transfer that amount to the General
Revenue Fund.

Section 515.20. On the effective date of this section, the
Rehabilitation Services Commission is renamed the Opportunities
for Ohioans with Disabilities Agency. The Rehabilitation Services
Commission's functions, and its assets and liabilities, are
transferred to the Opportunities for Ohioans with Disabilities
Agency. The Opportunities for Ohioans with Disabilities Agency is
successor to, assumes the obligations and authority of, and
otherwise continues the Rehabilitation Services Commission. No
right, privilege, or remedy, and no duty, liability, or
obligation, accrued under the Rehabilitation Services Commission
is impaired or lost by reason of the renaming and shall be
recognized, administered, performed, or enforced by the
Opportunities for Ohioans with Disabilities Agency.

Business commenced but not completed by the Rehabilitation
Services Commission or by the Administrator of the Rehabilitation
Services Commission shall be completed by the Opportunities for
Ohioans with Disabilities Agency or the Executive Director of the
Opportunities for Ohioans with Disabilities Agency in the same

manner, and with the same effect, as if completed by the 127623
Rehabilitation Services Commission or the Administrator of the 127624
Rehabilitation Services Commission. 127625

All of the Rehabilitation Services Commission's rules, 127626
orders, and determinations continue in effect as rules, orders, 127627
and determinations of the Opportunities for Ohioans with 127628
Disabilities Agency until modified or rescinded by the 127629
Opportunities for Ohioans with Disabilities Agency. 127630

Subject to the layoff provisions of sections 124.321 to 127631
124.382 of the Revised Code, all employees of the Rehabilitation 127632
Services Commission continue with the Opportunities for Ohioans 127633
with Disabilities Agency and retain their positions and all 127634
benefits accruing thereto. 127635

The Director of Budget and Management shall determine the 127636
amount of unexpended balances in the appropriation accounts that 127637
pertain to the Rehabilitation Services Commission and shall 127638
recommend to the Controlling Board their transfer to the 127639
appropriation accounts that pertain to the Opportunities for 127640
Ohioans with Disabilities Agency. The Administrator of the 127641
Rehabilitation Services Commission shall provide full and timely 127642
information to the Controlling Board to facilitate the transfer. 127643

Whenever the Rehabilitation Services Commission or the 127644
Administrator of the Rehabilitation Services Commission is 127645
referred to in a statute, contract, or other instrument, the 127646
reference is deemed to refer to the Opportunities for Ohioans with 127647
Disabilities Agency or to the Executive Director of the 127648
Opportunities for Ohioans with Disabilities Agency, whichever is 127649
appropriate in context. 127650

No pending action or proceeding being prosecuted or defended 127651
in court or before an agency by the Rehabilitation Services 127652
Commission or the Administrator of the Rehabilitation Services 127653

Commission is affected by the renaming and shall be prosecuted or 127654
defended in the name of the Opportunities for Ohioans with 127655
Disabilities Agency or the Executive Director of the Opportunities 127656
for Ohioans with Disabilities Agency, whichever is appropriate. 127657
Upon application to the court or agency, the Opportunities for 127658
Ohioans with Disabilities Agency or the Executive Director of the 127659
Opportunities for Ohioans with Disabilities Agency shall be 127660
substituted. 127661

Section 515.40. The Department of Aging shall use 127662
appropriation item 490627, Board of Executives of LTSS, to spend 127663
cash in the Board of Executives of Long-Term Services and Supports 127664
Fund (Fund 5MT0), which is hereby established in the State 127665
Treasury. On the effective date of this section, the Board of 127666
Examiners of Nursing Home Administrators is renamed the Board of 127667
Executives of Long-Term Services and Supports. The Board of 127668
Examiners of Nursing Home Administrators' functions and its assets 127669
and liabilities, are transferred to the Board of Executives of 127670
Long-Term Services and Supports. The Board of Executives of 127671
Long-Term Services and Supports is successor to, assumes the 127672
obligations and authority of, and otherwise continues the Board of 127673
Examiners of Nursing Home Administrators. No right, privilege, or 127674
remedy, and no duty, liability, or obligation, accrued under the 127675
Board of Examiners of Nursing Home Administrators is impaired or 127676
lost by reason of the renaming and shall be recognized, 127677
administered, performed, or enforced by the Board of Executives of 127678
Long-Term Services and Supports. 127679

Business commenced but not completed by the Board of 127680
Examiners of Nursing Home Administrators or by the Secretary of 127681
the Board of Examiners of Nursing Home Administrators shall be 127682
completed by the Board of Executives of Long-Term Services and 127683
Supports or the Secretary of the Board of Executives of Long-Term 127684
Services and Supports in the same manner, and with the same 127685

effect, as if completed by the Board of Examiners of Nursing Home Administrators or by the Secretary of the Board of Examiners of Nursing Home Administrators. 127686
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All of the Board of Examiners of Nursing Home Administrators' rules, orders, and determinations continue in effect as rules, orders, and determinations of the Board of Executives of Long-Term Services and Supports. 127689
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Subject to the layoff provisions of sections 124.321 to 124.328 of the Revised Code, all employees of the Board of Examiners of Nursing Home Administrators who provide administrative, technical, or other services to the Board of Examiners of Nursing Home Administrators on a full-time, permanent basis shall continue with the Board of Executives of Long-Term Services and Supports and retain their positions and benefits accruing thereto, except that those employees in the classified service shall be reclassified into the unclassified service and shall serve at the pleasure of the Board. 127693
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Notwithstanding section 4751.03 of the Revised Code, as amended by this act, those board members currently serving as members of the Board of Examiners of Nursing Home Administrators on the effective date of this act shall continue to serve as members of the Board of Executives of Long-Term Services and Supports for the remainder of their appointment period, at which time new members shall be appointed in a manner consistent with section 4751.03 of the Revised Code, as amended by this act. 127703
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Within ninety days after the effective date of this act, the Governor shall appoint to the Board of Executives of Long-Term Services and Supports those new members who are required to be appointed under divisions (A)(3) and (6) of section 4751.03 of the Revised Code, as amended by this act, for terms ending on May 27, 2014. Thereafter, appointment for those members shall be as provided in section 4751.03 of the Revised Code, as amended by 127711
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this act. 127718

Whenever the Board of Examiners of Nursing Home 127719
Administrators is referred to in statute, contract, or other 127720
instrument, the reference is deemed to refer to the Board of 127721
Executives of Long-Term Services and Supports. 127722

No pending action or proceeding being prosecuted or defended 127723
in court or before an agency by the Board of Examiners of Nursing 127724
Home Administrators or the Secretary of the Board of Examiners of 127725
Nursing Home Administrators is affected by the renaming and shall 127726
be prosecuted or defended in the name of the Board of Executives 127727
of Long-Term Services and Supports or the Secretary of the Board 127728
of Executives of Long-Term Services and Supports. Upon application 127729
to the court or agency, the Board of Executives of Long-Term 127730
Services and Supports or the Secretary of the Board of Executives 127731
of Long-Term Services and Supports shall be substituted. 127732

Section 518.10. GENERAL OBLIGATION DEBT SERVICE PAYMENTS 127733

Certain appropriations are in this act for the purpose of 127734
paying debt service and financing costs on general obligation 127735
bonds or notes of the state issued pursuant to the Ohio 127736
Constitution and acts of the General Assembly. If it is determined 127737
that additional appropriations are necessary for this purpose, 127738
such amounts are hereby appropriated. 127739

Section 518.20. LEASE RENTAL PAYMENTS FOR DEBT SERVICE 127740

Certain appropriations are in this act for the purpose of 127741
making lease rental payments pursuant to leases and agreements 127742
relating to bonds or notes issued by the Treasurer of State, or 127743
previously by the Ohio Public Facilities Commission or the Ohio 127744
Building Authority, pursuant to the Ohio Constitution and acts of 127745
the General Assembly. If it is determined that additional 127746
appropriations are necessary for this purpose, such amounts are 127747

hereby appropriated. 127748

Section 518.30. AUTHORIZATION FOR TREASURER OF STATE AND OBM 127749
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 127750

The Office of Budget and Management shall process payments 127751
from general obligation and lease rental payment appropriation 127752
items during the period from July 1, 2013, through June 30, 2015, 127753
relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 127754
2n, 2o, 2p, 2q, 2r, and 15 of Article VIII, Ohio Constitution, and 127755
Chapters 151., 152., and 154. of the Revised Code. Payments shall 127756
be made upon certification by the Treasurer of State of the dates 127757
and the amounts due on those dates. 127758

Section 521.20. STATEWIDE INDIRECT COST RECOVERY 127759

Whenever the Director of Budget and Management determines 127760
that an appropriation made to a state agency from a fund of the 127761
state is insufficient to provide for the recovery of statewide 127762
indirect costs under section 126.12 of the Revised Code, the 127763
amount required for such purpose is hereby appropriated from the 127764
available receipts of such fund. 127765

Section 521.30. TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT 127766
COST ALLOCATION PLAN 127767

The total transfers made from the General Revenue Fund by the 127768
Director of Budget and Management under this section shall not 127769
exceed the amounts transferred into the General Revenue Fund under 127770
section 126.12 of the Revised Code. 127771

The director of an agency may certify to the Director of 127772
Budget and Management the amount of expenses not allowed to be 127773
included in the Statewide Indirect Cost Allocation Plan under 127774
federal regulations, from any fund included in the Statewide 127775
Indirect Cost Allocation Plan, prepared as required by section 127776

126.12 of the Revised Code. 127777

Upon determining that no alternative source of funding is 127778
available to pay for such expenses, the Director of Budget and 127779
Management may transfer cash from the General Revenue Fund into 127780
the fund for which the certification is made, up to the amount of 127781
the certification. The director of the agency receiving such funds 127782
shall include, as part of the next budget submission prepared 127783
under section 126.02 of the Revised Code, a request for funding 127784
for such activities from an alternative source such that further 127785
federal disallowances would not be required. 127786

The director of an agency may certify to the Director of 127787
Budget and Management the amount of expenses paid in error from a 127788
fund included in the Statewide Indirect Cost Allocation Plan. The 127789
Director of Budget and Management may transfer cash from the fund 127790
from which the expenditure should have been made into the fund 127791
from which the expenses were erroneously paid, up to the amount of 127792
the certification. 127793

The director of an agency may certify to the Director of 127794
Budget and Management the amount of expenses or revenues not 127795
allowed to be included in the Statewide Indirect Cost Allocation 127796
Plan under federal regulations, for any fund included in the 127797
Statewide Indirect Cost Allocation Plan, for which the federal 127798
government requires payment. If the Director of Budget and 127799
Management determines that an appropriation made to a state agency 127800
from a fund of the state is insufficient to pay the amount 127801
required by the federal government, the amount required for such 127802
purpose is hereby appropriated from the available receipts of such 127803
fund, up to the amount of the certification. 127804

Section 521.33. CASH TRANSFERS TO TOBACCO OVERSIGHT 127805
ADMINISTRATION AND ENFORCEMENT FUND 127806

On July 1, 2013, or as soon as possible thereafter, the 127807

Director of Budget and Management shall transfer the cash balance 127808
in the Tobacco Settlement Enforcement Fund (Fund T087), the 127809
Education Technology Trust Fund (Fund S087), and the Southern Ohio 127810
Agricultural Development Trust Fund (Fund K087) to the Tobacco 127811
Oversight Administration and Enforcement Fund (Fund U087). The 127812
transferred cash is hereby appropriated. Upon completion of the 127813
transfer, Fund T087, Fund S087, and Fund K087 are abolished. The 127814
Director shall cancel any existing encumbrances against 127815
appropriation items 110402, Tobacco Settlement Enforcement, 127816
935602, Education Technology Trust, and 945602, Southern Ohio 127817
Agricultural Development, and reestablish them against 127818
appropriation item 055402, Tobacco Settlement Oversight, 127819
Administration, and Enforcement. The reestablished encumbrance 127820
amounts are hereby appropriated. 127821

On July 1, 2014, or as soon as possible thereafter, the 127822
Director of Budget and Management shall transfer the cash balance 127823
in the Law Enforcement Improvement Trust Fund (Fund J087) to the 127824
Tobacco Oversight Administration and Enforcement Fund (Fund U087). 127825
The transferred cash is hereby appropriated. Upon completion of 127826
the transfer, Fund J087 is abolished. The Director shall cancel 127827
any existing encumbrances against appropriation item 055635, Law 127828
Enforcement Technology, Training, and Facility Enhancements, and 127829
reestablish them against appropriation item 055402, Tobacco 127830
Settlement Oversight, Administration, and Enforcement. The 127831
reestablished encumbrance amounts are hereby appropriated. 127832

Section 521.40. FEDERAL GOVERNMENT INTEREST REQUIREMENTS 127833

Notwithstanding any provision of law to the contrary, on or 127834
before the first day of September of each fiscal year, the 127835
Director of Budget and Management, in order to reduce the payment 127836
of adjustments to the federal government, as determined by the 127837
plan prepared under division (A) of section 126.12 of the Revised 127838

Code, may designate such funds as the Director considers necessary 127839
to retain their own interest earnings. 127840

Section 521.50. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 127841

Pursuant to the plan for compliance with the Federal Cash 127842
Management Improvement Act required by section 131.36 of the 127843
Revised Code, the Director of Budget and Management may cancel and 127844
re-establish all or part of encumbrances in like amounts within 127845
the funds identified by the plan. The amounts necessary to 127846
re-establish all or part of encumbrances are hereby appropriated. 127847

Section 521.60. FISCAL STABILIZATION AND RECOVERY 127848

To ensure the level of accountability and transparency 127849
required by federal law, the Director of Budget and Management may 127850
issue guidelines to any agency applying for federal money made 127851
available to this state for fiscal stabilization and recovery 127852
purposes, and may prescribe the process by which agencies are to 127853
comply with any reporting requirements established by the federal 127854
government. 127855

Section 610.10. That Sections 201.80 and 509.40 of Sub. H.B. 127856
482 of the 129th General Assembly be amended to read as follows: 127857

Sec. 201.80. All items set forth in this section are hereby 127858
appropriated out of any moneys in the state treasury to the credit 127859
of the School Building Program Assistance Fund (Fund 7032), that 127860
are not otherwise appropriated. 127861

Appropriations

	SFC SCHOOL FACILITIES COMMISSION		127862
C23002	School Building Program Assistance	\$ 425,000,000	127863
		<u>413,000,000</u>	
C23020	<u>School Security Grant Program</u>	\$ <u>12,000,000</u>	127864

Total School Facilities Commission \$ 425,000,000 127865
TOTAL School Building Program Assistance Fund \$ 425,000,000 127866

SCHOOL BUILDING PROGRAM ASSISTANCE 127867

The foregoing appropriation item C23002, School Building 127868
Program Assistance, shall be used by the School Facilities 127869
Commission to provide funding to school districts that receive 127870
conditional approval from the Commission pursuant to Chapter 3318. 127871
of the Revised Code. 127872

SCHOOL SECURITY GRANT PROGRAM 127873

The foregoing appropriation item C23020, School Security 127874
Grant Program, shall be used by the School Facilities Commission 127875
to provide funding to all public schools for the purchase and 127876
installation of one Multi-Agency Radio Communications System unit 127877
per school building and a security door system, consisting of a 127878
security camera, an intercom, and remote access, at one entrance 127879
per school building. A school may apply to the School Facilities 127880
Commission for reimbursement up to \$2,000 for one Multi-Agency 127881
Radio Communications System Unit per school building and up to 127882
\$5,000 for costs incurred with the purchase of a security door 127883
system installed on or after January 1, 2013. 127884

Sec. 509.40. AGENCY ADMINISTRATION OF CAPITAL FACILITIES 127885
PROJECTS 127886

Notwithstanding ~~sections 123.01 and 123.15~~ section 123.21 of 127887
the Revised Code, the Executive Director of ~~Administrative~~ 127888
~~Services~~ the Ohio Facilities Construction Commission may authorize 127889
the Departments of Mental Health, Developmental Disabilities, 127890
Agriculture, Job and Family Services, Rehabilitation and 127891
Correction, Youth Services, Public Safety, Transportation, ~~and~~ 127892
Veterans Services, and the Bureau of Workers' Compensation to 127893
administer any capital facilities projects, the estimated cost of 127894
which, including design fees, construction, equipment, and 127895

contingency amounts, is less than \$1,500,000. Requests for 127896
authorization to administer capital facilities projects shall be 127897
made ~~in writing to the Director of Administrative Services~~ through 127898
the OAKS-CI application by the applicable state agency ~~within~~ 127899
~~sixty days after the effective date of the section of law in which~~ 127900
~~the General Assembly initially makes an appropriation for the~~ 127901
~~project.~~ Upon the release of funds for the projects by the 127902
Controlling Board or the Director of Budget and Management, the 127903
agency may administer the capital project or projects for which 127904
agency administration has been authorized without the supervision, 127905
control, or approval of the Executive Director of ~~Administrative~~ 127906
~~Services~~ the Ohio Facilities Construction Commission. 127907

A state agency authorized by the Executive Director of 127908
~~Administrative Services~~ the Ohio Facilities Construction 127909
Commission to administer capital facilities projects pursuant to 127910
this section shall comply with the applicable procedures and 127911
guidelines established in Chapter 153. of the Revised Code and 127912
shall track all project information in OAKS-CI pursuant to Ohio 127913
Facilities Construction Commission guidelines. 127914

Section 610.11. That existing Sections 201.80 and 509.40 of 127915
Sub. H.B. 482 of the 129th General Assembly are hereby repealed. 127916

Section 610.20. That Section 4 of Sub. S.B. 171 of the 129th 127917
General Assembly, as amended by Am. Sub. H.B. 487 of the 129th 127918
General Assembly, be amended to read as follows: 127919

Sec. 4. The following agencies are retained under division 127920
(D) of section 101.83 of the Revised Code and expire on December 127921
31, 2016: 127922

AGENCY NAME	REVISED CODE OR	127923
	UNCODIFIED	
	SECTION	

Academic Distress Commission	3302.10	127924
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	127925
Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence	3323.33, 3323.34	127926
Advisory Council on Amusement Ride Safety	1711.51, 1711.52	127927
Advisory Council of Directors for Prison Labor <u>Office of Enterprise Development Advisory Board</u>	5145.162	127928
Advisory Council for Wild, Scenic, or Recreational River Area(s)	1547.84	127929
Advisory Committee on Livestock Exhibitions	901.71	127930
Agricultural Commodity Marketing Programs Operating Committees	924.07	127931
Agricultural Commodity Marketing Programs Coordinating Committee	924.14	127932
Alternative Energy Advisory Committee	4928.64(D)	127933
AMBER Alert Advisory Committee	5502.521	127934
Apprenticeship Council	Chapter 4139.	127935
Armory Board of Control	5911.09, 5911.12	127936
Automated Title Processing Board	4505.09(C)(1)	127937
Backflow Advisory Board	3703.21	127938
Banking Commission	1123.01	127939
Board of Directors of the Great Lakes Protection Fund	1506.22 (6161.04)	127940
Board of Directors of the Medical Liability Underwriting Association Stabilization Fund	3929.631	127941
Board of Directors of the Ohio Appalachian Center for Higher Education	3333.58	127942
Board of Directors of the Ohio Health Reinsurance Program	3924.08 - 3924.11	127943
Board of Governors of the Commercial Insurance Joint Underwriting Association	3930.03	127944

Board of Governors of the Medical Liability Underwriting Association	3929.64	127945
Board of Voting Machines Examiners	3506.05	127946
Budget Planning and Management Commission	Section 509.10, H.B. 1, 128th G.A.	127947
Brain Injury Advisory Committee	3304.231	127948
Bureau of Workers' Compensation Board of Directors	4121.12	127949
Capitol Square Review and Advisory Board	105.41	127950
Child Care Advisory Council	5104.08	127951
Child Support Guideline Advisory Council	3119.024	127952
Children's Trust Fund Board	3109.15 - 3109.17	127953
Citizen's Advisory Council	5123.092, 5123.093	127954
Clean Ohio Trail Advisory Board	1519.06	127955
Coastal Resources Advisory Council	1506.12	127956
Commission on African-American Males	4112.12, 4112.13	127957
Commission on Hispanic-Latino Affairs	121.31	127958
Commission on Minority Health	3701.78	127959
Committee on Prescriptive Governance	4723.49 - 4723.492	127960
Commodity Advisory Commission	926.32	127961
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	127962
Continuing Education Committee	109.80(B)	127963
Council on Alcohol and Drug Addiction Services	3793.09	127964
Council on Unreclaimed Strip Mined Lands	1513.29	127965
County Sheriff's Standard Car Marking and Uniform Commission	311.25 - 311.27	127966
Credential Review Board	3319.65	127967
Credit Union Council	1733.329	127968

Criminal Sentencing Advisory Committee	181.22	127969
Data Collection and Analysis Group	3727.32	127970
Dentist Loan Repayment Advisory Board	3702.92	127971
Department Advisory Council(s)	107.18, 121.13	127972
Development Financing Advisory Council	122.40, 122.41	127973
Early Childhood Advisory Council	3301.90	127974
Education Commission of the States (Interstate Compact for Education)	3301.48, 3301.49	127975
Education Management Information System Advisory Board	3301.0713	127976
Educator Standards Board	3319.60	127977
Electrical Safety Inspector Advisory Committee	3783.08	127978
Emergency Response Commission	3750.02	127979
Engineering Experiment Station Advisory Committee	3335.27	127980
Environmental Education Council	3745.21	127981
Environmental Protection Agency Advisory Board(s)	121.13, 3704.03, 3745.01	127982
eTech Ohio Commission	3353.02 3353.04	127983
Ex-Offender Reentry Coalition	5120.07	127984
Farmland Preservation Advisory Board	901.23	127985
Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township	118.05	127986
Financial Planning and Supervision Commission for a school district	3316.05	127987
Forestry Advisory Council	1503.40	127988
Governance Authority for a State University or College	3345.75	127989
Governor's Council on People with Disabilities	3303.41	127990
Governor's Policy Information Working Group	Section 313, H.B. 420, 127th G.A.	127991
Governor's Residence Advisory Commission	107.40	127992

Grain Marketing Program Operating Committee	924.20 - 924.30	127993
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	127994
Gubernatorial Transition Committee	107.29, 126.26	127995
Help Me Grow Advisory Council	3701.611	127996
Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council	3701.0210	127997
Homeland Security Advisory Council	5502.011(E)	127998
Hospital Measures Advisory Council	3727.31	127999
Housing Trust Fund Advisory Committee	174.06	128000
Industrial Commission Nominating Council	4121.04	128001
Industrial Technology and Enterprise Advisory Council	122.29, 122.30	128002
Infant Hearing Screening Subcommittee	3701.507	128003
Infection Control Group	3727.312(D)	128004
Insurance Agent Education Advisory Council	3905.483	128005
Interstate Rail Passenger Advisory Council	4981.35	128006
Joint Select Committee on Volume Cap	133.021	128007
Labor-Management Government Advisory Council	4121.70	128008
Legislative Programming Committee of the Ohio Government Telecommunications Service	3353.07	128009
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	128010
Maternity and Newborn Advisory Council	3711.20, 3711.21	128011
Medically Handicapped Children's Medical Advisory Council	3701.025	128012
Midwest Interstate Passenger Rail Compact Commission	4981.361	128013
Milk Sanitation Board	917.03 - 917.032	128014
Mine Subsidence Insurance Governing Board	3929.51	128015
Minority Development Financing Advisory Board	122.72, 122.73	128016
Multi-Agency Radio Communications System (MARCS) Steering Committee	Section 15.02, H.B. 640, 123rd	128017

	G.A.	
National Museum of Afro-American History and Culture Planning Committee	149.303	128018
New African Immigrants Commission	4112.31, 4112.32	128019
Ohio Accountability Task Force	3302.021(E)	128020
Ohio Advisory Council for the Aging	173.03	128021
Ohio Agriculture License Plate Scholarship Fund Board	901.90	128022
Ohio Arts Council	Chapter 3379.	128023
Ohio Business Gateway Steering Committee	5703.57	128024
Ohio Cemetery Dispute Resolution Commission	4767.05, 4767.06	128025
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)(4)	128026
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	128027
Ohio Commission on Dispute Resolution and Conflict Management	179.02 - 179.04	128028
Ohio Commission on Fatherhood	5101.34	128029
Ohio Community Service Council	121.40 - 121.404	128030
Ohio Council for Interstate Adult Offender Supervision	5149.22	128031
Ohio Cultural Facilities Commission	Chapter 3383.	128032
Ohio Cystic Fibrosis Legislative Task Force	101.38	128033
Ohio Developmental Disabilities Council	5123.35	128034
Ohio Expositions Commission	991.02	128035
Ohio Family and Children First Cabinet Council	121.37	128036
Ohio Geographically Referenced Information Program Council	125.901, 125.902	128037
Ohio Geology Advisory Council	1501.11	128038
Ohio Grape Industries Committee	924.51 - 924.55	128039
Ohio Historic Site Preservation Advisory Board	149.301	128040
Ohio Historical Society Board of Trustees	149.30	128041
Ohio Judicial Conference	105.91 - 105.97	128042

Ohio Lake Erie Commission	1506.21	128043
Ohio Legislative Commission on the Education and Preservation of State History	Section 701.05, H.B. 1, 128th G.A.	128044
Ohio Medical Quality Foundation	3701.89	128045
Ohio Parks and Recreation Council	1541.40	128046
Ohio Peace Officer Training Commission	109.71, 109.72	128047
Ohio Private Investigation and Security Services Commission	4749.021, 4743.01	128048
Ohio Public Defender Commission	120.01 - 120.03	128049
Ohio Public Library Information Network Board of Trustees	3375.65, 3375.66	128050
Ohio Quarter Horse Development Commission	3769.086	128051
Ohio Small Government Capital Improvements Commission	164.02(C)(D)	128052
Ohio Soil and Water Conservation Commission	1515.02	128053
Ohio Standardbred Development Commission	3769.085	128054
Ohio Subrogation Rights Commission	2323.44	128055
Ohio Thoroughbred Racing Advisory Committee	3769.084	128056
Ohio Transportation Finance Commission	5531.12(B) to (D)	128057
Ohio Tuition Trust Authority	3334.03, 3334.08	128058
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10, 3337.11	128059
Ohio Vendors Representative Committee	3304.34, 20 USC 107	128060
Ohio War Orphans Scholarship Board	5910.02 - 5910.06	128061
Ohio Water Advisory Council	1521.031	128062
Ohio Water Resources Council Advisory Group	1521.19	128063
Ohio Water Resources Council	1521.19	128064
Oil and Gas Commission	1509.35	128065
Operating Committee of the Oil and Gas Marketing	1510.06, 1510.11	128066

Program		
Organized Crime Investigations Commission	177.01	128067
Pharmacy and Therapeutics Committee of the	5111.084	128068
Department of Job and Family Services <u>Medicaid</u>	<u>5164.7510</u>	
Physician Assistant Policy Committee of the State	4730.05, 4730.06	128069
Medical Board		
Physician Loan Repayment Advisory Board	3702.81	128070
Power Siting Board	4906.02	128071
Prequalification Review Board	5525.07	128072
Private Water Systems Advisory Council	3701.346	128073
Public Utilities Commission Nominating Council	4901.021	128074
Public Utility Property Tax Study Committee	5727.85(K)	128075
Radiation Advisory Council	3748.20	128076
Reclamation Commission	1513.05	128077
Reclamation Forfeiture Fund Advisory Board	1513.182	128078
Recreation and Resources Commission	1501.04	128079
Recycling and Litter Prevention Advisory Council	1502.04	128080
School and Ministerial Lands Divestiture	501.041	128081
Committee		
Savings and Loan Associations and Savings Banks	1181.16	128082
Board		
Second Chance Trust Fund Advisory Committee	2108.35	128083
Service Coordination Workgroup	Section 751.20,	128084
	H.B. 1, 128th	
	G.A.	
Ski Tramway Board	4169.02	128085
Small Business Stationary Source Technical and	3704.19	128086
Environmental Compliance Assistance Council		
Solid Waste Management Advisory Council	3734.51	128087
Special Commission to Consider the Suspension of	3.16	128088
Local Government Officials		
Speed to Scale Task Force	Section	128089
	375.60.80, H.B.	

	119, 128th G.A.	
State Agency Coordinating Group	1521.19	128090
State Audit Committee	126.46	128091
State Council of Uniform State Laws	105.21 - 105.27	128092
State Criminal Sentencing Commission	181.22 - 181.26	128093
State Fire Council	3737.81	128094
State Library Board	3375.01	128095
State Victims Assistance Advisory Council	109.91(B) and (C)	128096
Statewide Consortium of County Law Library	3375.481	128097
Resource Boards		
STEM Committee	3326.02	128098
Student Tuition Recovery Authority	3332.081	128099
Sunset Review Committee	101.84 - 101.87	128100
Tax Credit Authority	122.17(M)	128101
Technical Advisory Committee to Assist Director of the Ohio Coal Development Office	1551.35	128102
Technical Advisory Council on Oil and Gas	1509.38	128103
Transportation Review Advisory Council	5512.07 - 5512.09	128104
Unemployment Compensation Advisory Council	4141.08	128105
Unemployment Compensation Review Commission	4141.06	128106
Veterans Advisory Committee	5902.02(K)	128107
Volunteer Fire Fighters' Dependents Fund Boards (private volunteer)	146.02 - 146.06	128108
Volunteer Fire Fighters' Dependents Fund Boards (public)	146.02 - 146.06	128109
Water and Sewer Commission	1525.11(C)	128110
Waterways Safety Council	1547.73	128111
Wildlife Council	1531.03 - 1531.05	128112
Workers' Compensation Board of Directors	4121.123	128113
Nominating Committee		

Section 610.21. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly, as amended by Am. Sub. H.B. 487 of the 129th General Assembly, is hereby repealed.

Section 620.10. That Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly be amended to read as follows:

Sec. 105.05. Section 121.53 of the Revised Code is hereby repealed, effective ~~September~~ June 30, ~~2013~~ 2014.

Section 620.11. That existing Section 105.05 of Am. Sub. H.B. 2 of the 128th General Assembly is hereby repealed.

Section 701.10. EXEMPT EMPLOYEE CONSENT TO CERTAIN DUTIES

As used in this section, "appointing authority" has the same meaning as in section 124.01 of the Revised Code, and "exempt employee" has the same meaning as in section 124.01 of the Revised Code.

Notwithstanding section 124.181 of the Revised Code, in cases where no vacancy exists, an appointing authority may, with the written consent of an exempt employee, assign duties of a higher classification to that exempt employee for a period of time not to exceed two years, and that exempt employee shall receive compensation at a rate commensurate with the duties of the higher classification.

Section 715.10. Two years after the amendments to section 1501.011 of the Revised Code by this act take effect, the Ohio Facilities Construction Commission and the Department of Natural Resources shall review division (C) of that section.

Section 733.10. Notwithstanding section 3317.01 of the

Revised Code, as amended by this act, to determine whether a 128140
school district satisfied the minimum school year in the 2013-2014 128141
school year in order to qualify for state funding under Chapter 128142
3317. of the Revised Code for fiscal year 2015, the Department of 128143
Education shall apply the criteria prescribed in the version of 128144
division (B) of section 3317.01 of the Revised Code in effect 128145
prior to July 1, 2014. 128146

Section 733.20. The General Assembly hereby declares its 128147
intent, in enacting section 3319.031 of the Revised Code, to 128148
supersede any effect of the decision of the Court of Appeals of 128149
the Eighth Appellate District in *OAPSE/AFSCME Local 4 v. Berdine*, 128150
174 Ohio App.3d 46 (Cuyahoga County, 2007) to the extent the 128151
decision conflicts with the principle that boards of education may 128152
appoint a licensed business manager, but also may determine 128153
instead to assign the roles and functions of a business manager to 128154
one or more employees or officers of the board, including the 128155
treasurer, in the board's sole discretion. 128156

Section 733.30. The Chancellor of the Ohio Board of Regents 128157
by December 1, 2015, shall report to the Governor and the General 128158
Assembly, in accordance with section 101.68 of the Revised Code, 128159
on the efforts of state institutions of higher education to 128160
increase teaching workloads for full-time faculty, as prescribed 128161
by division (C) of section 3345.45 of the Revised Code. The report 128162
shall include an appendix of courses taught by faculty during 128163
fiscal years 2012, 2013, 2014, and 2015, and courses planned for 128164
fiscal year 2016. 128165

Section 751.10. RECOVERY REQUIRES A COMMUNITY PROGRAM 128166

The Department of Mental Health and Addiction Services, in 128167
consultation with the Department of Medicaid, shall administer the 128168

Recovery Requires a Community Program to identify individuals 128169
residing in nursing facilities who can be successfully moved into 128170
a community setting with the aid of community non-Medicaid 128171
services. 128172

The Director of Mental Health and Addiction Services and the 128173
Medicaid Director shall agree upon an amount representing the 128174
savings realized from decreased nursing facility utilization to be 128175
transferred within the biennium from the Department of Medicaid to 128176
the Department of Mental Health and Addiction Services to support 128177
non-Medicaid program costs for individuals moving into community 128178
settings. 128179

Of the foregoing appropriation item 651525, Medicaid/Health 128180
Care Services, the Medicaid Director shall transfer the amount 128181
agreed upon representing the savings from the General Revenue Fund 128182
to the Sale of Goods and Services Fund (Fund 1490). The transfer 128183
shall be made using an intrastate transfer voucher. The 128184
transferred cash is hereby appropriated to appropriation item 128185
335609, Community Operating/Planning. 128186

Section 751.20. TAX EQUITY 128187

Notwithstanding section 5126.18 of the Revised Code, the 128188
foregoing appropriation item 322503, Tax Equity, may be used to 128189
distribute funds to county boards of developmental disabilities to 128190
address economic hardships and promote efficiency of operations. 128191
The Director shall determine, in consultation with representatives 128192
of county boards, the amount of funds to distribute for these 128193
purposes and the criteria for distributing the funds. 128194

Section 751.30. EMPLOYMENT FIRST PILOT PROGRAM 128195

The foregoing appropriation item 322508, Employment First 128196
Pilot Program, shall be used to increase employment opportunities 128197
for individuals with developmental disabilities through the 128198

Employment First Initiative in accordance with section 5123.022 of the Revised Code. 128199
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Of the foregoing appropriation item, 322508, Employment First Pilot Program, the Director of Developmental Disabilities shall transfer, in each fiscal year, to the Opportunities for Ohioans with Disabilities Agency an amount agreed upon by the Director of Developmental Disabilities and the Executive Director of the Opportunities for Ohioans with Disabilities Agency. The transfer shall be made via an intrastate transfer voucher. The transferred funds shall be used to support the Employment First Pilot Program. The Opportunities for Ohioans with Disabilities Agency shall use the funds transferred as state matching funds to obtain available federal grant dollars for vocational rehabilitation services. Any federal match dollars received by the Opportunities for Ohioans with Disabilities Agency shall be used for the pilot program. The Director of Developmental Disabilities and the Executive Director of the Opportunities for Ohioans with Disabilities Agency shall enter into an interagency agreement in accordance with section 3304.181 of the Revised Code that will specify the responsibilities of each agency under the pilot program. Under the interagency agreement, the Opportunities for Ohioans with Disabilities Agency shall retain responsibility for eligibility determination, order of selection, plan approval, plan amendment, and release of vendor payments. 128201
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The remainder of appropriation item 322508, Employment First Pilot Program, shall be used to develop a long term, sustainable system that places individuals with developmental disabilities in community employment, as defined in section 5126.01 of the Revised Code. 128223
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Section 751.31. EMPLOYMENT FIRST TASKFORCE FUND 128228

If an employment first task force is established by the 128229

Director of Developmental Disabilities in accordance with section 128230
5123.023 of the Revised Code, the Director of Budget and 128231
Management shall establish an appropriation item from the 128232
Employment First Taskforce Fund for use by the Department of 128233
Developmental Disabilities to support the work of the task force. 128234
In fiscal year 2014 and fiscal year 2015, if an employment first 128235
task force is established, the Director of Developmental 128236
Disabilities shall certify to the Director of Budget and 128237
Management the appropriation amounts necessary for the Department 128238
of Developmental Disabilities to fulfill its obligation to support 128239
the work of the task force. Once the certification required under 128240
this section has been submitted and approved by the Director of 128241
Budget and Management, the appropriations established under this 128242
section are hereby appropriated in the amounts approved by the 128243
Director of Budget and Management. 128244

Section 753.10. (A) The Director of Administrative Services, 128245
on behalf of the Department of Rehabilitation and Correction, is 128246
authorized to sell by bid, auction, real estate sale agreement, or 128247
through any other available legal means, all of the state's right, 128248
title, and interest in any or all of the real property described 128249
below, that the Director of Administrative Services and the 128250
Director of Rehabilitation and Correction determine should be sold 128251
in the best interest of, and as surplus to, the needs of the 128252
state. 128253

(B) The Governor is authorized to execute one or more deeds 128254
in the name of the state, conveying to one or more purchasers, 128255
their heirs and assigns or successors and assigns, all of the 128256
state's right, title, and interest in one or more of the real 128257
properties and improvements described below: 128258

101 Oval Drive Lima 45801 128259

102 Oval Drive Lima 45801 128260

1757 South Avon Belden Road Grafton 44044	128261
2069 South Avon Belden Road Grafton 44044	128262
900 East Capel Road Grafton 44044	128263
1088 North Main Street Mansfield 44903	128264
1659 Scioto Village Drive Marion 43302	128265
1674 Scioto Village Drive Marion 43302	128266
1686 Scioto Village Drive Marion 43302	128267
1693 Scioto Village Drive Marion 43302	128268
1705 Scioto Village Drive Marion 43302	128269
1710 Scioto Village Drive Marion 43302	128270
1717 Scioto Village Drive Marion 43302	128271
745 Likens Road Marion 43302	128272
813 Likens Road Marion 43302	128273
PCI Unit 4 - 11781 State Route 762 Orient 43146	128274
103 Reservation Circle Chillicothe 45601	128275
123 Reservation Circle Chillicothe 45601	128276
124 Reservation Circle Chillicothe 45601	128277
14166 Pleasant Valley Road Chillicothe 45601	128278
1187 Cook Road Lucasville 45648	128279
(C) The Director of Administrative Services shall convey the real estate, its improvements and chattels, "as-is," in its present condition.	128280 128281 128282
(D) Consideration for conveyance of the real estate shall be determined by bid, auction, or negotiated purchase agreement, at the discretion of the Director of Administrative Services and the Director of Rehabilitation and Correction.	128283 128284 128285 128286
(E) The real property shall be conveyed subject to all	128287

easements, covenants, conditions, and restrictions of record; all 128288
legal highways; zoning, building, and other laws, ordinances, 128289
restrictions, and regulations; and real estate taxes and 128290
assessments not yet due and payable. 128291

(F)(1) The deed or deeds to the real estate may contain any 128292
terms and conditions the Director of Administrative Services and 128293
the Director of Rehabilitation and Correction determine to be in 128294
the best interest of the state. The deed or deeds may contain 128295
restrictions that the Directors determine are reasonably necessary 128296
to protect the interest of the state in neighboring state-owned 128297
land. 128298

(2) The deed or deeds shall contain restrictions prohibiting 128299
the purchaser from occupying, using, developing, or selling the 128300
real estate, such as will interfere with quiet enjoyment of the 128301
neighboring state-owned land. 128302

(G) The method of sale and disposition of the real estate 128303
shall be determined by the Director of Administrative Services and 128304
the Director of Rehabilitation and Correction. 128305

(H) The real estate may be sold as an entire tract, as 128306
multiple tracts, or in parcels. 128307

(I) The purchaser or purchasers shall pay all costs 128308
associated with the purchase and conveyance of the real estate, 128309
including, but not limited to, title evidence, title insurance, 128310
transfer costs and fees, recording costs of the deed, taxes, and 128311
any other fees and costs that may be imposed. 128312

(J) Surveys and legal descriptions as are required for the 128313
conveyance of the real estate shall be prepared at the purchaser's 128314
expense. 128315

(K) The net proceeds of the sale of the real estate shall be 128316
deposited into the state treasury to the credit of the Property 128317
Receipts Fund created by section 5120.22 of the Revised Code. 128318

(L) Upon payment of the purchase price for all or any of the real estate, the Auditor of State, with the assistance of the Attorney General, shall prepare a deed or deeds for the real estate. A deed shall state the consideration, and any terms or conditions and the restrictions. A deed shall be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the purchaser. The purchaser shall present the deed for recording in the office of the appropriate County Recorder.

(M) This section expires two years after its effective date.

Section 757.10. MINIMUM DISTRIBUTION OF LOCAL GOVERNMENT FUND

Notwithstanding any provision of section 131.51 of the Revised Code to the contrary, from revenue arising from the personal income tax levied under Chapter 5747. of the Revised Code, an amount equal to one hundred per cent of the amount credited to the Local Government Fund in July 2012 shall be credited to such fund in July 2013. In July 2013 each county undivided local government fund shall receive the same amount it received in July 2012. In July 2013 each municipal corporation shall receive the same amount it directly received from the Local Government Fund in July 2012.

Section 757.20. (A) On or before June 15, 2014, the Director of the Ohio Public Works Commission shall certify to the Director of Budget and Management the amount of debt service paid from the General Revenue Fund in fiscal years 2013 and 2014 on bonds issued to finance or assist in the financing of the cost of local subdivision public infrastructure capital improvement projects, as provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio

Constitution, that are attributable to costs for construction, 128349
reconstruction, maintenance, or repair of public highways and 128350
bridges and other statutory highway purposes. That certification 128351
shall allocate the total amount of debt service paid from the 128352
General Revenue Fund and attributable to those costs in each of 128353
fiscal years 2013 and 2014 according to the applicable section of 128354
the Ohio Constitution under which the bonds were originally 128355
issued. 128356

(B) On or before June 15, 2015, the Director of the Ohio 128357
Public Works Commission shall certify to the Director of Budget 128358
and Management the amount of debt service paid from the General 128359
Revenue Fund in fiscal year 2015 on bonds issued to finance or 128360
assist in the financing of the cost of local subdivision public 128361
infrastructure capital improvement projects, as provided for in 128362
Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that 128363
are attributable to costs for construction, reconstruction, 128364
maintenance, or repair of public highways and bridges and other 128365
statutory highway purposes. That certification shall allocate the 128366
total amount of debt service paid from the General Revenue Fund 128367
and attributable to those costs in fiscal year 2015 according to 128368
the applicable section of the Ohio Constitution under which the 128369
bonds were originally issued. 128370

(C) On or before June 30 of each fiscal year, the Director of 128371
Budget and Management shall determine an amount up to but not 128372
exceeding the amount certified under division (A) or (B) of this 128373
section and shall reserve that amount from the cash balance in the 128374
Commercial Activity Tax Motor Fuel Receipts Fund for transfer to 128375
the General Revenue Fund at times and in amounts to be determined 128376
by the Director. The Director shall transfer the cash balance in 128377
the Commercial Activity Tax Motor Fuel Receipts Fund in excess of 128378
the amount so reserved to the Highway Operating Fund on or before 128379
June 30 of each fiscal year. 128380

Section 803.10. An investor who is issued a tax credit certificate under section 122.152 of the Revised Code prior to that section's repeal by this act may continue to claim that credit in the manner provided for in that section.

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Section 803.20. The member of the Farmland Preservation Advisory Board appointed under division (A)(4) of section 901.23 of the Revised Code, as that section existed prior to its amendment by this act, who is serving on the effective date of this act shall continue to serve until the expiration of the term for which the member was appointed. At the end of that term, a member shall be appointed in accordance with division (A)(4) of that section as amended by this act.

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Section 803.30. A member of the technical advisory committee created in section 1551.35 of the Revised Code, as amended by this act, who was appointed by the Director of the Ohio Coal Development Office and who is serving on the committee immediately prior to the effective date of the amendments to that section shall continue in office until the expiration of the member's term. Thereafter, the appointment of a member for that position on the committee shall be made in accordance with the amendments to that section by this act.

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Section 803.40. A member serving on the Rehabilitation Services Commission immediately prior to the effective date of this section who was appointed under section 3304.12 of the Revised Code as that section existed prior to its amendment by this act shall continue serving on the Opportunities for Ohioans with Disabilities Commission established by the amendments to that section by this act until the end of the term for which the member was appointed.

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Section 803.50. The amendments to sections 3313.48, 3313.533, 128410
3313.62, 3317.01, and 3321.05; the repeal and reenactment of 128411
section 3313.481; and the repeal of section 3313.482 of the 128412
Revised Code made by this act do not apply to any collective 128413
bargaining agreement executed under Chapter 4117. of the Revised 128414
Code prior to July 1, 2014. Any collective bargaining agreement or 128415
renewal executed after that date shall comply with the changes 128416
provided for in this act. 128417

Section 803.60. (A) As used in this section: 128418

(1) "State institution of higher education" has the same 128419
meaning as in section 3345.011 of the Revised Code. 128420

(2) "Career-technical planning district" has the same meaning 128421
as in section 3302.033 of the Revised Code. 128422

(B) Nothing in Chapter 3365. of the Revised Code or the 128423
amendment of sections in that chapter by this act shall be 128424
construed to infringe upon or require the alteration of any 128425
existing or future articulation agreement for technical coursework 128426
offered through state-approved career-technical programs of study 128427
or any corresponding payment structure between any state 128428
institution of higher education and a career-technical planning 128429
district. 128430

The Department of Education and the Board of Regents shall 128431
study the implications of applying the changes in Chapter 3365. of 128432
the Revised Code to articulation agreements for technical 128433
coursework offered through state-approved career-technical 128434
programs of study. The Department and the Board also shall make 128435
recommendations on how such career-technical programs of study 128436
might be included under Chapter 3365. of the Revised Code and the 128437
implications of including them. These recommendations shall be 128438
submitted to the Governor's Office of 21st Century Education and 128439

the General Assembly in accordance with section 101.68 of the Revised Code, not later than July 1, 2014.

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Section 803.70. The amendment by this act of sections 122.175, 351.12, 3951.01, 4719.01, 5727.01, 5739.01, 5739.011, 5739.02, 5739.027, 5739.029, 5739.03, 5739.033, 5739.051, 5739.071, 5741.01, and 5741.02 of the Revised Code applies to the storage, use, or other consumption of tangible personal property or services and retail sales of tangible personal property or services occurring on or after September 1, 2013.

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Section 803.80. (A) The amendment by this act of section 5747.01 of the Revised Code, striking existing division (A)(29) of that section, applies to taxable years ending on or after the effective date of this section.

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(B) The amendment by this act of section 5747.022 and division (A) of section 5747.025 of the Revised Code applies to taxable years beginning on or after January 1, 2013.

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(C) The amendment by this act of division (A)(31) of section 5747.01, division (C) of section 5747.025, and of sections 5747.02, 5747.05, 5747.08, 5747.21, 5747.22, and 5748.01, and the repeal of section 5747.211 of the Revised Code apply to taxable years beginning on or after January 1, 2013.

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Section 803.90. The amendment by this act of section 5751.07 of Revised Code applies to original returns filed on or after January 1, 2014.

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Section 803.120. (A) The amendment or enactment by this act of division (C)(12) of section 5703.21, section 5749.01, all divisions of section 5749.02 except for divisions (A)(5) and (6) of that section, divisions (F), (H), and (I) of section 5749.06, and section 5749.17 of the Revised Code applies to the severance

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of natural resources occurring in calendar quarters beginning on 128469
or after October 1, 2013. 128470

(B) The amendment, enactment, or repeal by this act of 128471
sections 113.061, 1509.02, 1509.34, 1509.50, 5703.052, 5749.03, 128472
and 5749.031, divisions (A), (B), (D), (E), and (G) of section 128473
5749.06, and sections 5749.07, 5749.08, 5749.10, 5749.12, 5749.13, 128474
5749.14, and 5749.15 of the Revised Code applies to the severance 128475
of natural resources occurring in calendar quarters beginning on 128476
or after January 1, 2014. 128477

Section 803.130. The amendment or enactment by this act of 128478
sections 321.49, 1509.06, 5705.27, 5705.32, 5705.37, and 5705.52 128479
of the Revised Code applies to applications for well permits filed 128480
with the Chief of the Division of Oil and Gas Resources Management 128481
on or after October 1, 2013. 128482

Section 803.140. The amendment by this act of sections 128483
5713.05 and 5713.051 of the Revised Code applies to tax year 2014 128484
and every tax year thereafter. 128485

Section 806.10. The items of law contained in this act, and 128486
their applications, are severable. If any item of law contained in 128487
this act, or if any application of any item of law contained in 128488
this act, is held invalid, the invalidity does not affect other 128489
items of law contained in this act and their applications that can 128490
be given effect without the invalid item of law or application. 128491

Section 809.10. An item of law, other than an amending, 128492
enacting, or repealing clause, that composes the whole or part of 128493
an uncodified section contained in this act has no effect after 128494
June 30, 2015, unless its context clearly indicates otherwise. 128495

Section 812.10. Except as otherwise provided in this act, the amendment, enactment, or repeal by this act of a section is subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore takes effect on the ninety-first day after this act is filed with the Secretary of State or, if a later effective date is specified below, on that date.

The amendment of section 5739.211 of the Revised Code takes effect December 1, 2013.

The enactment of section 5162.12 of the Revised Code takes effect January 1, 2014.

The amendment, enactment, or repeal of sections 3313.48, 3313.533, 3313.62, 3314.092, 3321.05, and 3326.11 of the Revised Code takes effect July 1, 2014.

The repeal and reenactment of section 3313.481 of the Revised Code takes effect July 1, 2014.

The amendment of section 5743.05 of the Revised Code takes effect July 1, 2014.

Sections 323.70, 323.110, 323.120, and 323.480 of this act take effect at the earliest time permitted by law but not earlier than September 30, 2013.

Section 812.20. The amendment, enactment, or repeal by this act of the sections listed below is exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore takes effect immediately when this act becomes law or, if a later effective date is specified below, on that date.

Sections 122.175, 333.01, 351.12, 3734.57, 3734.901, 3951.01, 4301.43, 5713.05, 5713.051, 5727.01, 5727.84, 5739.011, 5739.02, 5739.021, 5739.023, 5739.026, 5739.027, 5739.029, 5739.0211,

5739.03, 5739.033, 5739.051, 5739.071, 5739.21, 5741.01, 5741.02, 128525
5741.021, 5741.022, 5741.023, 5741.05, 5747.501, 5749.01, 5749.02, 128526
5749.031, and 5753.03 of the Revised Code. 128527

Sections of this act prefixed with section numbers in the 128528
200's, 300's, 400's, and 500's except for sections 323.70, 128529
323.110, 323.120, 323.480, 363.230, 363.520, 363.540, and 363.550 128530
of this act. 128531

Sections 812.10, 812.20, and 812.30 of this act. 128532

The enactment of section 5168.41 of the Revised Code takes 128533
effect July 1, 2013. 128534

Section 812.30. The sections that are listed in the left-hand 128535
column of the following table combine amendments by this act that 128536
are and that are not exempt from the referendum under Ohio 128537
Constitution, Article II, sections 1c and 1d and section 1.471 of 128538
the Revised Code. 128539

The middle column identifies the amendments to the listed 128540
sections that are subject to the referendum under Ohio 128541
Constitution, Article II, Section 1c and therefore take effect on 128542
the ninety-first day after this act is filed with the Secretary of 128543
State or, if a later effective date is specified, on that date. 128544

The right-hand column identifies the amendments to the listed 128545
sections that are exempt from the referendum under Ohio 128546
Constitution, Article II, Section 1d and section 1.471 of the 128547
Revised Code and therefore take effect immediately when this act 128548
becomes law or, if a later effective date is specified, on that 128549
date. 128550

Section of	Amendments subject to	Amendments exempt from	
law	referendum	referendum	
3745.11	Amendments to division (M)(5)	All amendments except as described in the middle	128551 128552

		column	
4719.01	Amendments to division (B)(26)(c)	Amendments to division (B)(12)(d)	128553
5112.30 (5168.60)	All amendments except as described in the right-hand column	Amendments to division (A) take effect July 1, 2013	128554
5739.01	Amendment to division (B)(10)(b)	All amendments except as described in the middle column	128555
5751.20	Amendments to division (J)	All amendments except as described in the middle column	128556
6109.21	The stricken sentence in division (E)	All amendments except as described in the middle column	128557

Section 812.40. The amendments to sections 109.572, 169.02, 3317.01, 5101.573 (5160.40), 5101.58 (5160.37), 5111.07 (5164.752), 5111.071 (5164.753), 5111.083 (5164.757), 5111.17 (5167.10), and 5111.19 (5164.74) of the Revised Code are subject to the referendum under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. However:

(A) In section 109.572 of the Revised Code, the insertion of "169.16," in divisions (A)(8), (B)(1), and (C)(3) takes effect September 30, 2013.

(B) In section 169.02 of the Revised Code, the amendments to division (R)(2) take effect on the ninety-first day; all other amendments take effect September 30, 2013.

(C) In section 3317.01 of the Revised Code, the amendments to division (B) take effect July 1, 2014.

(D) In section 5101.573 (5160.40) of the Revised Code, the new matter inserted into division (C) takes effect January 1, 2014.

(E) In section 5101.58 (5160.37) of the Revised Code, the insertion of division (K) takes effect January 1, 2014.

(F)(1) In section 5111.07 (5164.752) of the Revised Code, all of the amendments take effect July 1, 2014, except for the following amendments:

(a) The renumbering of the section;

(b) The strike through of "job and family services" and insertion of "medicaid" in the first sentence as the section appears on the day immediately preceding the effective date of this section.

(2) The reference to "director of job and family services" in the last sentence shall be read as if it reads the "director of medicaid" while the last sentence remains in effect.

(G) In section 5111.071 (5111.753) of the Revised Code, the insertion in the last sentence of "and the extent to which each terminal distributor participates in the medicaid program as a provider of drugs" takes effect July 1, 2014.

(H) In section 5111.083 (5164.757) of the Revised Code, all of the amendments take effect January 1, 2014, except for the following amendments:

(1) The renumbering of the section;

(2) The insertion of "medicaid" before "director" in the first sentence of division (B);

(3) The strike through of "of job and family services".

(I) In section 5111.17 (5167.10) of the Revised Code, the amendments to division (B)(2) take effect January 1, 2014.

(J) In section 5111.19 (5164.74) of the Revised Code, the following amendments take effect January 1, 2014:

(1) The insertion of ", and the allocation of payments for," in the first paragraph;

(2) The strike through of the second paragraph and divisions (A), (B), and (C).

Section 812.50. Sections 122.58, 169.01, 169.03, 169.05, 169.06, 169.07, 169.08, 169.13, 169.14, and 169.16 of the Revised Code shall take effect at the earliest time permitted by law but not before September 30, 2013.

Section 812.60. (A) Except as provided in division (B) of this section, the amendments of this act to section 5111.251 of the Revised Code, including the renumbering of the section as section 5124.17 of the Revised Code, take effect ninety-one days after the effective date of this section.

(B) The following amendments by this act to section 5111.251 (5124.17) of the Revised Code take effect July 1, 2014:

(1) The amendments that halve the efficiency incentive payment for intermediate care facilities for individuals with intellectual disabilities that have more than eight beds;

(2) The amendments that eliminate the nonextensive renovations component of the Medicaid payments for the capital costs of intermediate care facilities for individuals with intellectual disabilities that have more than eight beds;

(3) The amendments that eliminate the return on equity component of the Medicaid payments for the capital costs of all intermediate care facilities for individuals with intellectual disabilities.

Section 815.10. The General Assembly, applying the principle 128631
stated in division (B) of section 1.52 of the Revised Code that 128632
amendments are to be harmonized if reasonably capable of 128633
simultaneous operation, finds that the following sections, 128634
presented in this act as composites of the sections as amended by 128635
the acts indicated, are the resulting versions of the sections in 128636
effect prior to the effective date of the sections as presented in 128637
this act: 128638

Section 9.90 of the Revised Code as amended by both Am. Sub. 128639
H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. 128640

Section 109.572 of the Revised Code as amended by both Am. 128641
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly. 128642

Section 122.17 of the Revised Code as amended by Sub. H.B. 128643
327, Am. Sub. H.B. 510, and Am. Sub. S.B. 314, all of the 129th 128644
General Assembly. 128645

Section 122.33 of the Revised Code as amended by both Am. 128646
Sub. H.B. 117 and Am. Sub. H.B. 356 of the 121st General Assembly. 128647

Section 124.381 of the Revised Code as amended by both Am. 128648
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 128649

Section 149.43 of the Revised Code as amended by both Am. 128650
Sub. H.B. 487 and Am. Sub. S.B. 314 of the 129th General Assembly. 128651

Section 169.13 of the Revised Code as amended by both Am. 128652
Sub. H.B. 699 and Am. Sub. S.B. 223 of the 126th General Assembly. 128653

Section 329.06 of the Revised Code as amended by both Am. 128654
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 128655

Section 955.201 of the Revised Code as amended by both Am. 128656
Sub. H.B. 1 and Am. Sub. H.B. 2 of the 128th General Assembly. 128657

Section 2901.30 of the Revised Code as amended by both Am. 128658
H.B. 181 and Sub. S.B. 87 of the 127th General Assembly. 128659

Section 2923.126 of the Revised Code as amended by both Am.	128660
Sub. H.B. 495 and Am. Sub. S.B. 316 of the 129th General Assembly,	128661
that is scheduled to take effect January 1, 2014.	128662
Section 2929.13 of the Revised Code as amended by Am. Sub.	128663
H.B. 62, Am. Sub. H.B. 262, and Am. Sub. S.B. 160 of the 129th	128664
General Assembly.	128665
Section 3304.231 of the Revised Code as amended by both Am.	128666
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128667
Section 3701.78 of the Revised Code as amended by both Am.	128668
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128669
Section 3734.01 of the Revised Code as amended by both Am.	128670
Sub. H.B. 487 and Sub. S.B. 294 of the 129th General Assembly.	128671
Section 3745.11 of the Revised Code as amended by both Am.	128672
Sub. H.B. 487 and Sub. S.B. 294 of the 129th General Assembly.	128673
Section 5104.012 of the Revised Code as amended by both Am.	128674
Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly,	128675
that is scheduled to take effect January 1, 2014.	128676
Section 5104.013 of the Revised Code as amended by both Am.	128677
Sub. H.B. 487 and Am. Sub. S.B. 316 of the 129th General Assembly,	128678
that is scheduled to take effect January 1, 2014.	128679
Section 5111.032 of the Revised Code as amended by both Am.	128680
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	128681
Section 5111.033 of the Revised Code as amended by both Am.	128682
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	128683
Section 5111.034 of the Revised Code as amended by both Am.	128684
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	128685
Section 5111.172 of the Revised Code as amended by both Am.	128686
Sub. H.B. 93 and Am. Sub. H.B. 153 of the 129th General Assembly.	128687
Section 5119.16 of the Revised Code as amended by both Am.	128688

Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly.	128689
Section 5701.13 of the Revised Code as amended by both Sub. H.B. 267 and Am. Sub. H.B. 487 of the 129th General Assembly.	128690 128691
Section 5731.39 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.	128692 128693
Section 5739.01 of the Revised Code as amended by Am. Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.	128694 128695
Section 5739.02 of the Revised Code as amended by Am. Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly.	128696 128697
Section 5747.01 of the Revised Code as amended by Am. H.B. 167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th General Assembly.	128698 128699 128700
Section 5747.98 of the Revised Code as amended by both Am. Sub. H.B. 386 and Am. Sub. H.B. 510 of the 129th General Assembly.	128701 128702
Section 5749.02 of the Revised Code as amended by both Am. Sub. H.B. 1 and S.B. 73 of the 128th General Assembly.	128703 128704
Section 5751.20 of the Revised Code as amended by both Am. Sub. H.B. 508 and Am. Sub. S.B. 316 of the 129th General Assembly.	128705 128706
Section 5753.03 of the Revised Code as amended by both Am. Sub. H.B. 487 and Am. Sub. H.B. 386 of the 129th General Assembly.	128707 128708
Section 815.20. The amendment of section 5120.07 of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of that section.	128709 128710 128711